

THE CONDUCT OF MISS C BURCH MLA

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE

AUGUST 2018

REPORT 7

THE COMMITTEE

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RESOLUTION OF APPOINTMENT

In 1995 the Legislative Assembly for the Australian Capital Territory ('the Assembly') amended Standing Order 16, which established the Standing Committee on Administration and Procedure ('the Committee').

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

TERMS OF REFERENCE

Continuing resolution 5AA

COMMISSIONER FOR STANDARDS

This resolution provides for the appointment of a Legislative Assembly Commissioner of Standards.

Resolution agreed by the Assembly

31 October 2013, as amended 3 August 2017

COMMISSIONER FOR STANDARDS

That this Assembly requests the Speaker to appoint a Legislative Assembly Commissioner for Standards on the following terms:

- (1) The Speaker must, after each Assembly is elected or whenever the office becomes vacant, appoint a Commissioner for the life of that Assembly and the period of six months after each election. The appointment is for the term of the Assembly and the period of six months after the election at the conclusion of that term. The Speaker may decide not to seek expressions of interest if only one term has been served by the Commissioner.
- (2) Before appointing a Commissioner, the Speaker must consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.
- (3) The Commissioner may be dismissed only following a resolution of the Legislative Assembly resolving to require the Speaker to end the Commissioner's appointment—
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the Commissioner's functions.

However, a motion for such a resolution may only be debated after the Standing Committee on Administration and Procedure ('the Committee') has reported to the Assembly that it is satisfied that the Commissioner is unfit for the office or unable to fulfil the Commissioner's functions.

- (4) The functions of the Commissioner are to:
- (a) investigate complaints about Members lodged via the Clerk to the Commissioner;
 - (b) report to the Standing Committee on Administration and Procedure; and
 - (c) if the Assembly is not sitting when the Commissioner provides a report to the Committee, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.
- (5) Members of the public, members of the ACT Public Service and Members of the Assembly may make a complaint to the Commissioner via the Clerk of the Legislative Assembly about a Member's compliance with the Members' Code of Conduct or the rules relating to the registration or declaration of interests.
- (6) If the Commissioner receives a complaint about a Member pursuant to paragraph (5) and the Commissioner believes on reasonable grounds that—
- (a) there is sufficient evidence as to justify investigating the matter; and
 - (b) the complaint is not frivolous, vexatious or only for political advantage;
- the Commissioner will investigate the matter and report to the Committee.
- (7) In exercising the functions of Commissioner the following must be observed:
- (a) The Commissioner must not make a report to the Committee if the Member about whom the complaint was made has agreed that he or she has failed to register or declare an interest if —
 - (i) in the Commissioner's opinion the interest involved is minor or the failure was inadvertent; and
 - (ii) the Member concerned has taken such action to rectify the failure as the Commissioner may have required within any procedure approved by the Committee for this purpose.
 - (b) The Commissioner must not make a report to the Committee unless the Commissioner has—
 - (i) given a copy of the proposed report to the Member who is the subject of the complaint under investigation;

- (ii) the Member has had a reasonable time to provide comments on the proposed report; and
 - (iii) the Commissioner has considered any comments provided by the Member.
- (8) The Commissioner must report by 31 August each year to the Speaker on the exercise of the functions of the Commissioner.

Continuing resolution 5

**CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

This resolution provides for a code of conduct for Members of the Legislative Assembly.

Resolution agreed by the Assembly

25 August 2005 (amended 16 August 2006, 24 October 2013, 3 August 2017)

The Members of the Legislative Assembly for the Australian Capital Territory acknowledge that, in a parliamentary democracy they cannot command, but must constantly strive to earn and maintain, the respect and support of those who have elected them to their positions of honour and privilege as Members.

In committing to this Code of Conduct, Members undertake, to the community and to one another, that they shall not act in a manner inconsistent with their duties and obligations as Members and that the following principles shall guide their conduct as Members in all matters:

- (1) Members should at all times act with integrity, honesty and diligence.
- (2) Members should act only in the interests of, and with respect for, the people of the Australian Capital Territory and in conformity with all laws applicable in the Territory.
- (3) Members should uphold the separation of powers and the rule of law
- (4) Members should always act in the public interest, make decisions and choices on merit, and not seek to gain financial or other benefit for themselves, their family or friends.
- (5) Members should be reasonably accessible to the people of the electorate they have been elected to serve, and should represent their interests conscientiously.
- (6) Members should be transparent in, and accountable for, their decisions and actions and should submit themselves to appropriate scrutiny.
- (7) Members should make only proper use of those public resources to which they have access and should do so in a manner designed to make effective and efficient use of those resources.
- (8) Members should respect the dignity and privacy of individuals, and not disclose confidential information to which they have official access other than with consent or as required by law.

- (9) Members should observe proper standards of parliamentary conduct, and observe respect for differences and fairness in their political dealings.
- (10) Members should promote and support these principles by leadership and example, in order to maintain and support public trust and confidence in the integrity of the Assembly and the conduct by its Members of public business.

Consistent with the above principles, Members further undertake that they should:

- (11) Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.
- (12) Actively seek to avoid or prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests, take all reasonable steps to resolve any such conflict or perception of a conflict that does arise, and:
 - (a) comply with section 15 of the *Australian Capital Territory (Self-Government) Act 1988* (Cwth);
 - (b) declare their pecuniary interests and ensure that their declaration is kept up to date pursuant to the resolution of the Assembly 'Declaration of Private Interests of Members' agreed to on 7 April 1992 (as amended or replaced from time to time); and
 - (c) disclose in a manner appropriate to the circumstances any other financial or non-financial interest that they may hold, or which they may be reasonably perceived to hold (other than as a member of the public or of a broad class of persons) which a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Member's duty as a Member.
- (13) ensure that outside occupational or other pursuits do not unreasonably impact on their duties as a Member.
- (14) Not solicit to undertake, or undertake, any activity as a Member in return for the provision, promise or expectation of any improper benefit to the Member or to another person.
- (15) Take care to consider the rights and reputations of others before making use of their unique protection of parliamentary privilege consistent with the resolution of the Assembly 'Exercise of freedom of speech' agreed to on 4 May 1995 (*as amended or replaced from time to time*).
- (16) Not use information received by them as a Member that is not in the public domain in breach of any obligation of confidence applicable to their receipt of that information unless required by law, or improperly for the private benefit of themselves or another person.
- (17) In their capacity as an employer on behalf of the Territory under the *Legislative Assembly (Members' Staff) Act 1989*:
 - (a) familiarise themselves and comply with the terms and conditions on which their personal staff are engaged and with all applicable policies and practices (including those related to occupational health and safety, discrimination, harassment and bullying, equal employment opportunity and use of information technology);
 - (b) not employ a family member as defined in that Act;

- (c) direct their personal staff to be mindful of the Member's commitment to this Code of Conduct, and to assist the Member to comply with this Code of Conduct; and
 - (d) direct their personal staff to comply with any code of conduct applicable to those staff from time to time.
- (18) In all their dealings with staff of the Assembly and members of the ACT Public Service:
 - (a) extend professional courtesy and respect; and
 - (b) recognise the unique position of impartiality and the obligations of Public Service officials.
- (19) Only make a complaint about the compliance of another Member with this Code of Conduct where they believe there are reasonable grounds to suspect non-compliance and not make any such complaint that is frivolous or vexatious or only for political advantage.
- (20) Cooperate fully with any official inquiry that may be commenced in connection with their compliance with this Code of Conduct, or that of another Member.
- (21) Within the first six months after an election for the Assembly, the Assembly shall reaffirm its commitment to the principles, obligations and aspirations of the code. Where a new member is elected to fill a vacancy the new member shall, before he or she makes an inaugural speech, affirm that he or she will abide by the code.

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RECOMMENDATIONS

RECOMMENDATION 1

4.2 The Committee recommends that no further action be taken in relation to the matter.

1 INTRODUCTION

- 1.1 On 28 June 2018 Ms Tara Cheyne MLA wrote to the Clerk to claim that Miss C Burch MLA had breached section 1 of the Members' Code of Conduct (see Appendix A). The matter was referred to the Commissioner for Standards, the Honourable Dr Ken Crispin QC, by the Clerk, via email on 29 June 2018.
- 1.2 The Standing Committee on Administration and Procedure has now received a report from the Commissioner for Standards on his investigation into a complaint raised by Ms Cheyne.
- 1.3 A copy of the Commissioner's report is published as Appendix B to this report.

2 CONDUCT OF THE COMMISSIONER'S INQUIRY

- 2.1 The Commissioner's investigation was conducted in accordance with the protocols adopted by the Standing Committee on Administration and Procedures on 24 March 2015 (revised August 2017). The Commissioner wrote to Miss C Burch by letter dated 29 June 2018 inviting her to respond to the complaint.
- 2.2 Miss C Burch, in her response to the Commissioner of 11 July 2018 effectively denied any dishonesty and made a number of points.
- 2.3 In reviewing the response provided by Miss C Burch, the Commissioner found that no significant factual disputes emerged and concluded that no further evidence was required beyond the submissions made by Ms Cheyne and Miss C Burch.

3 THE COMMISSIONER'S FINDINGS

- 3.1 In his report, the Commissioner discussed the timelines for when statements and assurances were made by the Minister for Transport and City Services and where the Facebook posts and responses occurred in that timeline.
- 3.2 He went on to discuss the notion that allegations of dishonesty needs to be tempered with not only the perception of complainants, but by the knowledge and perception of those who the allegations are made against. The Commissioner was not persuaded that, by posting to her Facebook page and expressing the views she held at the time, that she had acted dishonestly.
- 3.3 In addition, the Commissioner noted that the Code of Conduct does not deal with the issue of comments made by Members on Facebook pages that may cause concern. The Committee is reflecting on this issue in its current inquiry into the standing orders of the Legislative Assembly.
- 3.4 The Commissioner found as follows:
- “23. Having examined the substantive issues raised by the complaint against Ms Burch, I have concluded that no breach of the code has been established.
24. I recommend that the complaint be dismissed.”

4 THE COMMITTEE'S RECOMMENDATION

4.1 The Committee, in accordance with continuing resolution 5AA, considered the Commissioner's report at its meeting on 20 August 2018 and concurs with his conclusion.

Recommendation 1

4.2 The Committee recommends that no further action be taken in relation to the matter.

Joy Burch MLA

Chair

20 August 2018

APPENDIX A – LETTER FROM MS TARA CHEYNE,
MLA TO THE CLERK



Mr Tom Duncan
Clerk
Legislative Assembly of the Australian Capital Territory
CANBERRA ACT 2601

28 June 2018

Dear Clerk

**Request for referral to Commissioner for Standards—behaviour of Miss Candice Burch MLA on
6 June 2018**

On 6 June 2018 Miss Candice Burch MLA published a Facebook post with an image overlaid with the following text (see also **Attachment A**):

Labor has tripled your rates but:

- Removed bus shelters
- Failed to improve school bus services
- Failed to increase evening and weekend bus services

Can't trust Labor with buses

Authorised by Candice Burch MLA

However, on 9 May 2018 Miss Burch had moved a motion relating to bus services, specifically relating to evening and weekend timetables. In it, Miss Burch moved that the Assembly call on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on a) plans to extend bus services in the evening and b) plans to extend bus services on Sundays and public holidays. While the Minister for Transport and City Services successfully moved a motion amending Miss Burch's original motion, the resulting motion that was passed still contained this text (see extract of *Minutes of Proceedings No. 57—9 May 2018* at **Attachment B**).

In her speech during that debate, the Minister for Transport and City Services said (see extract from the *Hansard—9 May 2018, page 1688* at **Attachment C**):

I am pleased to advise the Assembly that our new integrated network will provide access and equity for people to get home safely at night seven days a week. We are looking to expand the hours of operation, with the initial light rail timetable running until 11.30 pm Monday to Thursday, 1 am on Friday and Saturday nights and Sunday mornings, and 11.30 pm on Sunday night. Likewise the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.



I had been present in the Chamber during the debate on this motion and so determined that Miss Burch's post was dishonest and purposely set out to misrepresent what had occurred in the Legislative Assembly and, indeed, what she herself had asked for. In response to her Facebook post, I responded (as a comment to her post) with the following (see also **Attachment D**):

You are well and truly aware that improving bus services is part of the broader bus network consultation which *is* underway. In fact, your own motion just last month called on the Minister (and she agreed) to report back to the Assembly by 23 August on plans to extend bus services in the evenings and plans to extend bus services on Sundays and public holidays. You didn't ask her to report back by or through the ACT budget. (Comment 1)

And from the Minister in [sic] herself, responding to you: I am pleased to advise the Assembly that our new integrated network will provide access and equity for people to get home safely at night seven days a week. We are looking to expand the hours of operation, with the initial light rail timetable running until 11.30 pm Monday to Thursday; 1 am on Friday and Saturday nights and Sunday mornings, and 11.30 pm on Sunday night. Likewise the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights. (Comment 2)

Shortly after I posted these comments correcting the record, Miss Burch removed (that is, deleted) the comments and blocked me. Deleting the comments means they can no longer be seen by any person visiting the page. Blocking someone means they can no longer interact with the page; that is, commenting or messaging the page. This is evidenced at **Attachment E** which shows there is no longer a comment box on her post (or any of her posts), meaning I cannot post a comment. Visiting her Facebook page at <https://www.facebook.com/candiceburchkurrajong/> to find the post further confirms that my comment is not available for anyone to see.

Note also at **Attachment E** is a well-supported comment (with 12 'likes', indicating endorsement) that 'Pretty much none of this is true but don't let that stop you'.

Clerk, I would be grateful if this matter could please be referred to the Commissioner for Standards for review. I am concerned that Miss Burch has breached the *Code of Conduct for all Members of the Legislative Assembly for the Australian Capital Territory*, namely "(1) Members should at all times act with integrity, honesty and diligence".

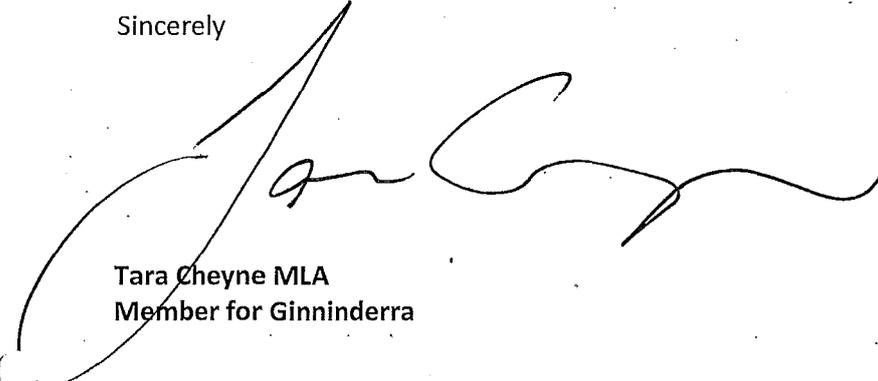


Miss Burch's actions appear to be dishonest in that:

1. Her post contained erroneous information which misrepresented her actions (that is, what she had called for) and what had transpired within the Legislative Assembly to the broader public.
2. When a correction was made by way of comments from me on her page, her next action was to delete them and block me.
 - a. This means she not only knowingly posted erroneous information which misrepresented what transpired in the Legislative Assembly but, when presented with an opportunity to correct the record, acted in a purposeful way so that the misinformation continued to remain public and with no correct information available.
3. When presented with a further opportunity to correct the record following my adjournment speech on the evening of 7 June 2018 (**Attachment F**) which drew the Assembly's attention to her actions, she did not amend or remove the post, nor did she issue any statement correcting the record. Her post remains available for anyone to access.

I believe that three weeks having passed since my adjournment speech is sufficient time for Miss Burch to have reflected on her actions and to have decided whether to continue to let misinformation be publicly available. While I concede that (1) may have been an unfortunate mistake, her actions as described in (2) and (3) have led me to conclude that Miss Burch purposely acted, and continues to act, dishonestly in her communication with the public with regard to this issue.

Sincerely



Tara Cheyne MLA
Member for Ginninderra



Candice Burch MLA

6 June at 11:16

This budget saw rates, fees and charges continue to rise, yet Canberrans just aren't receiving the basic local services that we deserve.



Share

Emma Louise and 29 others

Oldest

1 share

View 11 more comments

Martin Lawrence Candice Burch MLA Can you supply a list of where such "covered stops" have been removed?

3w

David Johnston Not only has the ALP Greens ACT Govt failed to increase evening and weekend services they have actually made sneaky CUTS to many services in their so-called October timetable

Att A

Community

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- (h) keeping Canberra safe as the city grows, through support for the emergency services, including personnel, equipment and infrastructure; and
- (3) calls on the Government to continue to invest in expanding our core community, social, health, education, emergency services and transport services to cater to a growing and thriving city, for the benefit of its residents and visitors.

Debate ensued.

Question—put and passed.

6 BUS SERVICES—EVENING AND WEEKEND TIMETABLES

Miss C. Burch, pursuant to notice, moved—That this Assembly:

- (1) notes that:
 - (a) Canberra is a modern city of over 400 000 people;
 - (b) many Canberrans rely on public transport to get home safely at night; and
 - (c) low-income Canberrans are disproportionately impacted as they are the ones who work the late night hospitality and other shift work and currently cannot rely on public transport to get home safely;
- (2) further notes that:
 - (a) interstate bus services arrive at the Jolimont Centre until 1.30 am;
 - (b) the last bus services on weeknights leave Civic for Belconnen at 11.45 pm, for Gungahlin at 11.00 pm, and for Woden and Tuggeranong at 10.43 pm;
 - (c) the last bus services on Sunday and public holiday nights leave Civic for Belconnen at 7.46 pm, for Gungahlin at 6.59 pm, and for Woden and Tuggeranong at 7.26 pm;
 - (d) the last train services arrive at Kingston at 10.03 pm on weekdays and 9.43 pm on weekends and public holidays; and
 - (e) interstate travellers must rely on family, friends, or on-demand transport services to get home from Civic and Kingston when bus services are not available; and
- (3) calls on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on plans to:
 - (a) extend bus services in the evenings; and
 - (b) extend bus services on Sundays and public holidays.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 QUESTIONS

Questions without notice were asked.

8 BUS SERVICES—EVENING AND WEEKEND TIMETABLES

The order of the day having been read for the resumption of the debate on the motion of Miss C. Burch (*see entry 6*)—

Debate resumed by Ms Fitzharris (Minister for Transport and City Services), who moved the following amendment: Omit all words after “That this Assembly”, substitute:

“(1) notes that:

- (a) Canberra is a modern city of over 400 000 people;
- (b) the ACT Government is focused on getting more Canberrans to use public transport and ensuring access and equity so that people can move around our city and get home safely at night; and
- (c) the new integrated light rail and bus network will assist in overcoming challenges for people with low income and those who work in late-night hospitality and other shift work seeking to travel home using public transport. This will assist in addressing disadvantage, especially for low income Canberrans, who may be disproportionately impacted;

(2) further notes that:

- (a) interstate bus services arrive at the Jolimont Centre until 1.30 am;
- (b) the last bus services on weeknights leave Civic for Belconnen at 11.45 pm, for Gungahlin at 11.00 pm, and for Woden and Tuggeranong at 10.43 pm;
- (c) the last bus services on Sunday and public holiday nights leave Civic for Belconnen at 7.46 pm, for Gungahlin at 6.59 pm, and for Woden and Tuggeranong at 7.26 pm;
- (d) the last train services arrive at Kingston at 10.03 pm on weekdays and 9.43 pm on weekends and public holidays;
- (e) interstate travellers often rely on family, friends, or on-demand transport services if bus services are not available;
- (f) the ACT Government has committed to delivering a better seven-day bus network as part of building an integrated public transport network for Canberra, including introducing light rail;
- (g) this new integrated public transport network will add five new Rapid routes to the four current Rapids, which will operate seven days a week and continue into the late evening; and
- (h) the ACT Government undertook phase one of public consultation in 2017 on the new bus network and will soon commence phase two of this extensive public consultation, which will help shape Canberra’s future public transport network; and

(3) calls on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on:

- (a) plans to extend bus services in the evenings;

- (b) plans to extend bus services on Sundays and public holidays; and
- (c) plans to get more Canberrans using public transport.”.

Debate continued.

Ms Lawder moved the following amendment to Ms Fitzharris’ proposed amendment:
Insert new paragraph (3)(a):

“(a) information on take-up of Uber in Canberra;”.

Debate continued.

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes that:
 - (a) Canberra is a modern city of over 400 000 people;
 - (b) the ACT Government is focused on getting more Canberrans to use public transport and ensuring access and equity so that people can move around our city and get home safely at night; and
 - (c) the new integrated light rail and bus network will assist in overcoming challenges for people with low income and those who work in late-night hospitality and other shift work seeking to travel home using public transport. This will assist in addressing disadvantage, especially for low income Canberrans, who may be disproportionately impacted;
- (2) further notes that:
 - (a) interstate bus services arrive at the Jolimont Centre until 1.30 am;
 - (b) the last bus services on weeknights leave Civic for Belconnen at 11.45 pm, for Gungahlin at 11.00 pm, and for Woden and Tuggeranong at 10.43 pm;
 - (c) the last bus services on Sunday and public holiday nights leave Civic for Belconnen at 7.46 pm, for Gungahlin at 6.59 pm, and for Woden and Tuggeranong at 7.26 pm;
 - (d) the last train services arrive at Kingston at 10.03 pm on weekdays and 9.43 pm on weekends and public holidays;
 - (e) interstate travellers often rely on family, friends, or on-demand transport services if bus services are not available;
 - (f) the ACT Government has committed to delivering a better seven-day bus network as part of building an integrated public transport network for Canberra, including introducing light rail;
 - (g) this new integrated public transport network will add five new Rapid routes to the four current Rapids, which will operate seven days a week and continue into the late evening; and

- (h) the ACT Government undertook phase one of public consultation in 2017 on the new bus network and will soon commence phase two of this extensive public consultation, which will help shape Canberra's future public transport network; and
- (3) calls on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on:
 - (a) information on take-up of Uber in Canberra;
 - (b) plans to extend bus services in the evenings;
 - (c) plans to extend bus services on Sundays and public holidays; and
 - (d) plans to get more Canberrans using public transport."—

be agreed to—put and passed.

9 DANGEROUS DOGS—MANAGEMENT AND STAFF RESOURCES

Ms Lawder, pursuant to notice, moved—That this Assembly:

- (1) notes that:
 - (a) in 2016 the number of people presenting to ACT public hospital emergency wards as a result of dog attack was 155 meaning that, in effect, a serious dog attack occurred every two days;
 - (b) the former Member of the Legislative Assembly, the late Mr Steve Doszpot MLA, organised a concerted campaign in 2017 to make the Government act on serious deficiencies in ACT laws and administration relating to the management of dangerous dogs;
 - (c) on 25 October 2017 a Watson woman, Ms Tania Klemke, was killed in her house by a dog that on at least two previous occasions in 2017 had previously come to the serious attention of police and Domestic Animal Services (DAS);
 - (d) in October 2017 Minister Fitzharris announced that staffing of the DAS would double;
 - (e) on 23 November 2017 three dogs entered the private property of Ms Colless of Banks and killed her pet cat;
 - (f) on 22 March 2018 Minister Fitzharris stated that the Government was "in the process of increasing the number of Domestic Animal Services rangers";
 - (g) on 29 March 2018 with the case of the attack on Ms Colless's cat still unresolved, I wrote to Minister Fitzharris concerning the lengthy delay in resolving the case, correspondence that has still not been answered; and
 - (h) on about 20 April 2018 DAS wrote in an email to a member of the public who complained about a dog issue that DAS was "understaffed"; and
- (2) calls on the ACT Government to provide the Assembly with a report on the staff configuration engaged in the Licensing and Compliance Branch (branch or equivalent) of Transport Canberra and City Services including the DAS, City Ranger and Licensing Sections (section or equivalent) in:

MR BARR: The ACT budget will invest in Canberra. Madam Speaker, I ask that all further questions be placed on the notice paper.

Transport—connectivity

Debate resumed.

MS FITZHARRIS (Yerrabi—Minister for Health and Wellbeing, Minister for Transport and City Services and Minister for Higher Education, Training and Research) (3.18): I welcome this opportunity to speak once again about our plans for more buses more often, and I thank Miss Burch for raising this issue today.

As members will be aware, in progressing the government's delivery of an integrated transport network, an initial phase of community engagement for the redesign of the public transport network was undertaken late last year. The first phase of consultation provided Transport Canberra officials with an opportunity to speak directly to the community about the new integrated public transport network for Canberra, including the introduction of more rapid bus routes as we move towards a seven-day network.

A total of 678 people filled in the online survey, with 82 per cent of respondents saying they currently use public transport. Canberrans told us that their top three priorities for encouraging more people to use public transport were faster trips and more direct routes, more frequent and reliable services, and increased services at both peak and off-peak times such as during the weekend, during the evening and on weekends.

The first phase of consultation told us that as we move away from a nine to five lifestyle, people want more services at all times of the day and week. This is what the government will be delivering. We can achieve this by reducing duplication across existing routes, freeing up more buses and providing more frequent services in line with the community's expectations. Integrating light rail with our bus network will also free up buses and provide more direct services to key destinations.

The consultation last year found that 62 per cent of respondents said they would use public transport more often if services were more frequent, while 54 per cent said they would like it if journeys were faster. More than 60 per cent said they were keen to see more flexible bus services for residents with limited mobility, and 50 per cent said they were interested in demand-responsive services for residents who cannot access regular bus services. People said they want to get information about planning their transport journey increasingly through digital displays and mobile apps.

Canberra's population is projected to increase significantly over the next 20 years, from just over 400,000 today to nearly half a million. This next network update will really be the first step in ensuring our public transport system meets the needs of our growing city. I am confident that the more we provide frequent direct bus services across Canberra, the more people will choose to leave their car at home and catch public transport. We have certainly seen this with the introduction of network 17 last year, with significant uptake, particularly of the new green and black rapid services.

The new network is now being developed, and we have committed to a second phase of community engagement prior to the implementation of this network. While the final network will be subject to further feedback from our community, Canberrans should expect to see a new bus network that reflects the input they gave to the government last year and that delivers on these priorities.

The government is working hard to design a network with faster and more direct bus routes as well as a network with more frequent and reliable services at all times of the day and week, a truly seven-day-a-week network. The government knows that with fewer people now on a strict nine to five schedule, there is a greater need to provide more services to help people travel in the evenings and at weekends. That is why we are designing a public transport network that will move Canberrans on all days, seven days a week.

I am pleased to advise the Assembly that our new integrated network will provide access and equity for people to get home safely at night seven days a week. We are looking to expand the hours of operation, with the initial light rail timetable running until 11.30 pm Monday to Thursday, 1 am on Friday and Saturday nights and Sunday mornings, and 11.30 pm on Sunday night. Likewise the new Transport Canberra bus network rapid services will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.

The Labor government are expanding our bus network based on what people told us they wanted: more buses, more often. We are delivering on these commitments to provide more rapid bus services for Canberrans, and record patronage growth shows that they are voting with their feet. We are on track to exceed this year's patronage target of 18.4 million customer boardings, and my focus is on ensuring our new network encourages even more Canberrans to use public transport. I look forward to providing a further update to the Assembly about the government's plans for our public transport network in August.

I move the following amendment to the motion:

Omit all words after "That this Assembly", substitute:

"(1) notes that:

- (a) Canberra is a modern city of over 400 000 people; and
- (b) the ACT Government is focused on getting more Canberrans to use public transport and ensuring access and equity so that people can move around our city and get home safely at night; and
- (c) the new integrated light rail and bus network will assist in overcoming challenges for people with low income and those who work in late-night hospitality and other shift work seeking to travel home using public transport. This will assist in addressing disadvantage, especially for low income Canberrans, who may be disproportionately impacted;

(2) further notes that:

- (a) interstate bus services arrive at the Jolimont Centre until 1.30 am;

- (b) the last bus services on weeknights leave Civic for Belconnen at 11.45 pm, for Gungahlin at 11.00 pm, and for Woden and Tuggeranong at 10.43 pm;
 - (c) the last bus services on Sunday and public holiday nights leave Civic for Belconnen at 7.46 pm, for Gungahlin at 6.59 pm, and for Woden and Tuggeranong at 7.26 pm;
 - (d) the last train services arrive at Kingston at 10.03 pm on weekdays and 9.43 pm on weekends and public holidays;
 - (e) interstate travellers often rely on family, friends, or on-demand transport services if bus services are not available;
 - (f) the ACT Government has committed to delivering a better seven-day bus network as part of building an integrated public transport network for Canberra, including introducing light rail;
 - (g) this new integrated public transport network will add five new Rapid routes to the four current Rapids, which will operate seven days a week and continue into the late evening; and
 - (h) the ACT Government undertook phase one of public consultation in 2017 on the new bus network and will soon commence phase two of this extensive public consultation, which will help shape Canberra's future public transport network; and
- (3) calls on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on:
- (a) plans to extend bus services in the evenings;
 - (b) plans to extend bus services on Sundays and public holidays; and
 - (c) plans to get more Canberrans using public transport.”.

I particularly note the clarification in this amendment about the times that existing bus services are available, which was not correct in the original motion that was circulated. Also, I look forward to reporting in August on how the government is proposing to extend bus services in the evenings, on Sundays and on public holidays, and on our plans to encourage more Canberrans to use public transport.

I particularly note efforts the government is already making to increase access to public transport, particularly for low income Canberrans. I note that free off-peak travel for those on concession cards has been an incredibly popular and well-used service from the ACT government. I am very pleased to have reports from people throughout our community about how much they are valuing this ready access to free public transport right across our territory in off-peak times, including noting that that includes in the evenings, which was the subject of the original motion.

We also look forward to the new network providing more frequent services more often and providing more rapid routes. I particularly note that this will increase access for low income Canberrans and those potentially facing disadvantage in our community. It is a core principle of a Labor government and one that we are keen to pursue through a more integrated, more frequent public transport network.

Timeline Photos

LABOR HAS TRIPLED YOUR RATES BUT...

- ✘ REMOVED covered bus shelters
- ✘ FAILED to improve school bus services
- ✘ FAILED to increase evening and weekend bus services

CAN'T TRUST LABOR WITH BUSES

Like Comment Share

Authorised by Candice Burch MLA

Tag photo Options



Tara Cheyne MLA You are well and truly aware that improving bus services is part of the broader bus network consultation which "is" underway. In fact, your own motion just last month called on the Minister (and she agreed) to report back to the Assembly by 23 August on plans to extend bus services in the evenings and plans to extend bus services on Sundays and public holidays. You didn't ask her to report back by or through the ACT budget.

Like Reply 6m

Tara Cheyne And from the Minister in herself, responding to you: I am pleased to advise the Assembly that our new integrated network will provide access and equity for people to get home safely at night seven days a week. We are looking to expand the hours of operation, with the initial light rail timetable running until 11.30 pm Monday to Thursday, 1 am on Friday and Saturday nights and Sunday mornings, and 11.30 pm on Sunday night. Likewise the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.

Like Reply 1m

Write a reply...



Write a comment...





Candice Burch
 MLA
 @candiceburchkurrajong

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Create a Page

Candice Burch MLA
 6 June at 11:16

This budget saw rates, fees and charges continue to rise, yet Canberrans just aren't receiving the basic local services that we deserve.



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Emma Louise and 29 others

1 share

Tom Munro Pretty much none of that is true but don't let that stop you
 3w 12

Gerald Lynch Where have the "covered" bus stops been removed from?
 3w

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7 June 2018

Legislative Assembly for the ACT

Madam Speaker, the outpouring of love and sadness is testament to how widely Steve's loss is being felt. I draw on some Facebook comments today, which were extraordinary—there were hundreds and hundreds of them—because I want to put on the record permanently and publicly exactly what a contribution he made to our community.

One person said:

This is devastating news. They have owned that shop for my entire lifetime; both Angela, Steve's wife, and Steve were nothing short of beautiful.

Another said:

Steve and all of the staff there were an icon of my childhood and set the standard for takeaways that no one else has been able to live up to.

And another:

Steve always put a smile on my face and was good for a bit of banter. My family have been coming to Steve for years. Best pizza! Such a genuinely lovely guy. When I saw Steve last week, he was helping a guy get his pizza to his car.

Madam Speaker, these short statements underline Steve's character and his impact on our community. Again, I extend my deep and sincere condolences to his family and to his many, many friends and customers.

Finally, I want to draw the Assembly's attention to Miss Burch's actions yesterday. As members are aware, in May Miss Burch successfully brought a motion to this Assembly which asked the minister to report back to the Assembly on 23 August on the government's plans to extend bus services in the evenings, on Sundays and on public holidays. In responding to Miss Burch, the minister said:

... the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.

However, yesterday Miss Burch published a Facebook post intimating that the budget had failed to include the provision of late night services on evenings and Sundays. I obviously found this very interesting, given Miss Burch had only asked for an update by August—not by the June budget date—and given that Minister Fitzharris has made it clear, including directly to Miss Burch, that these services will happen.

I commented on Miss Burch's post, pointing this out. However, she then removed my comments and blocked me from commenting further. I invite Miss Burch to reflect on the Canberra Liberals' own stated value of freedom of speech and that the code of conduct requires members to be honest at all times. She is not exempt from that.

Question resolved in the affirmative.

The Assembly adjourned at 4.47 pm until Tuesday, 31 July 2018 at 10 am.

APPENDIX B – REPORT OF THE COMMISSIONER FOR STANDARDS

The Hon Dr Ken Crispin QC

P.O. Box 3117
Tuross Head NSW 2537
k.crispin@bigpond.com
Mob: 0438 240 306

26 July 2018

Mr Tom Duncan,
Secretary,
Standing Committee on Administration and Procedure,
Legislative Assembly for the Australian Capital Territory,
P.O. Box 1020,
CANBERRA CITY A.C.T. 2601.

Dear Mr Duncan,

Referral of a matter pursuant to continuing resolution 5AA

My report concerning the complaint against Ms Candice Burch is now enclosed.

Sincerely,



K J Crispin QC

REPORT INTO A COMPLAINT AGAINST MS CANDICE BURCH MLA

Background

1. On 9 May 2018 the Shadow Minister for Transport, Ms Candice Burch MLA, moved a motion noting certain information about bus services in Canberra and calling on the Minister for Transport and City Services to report to the Assembly by Thursday, 23 August 2018 on plans to:
 - (a) *extend bus services in the evenings; and*
 - (b) *extend bus services on Sundays and public holidays.*
2. The Minister moved an amendment and the motion ultimately passed called for her to report to the Assembly by 23 August 2018 not only on plans for the extension of bus services in the evenings and on Sundays and public holidays but also on plans to get more Canberrans using public transport. In the course of the ensuing debate, the Minister said that the new integrated transport network was being developed and that the government had committed to a second phase of community engagement prior to its implementation. The government was working hard to design a network with faster and more direct bus routes as well as more frequent and reliable services. She explained that the government was “looking to expand” the hours of operation and, after referring to the initial light rail timetable, said. “Likewise, the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.”
3. On 5 June 2018 the ACT budget was released. The budget papers announced that additional funding had been allocated for detailed planning and design of stage 2 of the light rail project and for new cycle paths, footpaths & share paths. No additional funding for buses was mentioned, though the delivery of 40 new buses by the end of 2018 was foreshadowed.
4. On the following day Ms Burch posted an image on her Facebook page containing the following words:

*Candice Burch MLA
June 6*

This budget saw rates, fees and charges continue to rise, yet Canberrans just aren't receiving the basic local services that we deserve.

LABOUR HAS TRIPLED YOUR RATES BUT ...

- X REMOVED covered bus shelters*
- X FAILED to improve school bus Services*
- X FAILED to increase evening and weekend bus services*

CAN'T TRUST LABOR WITH BUSES

5. In response to this post Ms Tara Cheyne MLA , who is the Government Whip, added two comments on Ms Burch's Facebook page stating:

You are well and truly aware that improving bus services is part of the broader bus network consultation which is underway. In fact, your own motion just last month called on the Minister (and she agreed) to report back to the Assembly by 23 August on plans to extend bus services on Sundays and public holidays. You didn't ask her to report back through the ACT budget.

And from the Minister in (sic) herself, responding to you; I am pleased to advise the Assembly that our new integrated network will provide access and equity for people to get home safely at night seven days a week. We are looking to expand the hours of operation, with the initial light rail timetable running until 11.30 pm Monday to Thursday, 1 am (sic) on Friday and Saturday nights and Sunday mornings, and 11.30 on Sunday night. Likewise the new Transport Canberra bus network rapids will run to midnight Monday to Saturday, and we are looking to run them to 10.30 pm on Sunday nights.

6. Ms Burch removed these comments from her Facebook page and blocked Ms Cheyne from adding further comments.
7. On 7 June 2018 Ms Cheyne mentioned these actions in a speech to the Legislative Assembly and added:

I invite Ms Burch to reflect on the Canberra Liberals' own stated value of freedom of speech and that the code of conduct requires members to be honest at all times. She is not exempt from that.

The complaint

8. The complaint was made by Ms Cheyne in a letter addressed to the Clerk of the Legislative Assembly and dated 28 June 2018. The letter, which was sent on me on the following day, suggested that Ms Burch's conduct may have involved a breach of section (1) of *The Code of Conduct for all Members of the Legislative Assembly of the Australian Capital Territory* ('the Code'). Section (1) provides that:

Members should at all times act with integrity, honesty and diligence.

9. The complaint suggests that Miss Burch's actions were dishonest in that:
1. *Her post contained erroneous information which misrepresented her actions (that is, what she had called for) and what transpired in the Legislative Assembly to the broader public.*
 2. *When a correction was made by way of comments from me on her page, her next action was to delete them and block me. This means she not only knowingly posted erroneous informations which misrepresented what transpired in the Legislative Assembly but, when presented with an opportunity to correct the record, acted in a purposeful way so*

that the misinformation continued to remain public and with no correct information available.

3. *When presented with a further opportunity to correct the record following my adjournment speech on the evening of 7 June 2018 which drew the Assembly's attention to her actions, she did not amend or remove the post, nor did she issue any statement correcting the record. Her post remains available for anyone to access.*

The response

10. I wrote to Ms Burch by letter dated 29 June 2018 inviting her to respond to the complaint. Ms Burch replied on 11 July 2018, effectively denying any dishonesty and making the following points:

- The text of her post clearly indicates that her comments were made in the context of the budget and not the motion debated on 9 May 2018.
- During the course of that debate the Minister for Transport and City Services said that the Government was “looking to expand” the Light Rail timetable and the Rapid bus network, rather than committing itself to specific actions. Furthermore, her comments did not extend to regular suburban services.
- A reasonable person would surmise that if the Government had been intending to provide additional services within the next financial year, additional funding would have been allocated in the budget to meet the cost.
- The Budget did not allocate any new or additional funding to increase evening or weekend bus services.
- Thus, despite Ms Cheyne’s comments, she was satisfied the post remained factually accurate and did not edit or delete it.
- She decided to block Ms Cheyne from making further comments on her Facebook page because she did not think it is becoming of Members to get in to arguments over politics on social media. She did not then realise that this would “hide” the comments Ms Cheyne had already made, which she had intended to allow to remain visible.
- It was not until 18 June 2018 that the Minister for Transport and City Services announced the proposed new bus network, including an expansion of evening and weekend services. Whilst the extent of the expansion still remained unclear, Ms Burch issued a media release on the same day, stating that, “We’re pleased that the government has responded to our calls for an extension of late night, Sunday, and public holiday services...”

11. In response to the specific allegations of dishonesty made in the complaint, Ms Burch said:

1. *My post did not contain erroneous information. It was factually accurate at the time of posting. I did not misrepresent my actions or what had transpired in the Legislative Assembly a*

month earlier, as the post did not even reference these events, but was in relation to the 2018-19 ACT Budget released a day earlier.

2. *While Ms Cheyne's comments may have also been factually accurate, they do not contradict my post. After multiple comments were made, I took this to be "trolling" behaviour and made the decision to block her from my page. I do not believe that my desire to avoid a public argument with another Member via social media is in any way relevant to my honesty or integrity.*
3. *I felt no need to amend or remove the post, or issue a statement of correction, as I was satisfied that the post remained factually accurate. I intended on making a statement in response to Ms Cheyne's adjournment speech when the Assembly sits again. By waiting until the end of the sitting week to raise these issues, Ms Cheyne did not give me an opportunity to respond any earlier.*

The nature of the investigation

12. The role of the Commissioner is limited to investigating complaints and reporting to the Standing Committee on Administration and Procedure ('the Committee'). It is for the Committee to determine whether complaints has been substantiated in any respect and, if so, what consequences should ensue. However, since my reports are intended to assist the Committee, I have consistently taken the view that I should record my own impressions of the evidence and express my own opinion as to whether it is capable of substantiating any aspects of the complaint.
13. The investigation was conducted in accordance with the protocol adopted by the Committee on 24 March 2015 which includes the statement:

It is the Commissioner's intention to rely upon written material and not to hold any face to face discussions or otherwise receive oral evidence unless such a course proves necessary for the fair and satisfactory completion of a particular investigation.

14. In the present case, no significant factual disputes emerged and I concluded that it was unnecessary to seek further evidence beyond the statements contained in the letters from Ms Cheyne and Ms Burch and the documentation they provided.
15. A draft of this report was sent to Ms Burch on 20 July as required by Continuing Resolution 5AA. She replied on 26 July indicating that she had no further comments to make.

The issues raised by the complaint

16. The specific statements made by Ms Burch concerning the government's actions or perceived failures were all expressed in the past tense. It is not alleged that these statements were factually untrue and assurances about plans for future improvements obviously cannot, of themselves, provide any logical basis for concluding that statements about past conduct were dishonest or even inaccurate. The more general assertion, "can't trust Labor with buses", was expressed in the present tense, but it immediately followed the other statements and is obviously a comment based upon the suggested past failings. The post does not advert to Ms Burch's actions or the events that transpired in the Assembly and contains nothing from which a member of the public

could reasonably draw inferences about them. Hence, I cannot be satisfied that it involved any implied misrepresentation of those matters.

17. The crucial issue raised by the complaint is whether the overall message conveyed by the post was dishonest because Ms Burch could not have honestly believed that the government could not be trusted in relation to bus services when she had been assured that it was taking steps to ensure that the issues she had raised would be duly addressed. Given the response to Ms Burch's motion in the Assembly, it is not surprising that Ms Cheyne would have taken that view. However, allegations of dishonesty must be judged, not by reference to the perceptions of the complainants, but by the knowledge and perceptions of those against whom the allegations are made. It does not seem to be axiomatic that Members of the Assembly or other parliamentary bodies invariably accept the assurances of their political opponents or that any expression of scepticism can only be attributed to dishonesty.
18. Furthermore, I see no reason to doubt the truth of Ms Burch's explanation that, whilst her concerns had not been wholly assuaged by the Minister's assurances or by her agreement to provide a report in August, the post had been written in response to the absence of any budgetary allocation for improved bus services. That is supported both by the opening words of her post and by the fact that it was made on the day after the budget. She had no apparent reason to anticipate the announcement made by the Minister on 18 June and saw the absence of any such budgetary allocation as an indication that, despite the Minister's announcements, the government did not intend to provide additional services within the next financial year. It was that inference that led her to suggest that the government could not be trusted with bus services.
19. It may be argued that this was not a reasonable inference since additional expenses can sometimes be absorbed within existing budgetary allocations. However, even if Ms Burch had adverted to this possibility, it may not have dispelled her belief that the government's apparently still inchoate plans would not provide the level of service required within a reasonable time. I am not concerned with whether that belief was reasonable, only with the allegation of dishonesty.
20. In considering that issue, a number of factors need to be taken into account:
 - Ms Burch had already been critical of the government for the earlier removal of bus shelters and failures to improve certain bus services.
 - She had been assured that plans were being made to improve these services and the Minister had agreed to provide further explanation of those plans by 23 August 2018.
 - Nonetheless, at the time she made the post she believed that, despite these assurances, the foreshadowed improvements were unlikely to be made during the following financial year.
 - Some allowance should be made for the possibility that her scepticism of the government's assurances was accentuated by her perceptions of previous government failings and also, perhaps, by attitudes and expectations arising from the adversarial nature of the political system.
 - Whilst her criticism could have been qualified by some reference to the government's assurances, readers would have understood that the post was a tersely worded, politically partisan statement, in point form, not a document purporting to deal with the issues in an even-hand-

ed manner. In the context of a robust parliamentary democracy, some hyperbole must be expected and it would be unrealistic to assume that every political barb directed at an opposing party should be qualified by reference to explanations that could be advanced in response.

- The claims were made against a government that was well able to defend its own position, albeit not within Ms Burch's Facebook page.

20. I do not, of course, endorse her assertion that the government could not be trusted in relation to the provision of adequate bus services. It is not my role to offer an opinion on the adequacy of government services of any kind and Ms Burch herself has since said that she is pleased that the government has responded to calls for increased services. However, I am not persuaded that, in posting the relevant material on to her Face book page and expressing the views she then held, Ms Burch acted dishonestly.
21. Neither the comments subsequently made by Ms Cheyne on Ms Burch's Facebook page nor the statements she made to the Assembly on 7 June 2018 foreshadowed the announcement subsequently made by the government on 18 June 2018, explained the absence of any budgetary allocation of funds for the expansion of bus services or otherwise indicated that this would occur before the end of the 2018/19 financial year. Ms Burch took the view that nothing said by Ms Cheyne on either occasion contradicted what had been said in the post and that it was factually accurate. Whilst her view was not one likely to have been shared by government Members, I am unable to be satisfied that she acted dishonestly in declining to remove the post in response.
22. It is not appropriate for me to express any view as to whether Members of the Assembly should be free to block other Members from making comments on their Facebook pages. There will inevitably be cases in which an aggrieved Member will wish to respond to posts that he or she feels are unfair, but there are other means of answering criticism and the Code does not deal with this issue.

Conclusion

23. Having examined the substantive issues raised by the complaint against Ms Burch, I have concluded that no breach of the code has been established.
24. I recommend that the complaint be dismissed.



K. J. Crispin QC
Commissioner for Standards
26 July 2018