



STANDING COMMITTEE ON PUBLIC ACCOUNTS

Elizabeth Kikkert MLA (Chair), Michael Pettersson MLA (Deputy Chair),
Andrew Braddock MLA

Inquiry into ACT Budget 2021–22
ANSWER TO QUESTION ON NOTICE

Asked by **MR PETERSSON**:

[Ref: Office of the Legislative Assembly]

In relation to:

- Does s 153 of the Public Sector Management Act apply whole-of-government strategy to staff of the Office?
- What whole-of-government strategies or policies, or a particular aspect of a whole-of-government strategy or policy has the Clerk utilised s 8 of the Legislative Assembly (Office of the Legislative Assembly) Act as a basis for not applying such a strategy or policy?
 - o Why was s 8 utilised in each instance?

SPEAKER: The answer to the Member's question is as follows:—

- Section 153 of the Public Sector Management Act is limited in its application. It provides that:

A whole-of-government strategy applies to a public sector employer and the staff of the public sector employer employed under this Act, if the strategy—

- (a) relates to the employment or management of staff; or*
- (b) is prescribed for this section.*

- The Office is a public sector employer and staff of the Office are employed under the PSM Act. Accordingly, s 153 applies to the Office and its staff.
- However, it is not always clear on its face whether a given government policy, strategy or commitment, guidance document, advice or other material promulgated across government is a 'whole-of-government' strategy for the purposes of s 153.
- Nor is it always clear that the government intends for certain of its policies, strategies or commitments to be regarded as necessitating implementation—irrespective of their application—by independent statutory offices such as the Office of the Legislative Assembly, the Electoral Commission, the Auditor-General, the Integrity Commission, or the Ombudsman given the unique integrity, assurance and parliamentary roles that they perform.
- Where a strategy may be considered to be a whole-of-government strategy for the purposes of s 153, and is thought to have application to the Office, the Clerk would consider implementation of the policy having regard to:

- the effective performance of the Office’s statutory function to impartially advise and support the Legislative Assembly, its committees and MLAs pursuant to s 6 of the *Legislative Assembly (Office of the Legislative Assembly) Act 2012* (OLA Act);
 - the requirement to take all reasonable steps to avoid a conflict of interest — potential, perceived or actual—vis-à-vis the statutory functions of the Office (s 9 of the *Public Sector Management Act 1996*); and
 - the independence of the Office from the Executive in exercising management and other functions on behalf of the legislature (s 8 of the OLA Act).
- In my role as Speaker and head of the legislative branch in the Territory, I am entirely supportive of the Clerk adopting this approach, which appropriately recognises the political and institutional separation of powers in our form of government.
 - The approach ensures that all Members of the Legislative Assembly, and indeed the wider community, can have confidence that the Clerk and staff of the Office are independent of government and are able to perform their roles and functions, and are seen to perform their roles and functions, impartially.

Approved for circulation to the Standing Committee on Public Accounts.

Signature: 

Date: 8 November 2021

By the Speaker of the Legislative Assembly for the ACT, Ms Joy Burch MLA