



Legislative Assembly for the
Australian Capital Territory

Standing Committee on the Integrity
Commission and Statutory Office
Holders

Submission Cover Sheet

Inquiry into the effectiveness of transparency arrangements for Members of the Legislative Assembly

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LEGISLATIVE COUNCIL

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22 July 2025

Mr Ed Cocks MLA

Chair

Standing Committee on the Integrity Commission and Statutory Office Holders

Legislative Assembly for the Australian Capital Territory

Via email: LACommitteeIntegrity@parliament.act.gov.au

Dear Mr Cocks

Transparency arrangements for members of the NSW Legislative Council

Thank you for your letter of 29 May 2025 inviting me to provide information about the transparency arrangements for members of parliament in New South Wales. As Clerk of the Parliaments and Clerk of the Legislative Council, I am pleased to offer the following response, outlining the transparency arrangements for members of the Legislative Council and the additional arrangements applying to members of the executive.

Register of members' interests

Members of the NSW Legislative Council are required to declare their pecuniary and other interests through regular returns. The returns are recorded in a register of disclosures maintained by the Clerk of the Legislative Council. These are open to public inspection, and compilation of members' returns are tabled in each House and published online as tabled papers.¹

The disclosure of interests regime is established under section 14A of the *Constitution Act 1902* and the Constitution (Disclosures by Members) Regulation 1983. The regulation requires that members lodge regular returns, disclosing certain interests such as real property, interests and positions in corporations, income, debts and gifts. Each Clerk compiles and maintains a register of disclosures for the members of their respective House.² The register of interests must be made available for public viewing between 10 am and 4 pm on all business days.³ Returns must also be provided to the presiding officers for tabling in each House.⁴

The requirement for members to disclose interests is also set out in the Code of Conduct for members. The Members' Code of Conduct stipulates that members must:

- Fulfil conscientiously the requirements of the House in respect of the register of disclosures for members
- Take reasonable steps to avoid, resolve or disclose any conflict between their private interests and the public interest; and

¹ Further information about the interest disclosure of the Legislative Council is found at Frappell and Blunt (ed) (2021), *New South Wales Legislative Council Practice* (2nd ed), pp 229-238.

² Constitution (Disclosures by Members) Regulation 1983, ss 17 and 18.

³ Constitution (Disclosures by Members) Regulation 1983, s 19.

⁴ Constitution (Disclosures by Members) Regulation 1983, s 21.

- Take reasonable steps to disclose all gifts and benefits received in connection with their official duties, in accordance with the requirements for the disclosure of pecuniary interests.

Section 14A(2) of the *Constitution Act 1902* provides that if a member of the Legislative Council wilfully contravenes any regulation made under section 14A(1) of the Constitution Act 1902, (currently only the Constitution (Disclosures by Members) Regulation 1983), the House may declare the member's seat vacant.

From 2018 The *Register of Disclosures by Members of the Legislative Council* is available on the tabled papers database.⁵ Registers prior to 2018 can be viewed by appointment with the Office of the Clerk.

Standing Order 117(2) of the NSW Legislative Council provides that a member may not vote on a question in which the member has a direct pecuniary interest, unless it is an interest in common with the general public or it is on a matter of state policy. Standing order 217(10) provides that no member with a direct pecuniary interest may take part in a committee inquiry.

Use of members' entitlements

The *Parliamentary Remuneration Act 1989* (NSW) provides that the Parliamentary Remuneration Tribunal determines the basic salary of members, and may make determinations of additional entitlements for a member or additional office holder, including, for example, electoral allowance, travel allowances, travel expenses, committee allowances and electoral staff and office costs. Determinations of the Tribunal are published in the *Government Gazette*, tabled in both Houses, and are available on the tribunal's website.⁶

An ICAC report in 1998 noted a gap in transparency in the administration of members' entitlements, and suggested a number of improvements to the system.⁷ Since that time, the Parliament has implemented reforms to increase transparency of the system.

While there is no formal legislative requirement to publish details of use of members' entitlements,⁸ the annual reports of both Houses of the NSW Parliament include some details of use of members' entitlements.⁹ For example, the Legislative Council's Annual Report typically contains a summary of the following:

- Each member's use of allowances for travel (for themselves, their spouse (if any), and their staff), communications, committee work and skills development, and; regional members' use of their Sydney allowance¹⁰
- Committee travel expenses, noting the committee, the inquiry and location of each trip¹¹
- International travel expenses for members and staff, noting cost and purpose for each trip.¹²

⁵ Found at: <https://www.parliament.nsw.gov.au/lc/tabledpapers/pages/house-papers.aspx?filterHouse=LC&paperType=TabledPapers&view=TabledPapersViewByDate&browseHouse=LC&type=TabledPapers&s=1>.

⁶ *NSW Legislative Council Practice* (2021), pp 250-252.

⁷ Independent Commission Against Corruption, *Investigation into Parliamentary and Electorate Travel: First Report* (April 1998), p 87; *Independent Commission Against Corruption, Investigation into Parliamentary and Electorate Travel: Second Report* (December 1998), pp 2-10.

⁸ In 2018, in response to recommendations of the Audit Office of NSW, the Parliamentary Remuneration Tribunal indicated that public reporting of Members' expenditure on an online platform would commence from 1 July 2019. However, this raised a number of questions as to whether the Tribunal had the powers to implement this arrangement and subsequently did not proceed. NSW Parliamentary Remuneration Tribunal, *Annual Report and Determination* (16 May 2018), p 17; NSW Parliamentary Remuneration Tribunal, *Annual Report and Determination* (21 June 2019), p 16.

⁹ For example, Department of the NSW Legislative Council, *Annual Report 2024*, (see Appendices 3, 4 and 6), found at <https://www.parliament.nsw.gov.au/lc/departments/pages/annual-reports.aspx>; *Department of the Legislative Assembly, Annual Report 2023-2024*, (see Appendices B and C).

¹⁰ For example, Department of the NSW Legislative Council, *Annual Report 2024*, (Appendix 3), pp 66-74.

¹¹ For example, Department of the NSW Legislative Council, *Annual Report 2024*, (Appendix 4), pp 75-77.

¹² For example, Department of the NSW Legislative Council, *Annual Report 2024*, (Appendix 6), p 82.

The NSW Audit Office conducts an annual compliance audit of whether members of the NSW Parliament complied with certain requirements outlined in the Parliament Remuneration Tribunal's Determination.¹³ Its published reports provide an additional layer of transparency to the administration and use of members' entitlements.¹⁴

Following adoption of the Code of Conduct for Members in 1998, the Parliament has appointed a Parliamentary Ethics Adviser, whose functions include advising members on ethical issues in their role, including use of entitlements and potential conflicts of interests.¹⁵

In March 2022, the House established the position of Independent Complaints Officer (ICO), whose primary role is to receive and investigate complaints of alleged breaches of the Code of Conduct for Members, including complaints relating to misuse of allowances and entitlements and minor breaches of the interest disclosure regime. While ICO investigations are conducted confidentially as far as possible, the outcomes may be reported to the Privileges Committee, and de-identified quarterly reports from the ICO are tabled in the House.

Additional transparency arrangements for members of the Executive

Ministerial Code of Conduct

As members of Parliament, ministers must comply with the requirements of the interest disclosure regime and the *Code of Conduct for Members*. In addition, ministers are also subject to the *Code of Conduct for Ministers of the Crown*, which is an Appendix to the Independent Commission Against Corruption Regulation 2017.¹⁶

The NSW Ministerial Code of Conduct prescribes standards of ethical behaviour for ministers and parliamentary secretaries, noting that ministers are individually and collectively responsible to Parliament, and ultimately to the people of New South Wales. The Schedule to the Ministerial Code outlines additional administrative and governance requirements that ministers must comply with, relating to prohibited interests, standing disclosures of interests, conflicts of interest, commissions from property developers, gifts and hospitality and employment after leaving Ministerial office.

The Ministerial Code of Conduct also has provisions relating to employment after leaving Ministerial office, and provides that Ministers and former Ministers must seek advice from the Parliamentary Ethics Adviser if they wish to consider accepting an offer of post-separation employment if it relates to their portfolio within certain timeframes after leaving office.¹⁷

Ministerial Register of Interests

The Ministerial Code of Conduct stipulates that, as well as complying with their obligations as a Member of Parliament to disclose pecuniary and other interests to the Parliament, Ministers must provide to the Premier a copy of their last return to Parliament and notice in writing of any event that has changed since that return, and any pecuniary interests of their immediate family members.¹⁸ These disclosures are to be kept on a Ministerial Register of Interests, and there are requirements for Ministers to provide notice of

¹³ Audit Office of New South Wales, *Annual Work Program 2024-2027*, p 9.

¹⁴ Past audit reports are found at: <https://www.audit.nsw.gov.au/search?keys=members%20entitlements&page=1>.

¹⁵ Further information on the Parliamentary Ethics Adviser can be found in *NSW Legislative Council Practice* (2021) pp 249-250.

¹⁶ Further information about the Ministerial Code of Conduct can be found at *NSW Legislative Council Practice* (2021) pp 305-307.

¹⁷ Schedule to the NSW Ministerial Code of Conduct, ss 23-25.

¹⁸ Schedule to the NSW Ministerial Code of Conduct, s 5.

updates.¹⁹ This register is not publicly available, but must be made available for inspection by all Ministers at any meeting of the Cabinet or any Cabinet Committee and otherwise by arrangement with the Premier.²⁰

The Schedule also outlines requirements for Ministers who accept a gift and provides that the Secretary of the Cabinet Office is to maintain a Ministerial register of gifts containing a copy of any declaration or disclosure of a gift or hospitality offered to a Minister.²¹

Publication of Ministerial diaries

The NSW Cabinet Office maintains and publishes on its website a number of logs providing information about Ministerial activities. These include quarterly publication of Ministerial diary disclosures, and release of summary reports of ministers' overseas travel, as required by Premier's Memorandum M2015-05.²²

Register of lobbyists

The conduct of ministers is also regulated by the *Lobbying of Government Officials Act 2011* (NSW). This Act, introduced following an Independent Commission Against Corruption Report on lobbying in 2010,²³ establishes a Lobbyists Code of Conduct, (the content of which is set in regulations), and requires the NSW Electoral Commission to establish a register of third-party lobbyists. The register of third-party lobbyists is publicly accessible online through the NSW Electoral Commission website.²⁴ It includes information such as: name and business contact details of lobbyists; names of individuals engaged to undertake the lobbying of government officials; names of individuals who have a management, financial or other interest in the lobbyists, and; names of third parties (clients) who have retained the lobbyist.

In addition to the lobbyist register, the NSW Electoral Commission maintains a number of public registers related to elections and electoral funding, which can also be accessed through its website.²⁵

Yours sincerely,



Steven Reynolds
Clerk of the Parliaments

¹⁹ Schedule to the NSW Ministerial Code of Conduct, ss 6-7.

²⁰ Schedule to the NSW Ministerial Code of Conduct, s 9. Schedule 1 section 11 of the *Government Information (Public Access) Act 2009* (NSW) provides that there is presumed to be an overriding public interest against disclosure of information contained in the ministerial register of interests.

²¹ Schedule to the NSW Ministerial Code of Conduct, s 19.

²² Further information about the Premier's Memorandum, including a review of the first year of operation, is available on the NSW Government website: <https://arp.nsw.gov.au/m2015-05-publication-ministerial-diaries-and-release-overseas-travel-information>.

²³ NSW Independent Commission Against Corruption, *Investigation into corruption risks involved in lobbying* (November 2010), available at: <https://www.icac.nsw.gov.au/investigations/past-investigations/2010/nsw-public-sector-operation-halifax>.

²⁴ <https://elections.nsw.gov.au/electoral-funding/public-register-and-lists/register-of-third-party-lobbyists>.

²⁵ More information about public registers administered by the NSW Electoral Commission is available on the Commission's website: <https://elections.nsw.gov.au/integrity-and-regulation/transparency>.