



Ethics and Integrity Adviser

Mrs Vicki Dunne, MLA
Speaker
Legislative Assembly for the Australian Capital Territory
Civic Square
London Circuit
CANBERRA ACT 2600

Dear Madam Speaker

I refer to your request 5 August 2015 for advice in relation to proposed travel to Taiwan.

Background

You have advised me as follows:

- The Government of Taipei has invited you to lead an Assembly delegation to Taiwan between 17 and 23 August 2015.
- Similar invitations were issued to other Members of the Assembly, and to your senior adviser.
- Those invitations were on the basis that the government of Taipei would pay all associated travel and accommodation costs and some incidental costs, and would host the delegation for some hospitality during the visit.
- Those invitations have been accepted by yourself, Dr Chris Bourke MLA, Mr Andrew Wall MLA and your senior adviser.
- Invitations were not extended to spouses or other family members and none will travel with the delegation.
- Delegates will pay any other costs not borne by the government of Taipei, including personal costs.
- You have made a determination of Assembly travel to make it clear that delegates would be attending, as intended by the Taiwan Economic and Cultural Office, as representatives of the Legislative Assembly.

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- In preparation for the visit, the delegation has been or will be briefed with materials from the Commonwealth Department of Foreign Affairs and Trade.
- You will declare the benefits received by you under these arrangements in your Member's Declaration of Interests.
- You understand that Dr Bourke and Mr Wall will make similar declarations, and your senior adviser will make a declaration of the benefits received by him to you as his employer.
- Under the itinerary being compiled by the government of Taipei, you expect to meet with key government representatives in Taipei and visit a number of government, industrial and social facilities and services across Taiwan, and you hope to strengthen the ties which Canberra and the Assembly already have with Taiwan.

You have asked for my advice as the Assembly's Ethics and Integrity Adviser in relation to your acceptance, and that of your senior adviser, in relation to the invitation from the government of Taipei.

Advice

I perceive no necessary concern of an ethical or integrity issue with the arrangements described above.

I understand that, while the Australian Government does not recognise Taiwan as a nation/state, it does support and encourage trade, investment, cultural, education and other links. I further understand that Taiwan is Australia's eighth-largest goods and services export market, that there is a growing investment relationship and that Taiwan is an important source of tourists and overseas students.

In these circumstances, I believe there is a clear Territory interest in fostering and furthering the relationship between the Territory and Taiwan for the benefit of the Territory, and that interaction between Members of the Assembly and representatives of the government of Taipei may be an appropriate strategy to that end. The fact that the government of Taipei has extended the invitation in question suggests that it too shares those beliefs

I thus consider that a visit to Taipei by the delegation can properly be regarded as official business for representatives of the Assembly.

The acceptance of benefits such as third-party payment of travel, accommodation and associated costs in connection with official business of the Assembly is permissible but should comply with principles set out in the Members' Code of Conduct.

These include the following:

- (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 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.*

- (4) ...
- (5) *Members should be transparent in, and accountable for, their decisions and actions, should avoid or appropriately resolve any actual or reasonably perceived conflicts of interest and should submit themselves to appropriate scrutiny.*

The Code further provides that:

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

- (10) *Actively seek to 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). Include in the Member's Statement of Registrable Interests all gifts, payments, fees, rewards or benefits valued at more than \$100 received in connection with the Member's functions as a Member; 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.*
- (11) *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.*

Public disclosure through timely declarations of the benefits to be received by Members, as proposed, is clearly required by the Code and the applicable Assembly resolution.

So too is a proper standard of conduct in the dealings that delegation members may have with officials of the government of Taipei and in any business of the Assembly that may ensue from the delegation's visit. There is nothing inherent in the arrangements proposed that would be inconsistent with such proper conduct.

So far as the inclusion of your senior adviser in the delegation is concerned, it is my understanding that he will participate in the various visits to be undertaken by the delegation and will provide support to you as required, such as by maintaining appropriate records of those visits and following up on any undertakings given or received during those visits. As a result, the functions undertaken by him while in Taiwan will be akin to those official functions he undertakes for you in Canberra.

In my experience and understanding, it is quite common for a senior member of a Government Executive or of a Parliament to be accompanied by a staff member on overseas visits of this nature.

Accordingly I perceive no concern of an ethical or integrity issue in the inclusion of your senior adviser in the delegation and in his participation therein being viewed as official business.

Again, however, there are provisions of the Member's Code of Conduct that are relevant.

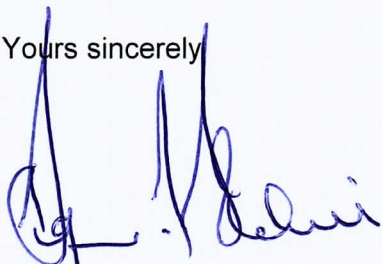
The Code provides as follows:

- (14) *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) *...*
 - (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.*

Consistent with the above it is, in particular, important that your senior adviser's participation and travel be properly approved so as to ensure that he is properly absent from Canberra and fully covered for occupational health and safety purposes. In these regards, it is my understanding that, while you can direct and approve his performance of his role in the delegation, a movement requisition for his travel (albeit not at Assembly expense) should be approved by the Clerk.

Please do not hesitate to contact me if you require any further advice in relation to the above.

Yours sincerely



Stephen Skehill

6 August 2014