



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

Submission number: 010

Submitter: Clerk of the Legislative Assembly

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Mr Ed Cocks MLA

Chair

Standing Committee on the Integrity Commission and Statutory Office Holders

Legislative Assembly for the ACT

By email: LACommitteeintegrity@parliament.act.gov.au

Dear Mr Cocks,

Please see below my submission to the committee's inquiry into transparency measures for MLAs summarising a number of the existing arrangements that apply and pointing towards some options for the future.

Submission by the Clerk of the Legislative Assembly

Existing Arrangements

Code of Conduct

Continuing resolution 5 establishes a code of conduct for Members of the Legislative Assembly. Among other matters, it requires that members should:

- (1) Treat all people with courtesy, and respect the diversity of their backgrounds, experiences and views. In particular, Members should by their words and actions demonstrate, and by their example and leadership encourage and foster others to show, respect for the peaceful, temperate and lawful exercise by all members of the community of their shared and individual rights and entitlements, including freedom of religion, freedom of association and freedom of speech.
- (2) 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* (Cth);
 - (b) declare their private interests and those of their immediate family and ensure that their declaration is kept up to date, as required by Continuing Resolution 6 (as amended or replaced from time to time); and
 - (c) disclose at a time and in a manner appropriate to the circumstances any 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) and any friendship, relationship or other circumstance which a reasonable observer, informed of that matter, might perceive as giving rise to a conflict of interest with the performance of the Member's duty as a Member.

- (3) Ensure that outside occupational or other pursuits do not unreasonably impact on their duties as a member.
- (4) 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, and not accept any inappropriate benefit in connection with their activity as a member.
- (5) 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).
- (6) 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.
- (7) In their capacity as an employer on behalf of the Territory under the *Legislative Assembly (Members' Staff) Act 1989*:
 - (a) seek to promote, and by their conduct reflect, an Assembly workplace that is collegiate, inclusive and diverse and in which health and safety risks are eliminated or minimised;
 - (b) 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);
 - (c) not employ a family member as defined in that Act;
 - (d) take all reasonable steps to ensure that, as far as practicable, their personal staff are mindful of the Member's commitment to this Code of Conduct and, in the course of their duties, take no action for or on behalf of the Member or the Member's Office which, if taken by the Member personally, would be contrary to this Code of Conduct; and *(amended 6 February 2024 and 14 May 2024)*
 - (e) not seek to require or encourage their personal staff to engage in any conduct that may amount to a breach of any code of conduct applicable to those staff from time to time.

Commissioner for Standards

Continuing resolution 5AA establishes a Commissioner for Standards who is appointed by the Speaker for each Assembly, and anyone can make a complaint about a member's failure to make a declaration or about their compliance with the members Code of Conduct.

Declarations of Interests

In respect to transparency arrangements for members of the Legislative Assembly of the Australian Capital Territory, continuing resolution 6 of the *Assembly's Standing Orders and Continuing resolutions* requires that all members declare their private interests, including those of their immediate family, to the Clerk within 28 days of being declared elected. Declarations are published on the Assembly website in a PDF format.

Ethics and Integrity Adviser

Continuing resolution 6A establishes the position of Ethics and Integrity Adviser, which is appointed each Assembly by the Speaker. The role of the Adviser is to provide advice to members on ethical issues, including the use of entitlements and potential conflicts of interest.

Engagement with Lobbyists

In respect of meetings with lobbyists, continuing resolution 8AB requires that:

When making initial contact with public officials with the intention of conducting lobbying activities, a lobbyist who is proposing to conduct lobbying activities must inform the public official:

- (a) that they are a lobbyist, or a person engaged by a lobbyist to conduct lobbying activities;
- (b) whether or not they are currently listed on the ACT Register of Lobbyists;
- (c) the name of the person(s) on whose behalf they seek to conduct those lobbying activities; and
- (d) the nature of the matters that they wish to raise in those lobbying activities.

By virtue of continuing resolution 8AC, a Member is a public official. Paragraph (3) of that resolution provides that:

A “public official” means:

- (a) a Member of the Legislative Assembly;
- (b) any person employed by such a person under the [Legislative Assembly \(Members' Staff\) Act 1989](#); and
- (c) any person employed under the [Public Sector Management Act 1994](#).

Publication of Non-Executive Members diaries

There is no provision for Members to publish their diaries.

Publication of travel details

In late 2009, following consultation with the Standing Committee on Administration and Procedure, the Speaker determined that the Assembly's website should be updated twice each year to show all travel on Assembly or official business undertaken by non-executive members and their staff during the current Assembly, and that a link to all study travel reports submitted by non-executive members also be included on the website.

Twice yearly ministerial travel reports were also previously provided to the Office of the Legislative Assembly by the ACT Executive for publication on the website. The final period of reporting published in this format was the 'July to December 2017' period. Following the implementation of the *Freedom of Information Act 2016*, information publicly reported from 1 January 2018 includes both Ministerial and Ministerial staff travel, and is available on [the ACT Government Open Access website](#).

Travel on Assembly business includes:

- travel as part of service on an Assembly committee;
- travel in accordance with non-executive members' entitlement, as determined by the Remuneration Tribunal, for the purposes of studies and investigations;
- travel as a representative of the Assembly branch of the Commonwealth Parliamentary Association or as an office holder of the Association; and
- travel as a representative of the Assembly as determined by the Speaker.

Travel on official business as an office holder includes ministerial travel attendance by the Speaker at the annual Presiding Officers and Clerks Conference, and other travel related to the functions of the office of Speaker.

Members staffing

Details of expenditure on non-Executive staffing is published each year in the Office of the Legislative Assembly's Annual Report which is tabled in the Assembly and is subject to review by your committee.

In the annual report there is a table listing the number of staff contracts entered into for each financial year, as well as a listing of the classification of non-executive Members staff engaged each financial year. Also listed is the use of staff allocations (determined by the Chief Minister) and engagement of contractors. This listing includes the amount of staffing dollars allocated to each non-executive MLA, any pledges to other MLAs, and the amount expended at the end of the financial year.

Matters for further consideration

Do other parliaments publish diaries of non-executive Members?

In preparing this submission, I sought information from other Australian parliaments about any requirements for the publication of non-executive members diaries. No Australian parliament indicated that they had this requirement, although the Queensland parliament has a sessional order (agreed to on 29 November 2024) as follows:

14. Shadow Minister Diary Extracts

- (1) Shadow Ministers are required to publish on the Queensland Parliament website, on a monthly basis, information in relation to official Shadow Minister related meetings with external parties listed in their diaries, including as a minimum, the date of the meeting, name of the organisation or person and the purpose of the meeting.

- (2) For any meeting with a registered lobbyist or any person working for the lobbyist in any capacity, other than administrative staff, the diary must also include details about all attendees and a short description of the subject matter of the meeting.
- (3) Consideration should be given to the Information Privacy Principles contained in the Information Privacy Act 2009 in determining what material is to be published

The requirements do not appear to apply to backbench government members, Greens or Katter party members, nor independent members.

Should non-executive diaries be published?

If the aim of publishing diaries is to determine whether non-executive members are being lobbied by lobbyists, the Assembly may wish to consider whether it should amend continuing resolution 8AC (Lobbyist Register – ACT Lobbyist Regulation Guidelines) to require lobbyists to provide in their return whether they have lobbied a member (whether a minister or non-executive MLA), the date the meeting occurred and the subject matter of the meeting. In that way there can be a greater level of transparency of lobbying activities.

I would also observe that the publication of non-executive members diaries should be carefully considered. Meetings between members and constituents, community groups, whistleblowers and interest groups are a core part of a member's duties, and it enables non-executive Members to undertake their very important role of scrutinising legislation and making government accountable and transparent. Publishing non-executive members diaries could have a chilling effect on members ability to undertake their important roles and ensure that members are free from any possible improper interference in the work of the parliament.

Whilst Ministers do publish their diaries, it should be noted that Ministers oversee the expenditure of \$9 billion of taxpayers/ratepayers money, whereas non-Executive members are responsible for scrutinising how that money is spent.

I wish the committee well in its deliberations.

Tom Duncan

Clerk of the Legislative Assembly

6 August 2025