



# Legislative Assembly for the Australian Capital Territory

Standing Committee on Administration  
and Procedure

## Report on the conduct of Ms Cheyne MLA

Legislative Assembly for the Australian Capital Territory

Standing Committee on Administration and Procedure

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Approved for publication

Report 3  
11<sup>th</sup> Assembly  
November 2025



# About the committee

## Establishing resolution

The Standing Committee on Administration and Procedure Committee is established pursuant to Standing Order 16:

16. (a) A Standing Committee on Administration and Procedure is established at the commencement of each Assembly to:
  - (i) undertake self-referred inquiries or inquiries referred by the Assembly and, in addition, the committee shall inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly by the end of the third year of an Assembly term, with a view to ensuring that the practices and procedures of the Assembly remain relevant and reflect best practice;
  - (ii) advise the Speaker on:
    - (A) Members' services and facilities;
    - (B) the operation of the transcription service (*Hansard*);
    - (C) the availability to the public of Assembly documents; and
    - (D) management of the Assembly precincts including Work Health and Safety obligations;
  - (iia) develop a guidance note for all Members outlining who is responsible for the various undertakings and activities of the Legislative Assembly, recognising the unique working environment of the Legislative Assembly, within 6 months of the commencement of a new term;
  - (iii) arrange the order of private Members' business and Assembly business; and
  - (iv) as required by continuing resolutions of the Assembly, consider, inquire and report on matters relating to citizen's right of reply, claims of parliamentary privilege, reports of the Commissioner for Standards and the Ethics and Integrity Adviser and the implementation of Latimer House Principles;
- (b) the Committee shall consist of:
  - (i) the Speaker;
  - (ii) the Government whip;
  - (iii) the Opposition whip; and
  - (iv) a representative of the crossbench (or if a single party, the whip of that party);

- (ba) Should a whip be unable to attend a meeting, the Party nominated deputy whip may attend in their place;
- (c) the Speaker shall be the Chair of the Committee; and
- (d) the Committee shall have the power to consider and make use of the evidence and records of the Standing Committee on Administration and Procedure appointed during the previous Assemblies.

## **Committee members**

Mr Mark Parton MLA, Chair

Ms Caitlin Tough MLA, Deputy Chair

Mr Ed Cocks MLA

Miss Laura Nuttall MLA

## **Secretariat**

Tom Duncan, Committee Secretary

Janice Rafferty, Assistant Secretary

## **Contact us**

### **Mail**

Standing Committee on Administration and Procedure  
Legislative Assembly for the Australian Capital Territory  
GPO Box 1020  
CANBERRA ACT 2601

**Phone** (02) 6205 0173

**Email** [LACommitteeAPC@parliament.act.gov.au](mailto:LACommitteeAPC@parliament.act.gov.au)

**Website** [parliament.act.gov.au/parliamentary-business/in-committees](http://parliament.act.gov.au/parliamentary-business/in-committees)

## Terms of Reference

The terms of reference for this inquiry are set out in Continuing Resolution 5AA – Commissioner for Standards (see Appendix B) and Continuing Resolution 5 – Code of conduct for all members of the Legislative Assembly for the Australian Capital Territory (see Appendix C).

## About this inquiry

Under Continuing Resolution 5 and 5AA, complaints against Members who may have breached the Members Code of Conduct (The Code) can be raised with the Commissioner for Standards, who will determine if an investigation is required, and if so, provide a report of the investigation to the Standing Committee on Administration and Procedure (The Committee).

The Committee, in considering any reports from the Commissioner, is mindful that the Commissioner, while conducting an investigation, may only make determinations and recommendations on the conduct of Members, but can extend to the management of their staff and offices.

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# Recommendations

## Recommendation

The Committee recommends that, in accordance with previous practice, Ms Cheyne apologise to the Assembly for the identified breaches of the Code of Conduct following the adoption of this report by the Assembly.



# 1. Introduction

- 1.1. On 18 September 2025, the Commissioner for Standards received a complaint from Ms Elizabeth Lee MLA, concerning a text that was read out on a local radio station from “a Labor MLA” on 11 September 2025. Ms Lee had contacted the Chief Minister and ascertained that Ms Cheyne was the author of the text.
- 1.2. Ms Lee, in her complaint, expressed concern that Ms Cheyne had acted in a manner that involved several breaches of the Code of Conduct for all Members of the Legislative Assembly for the Australian Capital Territory.
- 1.3. A copy of the Commissioner’s report is attached at Appendix A.

## **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 Procedure on 24 March 2015 (revised August 2017, August 2019, February 2022, 31 August 2023, 6 February 2024 and 14 May 2024).
- 2.2. The Commissioner received the complaint on 18 September 2025.
- 2.3. The Commissioner contacted Ms Cheyne on 23 September 2025 who provided a lengthy response.
- 2.4. The Commissioner provided a draft copy of his report to Ms Cheyne on 9 October 2025 inviting her to make any further comments. Ms Cheyne provided an additional written response on 17 October 2025.
- 2.5. The Commissioner provided his report to the Standing Committee on Administration and Procedure on Wednesday, 22 October 2025.

### 3. The Commissioner's findings

The Commissioner recommended that the complaint be upheld and that Ms Cheyne be found to have breached paragraphs of the Code of Conduct:

(B)(1) *Members should at all times act with integrity, honesty and diligence; and*

(B)(9) *Members should treat each other with courtesy and propriety, observe proper standards of parliamentary conduct, and observe respect for differences and fairness in their political dealings.*


He also recommended that Ms Cheyne's fulsome written apology to Ms Lee be given due weight when the Committee considers the appropriate response to these breaches of the Code of Conduct.

## 4. The Committee's consideration of the Commissioner's report

- 4.1. The Committee, at its meeting on 27 October 2025 and, in accordance with continuing resolution 5AA, considered the report of the Commissioner for Standards relating to a complaint against Ms Cheyne MLA, raised by Ms Lee MLA.
- 4.2. The Committee agreed with the findings of the Commissioner for Standards that Ms Cheyne MLA had breached the Code of Conduct, specifically paragraphs (B)(1) and (B)(9).
- 4.3. The Committee noted the Commissioner's recommendation that the contrition expressed by Ms Cheyne in her apology and in her response to the complaint be given due weight in the assessment of an appropriate response to these breaches of the Code.

### **Recommendation**

**The Committee recommends that, in accordance with previous practice, Ms Cheyne apologise to the Assembly for the identified breaches of the Code of Conduct following the adoption of this report by the Assembly.**



Andrew Braddock MLA  
Acting Chair  
27 November 2025

# Appendix A: Report of the Commissioner for Standards

## COMPLAINT RE MS TARA CHEYNE MLA

### The complaint

1. On 18 September 2025 Ms Elizabeth Lee MLA made a complaint alleging that Ms Tara Cheyne MLA had acted in a manner that involved breaches of several provisions in the *Code of conduct for all members of the Legislative Assembly of the Australian Capital Territory*<sup>1</sup> (the Code of Conduct). The complaint related to a text which was read out on the ABC Canberra Breakfast Program at 7.54 am on 11 September 2025. The text, which described the author only as “a Labor MLA,” was in the following terms:

*I won't claim to be an expert on liberal strategies or tactics, but here are some observations. Elizabeth was given a free run at the leadership over 4 years. Despite Elizabeth's known issues with her first deputy, Giulia left quietly. That's Giulia Jones. When Jeremy was dumped from the leadership, he didn't white ant Elizabeth from the back bench. Elizabeth not affording Leanne clean air over 12 months, just seems like a continuation of the gesture she gave the journalist in this election. Petulant. Far be it from me to defend Leanne's leadership, but she is operating with a reduced leadership team as Parton is Speaker; Deb Morris is on leave and two members on the back bench. That leaves five Liberal MLAs to shadow eight Labor Ministers, putting so much pressure on so few to do the heavy lifting is a lot and of itself. My own observation is that Elizabeth was absent from the Assembly for half the year. She has spoken a handful of times since and she openly says she doesn't want to participate in Shadow Cabinet. But she wants to have an equal say on the issues her colleagues have spent a lot of effort formulating positions on. Finally. If this is how Elizabeth and Peter speak about their party to the media, I can't imagine how they speak to their colleagues in the Party Room (sic).*

2. “Elizabeth” was, of course, Ms Elizabeth Lee.
3. Ms Lee wrote to the Chief Minister later that day to express her concern about the text and seek an investigation. The Chief Minister ascertained that the author of the text was Ms Cheyne and asked her to apologise to Ms Lee. Ms Cheyne promptly wrote to Ms Lee, accepting responsibility for her actions and offering a full apology.

### The investigation

4. After considering the issues I wrote to Ms Cheyne on 23 September, informing her of the complaint and enclosing copies of Ms Lee's letter and the documents annexed to it.
5. On 26 September 2025 Ms Cheyne provided a lengthy response. She conceded that the text was in the terms quoted above and did not resile from the concessions made in her letter of apology. However, she described the context in which she provided the text and mentioned

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<sup>1</sup> As at 25 August 2005 (amended 16 August 2006, 24 October 2013, 3 August 2017, 30 July 2019, 30 March 2021, 31 August 2023, 6 February 2024 and 14 May 2024).

some subsequent developments. I will not reproduce the entire content of this response but will refer to what I regard as the more salient aspects of her explanation.

6. I ascertained that following the election of Ms Leanne Castley MLA as Leader of the ACT Liberal Party on 31 October 2024, Ms Lee attended the sittings of the Assembly in November and December 2024. There were no sittings days in January and the leave she was granted applied to the sittings in February, March and April. She then attended all subsequent sittings up to the time the text was published. I have not made any attempt to ascertain the extent of her contributions to questions without notice, debates in the Assembly and committee work since the expiration of her leave on 30 April 2025. I have not found it necessary to make judgments about the attitude Ms Lee may actually have had towards Ms Castley or the reasonableness of her refusal to join the Shadow Cabinet.
7. A first draft of this report was sent to Ms Cheyne on 9 October with an email inviting her to make any further comments she thought appropriate.
8. She responded on 17 October with another lengthy response and sought an oral discussion. Paragraph 11 of the *Protocols for investigating complaints against members* states that:

*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.*
9. I could see no reason to depart from this protocol which was adopted in March 2015 and declined her request. However, I have taken all of her further written submissions into account in finalising this report.
10. Ms Lee's complaint involved two principal contentions. First, what she described as the disparaging reference to her prolonged absence breached the unspoken but long-standing convention that Members respect the sensitivity and privacy of other Members should they take personal leave, especially for health reasons. Second, Ms Cheyne's actions in sending the text and insisting on anonymity demonstrated an intention to harm her reputation or at least a reckless indifference to the causation of such harm. She adverted to paragraphs (B)(1), (B)(9), (B)(10), (C) and (D) of the Code of Conduct but did not provide any specific arguments in support of the implied suggestions that Ms Cheyne's actions involved breaches of the provisions contained in these paragraphs.
11. Ms Lee stated that the distress and harm that had been caused by the initial broadcast had been compounded by subsequent events said to have been sparked by the publication of the allegations in the text, including further mentions and discussion in the media. She also claimed that the text had been "weaponised" by certain Members in her own party seeking to cause her political harm, but she provided no further information in support of this claim. Ms Cheyne understandably sought to address this aspect of the complaint, both in her initial response and in her further response to the draft report.
12. I am not insensitive to any of the issues raised in Ms Lee's complaint or to Ms Cheyne's concern that her responses to them be given due consideration. However, my role is limited to the investigation of issues relating to the conduct of Ms Cheyne and any possible breaches

of the Code of Conduct. The resolution of those issues does not require me to form any conclusions about the level of distress suffered by Ms Lee or the extent of any ‘ripple effect’ of the initial broadcast, such as subsequent republication or the suggested weaponisation. Nor am I required to consider whether any breach of the Code of Conduct should be regarded as more serious by reason of subsequent events, some of which may not have been anticipated, though issues of this kind may be taken into account by the Standing Committee on Administration and Procedure in determining what action, if any, should be taken in response to any finding of such a breach.

### **Freedom of political communication**

13. Complaints relating to allegedly offensive comments made by parliamentarians against other parliamentarians must, I suggest, be approached with some caution due to the public interest in maintaining robust political debate. Whilst the importance of parliamentary privilege is widely recognised as an important bulwark of a modern democratic society, it is also important for sitting and aspiring Members of the Assembly to be able to make public statements concerning political issues, including issues about their opponents’ fitness for office, without undue fear of sanctions. The Australian Constitution has been held to create what has been described as an implied freedom of political communication that is sometimes invoked in defamation proceedings relating to statements that fall within that description. However, it applies only in limited circumstances such as when defendants establish that they had reasonable grounds to believe publications were true and had made proper inquiries to verify them.<sup>2</sup> It does not provide an unqualified shield that may be raised in defence of any defamatory statement of a political nature.
14. In my opinion, the application of the Code of Conduct must also be considered in the context of the political system it is intended to serve. It should not be taken to impose undue limitations on the robust debate that has long characterised Australian political life nor even to require an undue dilution of the rich streams of colourful and sometimes amusing invective contributed to public discussions by figures on both sides of Australian politics. However, the public interest in ensuring that the freedom to make political statements is not unduly fettered does not warrant any substantial departure from the standards of decency, integrity and fairness that the Code of Conduct affirms.

### **The criticisms in the text**

15. In the present case I am satisfied that Ms Cheyne’s anonymous text to the press would have conveyed or implied the following criticisms of Ms Lee to reasonable listeners of the broadcast:
- unlike Mr Hanson, she had effectively ‘white-anted’ Ms Castley, her successor as leader of the Liberal Party;
  - she had done this by “not affording Leanne clean air over 12 months”;

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<sup>2</sup> *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 566.

- she had stayed away from the Assembly for half a year and spoken on only a few occasions since her return;
  - this behaviour had been petulant;
  - it had seemed to involve a continuation of the hostile or contemptuous attitude she had displayed when she made a “gesture,” presumably the raising of a middle finger, to a journalist during the last election;<sup>3</sup>
  - her prolonged absence from the Assembly and few relevant statements had put pressure on her colleagues to do “the heavy lifting; and
  - she had been unreasonable in not wanting to participate in Shadow Cabinet but still wanting to have an “equal say” concerning issues about which her colleagues had worked hard to formulate policies.
16. Ms Cheyne suggested that this articulation of the criticisms of Ms Lee conveyed by the text might be misleading to a reader and offered a number of explanations.
17. First, the phrase, “unlike Mr Hanson...,” had been intended to refer only to the time when he became a backbencher. I think that is clear from the text.
18. Second, the phrase, “not affording Leanne clean air over 12 months,” should be understood in contrast to the statement that Ms Lee had been given a free run at her leadership. I also think that is clear from the text.
19. Third, the phrases “she had stayed away from the Assembly”.... “spoken on only a few occasions”.... and “this behaviour had been petulant” could be misleading because she had intended to highlight her observations of Ms Lee’s behaviour when she was present and did not intend to call into question the reasons for her leave. However, the text does not mention the fact that Ms Lee had been on extended leave. It merely adverts to her absence for “half the year.” This comment would obviously have been understood in the context of the earlier statement that, “Elizabeth not affording Leanne clean air over 12 months, just seems like a continuation of the gesture she gave the journalist in this election.” This statement clearly implied that the criticism of Ms Lee’s conduct applied to the whole period since Ms Castley’s election as leader on 31 October 2024. Hence, the overall effect of these statements clearly suggested that Ms Lee’s absence as well as the limited nature of her subsequent contributions to Assembly debates had been due to petulance and a desire to white-ant Ms Castley.
20. Whilst I have given due consideration to Ms Cheyne’s submissions on these issues, I remain satisfied that the text would have conveyed the criticisms listed in paragraph 14 to a reasonable reader or listener.

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<sup>3</sup> <https://www.abc.net.au/news/2024-10-16/elizabeth-lee-rude-gesture-journalist-canberra-liberals/104479754>

21. However, I am not persuaded that the criticism of Ms Lee's refusal to join the Shadow cabinet raises any issue about the application of the Code of Conduct.

#### **Ms Lee's leave of absence from the Assembly**

22. As mentioned earlier, Ms Lee referred in her complaint to a long-standing convention that Members respect the sensitivity and privacy of other Members should they take personal leave, especially when it is for health reasons. In her letter of apology Ms Cheyne mentioned that other Members had also been granted leave for extended periods and that they had received support. I have not sought any information concerning the personal reasons for which Ms Lee was granted leave, though her comment suggests that they were related to her health. Such a convention is not explicitly recognised in the Code of Conduct, though it may be implicit in the requirement in paragraph (B)(9) that Members treat each other with courtesy and propriety. In any event, I suggest that in an age in which there is increasing awareness of the dangers that stress and trauma may pose for physical and mental health it is important that the privacy of Members be duly respected, especially if they have suffered from illnesses or emotional vulnerability warranting extended leave. This obligation may be breached, not only by revealing such personal information in an attempt to embarrass or discredit such Members, but also by making allegations to which the Members cannot effectively respond without being forced to abandon their right to privacy and themselves make potentially damaging or embarrassing disclosures.

23. Of course, a Member who has been granted leave even for the most compelling reasons cannot be wholly immune from criticism. There may be circumstances in which personal circumstances must be squarely raised, such as when a Member has been rendered no longer capable of discharging the responsibilities of one or more ministries. In such circumstances the ethical obligations of the Member raising the issue may be discharged by expressing the relevant criticisms and contentions fairly and with due sensitivity. In other circumstances the need to respect the privacy of the Member who has been granted leave for health or other personal reasons should normally be given priority over what may be seen as an opportunity to exploit the information in order to gain a political advantage over an opponent.

#### **The reference to Ms Lee's absence**

24. In the present case Ms Cheyne maintained that in referring to Ms Lee's prolonged absence from the Assembly she was not exploiting information for such a purpose but stating what she believed was a fact. However, a breach of privacy is not excusable merely because the relevant statement is true. Furthermore, a sequence of statements that may be literally true may sometimes imply one of more propositions that are not true or otherwise inappropriate. Considered in context, Ms Cheyne's statement of "own observation" of Ms Lee's absence was clearly misleading. Having regard to the Christmas period, the absence of any sitting days in January and the leave granted to Ms Lee, it is possible that Ms Lee was actually absent from the Assembly for as long as five months, but Ms Cheyne did not mention that she had been granted leave for much of that period or that she had otherwise attended all sittings of the Assembly.

25. I accept that it would have been inappropriate for her to have alluded to the personal reasons for which the leave was granted to Ms Lee. It might also be argued that even highlighting the

grant of leave shortly after losing the leadership of her party might have prompted damaging speculation and effectively given rise to an unacceptable breach of her privacy even if the reasons had not been mentioned. However, in the absence of any such mention, Ms Cheyne's statement left members of the public to assume that Ms Lee had been guilty of an unwarranted dereliction of her duty to participate in the work of the Assembly. Furthermore, the absence was not simply left unexplained; the words of the text, including the statement that she had not afforded Ms Castley clean air for over twelve months, suggested that it had been due to petulance and a desire to "white ant" Ms Castley's hold on the leadership of the party. The only effective response she could have made to this suggestion would have involved an explanation that her absence had been due to leave for personal reasons. She should not have had to choose between leaving the criticism effectively unanswered and surrendering her right to privacy.

26. The reference to her absence from the Assembly was immediately followed by the statement that Ms Lee had spoken only "a handful of times since her return." This suggested that they were both part of a course of conduct that was petulant and failed to afford Ms Castley "clean air over 12 months." In the absence of any knowledge of the fact that Ms Lee's absence had been approved by the Assembly those who heard the broadcast would have had no reason to doubt the implication that was attributable to her attitude towards Ms Castley. Nor would they have had a reason to consider the possibility that someone returning to an adversarial environment after extended leave for personal reasons might not have been at their combative or productive best.

#### **The context in which the text was sent**

27. The contextual material provided by Ms Cheyne reveals that there was some public interest in the Liberal Party decision to substantially limit participation in policy formulation to members of the ministry team and to the refusal by Ms Lee and Mr Peter Cain MLA to join the Shadow Cabinet.
28. Ms Cheyne explained that on 10 September 2025 The Canberra Times published an article entitled "New shadow cabinet rules set 'dangerous precedent', cut out backbenchers: Lee". It quoted Ms Lee as saying that: "The Canberra Liberals' shadow cabinet has overturned one of the most fundamental conventions" of the party and diminished democratic representation by stripping backbenchers of the right to contribute to key decisions. On the same day ABC Canberra online published a similar article entitled "Canberra Liberals' move to exclude backbenchers from decision-making sets 'dangerous precedent', Elizabeth Lee says."
29. On 11 September there was a discussion on the ABC Canberra Breakfast and Ms Cheyne formed the impression that some of the things mentioned had been 'leaked' to the media by an unnamed person or persons dissatisfied with the decision. She understood that both Ms Lee and Mr Cain had spoken "without inhibition" to third parties about their displeasure with the adoption of the new Shadow Cabinet principles and that they had intended that their views be published. The discussion also elicited at least six text messages, the contents of which were cited by Ms Cheyne, effectively contending that the decision had been unfair to Ms Lee and Mr Cain.

30. Ms Cheyne said that she had believed that she could provide some observations that might be in the public interest, though she now concedes that this was ill-considered. She explained that:

*Given the unattributed 'leaking' of party room decisions to journalists, the subsequent interviews with Ms Lee and Mr Cain, no Liberal Party member offering a view that morning, and other unattributed messages being read out, I - regrettably and erroneously - considered the situation 'fair game' and thought that it was equally 'fair game' to provide a view asking that, if it was to be published, that it be anonymous.*

31. It was in this context that she made what she said was an impulsive decision to write and send the text that is the subject of the complaint. She chose to send a text message because she was not confident that an interview would be confined to the issues she wanted to raise or that producers would screen what she had to say.

32. She also explained that:

*At the very least, I did have a reasonable expectation that the contents of the message would be used as background. As above, in providing my view as a text message, I was ensuring that at least a producer would read it. Journalists are provided political background from a range of sources, including politicians, regularly. I contend that I was not motivated by malice or vexation; rather, I felt there was another view that so far had not been aired, and my honestly held observations may inform a different perspective in future interviews or reporting—including questions that might be put to me in subsequent interviews, as they had been to Minister Stephen-Smith.*

33. She said that the message had been written quickly with little thought given to the manner in which it was framed, though she maintained that it reflected her “reasonably held beliefs and observations.”
34. She said that she accepts Ms Lee’s contention that she did not have sufficient knowledge of internal Liberal Party issues to provide credible commentary on them, but explained that her intention had been to contextualise the changes that had been discussed in the radio programs by making two points. First, that Ms Castley had been operating with a reduced leadership team due in part to Ms Lee’s decision not to be in Shadow Cabinet; and second, that since Ms Lee’s return to the Assembly her overall parliamentary participation had been minimal and she had been able to have major input on policy direction without doing the work.
35. Read in isolation, this explanation would seem to involve some degree of defensive rationalisation. The text obviously included statements that extended beyond these propositions and offered further criticism of Ms Lee. It accused her of petulance and implied that she had attempted to undermine her successor as Leader of the Liberal Party over a period of 12 months. It concluded with the gratuitous speculation: “If this is how Elizabeth and Peter speak about their party to the media, I can’t imagine how they speak to their colleagues in the Party Room.”

36. However, whilst anxious to ensure that the text was considered in context, Ms Cheyne did not attempt to defend it. On the contrary, she candidly conceded: “I offer none of this as an excuse. The decision ultimately was unwise, distracting, and I regret it.”
37. Ms Cheyne also maintained that at no point in the drafting of the message did she ever consider “that the sentence about (Ms Lee’s) leave would be taken as a reflection on it or calling the reasons for it into question.” She pointed out that she had also mentioned that Ms Morris had been on leave and added that this “does not seem to have been taken by anyone in the same way.” This comment seems to reflect a continuing failure to appreciate the distinction between the implications arising from the relevant comments. The statement that she had made observations of Ms Lee’s absence was not accompanied by any reference to the fact that she had been granted leave and, as explained earlier, suggested that the absence was not only unwarranted but attributable to inappropriate motives. No comparable implication arose from the benign statement that Ms Morris was on leave.
38. In her response to the draft report Ms Cheyne argued that Ms Lee’s leave of absence from the Assembly had been a matter of public record due to motions in the Assembly on 5 and 6 February, publication in the Hansard and recording in the minutes of proceedings. She also cited section 14 of the *Australian Capital Territory (Self Government Act) 1988* (Cth) which effectively provides that a Member vacates office if absent from the Assembly without permission for more than four consecutive days. Accordingly, she suggested there was no possibility that Ms Lee could have been absent for the 11 sitting days between 5 February 2025 and 30 April 2025 without being granted leave and maintained her belief that the terms “absent from the Assembly” and “on leave” were not materially different. Indeed, she went on to say that they were interchangeable.
39. I am unable to accept this contention. It would be fanciful to imagine that the average member of the public would have drawn inferences from the relevant provision in section 14 of the Self Government Act. Provisions such as this may be well known by those whom they directly affect but, as Ms Cheyne fairly conceded, the “ins and outs” of this statute may not be well understood in the community. In fact, I think that most members of the community would probably have been unaware of it. It is true that ignorance of the law offers no defence to a criminal charge, but that is a legal fiction intended to prevent guilty people escaping conviction, not a naive affirmation that everyone is familiar with all aspects of the law. Sir Owen Dixon, former Chief Justice of the High Court of Australia, once observed that even for lawyers, “to master the law is impossible.”<sup>4</sup> There is no reason to assume that the contents of the text written by Ms Cheyne would have evoked thought of this provision in the minds of most, if any, Canberrans.
40. Whilst I have no doubt that the successive decisions to grant Ms Lee leave of absence were duly recorded in Hansard and the minutes of proceedings, I do not imagine that most

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<sup>4</sup> Sir Owen Dixon, “*Professional Conduct*” in *S Crennan and W Gummow (Eds) Jestling Pilate*, 3rd ed, Federation Press, 2019, 274 at 275-6. Cited by a later Chief Justice of the High Court, Susan Kiefel, *Closing address to Queensland Symposium*, Queensland Law Society, 10 March 2021.

Canberrans are avid readers of either. I could find no reference in the media prior to the broadcast to her having been granted leave.

41. Furthermore, as previously mentioned, considered in context, Ms Cheyne's statement about her own observation of Ms Lee's absence from the Assembly would clearly have been understood as a criticism of her. As mentioned, the text effectively suggested that her prolonged absence was part of the behaviour that had denied Ms Castley clean air over 12 months and was motivated by petulance. There was nothing in the text to suggest that her absence actually been pursuant to leave granted by the Assembly.

#### **The issue of anonymity**

42. Ms Cheyne explained that she had asked that the text be read out on the condition that she be described only as a "Labor MLA" because she thought that this description would provide credibility while also making it clear that she was not in the Canberra Liberals' party room and that she was making a personal observation, one not necessarily shared approved or condoned by others. She said that she had not considered that such anonymity might cast aspersions on all of her Labor parliamentary colleagues. She had since realised this possibility and expressed regretted.

#### **The Code of Conduct**

43. As mentioned earlier, the complaint raises issues about whether the provision of the text by Ms Cheyne may have involved breaches of a number of provisions of the Code of Conduct.

#### ***(B)(1) Members should at all times act with integrity, honesty and diligence.***

44. For the reasons already explained, I am satisfied that the overall impression created by the statements made by Ms Cheyne was misleading. However, I am not satisfied that she acted dishonestly. I think she had failed to appreciate the unfairness of the relevant statements due to inexperience and a failure to think through the implications of her words. This is evident from a number of aspects of her response to the complaint:

- as mentioned earlier, she did not seem to understand why her comment about Ms Lee's absence was not seen in the same way as her reference to Ms Morris having been on leave;
- after explaining that she had thought she had been in a position to provide observations and honestly held views that might be in the public interest, she added, "I reflect now that this was ill-considered";
- after outlining the circumstances that led her to decide to send the text, she added, "the decision itself was still impulsive, and the message written quickly; there was little thought given to the framing of it, let alone in how I put forward my request to not be identified"; and

- after conceding that she had not rationally considered the prospects and potential consequences of being identified, she said:

*Again, it highlights foolishness, naivete and juvenility—and these attributes have now been made very public. I accept that consequence. However, I respectfully contend that my intentions were not how Ms Lee has characterised them in her complaints.*

45. I have no reason to doubt the candour of these explanations.
46. In her response to the draft report Ms Cheyne said she had known that there was a possibility that the message would be aired, but was never under the impression that direct publication was guaranteed. She also referred to examples of different decisions taken by media (publishing with attribution; publishing without attribution; non-publication) and also suggested that “backgrounding” journalists and producers is commonplace. I have no reason to doubt that this is also true.
47. However, compliance with paragraph (B)(1) of the Code of Conduct requires more than a mere absence of dishonesty; it also requires the application of diligence. In my opinion, it is incumbent upon a Member considering offering public criticism of the conduct or character of another person to give due thought to the potential implications and fairness of the proposed statements even if it not certain that they will be published. Members may sometimes feel justified in making even very damaging criticisms of other Members, but that should be done, if at all, only after due consideration of any possible ethical constraints, such as the need to respect the privacy and sensitivities of someone who has been granted leave of absence and may be suffering from illness or other personal challenges.
48. In the circumstances, I am satisfied that Ms Cheyne committed a breach of this provision by failing to exercise due diligence in the preparation of the text for use by the media.

***(B)(9) Members should treat each other with courtesy and propriety, observe proper standards of parliamentary conduct, and observe respect for differences and fairness in their political dealings.***

49. For the reasons stated above, I am satisfied that it was clearly unfair for Ms Cheyne to have made the statements contained in the text.

***(B)(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.***

50. I am not satisfied that this provision is applicable.

***(C) Consistent with the above principles, Members further undertake that they 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.*

51. I think this provision should be considered in juxtaposition with that in paragraph (B)(9), with the former dealing with the treatment of other Members and the latter with the treatment of others.

*(D) Through this Code of Conduct, Members express that they have zero tolerance for bullying, sexual and other harassment, sexual assault and discrimination 1 and pledge that they will not themselves engage in such conduct.*

52. I am not satisfied that this provisions in applicable.

### **Conclusions**

53. I recommend that the complaint be upheld and that Ms Cheyne be found to have breached paragraphs B(1) and B(9) of the Code of Conduct.

54. I also recommend that the contrition expressed by Ms Cheyne in her apology and in her response to the complaint be given due weight in the assessment of an appropriate response to these breaches of the Code.

K.J Crispin KC  
Commissioner for Standards  
28 October 2025

# Appendix B: Continuing resolution 5AA

## Commissioner for Standards



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

**Resolution agreed by the Assembly 31 October 2013 (amended 3 August 2017,  
22 August 2019, 10 February 2022 and 31 August 2023)**

### 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
- (4A) The Committee will inquire into and report on any report provided to it by the Commissioner pursuant to subparagraph 4(b) of this resolution.
- (5) Anyone 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. The Integrity Commissioner established pursuant to the *Integrity Commission Act 2018* may also refer matters to the Commissioner for Standards for consideration via the Clerk of the Legislative Assembly about matters the Integrity Commissioner considers should be referred.

- (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 may investigate the matter and report to the Committee. If the Commissioner considers that the complaint is more properly the purview of the Integrity Commissioner, the Commissioner shall refer the matter to the Integrity Commissioner.

- (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 they have 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.
  - (c) If the Commissioner receives a complaint and the Commissioner believes on reasonable grounds that there is insufficient evidence to justify an investigation or that the complaint is frivolous, vexatious or only for political advantage, the Commissioner will inform the complainant that the matter will not be further investigated. The Commissioner will also inform (without revealing the complainant’s identity or the nature of the complaint) both the committee and the Member the subject of the complaint that a complaint has been received but not further investigated.
  - (d) The Commissioner must report by 31 August each year to the Speaker on the exercise of the functions of the Commissioner.

# Appendix C: Continuing resolution 5

## Code of conduct for all members of the Legislative Assembly for the Australian Capital Territory

### 5

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, 30 July 2019, 30 March 2021, 31 August 2023, 6 February 2024 and 14 May 2024)**

- (A) 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.
- (B) 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 treat each other with courtesy and propriety, 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.
- (C) Consistent with the above principles, Members further undertake that they 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*); and
  - (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.
- (8) In all their dealings with staff of the Assembly, staff of other Members and members of the ACT Public Sector:
  - (a) extend professional courtesy and respect;
  - (b) act consistently with accepted workplace conduct standards; and

- (c) recognise the unique position of impartiality and the obligations of public sector officials, including members of the ACT Public Service.
  - (9) 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.
  - (10) 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.
- (D) Through this Code of Conduct, Members express that they have zero tolerance for bullying, sexual and other harassment, sexual assault and discrimination<sup>1</sup> and pledge that they will not themselves engage in such conduct. Consistently with this, Members undertake that, in the course of their duties and activities as a Member, they will:
- (1) offer and provide support to a person who indicate they were making (or may wish to make) a complaint alleging bullying, sexual and other harassment, sexual assault or discrimination;
  - (2) seek to be sensitive to the needs and feelings of any such complainant and to recognise their possible need for trauma-informed care;
  - (3) as appropriate, seek expert advice and assistance as to the manner in which the Member should act in such circumstances;
  - (4) recognise and respect that it is the right of a complainant as to whether and how they seek and pursue official investigation of their complaint;
  - (5) respect the confidentiality of personal information concerning a complainant;
  - (6) not imply, threaten or take detrimental action against a person because they are, or have indicated that they may become a complainant;
  - (7) not offer any improper inducement to a person to not make, or to withdraw, such a complaint;
  - (8) seek to preserve any evidence that may be relevant to the investigation of such a complaint;
  - (9) fully cooperate with any official inquiry in connection with a complaint; and
  - (10) take appropriate action if they observe another person engaging in bullying, sexual and other harassment, sexual assault or discrimination.
- (E) Within the first six months after an election for the Assembly, the Assembly shall reaffirm its commitment to the principles, obligations and aspirations of this Code of Conduct.
- (F) Where a Member who had not voted on the most recent reaffirmation required under clause (E) is elected to the Assembly, that Member shall, before they make an inaugural

speech or otherwise participates in parliamentary processes, affirm that they will abide by this Code of Conduct.

- (G) At the end of each Assembly the Code of Conduct shall be reviewed by a suitably qualified person, appointed by the Speaker, in consultation with the Standing Committee on Administration and Procedure.

1—In this Code "discrimination" means differential treatment of a person based on personal attributes such as gender; family responsibilities, parental status (having or not having children); marital status or relationship status; pregnancy; breastfeeding; sexual orientation; gender identity; religious belief; affiliation or activity; industrial activity; disability (including temporary disability); race; age; association with someone who has one of these attributes; or other attributes unrelated to the person's education, qualifications, experience, capacity or performance.