



Legislative Assembly for the Australian Capital Territory

Standing Committee on Administration
and Procedure

Report on the conduct of Mr Cocks MLA and Mr Hanson MLA

Legislative Assembly for the Australian Capital Territory
Standing Committee on Administration and Procedure

Approved for publication

Report 13
10th Assembly
October 2024



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
 - (ia) 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

Ms Joy Burch MLA, Chair

Ms Nicole Lawder, Deputy Chair

Mr Andrew Braddock MLA

Ms Suzanne Orr 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

Website 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, not their staff regardless of the circumstances.

Contents

About the committee	i
Establishing resolution	i
Committee members	ii
Secretariat	ii
Contact us	ii
Terms of Reference	iii
About this inquiry	iv
Recommendations	vi
1. Introduction	1
2. Conduct of the Commissioner's inquiry	2
3. The Commissioner's findings	3
4. The Committee's consideration of the Commissioner's report	4
Appendix A: Report of the Commissioner for Standards	5
Appendix B: Continuing resolution 5AA	19
Commissioner for Standards	19
Appendix C: Continuing resolution 5	22
Code of conduct for all members of the Legislative Assembly for the Australian Capital Territory	22

Recommendations

Recommendation 1

The Committee recommends that, having been found to have breached the requirements of paragraph (B)(1) of the Code of Conduct by failing to act with due diligence, Mr Hanson MLA be requested to apologise in writing, through the Speaker to the Assembly for his actions.

Recommendation 2

The Committee recommends that, Mr Hanson MLA and Mr Cocks MLA change the name of the website *murrumbidgeemlas.com.au* so as to avoid confusion with the three other Murrumbidgee MLAs not covered by the website.

Recommendation 3

The Committee recommends that, given the issues raised in the report of the Commissioner for Standards, and noting the Assembly's sanctioned e-petition website, the Standing Committee on Administration and Procedure of the 11th Assembly investigate the use of Members' private websites and other means to promote e-petitions that would be deemed out-of-order.

1. Introduction

- 1.1. On 4 September 2024, the Commissioner for Standards received a complaint from Dr Marisa Paterson MLA, concerning allegedly misleading material being circulated by Mr Cocks MLA and Mr Hanson in relation to a petition.
- 1.2. Dr Paterson drew the attention of the Commissioner to a flyer/leaflet relating to an on-line petition to upgrade parking facilities at the Torrens shop. The flyer encourages members of the public to go to a website and sign an on-line petition.
- 1.3. The substance of Dr Paterson's correspondence was that her name was included in the flyer without her permission and that the petition was misleading. She alleged that the on-line petition (along with 11 others) was a data harvesting exercise for campaigning purposes and may breach Territory privacy principles.
- 1.4. 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 4 September 2024.
- 2.3. The Commissioner provided a draft copy of his report to both Mr Cocks and Mr Hanson inviting them to respond, advise of any correction required and any comments they wished to make.
- 2.4. The Commissioner provided his report to the Standing Committee on Administration and Procedure on Sunday, 13 October 2024.

3. The Commissioner's findings

3.1. The Commissioner recommended that:

- (1) The Standing Committee find that Mr Hanson breached the requirements of paragraph (B)(1) of the Code of Conduct by failing to act with due diligence.
- (2) The complaint against Mr Cocks be dismissed.
- (3) Mr Hanson and Mr Cocks be directed to change the name of the website, *murrumbidgeemlas.com.au*.

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

- 4.1. The Committee, at its meeting on 14 October 2024 and, in accordance with continuing resolution 5AA, considered the report of the Commissioner for Standards relating to complaints against Mr Cocks MLA and Mr Hanson MLA relating to the complaint raised by Dr Paterson MLA
- 4.2. The Committee agreed with the findings of the Commissioner for Standards that Mr Hanson MLA had breached the Code of Conduct, and that Mr Cocks MLA had not breached the Code of Conduct.
- 4.3. The Committee also agreed with the Commissioner's recommendation that the Members should change the name of the website *murrumbidgeemlas.com.au* to avoid confusion with other Murrumbidgee MLAs who are not covered by the website.
- 4.4. The Committee notes that in the allegation made by Dr Paterson MLA, it is asserted that the use of a website by Members was misleading and that petitions may have been instigated for inappropriate purposes (such as data harvesting of contact details) for later use in political promotion. Accordingly, the Committee has made a recommendation that these issues around Members hosting petitions on their websites be investigated by the Standing Committee on Administration and Procedure in the next Assembly.

Recommendation 1

The Committee recommends that, having been found to have breached the requirements of paragraph (B)(1) of the Code of Conduct by failing to act with due diligence, Mr Hanson MLA be requested to apologise in writing, through the Speaker to the Assembly for his actions.

Recommendation 2

The Committee recommends that, Mr Hanson MLA and Mr Cocks MLA change the name of the website *murrumbidgeemlas.com.au* so as to avoid confusion with the three other Murrumbidgee MLAs not covered by the website.

Recommendation 3

The Committee recommends that, given the issues raised in the report of the Commissioner for Standards, and noting the Assembly's sanctioned e-petition website, the Standing Committee on Administration and Procedure of the 11th Assembly investigate the use of Members' private websites and other means to promote e-petitions that would be deemed out-of-order.



Joy Burch MLA
Chair
15 October 2024

Appendix A: Report of the Commissioner for Standards

COMPLAINT RE MR JEREMY HANSON CSC MLA & MR ED COCKS MLA

THE COMPLAINT

1. On 4 September Dr Marisa Paterson MLA made a complaint concerning the conduct of Mr Hanson and Mr Cocks. The complaint referred to a letter, apparently from an anonymous source, that had been sent on to her by a concerned constituent. The letter was headed, "Online Petition to Upgrade Parking Facilities for Residents and Local Businesses at Torrens Shops" and the text that followed began with the statement, "As a community, we finally have the attention of our Murrumbidgee Members of Parliament, Dr Marisa Paterson, Jeremy Hanson and Ed Cocks." It urged recipients to sign a petition and provided a link, *murrumbidgeemlas.com.au/fix-torrens-parking*, which apparently then led to the online petition. The link was attached to the website operated by Mr Hanson and Mr Cocks, *murrumbidgeemlas.com.au*.
2. The petition referred to in the letter was tabled, along with a number of others, on 4 September 2024.
3. Dr Paterson suggests, in essence, that Mr Hanson and Mr Cocks were responsible for the letter, that both it and the name of the website are misleading and that there are grounds for suspecting that they had been inappropriately "harvesting" email addresses on the pretext of promoting petitions. She argues that such conduct involved breaches of certain requirements of the *Code of conduct for all members of the Legislative Assembly for the Australian Capital Territory* (the Code of Conduct).
4. The complaint raises a number of questions:
 - Was the letter written or distributed by Mr Hanson and Mr Cocks?
 - Did they include her name to give the people the impression she was supporting the petition so that they would be more likely to sign it?
 - Is the name of the website, *murrumbidgeemlas.com.au*, misleading?
 - Were any of the resources of the Legislative Assembly misused?
 - Were the petitions instigated for inappropriate purposes such as "data harvesting" of contact details for later use in political advertising or promotion?
 - Was the privacy of people participating in the petitions inappropriately infringed?

THE INVESTIGATION

5. The complaint was referred to me on 4 September.
6. I contacted the Clerk of the Assembly later that day to obtain copies of the petitions that had been tabled that day and the transcript of relevant comments that had been made during the

proceedings of the Assembly. I wrote to Dr Paterson seeking further information. I also wrote to Mr Hanson and Mr Cocks inviting them to respond to the complaint and suggesting a number of questions they might care to address.

7. The Clerk duly obtained the Speaker's approval for the provision of the documents I had sought. He then provided a copy of the transcript and arranged for copies of the petitions tabled earlier that day to be sent to me.
8. Dr Paterson replied on 5 September, confirming and clarifying the nature of her concerns.
9. Mr Hanson and Mr Cocks both responded on 18 September.
10. Mr Hanson did not directly address the specific questions I had asked, but denied any involvement in the production or distribution of the letter and explained that a complaint about the letter had previously been dismissed by the Electoral Commissioner. An enclosed email from Elections ACT confirmed that such a complaint was made, but explained that a no action was taken because the relevant officer had been assured that "neither Mr Cocks nor Mr Hanson were involved in the design, production or printing of this material."
11. He also offered the following explanation.

In my role as an MLA, it is my responsibility to communicate and advocate for my constituents.

The Remuneration Tribunal of the ACT recognises this and provides each MLA with a communication allowance for this specific purpose. This is what I use to fund electorate communication activities, not Assembly resources.

As part of those activities, Mr Cocks and I have conducted a regular mobile office schedule.

We sought advice from the Electoral Commissioner for the ACT on this program. We were advised that such activities, including mail outs, follow ups and staff involvement, were legitimate MLA activities and would not be considered electioneering or campaigning by the Electoral Commission.

At our mobile offices, issues are raised with us that warrant a response, including community petitions.

During this term, I have conducted petitions on issues including drug decriminalisation, Stage 2b of the tram, low police numbers, car parking in several local centres, local playground facilities and more.

In total, there have been in the order of 40 community out of order petitions throughout the term, sponsored by various MLAs from all parties.

I keep a record within the office of constituents who have engaged with me on community matters including petitions.

My staff and I correspond with constituents on community issues as I am mandated to do. Assembly resources such as printers or paper are used only for routine office purposes.

My office protocol is that no private information such as email addresses are provided to anyone external to my office.

I do not use constituent contact information from petitioners or office material for party political purposes or political campaigns such as asking for votes, volunteers, or donations.

12. Mr Cocks also maintained that neither he nor any of his staff were involved in the production, or distribution of the letter. He said that Dr Paterson's name had never appeared on any petition he had prepared, sponsored, or tabled, nor on the website which hosted the petitions or any material distributed by him or his staff. He denied sharing information provided by constituents signing petitions and said that the security of such information was maintained by his staff and only shared with Mr Hanson in the case of joint petitions.

13. He also offered the following explanation.

All matters related to out of order petitions from my office are handled consistent with standard processes. There have been many out of order petitions tabled during my short time in the Assembly and they are an important mechanism for MLAs to engage with and represent the community.

The Torrens Parking Petition arose from a series of weekly joint mobile offices Mr Hanson and I have undertaken. Mr Hanson has provided information on this process and how it leads to petitions amongst other responses.

Petitions both test the level of support in the community and build an evidence base that helps make the case for issues when engaging with other members or the Assembly more generally.

Constituents sign the petitions online through a joint website. The website is clearly identified as a joint initiative between Mr Hanson and myself with all relevant authorisations included.

The petition is kept available on the website until we table it, at which point the page is made unavailable to prevent constituents inadvertently signing after the petition has been tabled.

I keep a record of constituents who have engaged with me on community matters including petitions. This information is securely kept within the office so that I can keep constituents informed of progress on the issues that matter to them.

I am proud of the extensive work that Mr Hanson and I have undertaken to identify, understand and advocate for community issues, and to keep constituents informed of our follow-up actions. This is an essential part of our role as Members of the Legislative Assembly and highly valued by the community.

14. After considering their responses and further reviewing the transcript of proceedings, I again contacted the Clerk of the Assembly to obtain some information about the incidence of out of

order petitions, that is petitions that do not conform with the rules and procedures set out in Standing Orders 83 to 100C (see also <https://epetitions.parliament.act.gov.au/e-petitions-information-and-guidelines.pdf>).

15. I also wrote to Dr Paterson to inform her of the nature of the response that had been made and ask whether she had any further material that might be relevant.
16. Dr Paterson responded on 19 September stating that she did not believe her name had been on any of the petitions Mr Hanson or Mr Cocks had tabled. She confirmed that her concern related to the name of the website, *murrumbidgeemlas.com.au*, and to the letter which she suggested was intended to mislead people into believing that she was endorsing the petition.
17. I wrote to Mr Hansen and Mr Cocks again on 22 September, acknowledging the information they had provided, but insisting on specific answers to some questions, most of which had been asked in my initial letters to them.
18. I also wrote to the Electoral Commission seeking information about the advice Mr Hanson claimed to have received from the Electoral Commissioner that was said to have assured him and Mr Cocks that the program and related activities they had undertaken were legitimate MLA activities.
19. On 23 September I received a phone call from the Deputy Electoral Commissioner, seeking further information about the nature of the advice attributed to the Commissioner.
20. Mr Hanson also responded to my email on 23 September, answering my questions. He confirmed that petitions had been prepared by him and/or members of his staff, with members of Mr Cocks's staff also involved when petitions had been initiated with him. Mr Hanson explained that he had "letterboxed" constituents to inform them of particular petitions and also used digital communications. The letterboxing had been undertaken by members of his staff. The work undertaken by staff was done during normal working hours. Assembly printers and paper were not used "as this is what communications allowance is provided for", but text was drafted on office computers and people who participated in petitions were sent confirmatory emails from his Assembly address. He said that he reviewed the draft petitions before they were made available to people and that he asked intending participants to provide their names, suburbs and email addresses. He maintained a list of such people and their email addresses so that he could maintain direct contact with them, but insisted that this information was not made available to any third parties and that it was not used for political purposes.
21. I wrote to Mr Hanson again on 24 September asking him to indicate when the advice he claimed to have received from the Electoral Commissioner was given and, if in writing, to provide a copy of it. I also wrote to Mr Cocks, advising him of what Mr Hanson had said about this advice and asking him to provide details of any such advice he claimed to have received.
22. I received a letter from the Electoral Commissioner on the same day. This issue is discussed later in this report.
23. Mr Hanson also responded on the same day, stating:

The advice received by the Electoral Commissioner was provided to Mr Cocks' office on 12 Dec 2023 in relation to our joint mobile office schedule invitation. His ruling is that this is not electoral matter. My previous response outlined what I took this advice to mean.

24. Mr Cocks also responded on 24 September, providing answers to my questions in substantially similar terms to those provided by Mr Hanson, but referring to advice provided by the Electoral Commissioner in different terms.
25. A draft of this report was sent to both Mr Hanson and Mr Cocks later that day. I suggested that they consider it carefully and respond in any way they saw fit, preferably within 7 days.
26. On 27 September Mr Hanson asked me to allow him a further four weeks time to respond. I replied, informing him that I was not satisfied that an extension of four weeks was required to give him a fair opportunity of responding to the draft report, but that I would extend the time from 7 to 14 days, expiring on 10 October.
27. On 1 October Mr Cocks also sought an extension until 10 October and I replied, granting that extension.
28. On 4 October I received a letter from solicitors retained by Mr Hanson and Mr Cocks (the solicitors) seeking a further extension of time until 21 October morning of Monday. The letter indicated that the firm had been first contacted by Mr Hanson on the morning of 30 September 2024. I replied, stating that I was not satisfied that any further time was required for the preparation of appropriate responses.
29. The solicitors responded to the draft report on 10 October. Their letter expressed some concern that Dr Paterson had been given some opportunity to clarify her complaint after the investigation had commenced and their clients were not afforded the same courtesy prior to receipt of the draft report. They also protested that the full content of the complaint had not been made clear to Mr Hanson and Mr Cocks “from the very beginning” and that they had been asked a series of questions that were not the same as those set out in paragraph 4 of this report.
30. These comments seem to reflect some misunderstanding of my current role. Whilst judges in common law jurisdictions adjudicate upon issues that have been defined by carefully drafted pleadings after due investigation by the parties prior to the solicitors, my role is quite different. I am required to conduct investigations initiated by complaints that may be expressed in general terms and reflect concerns uninformed by any substantial prior enquiry. This role is more akin to the roles undertaken by judges in civil law jurisdictions. Furthermore, my role is not, strictly speaking adjudicative. I express opinions and make recommendations, but the final decisions are made by the Standing Committee on Administration and procedure.
31. Such investigations must obviously be conducted in ways that ensure due fairness to those against whom complaints have been made and, in the present case, whilst I sought further clarification from the Dr Paterson, I also gave Mr Hanson and Mr Cocks further opportunities to answer the questions that had been set out in my initial letter to them. Members against whom complaints have been made are also given copies of draft reports to give them a further opportunity to respond to any potentially adverse findings against them.

32. The questions I asked Mr Hanson and Mr Cocks sought further information and were intended to ensure that they had a fair opportunity to address factual questions that seemed potentially relevant. The questions in paragraph 4 serve a different purpose, They define what I have identified as the principal issues raised by the complaint.

THE APPLICATION OF THE CODE OF CONDUCT

33. The complaint raises issues about the application of a number of the provisions in the Code of Conduct. In addressing these issues I have relied upon information from the sources mentioned above without making any attempt to contact any of the signatories to the petitions

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

34. A number of the issues that have been raised concerning the honesty of Mr Hanson and Mr Cocks.

The letter

35. Dr Patterson suspects that Mr Hanson and Mr Cocks distributed material that included her name without her consent and that this was done to lead people to assume the petitions had her support and sign them. Given the the nature and terms of the letter, this suspicion is understandable.

36. However, both Mr Hanson and Mr Cocks deny any involvement in the writing or distribution of the letter or any other material in which her name was inappropriately used. Inferences drawn from an unsigned and unattributed letter can obviously be given only limited weight and there appears to be no other evidence that would establish Mr Hanson and/or Mr Cocks wrote it or had any involvement in its production or distribution.

37. Accordingly, I am unable to find that Dr Patterson's suspicion has been confirmed.

The name of the website

38. Dr Paterson argues, in essence, that the name of the website, "murrumbidgeemlas.com.au", is misleading because it implies that website is operated by or on behalf of all five Members who represent the Murrumbidgee electorate, not just Mr Hanson and Mr Cocks.

39. The solicitors contend that the complaint does not actually allege that the website is misleading. They maintain that she was suggesting only that the letter is misleading. The relevant statement in the complaint actually states: "The letter framing aligns with the 'murrumbidgeemlas' website – implying it is all of us". In my opinion, this clearly suggests that both the letter and the name of website were misleading. In any event, I do not accept that the scope of the investigation of this nature should be constrained by a strict, literal interpretation of the words used in the initial complaint.

40. In one sense, of course, the name is literally accurate. Mr Hanson and Mr Cocks may fairly be described as Murrumbidgee MLAs. It also seems unlikely that politically astute people would expect such a website to be shared by Liberal, Labor and Greens Members. Furthermore, those

accessing the site in the usual way are immediately confronted by the heading, “Jeremy Hanson Ed Cocks” in very large type and this followed by words, “Ed Cocks MLA & Jeremy Hanson MLA Your Local Liberal Members in Murrumbidgee”.

41. I initially suspected that a person who clicked on a link to a petition, such as the one mentioned in the anonymously sourced letter, might be taken directly to it and not see the statements making it clear that the website is operated only by Mr Hanson and Mr Cocks. However, the solicitors have explained that all pages linked to the website bear their names. They also say that the website contains no references to other Members of the Assembly and observe that there is no evidence that anyone has actually been misled by the name of the website.
42. Nonetheless, I think that the name is potentially misleading. Not all members of the community are politically astute and not everyone who sees the name of a website, whether online or in correspondence or other documents, proceeds to access it.
43. Had deception been intended, one would not have expected the website to have been configured so that those accessing the home page would be confronted by the bold statements identifying Mr Hanson and Mr Cocks as the operators and describing them as Liberal Members. Consequently, I am not satisfied that the name was formulated with any dishonest intent.
44. The solicitors have also advised me that Mr Hanson and Mr Cocks are willing to change the name of website.

Implied representations to potential signatories

45. Dr Paterson suggested that constituents had been induced to sign petitions by false pretences that they were ‘official’ online petitions. She has not cited any statements from constituents actually claiming to have been misled by representations to that effect and I do not believe that this may be inferred from the fact that the petitions were addressed “To the speaker of the Legislative Assembly”. I also doubt that many constituents would have been aware of the relevant requirements of the Standing Orders or to have been concerned about the form in which their opinions were conveyed to the Assembly unless, of course, they had some reason to doubt that they were being presented accurately.
46. I might have taken a different view if the evidence had established that Mr Hanson and/or Mr Cocks had used Dr Paterson’s name to promote petitions or if the petitions were “potentially being used for campaign purposes” as suggested. However, the evidence does not establish that this was intended.

Were the petitions instigated for inappropriate purposes such as “data harvesting”?

47. Dr Paterson’s complaint included the statement that:

I believe that given Mr Cocks and Mr Hanson have tabled all the out of order petitions this morning – they had no intention of tabling them, until they received significant pressure from the public calling them out over data harvesting.

48. Mr Cocks did not address this statement in his initial response. On the other hand, Mr Hanson described the suggestion as “patent nonsense” and said that he became aware of Dr Paterson’s assertions after the petitions had already been were already tabled.
49. Sponsors will obviously delay tabling petitions in order to allow the accumulation of signatories. However, on 4 September five, including four that were out of order, were tabled by Mr Hanson and eight, all out of order, were tabled by Mr Cocks. The solicitors state that Mr Hanson and Mr Cocks completed their final round of mobile offices in September, and wanted the petitions to remain ‘live’ for as long as possible while they were still talking to constituents. This may explain why a number of the petitions were tabled on the same day.
50. However, one petition, tabled by Mr Hanson, urged the Assembly to stop the legislation for the decriminalisation of the possession of certain drugs. Since the relevant bill was introduced in 2021 and the amendments to the *Drugs of dependence Act 1989* took effect on 28 October 2023 it is difficult to discount Dr Patterson’s suspicion that the signatories to this petition had been collected at a much earlier date and that there had been no intention to table it until it had been suggested that the signatures had actually been obtained for other purposes.
51. The solicitors contend that this petition was not tabled while the proposed legislation was being debated as Mr Hanson used other mechanisms to voice his constituents’ concerns on the issue, including a separate epetition (<https://epetitions.parliament.act.gov.au/details/022-22>) and a motion to amend the bill. They maintain that even when the the legislation had passed, drug decriminalisation remained an important issue that a large portion of the community felt strongly about. Mr Hanson did not expect that by tabling the petition he would bring about immediate legislative change, but he nonetheless saw the petition “as an important mechanism to keep the community aware and engaged in the debate.”
52. These arguments are less than compelling. The language used in the petition tabled on 4 September calls upon the Assembly to “stop the legislation that would decriminalise” heroin, not to repeal legislation already in force. Hence, it seems clear that this petition was prepared and signed by the petitioners at some prior to the amendment being passed. Furthermore, this petition had 3,160 signatories whilst the epetition had only 361 signatories. It has not been explained why Mr Hanson sponsored both the epetition and the one tabled on 4 September concerning the same issue. Nor has it been explained why the availability of the epetition, or any other means of expressing constituents’ concerns may led Mr Hanson to withhold the petition with so many more signatories.
53. However, the perceived adequacy of an explanation intended to be exculpatory does not, of itself, establish the truth of an allegation. Both Mr Hanson and Mr Cocks have denied acting for inappropriate purposes and there is no actual evidence that they engaged in data harvesting or that they had misused the contact information provided by signatories.

Advice from the Electoral Commissioner

54. As mentioned earlier, in his initial response to my letter advising him of the complaint, Mr Hanson said:

We sought advice from the Electoral Commissioner for the ACT on this program. We were advised that such activities, including mail outs, follow ups and staff involvement, were legitimate MLA activities and would not be considered electioneering or campaigning by the Electoral Commission.

55. This statement was not true.

56. The Electoral Commissioner, Mr Damian Cantwell AM CSC, responded to my enquiry by confirming that advice given by his office is confined to opinions on electoral matters. He stated that:

My views on whether mobile office arrangements and activities, including mail outs, follow ups and staff involvement constitute legitimate MLA activities, have neither been sought, nor provided.

57. When I asked Mr Hanson to indicate when the claimed advice was given and, if in writing, to provide a copy of it, he offered the following response:

The advice received by the Electoral Commissioner was provided to Mr Cocks' office on 12 Dec 2023 in relation to our joint mobile office schedule invitation. His ruling is that this is not electoral matter. My previous response outlined what I took this advice to mean.

58. He also provided a copy of the advice . The relevant portion reads:

Thank you for your email seeking Elections ACT's advice on the proposed joint mobile office invitation flyer for Mr Cocks and Mr Hanson.

The Deputy Electoral Commissioner, Mr Ro Spence, has advised that he does not consider that this joint mobile office invitation flyer contains electoral matter. Consequently, expenditure on this flyer would not be caught by the expenditure cap. This view is based on the fact that the flyer does not contain reference to an election, an election issue or to the performance of the government, an MLA or a candidate.

59. With due respect to Mr Hanson, I was unable to imagine any way in which he could have interpreted advice about statements in an invitation flyer as endorsing activities, such as mail outs, follow ups and staff involvement. Furthermore, neither he nor Mr Cocks had sought advice from the Electoral Commissioner concerning their program or related activities. Hence, the draft report suggested that, in making the assertion about the advice he claimed to have received from the Electoral Commissioner, Mr Hanson may have acted dishonestly.

60. The solicitors have now advised me that Mr Hanson concedes that the relevant assertion was incorrect, but maintains that it was attributable to error. They state that he did not have a copy of the Electoral Commissioner's advice when he prepared his initial response to the complaint and explain that:

The Electoral Commissioner's advice was initially sought by, and given to, Mr Cocks' office. The contents of the advice had been shared between the teams verbally by a staff member from Mr Cocks' office to a staff member of Mr Hanson's office. Mr Hanson relied

on the verbal interpretation of his staff member's understanding of the advice when preparing his response of 18 September 2024.

61. In support of these contentions they enclosed a statutory declaration a staff member, Mr William Ian Hagan, confirming that he had provided the wording of the statement concerning the advice from the Electoral Commissioner. They also provided a copy of an email from Mr Hagan to Mr Hanson on 5 September 2024 containing that contains portion of an initial draft response to the complaint with the statement about the advice set out in bold type. In addition, they provided a statutory declaration from Mr Rafe Lucas Harrison-Murray, who is an adviser to Mr Cocks, stating that he first provided the written advice from Elections ACT relating to the Mobile Office Program to Mr Hanson and his office on 24 September 2024.
62. I have no reason to doubt the truth of these statements or the authenticity of the copy of the email. Consequently, I accept that Mr Hanson may have been misled and acted without dishonest intent. However, this also evidence reveals that his statement was based upon nothing more than Mr Hagen's interpretation of his memory of what Mr Harrison-Murray said about his understanding of the written advice some months earlier. This was a very flimsy basis for such and assertion.
63. The solicitors added:

Mr Hanson accepts that he bears responsibility for this error. He relied on the written advice from one of his staff members (which was based on verbal advice provided to the staff member) that he has worked with and relied on for over ten years. He accepts that he ought to have checked the content of the advice before making decisions based on it, and certainly before quoting it in his response to your questions. He can only apologise profusely and say that it is an incredibly busy period at present, in the lead up to the impending election. The short timeframes for responding to the Commissioner's investigations have meant that Mr Hanson has necessarily had to rely on his team resources to assist him wherever possible.

64. Paragraph (B)(1) of the Code of Conduct requires Members to at all times act, not only with integrity, honesty, but also with diligence. In my opinion, the inclusion of this word in a paragraph of the Code of Conduct otherwise concerned with honesty and integrity makes it clear that a Member must not only not only refrain from deception but must also take reasonable steps to ensure that potentially important statements they make are true. I do not suggest that Members are required to effectively 'fact check' every statement that they pass on to others, no matter how inconsequential. The nature and extent of this obligation will obviously depend upon the circumstances, including the apparent credibility of the source.
65. I am not unsympathetic to the explanation that has been provided on Mr Hanson's behalf. I also understand that he had known Mr Hagen for sixteen years and may have been accustomed to relying upon his advice. Nonetheless, in my opinion, he clearly failed to exercise due diligence in simply adopting Mr Hagen's statement without obtaining a copy of the written advice or otherwise checking the accuracy of it. The assertion was made in the course of responding to a complaint of misconduct and he had a duty to ensure that the Standing Committee was not misled. Furthermore, the assertion involved attributing to the Electoral Commissioner advice

that would have been outside of his area of responsibility and expertise and hence inappropriate for him to have provided.

66. On the other hand, Mr Cocks did not mention the advice from the Electoral Commissioner until I asked for details of any such advice he claimed to have received. He then stated that:

To be clear, we are working from multiple sources of advice:

In relation to our Mobile Office program we received advice from the Electoral Commissioner that the program would not be included in the ACT Election Expenditure cap as he did not consider it to be electoral material. The full advice is attached at the end of this email.

67. It may be noted that Mr Cocks did not claim that the Electoral Commissioner had endorsed the program and related activities, such as mail outs, follow ups and staff involvement, as legitimate MLA activities. It is true that the advice actually given by the Electoral Commissioner related only to the flyer and not to the program as Mr Cocks suggested, but he did not suggest that it was directed to any issue other than the application of the electoral expenditure cap. He also chose to attach a copy of the actual terms advice to his email.
68. In these circumstances, I am not satisfied that Mr Cocks acted dishonestly or with a material lack of due diligence in making this assertion.

(B)(6) - Members should be transparent in, and accountable for, their decisions and actions and should submit themselves to proper scrutiny

69. The complaint suggests that the letter falsely linked Dr Paterson's name to the petition and that this involved a failure to be transparent with the community. Since I have been unable to find that Mr Hanson or Mr Cocks had any involvement in writing or distributing the letter, this suggestion cannot be substantiated.

B)(7) – Members should make only proper use of those public resources which they have access and should do so in a manner designed to make effective and efficient use of those resources

70. As a matter of general principle, it is clearly appropriate for the resources of the Assembly to be used by Members in order to ascertain the views of constituents and communicate those view to the Assembly, whether by sponsoring or facilitating petitions or by other means. It is true that petitions inevitably express a one-sided view, are usually devoid of substantial factual content or argument and may be used for adversarial purposes, but they are nonetheless an accepted part of the democratic process. Mr Hanson and Mr Cocks chose to implement a program of recruiting constituents to participate in petitions about various issues that would eventually be tabled and, at face value, their actions in using staff to assist in the implementation of this program fell within that general principle.
71. Ten of the petitions tabled on 4 September were out of order petitions in that they did not conform with the requirements laid down by the relevant Standing Orders for petitions submitted on paper or those for e-petitions. The former type of petitions must be personally

signed by petitioners (see Standing Orders 88-90) whilst the latter are 'signed' online by petitioners electronically providing their name, address and email address and signifying their intention to join the petition (see Standing Order 100A). In either case contact details are not disclosed to Members or to the public. Out of order petitions involve the presentation of names ostensibly in support of the relevant proposals without physical or electronic signatures and contact details are provided to the Members promoting them. This may give rise to suspicion that such information has been obtained or may be used for inappropriate purposes, such as political campaigning or promotion. However, petitions which do not conform with the standing orders may be lodged with the Clerk and may be presented by a Minister (see Standing Order 83A).

72. Whilst neither Mr Hanson nor Mr Cocks were Minister, out of order petitions are tabled from time to time and, irrespective of any procedural irregularity, it would be difficult to justify a conclusion that Assembly resources had been misused if applied in genuine attempts to ascertain the view of constituents and convey them to the Assembly. At face value, the petitions tabled by Mr Hanson and Mr Cocks on 4 September appear to have reflected such intentions and leave was granted for them to be tabled.
73. In the absence of evidence that they were motivated by improper motivations, I am unable to find that either Mr Hanson or Mr Cocks misused resources of the Assembly.

(B)(8) – Members should respect the dignity and privacy of individuals, and not disclose confidential information to which they have official access than with consent or as required by law.

74. Dr Paterson suggested that the collection of an individual's personal data may not be compliant with relevant provisions of the *Privacy Act 2014*. The relevant portion of that Act is *The Territory Privacy Principle (TPP) 6* which provides that personal information collected by a public sector agency for particular purpose must not be used for other purposes without the consent of the person concerned, except in certain narrowly defined circumstances. However, the definition of a "public sector agency" in section 9 of the Act includes "a Minister" but not other Members of the Assembly.
75. Dr Patterson was on firmer ground in referring to paragraph (B)(8) of the Code of Conduct which applies to all Members. Whilst the latter part of this paragraph refers only to disclosures of information, the maintenance of a data base of email addresses for an inappropriate purpose could, of itself, be taken to reflect a failure to respect the privacy of the individuals whose details were so recorded. Constituents providing email addresses to a Member of the Assembly in the context of a petition might reasonably be taken to consent to them being recorded so that they might be informed that the petition had been duly tabled and perhaps kept up to date with any subsequent developments relating to the matters about which they had expressed concern. However, the privacy of such people would obviously be infringed if a Member were to subsequently use their email addresses for other purposes such as political advertising or promotion.
76. In the present case, whilst Dr Paterson's suspicion about the motivation for the retention of personal details obtained by Mr Hanson and Mr Cocks may be understandable, both deny

having retained the information for improper purposes and the evidence does not establish that they did.

Recommendations

77. I recommend that the Standing Committee find that Mr Hanson breached the requirements of paragraphs (B)(1) of the Code of Conduct by failing to act with due diligence.
78. I recommend that the complaint against Mr Cocks be dismissed.
79. I also recommend that Mr Hanson and Mr Cocks be directed to change the name of the website, *murrumbidgeemlas.com.au*.

Other matters

80. The solicitors sought to raise allegations by Mr Hanson and Mr Cocks against another Member of the Assembly, suggested that Dr Paterson's complaint was engineered by that Member for improper purposes and expressed concern that the processes followed in the investigation of this complaint may have been used for political ends. They asked me to "investigate and determine, prior to releasing any findings, the genesis of the 'constituent complaint' that was the impetus for Dr Paterson's complaint" and whether the Member had any involvement in the complaint.
81. Mr Hanson and Mr Cocks are free to make a complaint against any other Member of the Assembly and, should they choose to do so, I will duly consider any evidence that may be provided in support of it. However, I currently have no evidence that would substantiate the allegations made in the response made on their behalf.
82. For present purposes, I need only record that no Member of the Assembly has sought to improperly influence me in relation to the issues I have been required to investigate and that the opinions expressed in my report have been formed entirely independently.

K J Crispin KC
Commissioner for Standards
12 October 2024

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 discrimination¹ 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.