

CODE OF CONDUCT FOR ALL MEMBERS
OF THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY
—REVIEW

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE

MAY 2017

REPORT 4

COMMITTEE MEMBERSHIP

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RESOLUTION OF APPOINTMENT

In 1995 the Legislative Assembly for the Australian Capital Territory ('the Assembly') amended Standing Order 16, which established the Standing Committee on Administration and Procedure ('the Committee').

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

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RECOMMENDATION

- 2.1** That the revised continuing resolution entitled *Code of Conduct for All Members of the Legislative Assembly for the Australian Capital Territory* be adopted.

1. REVIEW AND DISCUSSION

- 1.1. At its meeting on 13 February 2017 the Clerk reminded Members of the Standing Committee on Administration and Procedure of the recent recommendation of the report of the Committee's recommendation in *Report No 9 — The Conduct of Mr Barr MLA, (8th Assembly)*¹ that the code of conduct for Members be reviewed prior to Members of the 9th Assembly being asked to affirm/reaffirm their commitment to the code. It was agreed that Mr Skehill, the Assembly's Ethics and Integrity Advisor be asked to conduct a review of the code and bring suggested changes back to the Committee for its consideration.
- 1.2. The Committee considered the report from the Ethics and Integrity Advisor at its meeting on 20 April 2017. In its discussion the Committee reviewed attachment B of the report as it highlighted the proposed changes.
- 1.3. The Committee made a number of minor changes to the proposed Code put forward by the Ethics and integrity Advisor as follows:
 - Paragraph 2 – omit the words “in any capacity”
 - (6) delete the words “should avoid or appropriately resolve any actual or reasonably perceived conflicts of interest”
 - (8) Omit the word “permitted;”, substitute “required”
 - (12) After the words “seek to” insert “avoid or”
 - (16) After the word “information” insert “unless required by law”
- 1.4. The Assembly has established the practice that, at the beginning of each new Assembly, Members affirm/reaffirm their commitment to abide by the Code of Conduct. For the 9th Assembly it had been agreed that this would occur after the review have been completed.
- 1.5. The matter of new Members who are sworn in as a result of filling a vacancy in the Assembly was also discussed.
- 1.6. The Committee agreed that the following clause be added to the code of conduct.
 - (XX) Within the first six months after an election for the Assembly, the Assembly shall reaffirm its commitment to the principles, obligations and aspirations of the code. Where a new member is elected to fill a vacancy the new member shall, before he or she makes an inaugural speech, affirm that he or she will abide by the code”
- 1.7. A copy of Mr Skehill's report is at Appendix A.

¹ Standing Committee on Administration and Procedure—8th Assembly, Report No. 9, The Conduct of Mr Barr MLA, p 3

2. RECOMMENDATION

- 2.1. That the following continuing resolution entitled ***Code of Conduct for All Members of the Legislative Assembly for the Australian Capital Territory*** be adopted.

CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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.

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, efficient and economic 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 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.

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

- (11) Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.
- (12) 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* (Cwth);
 - (b) declare their pecuniary interests and ensure that their declaration is kept up to date pursuant to the resolution of the Assembly 'Declaration of Private Interests of Members' agreed to on 7 April 1992 (as amended or replaced from time to time);
 - (c) include in the Member's Statement of Registrable Interests all gifts, payments, fees, rewards or benefits valued at more than \$100 received in connection with the Member's functions as a Member; and
 - (d) disclose in a manner appropriate to the circumstances any other financial or non-financial interest that they may hold, or which they may be reasonably perceived to hold (other than as a member of the public or of a broad class of persons) which a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Member's duty as a Member.
- (13) ensure that outside occupational or other pursuits do not materially impede their capacity to perform their duties as a Member.

- (14) 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.
- (15) 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*).
- (16) 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.
- (17) In their capacity as an employer on behalf of the Territory under the Legislative Assembly (Members' Staff) Act 1989:
- (a) familiarise themselves and comply with the terms and conditions on which their personal staff are engaged and with all applicable policies and practices (including those related to occupational health and safety, discrimination, harassment and bullying, equal employment opportunity and use of information technology);
 - (b) not employ a family member as defined in that Act;
 - (c) direct their personal staff to be mindful of the Member's commitment to this Code of Conduct, and to assist the Member to comply with this Code of Conduct; and
 - (d) direct their personal staff to comply with any code of conduct applicable to those staff from time to time.
- (18) In all their dealings with staff of the Assembly and members of the ACT Public Service:
- (a) extend professional courtesy and respect; and
 - (b) recognise the unique position of impartiality and the obligations of Public Service officials.
- (19) 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.

- (20) 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.

- (21) Within the first six months after an election for the Assembly, the Assembly shall reaffirm its commitment to the principles, obligations and aspirations of the code. Where a new member is elected to fill a vacancy the new member shall, before he or she makes an inaugural speech, affirm that he or she will abide by the code.

Joy Burch MLA, Chair

May 2017

APPENDIX A: REVIEW OF THE CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY—CONDUCTED BY MR STEPHEN SKEHILL, ETHICS AND INTEGRITY ADVISOR

REVIEW OF THE CODE OF CONDUCT FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Background

On 24 October 2013 the Legislative Assembly for the Australian Capital Territory, by amendment of Continuing Resolution 5, adopted the current *Code of Conduct for All Members of the Legislative Assembly for the Australian Capital Territory* (the Code).

Subsequent to the adoption of the Code, on 24 April 2015 the Commonwealth Parliamentary Association issued its *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament* (the CPA Benchmarks).

The Standing Committee on Administration and Procedure of the 8th Assembly recommended that the Code should be reviewed by April 2017 following the then-pending election and “prior to it being re-endorsed, in accordance with the recommendation of the Ethics and Integrity Adviser”.

On 13 February 2017 the Standing Committee on Administration and Procedure of the current 9th Assembly resolved to request that I undertake such a review.

The current Code is a variant of the draft code recommended for adoption in the 31 July 2012 report of my review of the previous Code of Conduct.

As part of that review I recommended that:

While the Code as current from time to time should continue to be embodied in a Continuing Resolution of the Assembly so that there is at all times an operative Code, it should be an early matter of business for each new Assembly to consider the content of the Code and to vote to either confirm or vary that content. In this way, all current Members of each Assembly will have the opportunity to express their personal commitment to comply with the Code, or to argue for any change to it that they may consider appropriate. This process will also provide an opportunity for periodic review of the Code so as to better ensure that, over time, it remains appropriate to contemporaneous circumstances.

Review Methodology

For the purposes of the present review:

- I wrote to all Members seeking advice as to any concerns they might have with the current Code;
- I wrote in similar terms to the Commissioner for Standards to seek his views in light of his experience in the practical application of the Code in the resolution of complaints against Members referred to him by the Speaker;
- I examined each of the reports prepared by the Commissioner in respect of those complaints about Code compliance;
- I examined each of the advices I have provided as Ethics and Integrity Adviser since the current Code was adopted;
- I compared the Code and other aspects of law and practice applying in the ACT with the CPA Benchmarks; and
- I looked more generally at the Code to see if there was any enhancement that I thought desirable in the light of experience to date.

Assessment of the Current Code

Submissions from Members and the Commissioner for Standards

In writing to current Members and the Commissioner, I asked that any concerns held by them be conveyed to me by cob Friday 17 March 2017 so that I could complete this report by the end of March 2017. I received no comments from any Member or from the Commissioner. While it might be too presumptuous to assume from this lack of response that all addressees were fully supportive of every provision of the current Code, it does seem fair to assume that none saw at this time any pressing need for reform of it.

Review of reports of the Commissioner of Standards

My review of each of the Commissioner's reports on complaints of Code breach found only one statement by him suggestive of some difficulty in the practical application of the Code.

In his 28 May 2015 *Report into a Complaint against Ms Joy Burch MLA* the Commissioner referred to clause 3 of the Code which states as follows:

(3) Members should always act in the public interest, make decisions and choices on merit, and not seek to gain financial or other benefit for themselves, their family or friends.

and said as follows:

114 ... As the Leader of the Opposition has suggested, section 3 of the Code of Conduct does not recognise a distinction between benefits sought as a Member and benefits sought as a parent or in some other capacity. The last clause of this section simply states that Members should 'not seek to gain financial or other benefit for themselves, their family or friends.'

115. Nonetheless, the intended scope of this section is by no means clear. If the last clause were to be construed literally and in isolation, its unequivocal terms would effectively prevent Members from engaging in many of the normal activities of life, such as borrowing the proverbial cup of sugar or asking a neighbour to mind a child for short period. I am sure that was not intended. Whilst it may be unnecessary for me to attempt to define the limits of this principle's potential application, I think this part of the section must be construed by reference to the duty expressed in the earlier part requiring Members to act in the public interest and make decisions and choices on merit. Construed in this manner, I think the section requires Members not to seek financial or other benefits in any circumstances related to the office they hold and/or the duties they are required to undertake. The principle would extend to requests or overtures made in the realisation that those providing the benefits would be likely to expect something in return, whether a discrete quid pro quo of some kind, a more favourable attitude towards their interests in a continuing commercial relationship with the ACT government or merely a kindly disposition towards them in case some situation occurred in which a sympathetic approach by someone in the Member's position might be useful.

The principles in clauses 1-9 of the Code are prefaced by the following introductory words:

In committing to this Code of Conduct, Members undertake, to the community and to one another, that the following principles shall guide their conduct as Members in all matters: (emphasis added)

In my 31 July 2012 report I had recommended the insertion of the underlined words with the intention that each of the principles should only extend to actions taken by Members as Members and not in their private capacities – such as “borrowing the proverbial cup of sugar or asking a neighbour to mind a child for short period”. In that report I had said:

The Code should relate only to conduct of members as Members and not intrude unnecessarily into their quite separate and distinct roles as private citizens and (in most cases) as members of political parties.

I consider that the intent underlying the distinction between private action and action as a Member remains apposite, but I think this report from the Commissioner demonstrates that the words “as Members” are not necessarily sufficient to give unambiguous effect to that distinction. For example,

the conduct of a Member in soliciting a bribe in return for which they would vote in the Assembly in a particular manner is not conduct that can be properly taken in performance of their duties as a Member but only by way of abuse of their position.

I thus recommend some refinement of the Code to better express the distinction sought to be made. The revised draft which I propose for submission to the 9th Assembly set out at Attachments B and C seeks to deal with this issue by adding some opening words to the list of principles.

It is important to note, however, that in my view this potential ambiguity in the Code would have made no difference to the conclusion which was eventually reached by the Commissioner in the circumstances of the complaint he was then considering.

Otherwise, on my reading, the reports of the Commissioner indicate no other need for amendment of the Code. As noted above, the Commissioner did not respond to my letter seeking views on any need for change to the Code.

Review of advice provided as Ethics and Integrity Adviser

My review of the advices I have given to Members since the introduction of the Code did not reveal any circumstance in which the Code necessitated that I give advice either for or against the conduct in question that I would not have given but for the Code. That review did however reveal one factual circumstance in which the Code did not offer guidance to the Member concerned and to me as Adviser. This concerns whether or not, and to what extent, a Member may engage in other employment or activity. A proposal for amendment of the Code in this regard is discussed further below.

Comparison with the CPA Benchmarks

Generally speaking, the Code is not inconsistent with the CPA Benchmarks.

In some respects, the CPA Benchmarks suggest a different method for implementation of some measures. For example, they suggest that a Code of Conduct could provide for an Ethics Adviser and for the appointment of a person to consider complaints of non-compliance with the Code of Conduct. In the ACT, these matters are dealt with in Continuing Resolutions rather than in the Code itself.

I do not think there is any need for change to the ACT's arrangements just to bring them into line with the CPA Benchmarks when similar results are achieved by different but apparently equally effective means.

However, there are two matters set out in the CPA Benchmarks that I think could usefully be added to the Code. The Benchmarks state among the principles advocated that Members of Parliament shall:

- respect the intrinsic dignity of all; and
- give effect to the ideals of democratic government and abide by the letter and spirit of the Constitution and uphold the separation of powers and the rule of law.

The concept of respecting the dignity of all would, I think, be suitably covered by my original recommendation, made again below, that the Code should contain an undertaking by Members to:

Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.

The existing Code, I think, already makes adequate provision for Members to "give effect to the ideals of democratic government and abide by the letter and spirit of the Constitution", albeit not in those precise terms, but does not contain an undertaking to "uphold the separation of powers and the rule of law". The revised Code recommended at Attachments B and C includes such a provision which would, I think, be a useful addition.

General review of the current Code

As noted above, the present Code is a variant of the draft Code attached to my 31 July 2012 report. The variations are shown in revision mode in the text at [Attachment A](#).

The variations shaded in green cause me no concern (except to note that the method of addition of one variation involved some typographical/grammatical oddities which I believe should now be remedied).

The variations shaded in yellow, however, warrant some comment and, in some cases, further consideration in my view.

My original draft proposed a principle in the following terms:

Members should act independently and never place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties in a manner inconsistent with these principles.

While I am not aware of the reasons why this proposed principle was deleted from the current Code, this may have been for a concern that it would be inconsistent with a Member's position as a member of a political party obliged to vote in accordance with party policy except where a conscious vote was permitted. This was not intended by my original draft and would be an inappropriate outcome. I am thus content that this principle should not be included in the Code and consider that its inherent intent is in any event covered by the subsequent principle that commits Members to "avoid or appropriately resolve any actual or reasonably perceived conflicts of interest" and to "actively seek to prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests" and to "take all reasonable steps to resolve any such conflict or perception that that does arise".

My original draft next proposed a commitment by Members to:

Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.

I was not advised of any definitive reason why this proposed commitment was deleted, although it was suggested to me that Members should not be bound to treat citizens with courtesy if those citizens do not themselves treat Members with courtesy. If there is no better reason for its exclusion, then I think the maxim that "two wrongs do not make a right" should prevail. The fact that a member of the public may be less than courteous to a Member provides no justification for the Member to be discourteous. And, in my view, respect for the diversity of the background, experiences and views of others is a fundamental precept that should be acknowledged in the Code. I thus recommend that this commitment should now be added to the revised draft Code that is to be put to the 9th Assembly. As noted above, I think such a provision would bring the Code into closer conformity with the CPA Benchmarks.

My original draft also proposed a commitment by Members to:

Not engage in any outside employment that involves a significant commitment of time and effort or that otherwise materially impedes their capacity to perform their duties as a Member.

The current Code makes no specific provision for Members engaging in outside employment or occupational or other pursuits and gives no guidance as to whether or not such engagement is acceptable. A number of Members do, on my understanding, have separate occupational or other pursuits and there have been some suggestions (with which I disagree) that these should not be permitted at all. In my view it would be to the benefit of Members for the Code to provide some guidance in this regard. I thus recommend that the revised draft Code to be put to the 9th Assembly should include a variation of the previously proposed commitment along the following lines:

Not engage in outside occupational or other pursuits to an extent that would materially impede their capacity to perform their duties as a Member.

Finally, while the current Code contains the principle:

Members should make only proper use of those public resources to which they have access,

it does not include my original proposal that Members should undertake to:

Use the public resources (whether staff, financial or material) to which they are provided access as a Member:

- *Only for the purposes for which they are provided;*
- *In accordance with the terms and conditions on which they are provided; and*
- *In a manner designed to make effective, efficient and economic use of those resources.*

It is probably the case that the “proper use” of public resources referred to in the current Code would permit use only for the purpose for which the resources were provided and require that use to be in accordance with the terms and conditions on which those resources are provided. However, it seems to me far from certain that “proper use” necessarily extends to use “in a manner designed to make effective, efficient and economic use of those resources”. Arguably, therefore, the current Code allows members to be profligate in their use of public resources. In my experience, such use by Public Service officers appearing before an Estimates Committee would be unacceptable to Members sitting on such a Committee. In my view the same standard should apply to both groups of public officials.

I note that my proposed words did not require that the use should be the most effective, efficient and economic, and I think that would be too high a standard to impose. I also note that the previously proposed words did not require that use had to actually be effective, efficient and economic but simply be “designed” to achieve such an outcome.

I think that ineffective, inefficient and uneconomic use should not be implicitly condoned as is arguably the case under the present Code. This is particularly so, for example, in an environment where parliamentarians’ expenses (such as flying interstate for a meeting that could readily and less expensively be conducted by telephone or video conference) are a matter of considerable public controversy.

I thus recommend that the revised draft Code to be put to the 9th Assembly should include a variation of the current principle on use of resources as shown in Attachment B.

Conclusion

I consider that the current Code has served the Assembly and the community well, but can be improved in some respects.

At Attachment C is a “clean” version of the revised Code which I recommend should be put before the 9th Assembly for its consideration and, hopefully, endorsement.

Stephen Skehill
Ethics and Integrity Adviser to the Members of the
Legislative Assembly for the Australian Capital Territory

4 April 2017

ATTACHMENT A

Comparison of current Code with draft Code proposed in report of review of previous Code

CODE OF CONDUCT FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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.

In committing to this Code of Conduct, Members ~~ascribe to the following principles which they undertake, to the community and to one another, that the following principles~~ shall guide their conduct as Members in all matters:

- Members should at all times act with integrity, honesty and diligence.
- 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.
- 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.
- ~~Members should act independently and never place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties in a manner inconsistent with these principles.~~
- Members should be reasonably accessible to the people of the electorate they have been elected to serve, and should represent their interests conscientiously.
- Members should be transparent in, and accountable for, their decisions and actions, should avoid or appropriately resolve any actual or reasonably perceived conflicts of interest and should submit themselves to appropriate scrutiny.
- Members should make only proper use of those public resources to which they have access.
- 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 permitted by law.
- Members should observe proper standards of parliamentary conduct, and observe respect for differences and fairness in their political dealings.

- Members and former 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.

Consistent with the above principles, Members further undertake that they ~~will, in particular should~~:

- ~~Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.~~
- Actively seek to prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests, ~~and~~ take all reasonable steps to resolve any such conflict or perception that that does arise ~~and in particular, Members will~~:
 - ~~Comply comply~~ with section 15 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).
 - ~~Make and maintain disclosure of~~ declare their pecuniary interests ~~and ensure their declaration is kept up to date in accordance with disclose their pecuniary interests~~ pursuant to the resolution of the Assembly “Declaration of Private Interests of Members” agreed to on 7 April 1992 (as amended or replaced from time to time).
- 2.2. ~~Include~~ Include in the Member’s Statement of Registrable Interests all gifts, payments, fees, rewards or benefits ~~valued at more than \$100~~ received in connection with the Member’s functions as a Member ~~where such are valued at more than \$100-; and~~
- ~~Disclose disclose~~ in a manner appropriate to the circumstances any other financial or non-financial interest that they may hold or ~~in~~ which they may be reasonably perceived to ~~have a material interest hold~~ (other than as a member of the public or of a broad class of persons) which ~~they consider (or ought to consider)~~ a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Member’s duty as a Member.
- Not solicit to undertake, or undertake, any activity as a Member in return for the provision, promise or expectation of any ~~remuneration, fee, payment, reward or benefit in kind other than that provided by the Territory improper benefit~~ to the Member ~~as a Member or to another person~~.
- Not solicit to undertake, or undertake, any activity as a Member in return for the provision, promise or expectation of any improper benefit to another person.
- ~~Not engage in any outside employment that involves a significant commitment of time and effort or that otherwise materially impedes their capacity to perform their duties as a Member.~~
- 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).~~
- 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, or improperly for

the private benefit of themselves or another person.

- ~~Use the public resources (whether staff, financial or material) to which they are provided access as a Member:~~
 - ~~Only for the purposes for which they are provided;~~
 - ~~In accordance with the terms and conditions on which they are provided; and~~
 - ~~In a manner designed to make effective, efficient and economic use of those resources.~~
- In their capacity as an employer on behalf of the Territory under the *Legislative Assembly (Members of Staff) Act 1989*:
 - ~~Familiarise 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);
 - ~~Not not~~ employ a family member as defined in that Act;
 - ~~Direct direct~~ their personal staff to be mindful of the ~~Member's~~ commitment ~~to this Code of Conduct of the Member~~, and to assist the Member, to comply with this Code of Conduct; ~~and~~
 - ~~Direct direct~~ their personal staff to comply with any code of conduct applicable to those staff from time to time.
- ~~In all their dealings with staff of the Assembly and members of the ACT Public Service:~~
 - ~~Extend extend~~ professional courtesy and respect; ~~to all staff of the Assembly and recognise~~
- ~~As a member of a Committee of the Assembly and otherwise as a Member, respect~~ the unique position of impartiality and the obligations to ~~the Executive of officers of the ACT~~ Public Service ~~with whom they deal officials~~.
- 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.
- Cooperate fully with any official inquiry that may be commenced in connection with their own compliance with this Code of Conduct, or that of another Member.

ATTACHMENT B

Current Code showing changes proposed for inclusion in draft Code to be put to 9th Assembly

CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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.

In committing to this Code of Conduct, Members undertake, to the community and to one another, that [they shall not, in any capacity, 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](#)
- (~~3~~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.
- (~~4~~5) Members should be reasonably accessible to the people of the electorate they have been elected to serve, and should represent their interests conscientiously.
- (~~5~~6) Members should be transparent in, and accountable for, their decisions and actions, should avoid or appropriately resolve any actual or reasonably perceived conflicts of interest and should submit themselves to appropriate scrutiny.
- (~~6~~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, efficient and economic use of those resources.](#)

(78) 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 permitted by law.

(89) Members should observe proper standards of parliamentary conduct, and observe respect for differences and fairness in their political dealings.

(910) 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.

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

(1011) Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.

(12) Actively seek to prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests, take all reasonable steps to resolve any such conflict or perception of a conflict that does arise, and:

(a) comply with section 15 of the *Australian Capital Territory (Self-Government) Act 1988* (Cwth);

(b) declare their pecuniary interests and ensure that their declaration is kept up to date pursuant to the resolution of the Assembly 'Declaration of Private Interests of Members' agreed to on 7 April 1992 (as amended or replaced from time to time);

~~(c)~~ include in the Member's Statement of Registrable Interests all gifts, payments, fees, rewards or benefits valued at more than \$100 received in connection with the Member's functions as a Member; and

(ed) disclose in a manner appropriate to the circumstances any other financial or non-financial interest that they may hold, or which they may be reasonably perceived to hold (other than as a member of the public or of a broad class of persons) which a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Member's duty as a Member.

(13) Not engage in outside occupational or other pursuits to an extent that would materially impede their capacity to perform their duties as a Member.

(~~11~~14) 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.

(~~12~~15) 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*).

(~~13~~16) 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, or improperly for the private benefit of themselves or another person.

(~~14~~17) In their capacity as an employer on behalf of the Territory under the Legislative Assembly (Members' Staff) Act 1989:

(a) familiarise themselves and comply with the terms and conditions on which their personal staff are engaged and with all applicable policies and practices (including those related to occupational health and safety, discrimination, harassment and bullying, equal employment opportunity and use of information technology);

(b) not employ a family member as defined in that Act;

(c) direct their personal staff to be mindful of the Member's commitment to this Code of Conduct, and to assist the Member to comply with this Code of Conduct; and

(d) direct their personal staff to comply with any code of conduct applicable to those staff from time to time.

(185) In all their dealings with staff of the Assembly and members of the ACT Public Service:

(a) extend professional courtesy and respect; and

(b) recognise the unique position of impartiality and the obligations of Public Service officials.

(196) 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.

(~~17~~20) 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.

ATTACHMENT C

Draft Code proposed to be put to 9th Assembly

CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

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.

In committing to this Code of Conduct, Members undertake, to the community and to one another, that they shall not, in any capacity, 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, should avoid or appropriately resolve any actual or reasonably perceived conflicts of interest 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, efficient and economic 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 permitted by law.

(9) Members should 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.

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

(11) Treat all citizens of the Australian Capital Territory with courtesy, and respect the diversity of their backgrounds, experiences and views.

(12) Actively seek to prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests, take all reasonable steps to resolve any such conflict or perception of a conflict that does arise, and:

(a) comply with section 15 of the *Australian Capital Territory (Self-Government) Act 1988* (Cwth);

(b) declare their pecuniary interests and ensure that their declaration is kept up to date pursuant to the resolution of the Assembly 'Declaration of Private Interests of Members' agreed to on 7 April 1992 (as amended or replaced from time to time);

(c) include in the Member's Statement of Registrable Interests all gifts, payments, fees, rewards or benefits valued at more than \$100 received in connection with the Member's functions as a Member; and

(d) disclose in a manner appropriate to the circumstances any other financial or non-financial interest that they may hold, or which they may be reasonably perceived to hold (other than as a member of the public or of a broad class of persons) which a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Member's duty as a Member.

(13) Not engage in outside occupational or other pursuits to an extent that would materially impede their capacity to perform their duties as a Member.

(14) 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.

(15) 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*).

(16) 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, or improperly for the private benefit of themselves or another person.

(17) In their capacity as an employer on behalf of the Territory under the Legislative Assembly (Members' Staff) Act 1989:

(a) familiarise themselves and comply with the terms and conditions on which their personal staff are engaged and with all applicable policies and practices (including those related to occupational health and safety, discrimination, harassment and bullying, equal employment opportunity and use of information technology);

(b) not employ a family member as defined in that Act;

(c) direct their personal staff to be mindful of the Member's commitment to this Code of Conduct, and to assist the Member to comply with this Code of Conduct; and

(d) direct their personal staff to comply with any code of conduct applicable to those staff from time to time.

(18) In all their dealings with staff of the Assembly and members of the ACT Public Service:

(a) extend professional courtesy and respect; and

(b) recognise the unique position of impartiality and the obligations of Public Service officials.

(19) 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.

(20) 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.

