



MEG WEBB MLC

Independent Member for Nelson

The Hon. Rob Valentine MLC
Chair – Joint Standing Committee on Integrity
Parliament House
Hobart TAS 7000

Via email: integrity@parliament.tas.gov.au

16 August 2022

Dear Mr Valentine,

RE: Code of Conduct for Members of Parliament review

Further to my correspondence of 20 July 2022, I write in response to the invitation of 17 June 2022 from the Integrity Committee “...to make a submission to the Committee on the current Code to assist in determining if any amendments are necessary.”

As raised in my previous correspondence, I regard the thorough, independent and transparent review of the Code to be important. I believe such a review should be conducted independently and with reference to other processes underway relating to the integrity and democratic functioning of our parliament.

Joint Standing Committee on Integrity: functions and powers

Since my initial correspondence in July, I have reviewed the Committee’s functions and powers as established under the *Integrity Commission Act 2009*, which has prompted further questions I wish to raise for consideration.

Specifically, it is unclear to me that the Committee has jurisdiction by which to undertake this review. I recognise the Committee has released three reports on the progress of the Parliament adopting the draft MPs Code of Conduct, however that initial draft Code was in fact developed by the Integrity Commission. The Committee did not research, develop, circulate, or consult on the initial draft – that work was done independently by the Integrity Commission. Further, while I understand the Committee is seeking to comply with undertakings made during the 2018 parliamentary debates, I hold reservations over whether it is the appropriate vehicle by which to do so.ⁱ



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[Section 24 of the Act](#) states:

24. Functions and powers of Joint Committee

- (1) The Joint Committee has the following functions:
- (a) to monitor and review the performance of the functions of an integrity entity;
 - (b) to report to both Houses of Parliament, as it considers appropriate, on the following matters:
 - (i) matters relevant to an integrity entity;
 - (ii) matters relevant to the performance of an integrity entity's functions or the exercise of an integrity entity's powers;
 - (c) to examine the annual reports of an integrity entity and any other report of an integrity entity and report to both Houses of Parliament on any matter appearing in or arising out of such reports;
 - (d) to report to the Legislative Council or House of Assembly on any matter relevant to an integrity entity's functions that is referred to it by the Legislative Council or House of Assembly;
 - (e) to review the functions, powers and operations of the Integrity Commission at the expiration of the period of 3 years commencing on the commencement of this section and to table in both Houses of Parliament a report regarding any action that should be taken in relation to this Act or the functions, powers and operations of the Integrity Commission;
 - (f) to provide guidance and advice relating to the functions of an integrity entity under this Act;
 - (g) to refer any matter to the Integrity Commission for investigation or advice;
 - (h) to comment on proposed appointments to be made under [section 14\(1\)\(e\)](#), [\(f\)](#) or [\(g\)](#), [section 15](#) and [section 27](#).

Further, as you would be aware, in relation to subsection 24 (1) (d) above, as Section 4 Interpretation of the Act defines an 'integrity entity' to be any of the following:

- (a) the Integrity Commission;
- (b) the Ombudsman;
- (c) the Auditor-General;
- (d) the Custodial Inspector.

As the Parliament is not defined as an integrity entity, this raises questions over whether, and how, reviewing the MPs Code of Conduct is consistent with the Committee's functions and powers as defined by the Act.

I am hoping you can clarify whether the Committee does in fact have the requisite functions and powers by which to undertake this review.

Provision of Supporting Background Consultation and/or Research Papers

I also wish to draw to the Committee's attention the lack of supporting documentation which normally would be available to underpin such a review process. A review of the Code should, at least, be informed by a jurisdictional scan to provide a contemporary comparison with interstate and international equivalent parliamentary Codes of Conduct for Members of Parliament, including the associated training, compliance and enforcement frameworks associated with them.

Further, such background information would also outline the interactions of other oversight and integrity structures and processes. The need to take such a holistic approach is emphasised by the Commonwealth Parliamentary Association (CPA):

“The Code of Conduct is complemented by other structures and practices in the organisation of parliament, government and the law which are essential to its effectiveness. These vary greatly according to the scale and historical development of each system of government. The Parliament should aspire to complementary norms, institutions and mechanisms which collectively enable the most effective performance of the Parliament and the wider system of government.”ⁱⁱ

For example, how well – or otherwise - has the current MPs Code of Conduct worked with other oversight processes such as: Election campaign donations and expenditure requirements, the Ministerial Code of Conduct, Code of Conduct for Parliamentary Officers, Post-parliamentary employment for former Members of Parliament and senior staff, the Lobbying Register and Code of Conduct, Integrity Entities, Public interest disclosure legislation, Right to Information legislation?

Additional to that list is the forthcoming *Independent Review into Parliamentary practices and procedures to support workplace culture* which it is my understanding is intended to be released shortly. It would be very surprising if this particular independent review does not contain content germane to the MPs Code of Conduct review.

The provision of background consultation papers can also highlight any specific areas upon which feedback is being sought. For example, are we reviewing the enforcement of the Code & sanctions? Are we also reviewing the promotion and education of the Code, and its role in fostering a culture of ethical conduct?

All such review related background and research materials should be made publicly available on the appropriate website as is current standard practice for agency conducted consultations.

A good example of this form of supportive material are the consultation paper and research paper provided by the Integrity Commission as part of its current review of the Lobbyist Register and Code of Conduct: <https://www.integrity.tas.gov.au/research-and-education/research/have-your-say>

One further benefit of a process which includes background and research consultation papers, is that the review process itself becomes an education and awareness-raising opportunity for those who engage with it. Inviting MPs to engage with a review of the Code which includes the provision of background consultation material as the basis for that engagement will serve to allow MPs to become updated in their understanding of contemporary approaches and key issues for consideration – a very positive by-product of any review.

Summary

As stated in my initial correspondence I am keen to participate in an appropriate, transparent and independent review of the MPs Code of Conduct.

I believe it would be reasonable to assume, as a starting proposition, that further development, amendment, addition or restructure of our existing Code would be necessary to reflect contemporary best practice. Input sought from external experts on matters relating to parliamentary integrity and from the general public is also important to inform a thorough and transparent review of the Code.

In light of that view, and in response to your invitation, I submit the following recommendations consistent with my preference to see this review process undertaken in such a manner to deliver:

1. An appropriate independent transparent review process which is open to, and engages with, the broader community and experts;
2. Provision of appropriate background consultation and research materials to engage with potential submitters and ensure informed feedback is received;
3. Time for the delivery and consideration of the Independent *Review into Parliamentary practices and procedures to support workplace culture* and the government's response.

In closing, while I do not dispute the genuine efforts of the Committee on this matter, I cannot reiterate enough my serious reservations regarding the potential public perception of the inappropriateness of the MPs Code of Conduct being reviewed by MPs instead of a designated independent body. Would MPs surveying and asking ourselves whether we believe a review is warranted of the Code of Conduct by which we are meant to abide, pass 'the pub test', particularly in context of current interstate parliamentary scandals?

I appreciate your consideration of these matters.

Yours sincerely,



Meg Webb MLC

Independent Member for Nelson

ⁱ Legislative Council debate held on Tuesday 27 November 2018, and House of Assembly debate held on Thursday 29 November 2018.

ⁱⁱ CPA, *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*, 2016: p. 13