



LEGISLATIVE ASSEMBLY OF QUEENSLAND

CODE OF ETHICAL STANDARDS

TOGETHER WITH

THE GUIDE TO THE CODE OF ETHICAL STANDARDS AND
RULES RELATING TO THE CONDUCT OF MEMBERS

NOVEMBER 2023

NOTICE

The *Code of Ethical Standards* (57th Parliament) (the Code) supersedes the Code of Ethical Standards (56th Parliament) published in June 2018. It seeks to simplify the material presented in the Code by focusing on fundamental principles of ethical behaviour applying to Members of Parliament.

The Code sets out the fundamental principles underpinning the duties of, and obligations on, a Member of Parliament. The Code has been drafted in the recognition that it is not possible to detail all possible ethical situations or ethical dilemmas that Members may face. Rather, the Code serves to remind Members of their obligations and guide Members' decision making in relation to ethical issues.

The *Guide to the Code of Ethical Standards and Rules Relating to the Conduct of Members* (the Guide), which accompanies the Code, provides more detailed guidance to Members on the application of the Code and the rules relating to their conduct, including examples of determinations made by the Ethics Committee and its predecessor committees.

Members are encouraged to seek advice from the Clerk of the Parliament or the Integrity Commissioner in relation to ethics issues.

The Code has been prepared on the basis of legislation, Standing Orders, resolutions of the Legislative Assembly, and practice and procedure as it stands as at November 2023 and reflects the *Parliament of Queensland Act 2001* and Standing Orders as at November 2023.

The Committee of the Legislative Assembly intends to periodically revise the Code to keep it up-to-date with further changes.

As an adjunct to the Code, the Committee of the Legislative Assembly from time-to-time will publish updates to the Guide. The updates will provide information regarding the practical effect of Standing Orders governing the obligations which Members are required to observe.

Committee of the Legislative Assembly

November 2023

TABLE OF CONTENTS

CODE OF ETHICAL STANDARDS	1
GUIDE TO THE CODE OF ETHICAL STANDARDS AND RULES RELATING TO THE CONDUCT OF MEMBERS	9
1. PURPOSE	9
2. INTEGRITY OF PARLIAMENT	10
2.1 Conduct of Members in Parliament	10
2.1.1 Orderly conduct and the role of the Speaker	10
2.2 Freedom of speech	10
2.3 Citizen’s right of reply	11
2.4 Naming children in questions and tabled documents	11
2.5 Sub judice rule	11
2.6 Deliberately misleading the House	12
2.7 Rules of debate generally	14
2.8 Pairing Arrangements	15
3. PRIMACY OF THE PUBLIC INTEREST	16
3.1 Registration of interests	16
3.1.1 Overview of obligation	16
3.1.2 The public may access the Register of Members’ Interests	16
3.1.3 Members are personally responsible for complying with the requirements	16
3.1.4 Matters required to be registered	17
3.1.5 Failure to comply	18
3.2 Conflicts of interest—ad hoc disclosure	20
3.2.1 Standing Order 259 – No Member pecuniary interested may vote	20
3.2.2 Standing Order 260 – Declaration of pecuniary interest in debate and other proceedings	20
3.2.3 Standing Order 261 – Conflict of interest in committee proceedings	21
3.2.4 Standing Order 262 – Disclosure in representations or communications of pecuniary interest	21
3.3 Conflicts of interest—bribery, advocacy and accepting professional fees	22
3.3.1 The Criminal Code—bribery of a member	22
3.3.2 Contempt of Parliament and Chapter 3, Part 2 of the Parliament of Queensland Act 2001	23
3.3.3 Resolving conflicts of interest and advice on the Register of Members’ Interests	23
3.4 Outside employment	23
4. INDEPENDENCE OF ACTION	24
4.1 Financial dealings with the executive government	24
4.1.1 Being a contractor of an entity of the State	24
4.1.2 Transacting business with an entity of the State	24
4.2 Interactive gambling licence	25
5. APPROPRIATE USE OF INFORMATION	26
5.1 Committee proceedings and contempt	26
5.1.1 The Parliamentary Crime and Corruption Committee	27
5.2 The Corporations and Securities Legislation and insider trading	28
5.3 Use of the Legislative Assembly crest, emblems and other insignia	28

5.4	Members' records, public records, emails and other messenger apps	29
5.4.1	The Public Records Act 2002	29
5.4.2	Ministers and Assistant Ministers	29
5.4.3	Emails and message applications	29
5.4.4	Records required for judicial proceeding	30
6.	RESPECT FOR PERSONS	31
6.1	Upholding the principles of respect, justice and inclusion	31
6.1.1	Electorate office and cross bench policy staff	31
6.1.2	Standards of behaviour in the workplace	31
6.1.3	Definitions	31
6.1.4	Obligations	32
6.1.5	Reporting	32
7.	APPROPRIATE USE OF ENTITLEMENTS	33
7.1.1	Members' Remuneration Handbook	33
7.1.2	Role of the Queensland Independent Remuneration Tribunal	33
7.1.3	Role of the Speaker of the Legislative Assembly	33
7.1.4	Role of the Clerk of the Parliament	33
7.1.5	Assistance	34
8.	ELECTORAL REQUIREMENTS	35
8.1	General qualifications and disqualifications and the requirements of the electoral laws	35
8.1.1	Qualification and disqualification	35
8.1.2	Some offences are stated to be crimes	36
8.1.3	Absence and leave of members	36
8.1.4	The conduct of elections	36
8.1.5	Breaches of the Electoral Act 1992 may result in disqualification	37
8.1.6	Code of Conduct for Election Candidates	37
8.1.7	Oath or affirmation of allegiance and office	37
9.	COMPLAINTS PROCEDURES	38
9.1	Allegations of breaches of parliamentary privilege and contempt	38
9.1.1	Parliamentary privilege	38
9.1.2	Contempt	38
9.1.3	Procedure for raising and considering complaints	39
9.1.4	Limits on charges of contempts	40
9.2	Allegations and complaints about the registration of interests	40
9.3	Complaints about Members' use of allowances and entitlements	40
9.4	Citizen's right of reply	40
	APPENDIX 1 – Information Notice No.1A of 2004	41
	APPENDIX 2 – Section 37 of the <i>Parliament of Queensland Act 2001</i>	43
	APPENDIX 3 – Guidelines for the use of the Legislative Assembly Crest, Emblems and other Insignia	44
	APPENDIX 4 – Code of Conduct for election candidates	45
	APPENDIX 5 – Oath or Affirmation of Allegiance and Office – Extract Constitution of Queensland	46

CODE OF ETHICAL STANDARDS

1. PURPOSE OF THE CODE

The Code of Ethical Standards (the Code) serves to remind Members of Parliament (Members) of the obligations they have and guides Members' decision making in relation to ethical issues.

The Code acknowledges the supremacy of the institution of Parliament in a representative democracy. The underlying basis of this Code is that the mandate of a Member is granted by the free choice of the people, and Members are primarily responsible to the people.

In carrying out their parliamentary and public duties, Members are expected to observe the six fundamental principles outlined below.

The fundamental principles are aspirational in nature and are not enforceable obligations on Members. The principles are intended to encourage Members to aspire to the highest ethical standards.

However, the fundamental principles may, in an appropriate circumstance, be taken into account when an appropriate entity (such as the Ethics Committee) considers a complaint of a breach of an enforceable obligation.

The matters detailed under the specific heading "Obligations" are enforceable obligations which are imposed on Members by law or parliamentary law and practice. A failure to comply with those obligations may result in a complaint against a Member being considered by an appropriate entity.

Part 10 of this Code and Part 9 of the *Guide to the Code of Ethical Standards and Rules Relating to the Conduct of Members* (the Guide) provide further information about the consideration of complaints by appropriate entities.

2. STATEMENT OF FUNDAMENTAL PRINCIPLES

The following six fundamental principles draw together the various concepts underpinning the duties of, and obligations on, a Member. The fundamental principles aim to assist Members to better understand their representative role and responsibilities.

- **Integrity of the Parliament**
- **Primacy of the public interest**
- **Independence of action**
- **Appropriate use of information**
- **Respect for persons**
- **Appropriate use of entitlements**

3. INTEGRITY OF THE PARLIAMENT

The public's confidence in the institution of Parliament is essential. Members are to strive at all times to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and avoid any action which may diminish its standing, authority or dignity.

Obligations

Uphold the law

Members should demonstrate respect for the laws of the State and the Commonwealth and are obliged to uphold such laws.

Conduct in the House

Members should seek to conduct themselves in the House in accordance with the rules of debate (chapter 38 of the Standing Rules and Orders of the Legislative Assembly (the Standing Orders)) and the rules relating to the Order and Conduct of Members (chapter 39 of the Standing Orders).

Members shall correct the record in the House as soon as it is apparent that any of their statements were incorrect or could be misleading.

Members should note the—

- restrictions in relation to the naming of at-risk children in questions and tabled documents (Standing Orders (SOs) 117 and 35); and
- sub judge rule (SO 233).

Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with the—

- a) free exercise by the Assembly or a committee of its authority or functions; or
- b) free performance by a Member of the Member's duties as a Member.

Standing Order 266 provides 26 examples of contempt.

4. PRIMACY OF THE PUBLIC INTEREST

Members are elected to act in the public interest and make decisions solely in terms of the public interest. Members also have a continuing duty to declare any private interests relating to their public duties as they arise, and to take steps to avoid, resolve or disclose any conflicts arising in a way that protects the public interest.

It is vital to parliamentary democracy that the public has confidence in the integrity of the decision-making process of Parliament. To ensure transparency, public scrutiny and public confidence, it is necessary that each Member disclose their pecuniary interests on a continuing and ad hoc basis when the need arises.

Obligations

Register of Members' Interests

It is the responsibility of each Member to conscientiously comply with the requirements of the Registers of Members' and Related Persons' Interests as detailed at Chapter 4, Part 2A of the *Parliament of Queensland Act 2001* (the POQA) and Schedule 2 of the Standing Orders. A Member who knowingly fails to comply with the requirements contained in the registers commits a contempt of Parliament.

The purpose of the registration requirements in the Registers of Members' and Related Persons' Interests is to place on the public record any pecuniary or other interests which may give rise to a conflict of interest, or a perception of a conflict of interest. The public registration of interests by Members seeks to provide information which might be thought to affect a Member's conduct as a Member, or influence their speeches or votes in Parliament. In summary, public registration of interests provides some basis upon which the integrity of Members may be judged.

Pursuant to section 69B of the POQA and by order of the House, each Member is required to provide a statement of their registrable interests to the Registrar of Members' Interests (the Clerk of the Parliament) within one month of making an oath or affirmation as a Member of Parliament. A Member must also register the interests of their related persons (for example, their spouse and any dependent children). Any changes in those interests must be notified to the Registrar within one month of the Member becoming aware of the change.

Where in any year there is no change to the details contained in the last statement of interests given by the Member, the Member is required (by 31 July each year) to submit a "Confirmation of correct particulars" to the Registrar.

Importantly, it is the personal responsibility of each Member to ensure compliance with disclosure requirements.

A Member who knowingly:

- fails to give a statement of interests to the Registrar;
- fails to notify the Registrar of a change in details; or
- gives to the Registrar a statement that is false, incomplete or misleading in a material particular,

is guilty of a contempt of Parliament.

Members are encouraged to seek advice from the Registrar about the Register of Members' Interests and Related Persons' Register.

Ad hoc disclosure

The Westminster system has a long tradition that requires Members to declare their financial interests in any matter before the House. Chapter 40 of the Standing Orders makes the following provisions for declaration of interests by Members:

- SO 259 - No Member pecuniarily interested may vote;
- SO 260 - Declaration of pecuniary interest in debate and other proceedings;
- SO 261 - Conflict of interest in committee proceedings;¹ and
- SO 262 - Disclosure in representations or communications of pecuniary interest.

Information Notice No. 1 of 2004 provides a detailed explanation of the practical effects of Standing Order 262, together with examples of when a declaration may be required. See **Appendix 1**.

Conflicts of interest—bribery, advocacy and accepting professional fees

The House of Commons has long held various forms of conduct by Members which may cause a conflict of interest, or a perception of a conflict of interest, to be contempts. These include:

- corruption in the execution of a Member's duty, such as: accepting a bribe to influence a Member's conduct in the House; accepting remuneration to advocate a cause in the House ("acting as a paid advocate"); or accepting money to disclose the confidential business of the House;
- advocating in the House matters in which they have previously been involved professionally; or
- accepting professional services connected with the business of the House. That is, Members may not accept professional fees or undertake service on a matter before the House, whether or not the Member is actually promoting the matter in the House.

Section 37 of the POQA also provides that the Legislative Assembly may punish contempts committed by a member or other person. Offering a bribe to, or attempting to bribe, a Member is one example of such a contempt.

Members should also be aware that part 2, chapter 8, and part 6, chapter 42A of the *Criminal Code* provides for a number of offences against executive and legislative power including:

- section 59 Member of Parliament receiving bribes;
- section 60 Bribery of Member of Parliament; and
- chapter 42A Secret Commissions.

The contempt of bribery is wider than a criminal offence of bribery (section 59 of the *Criminal Code*). Therefore, whilst a Member who accepts a bribe to do something which does not necessarily affect their

¹ Note this applies to any conflict of interest, pecuniary or otherwise.

conduct in the House (such as to lobby a Minister) is not guilty of an offence under the *Criminal Code*, they may nonetheless be guilty of a contempt of Parliament.

Members are urged to seek the advice of the Clerk of the Parliament or the Integrity Commissioner in relation to resolving potential conflicts of interest.

5. INDEPENDENCE OF ACTION

Parliamentary democracy requires that Members make decisions, and are seen to make decisions, in accordance with the public interest and not because they are under any financial obligation or influence. Members are not, therefore, to place themselves under any financial obligation to outside individuals or organisations, including executive government, that might influence them in the discharge of their duties and responsibilities, and must act at all times in accordance with rules set down by the Parliament for outside appointments.

Obligations

Financial Dealings with the State

Members should ensure they have no unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder, with the State. Any unauthorised financial dealings with the State may result in the Member's seat being vacated. Members should be aware of the need to comply with the provisions in chapter 4, parts 3 and 4 of the POQA.

Section 71 of the POQA provides that a Member must not, directly or indirectly, transact business with or for an entity of the State. A Member who contravenes the provision is not entitled to receive any fee or reward.

For the purposes of the POQA, a Member does not "transact business" with an entity of the State under certain circumstances, including if it is required or permitted by an Act, or if neither the Member nor another person is entitled to or receives any reward on account of performing the service or duty. A Member is not taken to be entitled to a reward if the Member irrecoverably waives the entitlement in writing to the Speaker. A reward does not include reasonable expenses for accommodation, meals, domestic air travel, taxi fares or public transport charges and motor vehicle hire.

Section 72 of the POQA provides that, if a Member contravenes section 71, the Member's seat is liable to become vacant on resolution of the Assembly.

Section 73 of the POQA provides the Assembly may, by resolution, disregard a disqualifying ground under section 72, if the Assembly considers:

- the ground has stopped having effect;
- was in all the circumstances trivial in nature; and
- happened or arose without the actual knowledge or consent of the Member or was accidental or due to inadvertence.

Members should seek the advice of the Clerk of the Parliament or their own legal advice, if they are concerned about the application of the provisions of the POQA to their particular circumstances.

Interactive Gambling

Under the Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999 and its authorising Act, the *Interactive Gambling (Player Protection) Act 1998*, Members, their families, and staff members of Members of Parliament are prohibited from having a beneficial interest in companies holding an interactive gambling licence, and from holding an interactive gambling licence or a key person licence.

6. APPROPRIATE USE OF INFORMATION

In the course of their duties, Members often receive information which is either confidential or prized (that is, not available to the general public). Members are not to misuse any confidential or prized information, particularly for personal gain.

Information Privacy Act 2009

Members may also come into possession of a wide variety of personal information, for example about their constituents and local community groups.

Members are not bound by the *Information Privacy Act 2009*, including the Information Privacy Principles (IPPs) or the Parliamentary Service Privacy Policy.

Members may choose, however, to adhere to the IPPs when dealing with information that comes into their possession. In addition, Members may wish to inform themselves of the Parliamentary Service Privacy Policy and apply the policy in their electorate office where appropriate.

Obligations

Unauthorised disclosure of Committee proceedings

It has long been held that the unauthorised premature release of committee proceedings (such as a draft report) is a contempt of Parliament.

Standing Order 211 provides that no Member shall in the House refer to any proceedings of committee that is not open to the public, until the committee has reported those proceedings to the House or otherwise published the proceedings.

Standing Order 211A and section 66 of the *Crime and Corruption Act 2001* provides that any Member of the Parliamentary Crime and Corruption Committee who discloses information that has come to the attention of the Member because of their membership of the committee, which is not otherwise authorised for disclosure by the Act or the commission, commits an offence.

Standing Order 211B provides that the proceedings of the Ethics Committee shall remain confidential until the committee has reported to the House or otherwise published the proceedings. The Ethics Committee may also resolve that some or all of its proceedings remain confidential after reporting to the House.

Corporations and Securities Legislation and insider trading

In the course of their duties, Members may gain information which is not generally available to the public and which has some financial value. In particular, Members on “government committees” and members who are also Ministers may become aware of decisions made, or about to be made, by the Government which are not in the public domain and which will, therefore, have some commercial value. The use by a Member of such information may be an offence under the *Corporations Act 2001* (Cwlth).

Section 1043A of the *Corporations Act* provides that it is an offence for a person with “inside information” to trade in securities that will be affected by that information.

Public Interest Disclosures

Members should exercise care to avoid saying anything inside the House about a public interest disclosure which would lead to identification of persons who have made public interest disclosures (whistleblowers), which may interfere in an investigation of a public interest disclosure, or cause unnecessary damage to the reputation of persons before the investigation of the allegations has been completed.

Schedule 5 of the Standing Orders contains guidelines for Members about when and how public interest disclosures should be revealed in a parliamentary proceeding.²

² See also *Public Interest Disclosure Act 2010*.

Use of Legislative Assembly crest, emblems and other insignia

On 30 May 2000, the Speaker issued guidelines for the use of the Legislative Assembly crest and other insignia. The crest must not be used for overtly political purposes, including political advertising or for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament.

7. RESPECT FOR PERSONS

Members should treat members of the public, officers and employees of the Parliamentary Service and other public officials with courtesy, honesty and fairness, and with proper regard for their rights, obligations cultural differences, safety, health and welfare.

Members should not use abusive, obscene or threatening language (either oral or written) or behaviour towards any officer, employee or member of the public.

Obligations

Members must comply with the provisions of the *Anti-Discrimination Act 1991* and the *Human Rights Act 2019*.

8. APPROPRIATE USE OF ENTITLEMENTS

Members are provided certain entitlements to assist them to discharge their duties and responsibilities. These entitlements are determined by the Queensland Independent Remuneration Tribunal or the Committee of the Legislative Assembly. The Clerk of the Parliament (as the Accountable Officer for the Legislative Assembly and the Parliamentary Service) administers the entitlements.

The *Members' Remuneration Handbook* outlines the salary, allowances and entitlements of Members and provide for the manner in which allowances and entitlements may be claimed. The Clerk may from time-to-time issue guidelines to clarify or assist Members in interpreting their allowances and entitlements.

Members are encouraged to seek advice from the Clerk of the Parliament in relation to the appropriate use of entitlements.

Obligations

Members must ensure compliance with the administrative rules, guidelines or requirements which apply, from time-to-time, to any entitlement or allowance they receive via the Parliamentary Service.

Familiarity with Members' Remuneration Handbook

It is the **personal responsibility** of each member to:

- familiarise themselves with the *Members' Remuneration Handbook* and the requirements set out in the handbook or other guidelines issued by the Clerk; and
- ensure claims are accurate.

Whilst a Member may wish to delegate the compiling of claims or acquittals to persons (such as their electorate officer), their **personal responsibility** for ensuring such claims and acquittals are appropriate and accurate cannot be delegated.

A failure to comply with the handbook or any guidelines or determinations may require the Member to reimburse any expenditure not falling within the handbook.

The dishonest use of an allowance or other entitlement, or a dishonest claim or acquittal, is a breach of the criminal law. Section 408C of the *Criminal Code* provides that a person who dishonestly applies to their own use or to the use of any person, property belonging to another is guilty of the crime of fraud. The term "property" includes credit, service and any benefit or advantage. It is an offence, therefore, for a Member to dishonestly use or claim an allowance.

9. ELECTORAL REQUIREMENTS

Part 11 of the *Electoral Act 1992* provides for electoral funding and financial disclosure. The disclosure requirements include the obligation on the agent for each candidate in an election or by-election to provide a return, in relation to the disclosure period, detailing:

- the total amount or value of all gifts received;
- the number of entities who made the gifts; and
- for those gifts over a prescribed limit, the amount or value of each gift, the date it was given and the name and address of the entity who gave the gift.

A return must be provided detailing any expenditure on election campaigning during the disclosure period.

There are penalties for not providing the returns and for providing false or misleading information in the returns. There are penalties for breaches of the disclosure requirements.

Section 64 of the POQA provides that candidates must conform with certain requirements and both candidates and Members may be disqualified in certain circumstances.

On 9 September 2003, the Legislative Assembly endorsed a *Code of Conduct for Election Candidates*, which applies to all candidates for State elections (independents and candidates endorsed by parties). The Code is voluntary, except for paragraph (e)³, but candidates who do not follow it will risk disfavour in the electorate.

10. PROCEDURES FOR COMPLAINTS

The complaints procedure to be followed in relation to an alleged failure by a Member to meet one of the obligations outlined in the Code depends on the nature of the allegation.

Potential breaches of parliamentary privilege or contempt

Complaints regarding a Member's failure to meet the obligations outlined in Parts 3 to 6 of the Code, in so far as they may amount to a breach of parliamentary privilege or a contempt of Parliament, may be referred to the Ethics Committee by the House or the Speaker. A parliamentary committee may also refer a matter involving its proceedings to the Ethics Committee.

Complaints regarding a Member's failure to meet the obligations in Parts 3 to 6 of the Code may also involve allegations of criminal conduct by breach of the *Criminal Code* or offence provisions in other legislation. Complaints of this nature may be referred to law enforcement agencies, such as the Crime and Corruption Commission or the Queensland Police Service.

If complaints about the same conduct are being examined by the Ethics Committee and a law enforcement agency at the same time, the Ethics Committee will determine how to proceed in the circumstances of the particular matter.

Allegations and complaints about the registration of interests

A Member may make an allegation, in writing, to the Registrar (the Clerk) that another Member has failed to comply with requirements relating to the registration of a matter at Schedule 2 to the Standing Orders (see Part 4 of the Code). The Registrar must refer such matters to the Ethics Committee.

A member of the public may make a complaint, in writing, to the Registrar alleging that a Member has failed to comply with the requirements relating to the registration of a matter. The Registrar must refer the

³ That is: avoid conduct which is contrary to State or Commonwealth law including but not limited to: racial and religious vilification offences under the *Anti-Discrimination Act 1991*; official misconduct under the *Crime and Misconduct Act 2001*; *Criminal Code* offences; and *Electoral Act 1992* offences. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 128, 9 September 2003, p 1188.

complaint to the Ethics Committee, if he or she believes on reasonable grounds that there is evidence to support an allegation which is the subject of the complaint.

Complaints about potential breaches of the Anti-Discrimination Act 1991

Complaints about a Member breaching the *Anti-Discrimination Act 1991*, as referred to in Part 7 of the Code, should be made, in writing, to the Anti-Discrimination Commissioner.

Complaints about Members' use of entitlements

Complaints regarding a Member's appropriate use of entitlements under Part 8 of the Code should be made to the Clerk in the first instance. The Clerk may then either refer the matter to the relevant law enforcement agency in accordance with the Clerk's obligations under statute or assess and deal with the matter as accountable officer, as appropriate.

Complaints about compliance with electoral requirements

Complaints regarding compliance with the *Electoral Act 1992*, as outlined at Part 9 of the Code, should be referred to the Electoral Commissioner.

Complaints regarding disqualification to stand as a candidate or to be elected as a Member of the Legislative Assembly, under section 64 of the POQA, may be made by petition to the Court of Disputed Returns.⁴

⁴ *Electoral Act 1992*, Part 8

GUIDE TO THE CODE OF ETHICAL STANDARDS AND RULES RELATING TO THE CONDUCT OF MEMBERS

1. PURPOSE

The purpose of the *Guide to the Code of Ethical Standards and Rules Relating to the Conduct of Members* (the Guide) is to provide more detailed information to complement the fundamental principles set out in the Code of Ethical Standards (the Code) to:

- assist Members to better understand the nature of their public office and the distinct obligations that arise by virtue of that office;
- provide an educative tool, including by way of examples, to assist Members manage conflicts of interest and resolve ethical dilemmas; and
- provide an overview of the current obligations which Members are required to observe.

2. INTEGRITY OF PARLIAMENT

2.1 Conduct of Members in Parliament

The *Standing Rules and Orders of the Legislative Assembly* (the Standing Orders) govern conduct in the Parliament. Members are to conduct themselves in an appropriate and orderly manner in the Parliament and comply with any lawful direction by the Speaker or the House. Members should also be diligent in exercising the freedoms given to them by virtue of their office, so as to avoid allegations of abuse of privilege.

2.1.1 Orderly conduct and the role of the Speaker

The Speaker of the Legislative Assembly (the Speaker) is the representative of the Assembly in its powers, proceedings and dignity, and presides over the sittings of the House. Members should be conscious of the effect their conduct within the parliamentary precinct may have on the standing of the Parliament in the wider community.

Standing Order 252 provides that the Speaker may warn a Member about their conduct in the House. The Speaker may order a Member who continues, after being warned, to be grossly disorderly to withdraw from the House. A Member ordered to withdraw under SO 252 must leave the Legislative Assembly Chamber and must remain out of the Chamber for that day's sitting.

Standing Order 254 provides that Members who persist, after warning, in the offence of disregarding the authority of the Speaker, or in abusing the rules of the House by persistently and wilfully obstructing the business of the House, or otherwise, may be named by the Speaker. If the offence has been committed in the House, the Speaker shall put a question to the House (which is to be decided without debate, amendment or adjournment) that such Member(s) be excluded from the service of the House for up to seven sitting days. Any Members refusing to comply with such order shall be suspended from the House for 14 sitting days.

Standing Order 255 provides that when a Member is suspended under SO 254 they are excluded from the parliamentary precinct (including the Chamber, all rooms and areas within Parliament House, the Parliamentary Annexe and the grounds).

Standing Order 253 enables the Speaker to order a Member to withdraw from the Chamber for the day, but the Member may still participate in any vote in the House.

Standing Order 253A enables the Speaker to order a Member to withdraw from the Chamber for up to one hour. The Member must, during the period nominated by the Speaker (up to one hour), remain absent from the Chamber.

The House also has an inherent power to suspend or expel Members who are grossly and continually disorderly.

Members shall comply with the Speaker's directions.

2.2 Freedom of speech

Article 9 of the *Bill of Rights 1688* (UK), which applies to the Queensland Parliament, enshrines the most important provision relating to parliamentary privilege—freedom of speech and debates of the Parliament. The article provides that speeches, debates or other proceedings in Parliament cannot be impeached or questioned in any court or place out of Parliament.

One of the effects of Article 9 is to ensure that words spoken in the Parliament cannot be used as the basis for legal proceedings. Therefore, for example, a person cannot use words spoken in Parliament as a basis for defamation proceedings. The article does not, however, provide complete immunity to Members for what they say in the House. This is because the House itself can inquire into a Member's statements in the House.

In particular, the House has always possessed the power to order a Member to correct any statements made if those statements are inaccurate, or to punish for any deliberate misleading of the House as a contempt.

Members do not have absolute privilege for statements, which may be defamatory or offend some other law, that are made outside the House.

Whilst Members are immune from legal action in relation to speeches and documents tabled in the House, Members should remain circumspect in exercising that 'freedom of speech' immunity and apply due diligence in preparing such speeches or documents so as to avoid allegations of abuse of privilege.

2.3 Citizen's right of reply

Under the Standing Orders, the Queensland Parliament affords citizens a right of reply to privileged statements: SOs 279 to 283.⁵

The procedure provides that persons or corporations who are the subject of adverse comment in Parliament that affects their reputations are able to seek a right of reply.

The right of reply relates to statements made by Members under parliamentary privilege in the Legislative Assembly which refer to a person or corporation either by name, or in such a way as to allow them to be readily identified and which, had they been made outside Parliament, could reasonably be considered actionable in a court of law.

A copy of the full procedures governing the citizen's right of reply can be found at Chapter 46 of the Standing Orders at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>.

2.4 Naming children in questions and tabled documents

The Standing Orders place restrictions on Members naming at-risk children in questions without or on notice and in documents they table: SO 117 and SO 35, respectively.

Members should ensure that any question concerning a child subject to the *Child Protection Act 1999* (Qld) or the *Youth Justice Act 1992* (Qld) is asked in a non-identifying manner—for example, by replacing any identifying features likely to lead to the identification of the child with a cipher such as “[name withheld]”.

A Member shall provide the Clerk of the Parliament with the “key” to the full identifying features relating to the question or document. Any Member who so requests shall be granted access by the Clerk to the “key” relating to the question or document.

2.5 Sub judice rule

The House restricts its own debates and proceedings through the application of the sub judice rule. Standing Order 233 provides:

233. Sub judice rule

(1) *In general, members should exercise care to avoid saying inside the House that which would be regarded as contempt of court outside the House and could jeopardise court proceedings.*

(2) *Members should not refer to in the House matters awaiting or under adjudication in all courts exercising a criminal jurisdiction (including in motions, debate or questions) from the moment the charge is made against the relevant person. This Standing Order shall cease to have effect when the verdict and sentence have been announced or judgment given, but shall again have effect should a Court of Criminal Appeal order a new trial.*

(3) *Members should not refer in the House to civil cases in courts of law where a jury is to be empanelled (including in motions, debate or questions) within the period of four (4) weeks preceding the date fixed for trial. (Not from the time a writ is issued.)*

(4) *The sub judice rule does not apply to civil proceedings other than those referred to in (3).*

(5) *The sub judice rule does not apply to the proceedings of royal commissions and similar commissions and tribunals.*

(6) *The sub judice rule does not apply to in camera committee proceedings. However, committees should ensure that any evidence taken in camera is not published until after the criminal or civil proceedings are finalised, unless the committee believes that there is an overwhelming public interest in the release of the evidence.*

(7) *The sub judice rule is always subject to the right of the House to consider and legislate on any matter.*

⁵ The citizen's right of reply was first adopted by resolution of the Legislative Assembly on 18 October 1995, reintroduced on 11 October 1996. Standing Orders effective from 31 August 2004 replace the resolution.

Lessons from practice – At-risk children and sub judice

The Ethics Committee of the 53rd Parliament tabled a report in relation to an allegation that the former Member for Burnett had tabled documents identifying children and had breached the sub judice rule when tabling documents.

On 10 May 2011, the former Member for Burnett tabled a large bundle of documents and electronic information. Insufficient care was taken when redactions were made on the documents which allowed the identification of a child subject to the *Child Protection Act 1999 (Qld)*.

The Ethics Committee found the former Member for Burnett guilty of contempt by breaching a duty to the House expressed in Standing Order 35 by failing to ensure documents concerning a child in relation to the relevant Act, were tabled in a non-identifying manner.

The Ethics Committee recommended that the House suspend the former Member for Burnett for two sitting days for the contempt.

The documents tabled by the former Member for Burnett on 10 May 2011 also included a letter to the Chairperson of the Crime and Misconduct Commission which referred to a criminal matter before the District Court at that time.

During the Ethics Committee's consideration of the matter, the former Member for Burnett raised a purported 'public interest' defence or exception to the sub judice rule. Standing Order 233 does not provide for a 'public interest' exception to the rule beyond the right of the House to legislate on the matter. The Ethics Committee also noted that the application of the sub judice rule cannot be left to the discretion of each individual Member as it would make a mockery of the Standing Orders.

The Ethics Committee found the former Member for Burnett guilty of contempt by breaching a duty to the House expressed in Standing Order 233 by tabling a document referring to a criminal matter before the District Court at the time.

The Ethics Committee recommended that the former Member for Burnett be suspended from the precincts of the House for a period of three sitting days.

On 17 November 2011, the House agreed to a motion based on the Ethics Committee's recommendations and the former Member for Burnett was suspended from the precincts of the House for a consecutive period of five sitting days including the day the motion was passed.

2.6 Deliberately misleading the House

Any Member who deliberately misleads the House is in contempt of the House. There are three elements to be established where it is alleged that a Member has committed the contempt of deliberately misleading the House:

- firstly, the statement must have been misleading;
- secondly, it must be established that the person making the statement knew at the time the statement was made that it was incorrect; and
- thirdly, in making the statement, the person intended to mislead the House.

It is emphasised that misleading is a wider concept than making incorrect statements. A factually correct statement can still be misleading.

Members may sometimes make incorrect or misleading statements in the House without actually intending to mislead the House. Recklessness by a Member resulting in incorrect or misleading statements to the House is in itself a serious matter. Members have a duty to correct the official record in the House as soon as it becomes apparent that their statements were incorrect or could be misleading.

Obligations

Members must exercise due diligence in preparing speeches or documents for tabling in the House, and refrain from making unqualified statements. The privilege of freedom of speech is afforded to Members so that the House can be fully informed, and use that information in fulfilment of its functions. The privilege must be balanced with a Member's responsibility to maintain the integrity of the parliament and public confidence in the institution.

Allegations of serious misconduct or corruption (for example, improper interference by a public official in a tender process involving public funds) are very serious. Members must not allege any matter of fact amounting to criminality against any person, unless they believe on reasonable grounds that available evidence by which the allegation could be supported, provides a proper basis for it. It is incumbent on Members to be able to substantiate any such claim made in the House.

Lessons from practice – Deliberately misleading the House

Allegations that Members have deliberately misled the House are the most frequent issues investigated by the Ethics Committee.

Examples of a finding of contempt

Former Member for Ipswich West

The Members' Ethics and Parliamentary Privileges Committee (MEPPC) of the 49th Parliament reported on an allegation that the former Member for Ipswich West had deliberately misled the House in statements contained in a 'dissenting report' to Report No. 47 of the Parliamentary Criminal Justice Committee.

The MEPPC found that, based on the evidence before the committee, the only logical finding was that on the balance of probabilities, the former Member for Ipswich West had deliberately misled the House in his 'dissenting report'.

The MEPPC recommended that the House resolve that the former Member for Ipswich West: committed a contempt; be admonished for his conduct by the Speaker; and be suspended from the services and precincts of the House for 21 days. The MEPPC also stated that regardless of what penalty was imposed by the House, the Member should take it upon himself to apologise to the House.

On 17 September 1999, the Leader of the House moved, and the House passed, a motion in the terms of the committee's recommendations.

Former Member for Redcliffe

On 19 November 2013, the Ethics Committee found that former Member for Redcliffe deliberately misled the House in a personal explanation he made on 19 March 2013 regarding his role as President of Queensland Retail Traders and Shopkeepers Association (QRTSA).

The committee recommended the House impose the maximum fine of \$2,000 to reflect the gravity of the offence and to send a strong message to Members and the public about the level of accountability expected of Members of Parliament.

The House adopted the committee's recommendation (see Lessons from practice – Failure to register interests on page 20).

No finding of contempt

In those matters where the intention to deliberately mislead the House has not been proven, and a contempt not found, the Ethics Committee has asked Members to apologise to the House or correct the record.

The Ethics Committee has also strongly reminded Members of the privilege afforded to Members in making statements in the House, and that this privilege needs to be balanced with the responsibility of Members to refrain from acting recklessly by making unqualified statements.

2.7 Rules of debate generally

The rules of debate in the House are set out in Chapters 38 and 39 of the Standing Orders. In summary, Chapters 38 and 39 provide that:

- a Member wishing to speak must rise and address the Speaker. If more than one Member rises to speak, only the Member called upon by the Speaker shall speak. The House may decide that a Member be heard, not heard or not further heard on an issue: SO 247;
- a Member may not speak to a question after it has been put by the Speaker and a vote taken: SO 230;
- unless otherwise provided, a Member may only be heard: on a question before the House; to ask or answer a question seeking information; or on a question of order or a matter suddenly arising: SO 229;
- a Member is not permitted to interrupt another Member who is speaking, except as provided under the Standing Orders—for example, to raise a point of order or a matter concerning the powers, rights and immunities of the House suddenly arising: SO 251;
- a Member shall not refer to matters irrelevant to the subjects of the debate or engage in tedious repetition during debates: SO 236;
- a Member is not to impute improper motives or make any personal reflections against another Member and shall not use unbecoming or offensive words in reference to another Member of the House: SO 234; and
- a Member who is required to make an apology or retraction in the House shall make an unreserved and unqualified apology or retraction: SO 235.

Chapter 39 of the Standing Orders provides certain other rules and protocols for the orderly conduct of Members in the House. These rules are based on common decency and respect for the Chair (See SOs 243 to 258).

Standing Order 266(23) provides that, except by way of a substantive motion of censure, it is a contempt to comment on or reflect on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general.

Lessons from practice – Reflections on the Chair

Member for Nicklin

On 28 February 2008, the Deputy Speaker referred a matter of privilege to the MEPPC relating to an allegation that the Member for Nicklin had reflected on the Speaker.

The matter concerned numerous statements made by the Member for Nicklin, both in the media and in the House, about the Speaker.

The committee found a contempt against the Member for Nicklin in relation to comments made by the Member in the newspaper report and television recordings referred to the committee.

The committee recommended that the House order the Member for Nicklin to unreservedly apologise to the House and the Speaker and the House suspend the Member for Nicklin forthwith from the services and the precincts of the House for 21 days. The House adopted the committee's recommendation.

Member for Bundamba

On 28 November 2012, the Speaker referred a matter of privilege to the Ethics Committee relating to the following statement made in the House by the Member for Bundamba that reflected on the Chair:

Madam Speaker, I have been vilified by you in this parliament for the last six months.

The Ethics Committee found that statement made by the Member for Bundamba amounted to a reflection on the Chair and that it constituted an improper interference with the free exercise by the Assembly of its authority or functions.

The Ethics Committee recommended that the Member be found to be in contempt of the Assembly and be suspended from the Ethics Committee for three months. The House adopted the Ethics Committee's recommendations.

2.8 Pairing Arrangements

A practice known as 'pairing' enables a Member to absent himself/herself from the House, and to agree with another member that he/she will be absent at the same time. By this mutual agreement, a vote is neutralized on each side of a question, and the actual size of a majority is not affected. In the case of parties these arrangements are made by the whips.

In the House of Commons, Speakers have ruled that agreements to pair are private arrangements between Members and are not matters which a Speaker or the House should intervene.⁶

However, in terms of the Code of Ethics Standards it is expected that Members would honour any such agreements to pair with another member and abstain from voting for the period agreed to. Whilst there is no direct precedent on the matter, it is noted that an attempt to deny a member's right to vote by deceiving them into a pairing arrangement which is not intended to be honoured, may constitute an improper interference with a member's rights and a contempt of parliament.

⁶ Erskine May, 23rd Ed, pg. 413

3. PRIMACY OF THE PUBLIC INTEREST

3.1 Registration of interests

It is the responsibility of each Member to conscientiously comply with the requirements of the Registers of Members' and Related Persons' Interests as detailed at Chapter 4, Part 2A of the *Parliament of Queensland Act 2001* (POQA) and Schedule 2 of the Standing Orders at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>.

A Member who knowingly fails to comply with the requirements contained in the registers commits a contempt of Parliament.

The Queensland Parliament first established an ongoing Register of Members' Interests on 19 April 1989.⁷

The purpose of the registration requirements in the Register of Members' Interests is to place on the public record any pecuniary or other interests which may give rise to a conflict of interest, or a perception of a conflict of interest. Public registration of interests by Members seeks to provide information which might be thought to affect a Member's conduct as a Member, or influence their speeches or votes in Parliament. In summary, the public registration of interests provides some basis upon which the integrity of Members may be judged.

3.1.1 Overview of obligation

Pursuant to section 69B of the POQA and by order of the House, each Member is required to provide a statement of their registrable interests to the Registrar of Members' Interests (the Clerk of the Parliament) within one month of making an oath or affirmation as a Member of the Legislative Assembly. A Member must also register the interests of their related persons (for example, their spouse and any dependent children).

Any changes in those interests must be notified to the Registrar within one month of the Member becoming aware of the change. Where in any year there is no change to the details contained in the last statement of interests given by the Member, the Member is required (by 31 July each year) to submit a "Confirmation of correct particulars" to the Registrar.

3.1.2 The public may access the Register of Members' Interests

The Registrar compiles the Register of Members' Interests from statements furnished by the Members and the register is published as a parliamentary paper. The Register of Members' Interests is readily accessible to the public and the media on the Parliament's website and through the office of the Clerk of the Parliament. The Register of Members' Interests is updated weekly on the Parliament's website.

The Register of Related Persons' Interests is, for privacy reasons, available for inspection only by a limited number of specified persons (including, for example, the Speaker, the Premier, the Ethics Committee and the Auditor-General).

3.1.3 Members are personally responsible for complying with the requirements

It is emphasised that whilst the Registrar receives the statements furnished by Members, maintains the registers and is responsible for access to the registers and publication of the Register of Members' Interests, it is the personal responsibility of each Member to ensure that they have complied with the disclosure requirements.

Members are encouraged to seek advice from the Registrar about the Register of Member's Interests and Related Person's Register.

⁷ The resolution was subsequently amended on 27 November 1990, 2 March 1993 and 11 March 1999. The Assembly passed a new resolution on 25 May 1999, effective from 1 July 1999 and made further amendments to the resolution on 17 August 1999 and 19 June 2002. By Sessional Orders on 18 March 2004, the Assembly amended the resolution. The registers are now established by Standing Orders, effective on 31 August 2004.

3.1.4 Matters required to be registered

Members are required to register their interests under 14 separate categories. Those categories are:

- | | |
|---|--|
| Shareholdings, officer holder or controlling interests | (a) Companies in which the Member or a related person has shareholdings, is an officer holder or has controlling interests in shares (showing the company name and nature of any office held).

Where the shareholding or interest is in a private company, the investments or beneficial interests of the company must be shown.

Where the shareholding or interest is in a private company, the nature of the activities of the company, the assets or beneficial interests of the company, the name of any subsidiary companies and the assets or benefits of those subsidiary companies must be shown.

Under the <i>Government Owned Corporations Act 1993</i> (Qld), Ministers may be required to be shareholders in government owned corporations. In these instances, Ministers hold shares on behalf of the owner of the shares—the State of Queensland. Such shareholdings are not required to be registered in the Register of Members’ Interests. |
| Beneficial interests in trusts or nominee companies | (b) Family or business trusts or nominee companies in which the Member or a related person is a trustee, officer holder or holds a beneficial interests (showing name/description of trust/name of company; nature of activities of trust/company and nature of interest held; and details of the investments and beneficial interest of the trust/company (of which the Member is aware)). |
| Private superannuation funds | (c) Trustee or directorship of private superannuation funds (showing name/description of fund; nature of the activities of the fund and the investments or beneficial interests of the fund (of which the Member is aware)). |
| Partnerships | (d) Partnerships in which the Member or a related person has an interest (showing name/description of partnership; nature of activities of partnership; nature of interest held and the assets or beneficial interests of the partnership (of which the Member is aware)). |
| Real estate | (e) Real estate in which the Member or related person has an interest (showing location by suburb/locality; approximate size; purpose for which property is, and is intended to be, used and nature of interest held). |
| Liabilities | (f) Liabilities exceeding \$21,765.68 (excluding department store and credit card accounts; liabilities arising from the supply of goods or services in the ordinary course of any occupation of a Member or a loan owing to or a guarantee from or for a family member which relates to a purely personal matter with no possible conflict of interest). |
| Debentures | (g) Debentures, managed fund or similar investments held by the Member or a related person. |
| Savings and investments | (h) Savings and investment accounts with banks, building societies, credit unions and other institutions of the Member and a related person (showing nature of account and name of institution). |
| Gifts | (i) Gifts over \$1,088.28 from one source, or \$1,088.28 in aggregate if two or more gifts from one source during the reporting period (excluding tangible gifts received in an official capacity; hospitality or sporting or cultural entertainment received in the capacity of, or representing, an officer holder and attended in an |

official capacity; upgraded travel or accommodation; or gifts received from a family member or friend in a purely personal capacity and there is no possible conflict of interest).

Sponsored travel or accommodation	(j)	Sponsored travel or accommodation received by the Member or related person (showing source of contribution and purpose of travel).
Other income	(k)	Other sources of income over \$1,088.28 received during the reporting period by the Member or a related person or any other income under \$1,088.28 where the source of income raises, appears to raise, or could foreseeably raise, a conflict of interest between the Member's private interest and their duty as a Member.
Other assets	(l)	Other assets over \$10,088.28 of the Member or related person (excluding household and personal effects; motor vehicles (unless purchased primarily for investment); industry, public offer and employer superannuation entitlements, stock, plant or equipment related to an occupation or business otherwise disclosed in the Register; or a loan to a family member).
Membership and financial contributions to organisations	(m)	Memberships of political parties, trade or professional organisations or name of any other organisation of which the Member or related person is an officeholder or any organisation or person to whom the Member makes a donation exceeding \$1,088.28 during the reporting period.
Potential and apparent conflicts of interest	(n)	Other interests (pecuniary or otherwise) of the Member or a related person known to the Member which raise, appear to raise, or could foreseeably raise, a conflict between the Member's private interest and their duty as a Member.

3.1.5 Failure to comply

A Member who knowingly:

- fails to give a statement of interests to the Registrar;
- fails to notify the Registrar of a change in details; or
- gives to the Registrar a statement that is false, incomplete or misleading in a material particular,

is guilty of a contempt of Parliament.

Lessons from practice – Failure to register interests

Former Member for Redcliffe

On 19 November 2013, the Ethics Committee tabled its report in relation to allegations that the former Member for Redcliffe had failed to register interests in the Register of Members' Interest and Register of Related Persons' Interest and deliberately misled the House.

The Ethics Committee found that the former Member for Redcliffe was required to register 14 different interests in the Register of Members' Interest and Register of Related Persons' Interest on 48 occasions and recommended:

- no penalty be imposed in relation to two counts on the basis that the former Member for Redcliffe took steps to rectify the situation prior to the allegation being made;
- a fine of \$1,000 in relation to four counts of contempt related to the Register of Related Persons' Interest on the basis that no steps were taken by the former Member for Redcliffe to rectify the situation even after he took steps to declare his own role in an organisation; and

- a fine of \$2,000 be imposed in relation to 42 counts of contempt on the basis that they were significant and the House should follow the precedent in the matters relating to the former Member for Sandgate (see below) to reflect the gravity of each offence and to send a strong message to Members and the public about the level of accountability expected of Members of Parliament.

The Ethics Committee found that the former Member for Redcliffe deliberately misled the House in a personal explanation he made on 19 March 2013 regarding his role as President of Queensland Retail Traders and Shopkeepers Association (QRTSA) and recommended the House impose the maximum fine of \$2,000 to reflect the gravity of the offence and to send a strong message to Members and the public about the level of accountability expected of Members of Parliament.

The Ethics Committee considered the cumulative effect of the findings of contempt, specifically with respect to the common issue of the former Member for Redcliffe's role with QRTSA and the potential conflict of his private interests with his role as a Member of Parliament. The Ethics Committee concluded that the House retained the power to expel a Member by virtue of its link to the UK House of Commons.

The Ethics Committee recommended that the former Member for Redcliffe be expelled from the House in order to protect the honour and dignity of the House and that the seat of Redcliffe be declared vacant.

The former Member for Redcliffe subsequently resigned as a Member of Parliament. The former Member was called to address the House from the Bar on 21 November 2013 to explain his actions. The former Member for Redcliffe was provided with 45 minutes to address the House from the Bar. The House passed a motion to accept the Ethics Committee's recommendations and the former Member was fined \$90,000. The House also endorsed the Ethics Committee finding that the cumulative effect of the conduct would warrant expulsion from the Legislative Assembly.

Former Member for Sandgate

On 13 November 2006, the Speaker referred a matter of privilege to the Integrity, Ethics and Parliamentary Privileges Committee (IEPPC) relating to an alleged failure by the former Member for Sandgate to register an interest in the Register of Members' Interests, in accordance with Schedule 2 of the Standing Orders.

On 10 June 2010, the IEPPC found that the former Member for Sandgate was required to disclose 35 payments of \$8,333 and one payment of \$60,000 he had received in the Register of Members' Interests. Accordingly, the IEPPC found that the Member had committed a contempt of Parliament.

The IEPPC recommended the imposition of the maximum fine for each contempt to reflect the gravity of each offence and to send a strong message to Members and the public about the level of accountability expected of Members of Parliament. Accordingly, the IEPPC recommended that the House impose a fine of \$2,000 for each of the 36 separate occasions of contempt for non-disclosure of the payments.

On 27 October 2010, the former Member for Sandgate was also convicted of five counts of official corruption relating to payments he received between 2001 and 2005 and on 16 December 2010, and was sentenced to five years imprisonment.

On 18 November 2010, the Registrar (Clerk of Parliament) referred a matter of privilege to the IEPPC relating to an alleged failure by the former Member for Sandgate to register the five payments he had received in the Register of Members' Interests.

The IEPPC found that the former Member for Sandgate was required to disclose the five payments he had received, in accordance with Schedule 2 to the Standing Orders, and had, therefore, committed a contempt of Parliament.

The IEPPC recommended the imposition of the maximum fine for each contempt to reflect the gravity of each offence and to send a strong message to Members and the public about the level of accountability expected of Members of Parliament and the House impose a fine of \$2,000 for each of the five separate occasions of contempt for non-disclosure of the payments received.

On 7 April 2011, a resolution was agreed to by the House to bring the former Member for Sandgate before the Bar of the House on 12 May 2011. The former Member for Sandgate was provided with 45 minutes to address the House from the Bar.

On 12 May 2011, the former Member for Sandgate addressed the House for 37 minutes before being discharged from the order of the House and escorted by the Sergeant-at-Arms to the custody of the escort team.

The House resolved that the former Member for Sandgate was guilty of all 41 counts of contempt of the House and fined him \$2000 for each offence – a total of \$82,000 to be paid within 12 months.

3.2 Conflicts of interest—ad hoc disclosure

The Register of Members' Interests is not an exhaustive disclosure mechanism. It is simply one mechanism that has evolved as a means of ensuring Members' accountability by recognising and declaring the potential conflict between public duty and private interest.

The Westminster system has a long tradition that requires Members of Parliament to declare their financial interests in any matter before the House. Members should comply with chapter 40 of the Standing Orders in this regard.

3.2.1 Standing Order 259 – No Member pecuniary interested may vote

The Queensland Parliament operates on the principle that transparency is, in most cases, the best safeguard against conflicts of interest. When the Register of Members' Interests was established in 1989, however, it did not supersede the long established rule of Members not voting on certain types of questions in which they have a **direct** pecuniary interest.

Standing Order 259 provides:

259. No Member pecuniarily interested may vote

- (1) *No member shall be entitled to vote in any division upon a question (not being a matter of public policy) in which they have a direct pecuniary interest, not held in common with the rest of the subjects of the Crown.*
- (2) *The vote of a member may not be challenged except on a substantive motion moved immediately after the division is completed, and the vote of a member determined to be so interested shall be disallowed.*

The definition of what constitutes a "direct pecuniary interest" is not always easy to determine. The MEPPC previously stated its view that:

... it constitutes a direct financial benefit accruing to the Member or a trust company or other business entity in which the Member has an appreciable interest. It would also extend to such an interest held by a Member's spouse, domestic partner or dependent child.

However, it is not to be taken to extend to interests held in common with the public, or a large section of the public, or to vocational interests or matters of public policy.⁸

3.2.2 Standing Order 260 – Declaration of pecuniary interest in debate and other proceedings

Standing Order 260 provides:

260. Declaration of pecuniary interest in debate and other proceedings

- (1) *Notwithstanding compliance with any other order of the House concerning the disclosure of interests, a member shall, in respect of any question in the House or a committee, declare any pecuniary interest (of which the member is aware) (whether or not it is a matter of public policy) that the member or a related person has in the question, if such pecuniary interest is greater than the interest held in common with subjects of the Crown or members of the House generally.*

⁸ Members' Ethics and Parliamentary Privileges Committee, *Review of the Register of Members' Interests, Report No. 2*, Goprint, Brisbane, 1996, p 4.

(2) The declaration in (1) shall be made:

(a) at the beginning of their speech if the member participates in debate on the matter in the House or a committee;

(b) as soon as practicable after a division is called for on the matter in the Legislative Assembly, or a committee, if the member proposes to vote in that division.

(3) The member's declaration shall be included and indexed in the Record of Proceedings or the minutes of proceedings of the committee and in any transcript of those proceedings of that division.

(4) It shall not be necessary for a member to declare an interest when directing a question seeking information.

Standing Order 260 is wider than SO 259, because it requires that **any** pecuniary interest be declared.

3.2.3 Standing Order 261 – Conflict of interest in committee proceedings

Standing Order 261 provides:

261. Conflict of interest in committee proceedings

A member of a committee shall disclose to the committee any conflict of interest the member may have in relation to a matter before the committee.

It should be noted that SO 261 is in addition to the requirements of SO 259. Therefore, if a Member of the Legislative Assembly has a "direct pecuniary interest" in a matter, the Member is precluded from voting on the matter in the House.

In relation to members of a parliamentary committee, however, SO 261 imposes a requirement over and above SO 259 and SO 260, because under SO 261 a committee member must disclose **any** conflict of interest.

Any conflict of interest is a wider concept. It would include pecuniary and non-pecuniary interests and direct and indirect interests. For example, SO 261 would require a member of a committee, such as the Parliamentary Crime and Corruption Committee, to disclose to the committee any interest or involvement the Member had in any matter before the Crime and Corruption Commission, if the committee was reviewing that matter.

3.2.4 Standing Order 262 – Disclosure in representations or communications of pecuniary interest

Standing Order 262 provides:

262. Disclosure in representations or communications of pecuniary interest

*In any representation or communication which a member may have **with other members or with Ministers or servants of the Crown**, a member shall disclose any pecuniary interest (of which the member is aware) that the member or a related person (as defined by the resolution for Members' Register of Interest) has in the subject matter of the representation or communication, if such pecuniary interest is significantly greater than the interest held in common with subjects of the Crown or members of the House. (Emphasis added.)*

Standing Order 262 recognises that a Member's role and functions extend beyond the proceedings in the House and its committees, and that often Members act as advocates for local issues and other projects, initiatives and law reform. It also recognises that by virtue of their office, Members have preferential access to and potential influence with decision-makers. Standing Order 262 is designed to ensure that, where necessary, a Member's pecuniary interest in the matters the subject of representation or communications with other Members, Ministers and public officers is declared.

It is recognised that there may not always be formal minutes or even notes taken during meetings a Member has **with other Members or with Ministers and public officers**.

It is stressed that the SO 262 places an obligation and responsibility on Members to declare their interest. There is no onus on Ministers or public officers to take notes of meetings between Ministers and/or public officials and Members, or to record any declaration made by a Member. It, therefore, follows that the Member, to safeguard against any future query about their declaration being made, should make some attempt to record the declaration so that it can be evidenced in the future should the need arise.

The necessity for and form of declaration will largely be determined by the circumstances of the communication or representation and is a matter for the Member to assess in the circumstances. The more significant the interest and/or the issue, the higher the onus on the Member for a formal record of the declaration.

Information Notice No. 1A of 2004 provides a more detailed explanation of the practical effects of the Standing Order, together with examples of when a declaration may be required (see **Appendix 1**).

3.3 Conflicts of interest—bribery, advocacy and accepting professional fees

3.3.1 The Criminal Code—bribery of a member

Part 2, Chapter 8 of the *Criminal Code* provides for a number of offences against the executive and legislative power.

Section 59 of the *Criminal Code* provides that it is an offence for a Member to ask for, receive, obtain, agree or attempt to receive or obtain any property or benefit of any kind for themselves or any other person, in order to influence that Member's conduct in the House or any committees. Section 59 states:

59 Member of Parliament receiving bribes

- (1) *Any person who, being a member of the Legislative Assembly, asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person upon any understanding that the person's vote, opinion, judgment, or action, in the Legislative Assembly, or in any committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment for 7 years, and is disqualified from sitting or voting as a member of the Legislative Assembly for 7 years.*

Similarly, section 60 provides that it is an offence for any person to bribe or attempt to bribe a Member. Section 60 states:

60 Bribery of member of Parliament.

(1) *Any person who—*

- (a) *in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or*
- (b) *attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;*

is guilty of a crime, and is liable to imprisonment for 7 years.

The merits of the matter to which the bribe relates, or the intention of the Member when accepting the bribe, is irrelevant. A Member who accepts a bribe in relation to any matter may, therefore, be convicted of the offence whether or not the Member actually intended to act in the manner agreed, or if the matter could be construed to be in the public interest.

3.3.2 Contempt of Parliament and Chapter 3, Part 2 of the Parliament of Queensland Act 2001

The House of Commons has long held various forms of conduct by Members which may cause a conflict of interest, or a perception of a conflict of interest, to be contempts. Section 37 of the POQA provides for the following examples of contempt:

- corruption in the execution of a Member's duty, such as: accepting a bribe to influence a Member's conduct in the House; accepting remuneration to advocate a cause in the House ("acting as a paid advocate"); or accepting money to disclose the confidential business of the House;
- advocating in the House matters in which they have previously been involved professionally; or
- accepting professional services connected with the business of the House. That is, Members may not accept professional fees or undertake service on a matter before the House, whether or not the Member is actually promoting the matter in the House.

Section 37 of the POQA also provides that the Legislative Assembly may punish contempts committed by a Member or other person (see **Appendix 2**). The offering of a bribe to, or attempting to bribe, a Member is one example of such a contempt.

The contempt of bribery is wider than a criminal offence of bribery (section 59 of the *Criminal Code*). Therefore, whilst a Member who accepts a bribe to do something which does not necessarily affect their conduct in the House (such as to lobby a Minister) is not guilty of an offence under the *Criminal Code*, they may nonetheless be guilty of a contempt of Parliament.

3.3.3 Resolving conflicts of interest and advice on the Register of Members' Interests

From time-to-time conflicts of interest arise which are unavoidable.

In keeping with the spirit of the Code, and the Standing Orders (and Schedule 2 and the Standing Orders establishing the members' interests registers) conflicts of interest are to be resolved in the public interest.

Members are able to obtain confidential and impartial advice concerning parliamentary practice and procedure and the Members' Register of Interests from the Clerk of the Parliament.

Members can also receive advice from the Integrity Commissioner with respect to conflicts of interests.

3.4 Outside employment

A Member must manage employment outside of Parliament to ensure that any such employment does not interfere with their duties as a Member of Parliament.

Substantial commitments to other employment or business activities are incompatible with the proper performance of the Member's representative and parliamentary duties.

However, for clarity, members are permitted to perform such outside employment as is necessary for them to maintain their professional qualifications and/or professional registration requirements.

4. INDEPENDENCE OF ACTION

4.1 Financial dealings with the executive government

There have always been restrictions on Members of Parliament (including Ministers) having financial dealings with executive government. The restrictions aim to ensure the independence of Members, as members of the legislature, from the executive.

It should be noted, however, that Members who are appointed, under the *Constitution of Queensland 2001*, as Ministers and Assistant Ministers, and who are remunerated as Ministers and Assistant Ministers by the executive government, do not by that appointment engage in restricted financial dealings with the executive government (section 65(3) of the POQA).

Members should ensure that they have no unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder, with the government. Any unauthorised financial dealings with the State may result in the Member's seat being vacated. Members should be aware of the need to comply with the provisions in chapter 4, parts 3 and 4 of the POQA.

4.1.1 *Being a contractor of an entity of the State*

Section 71 of the POQA places restrictions on Members transacting business with an entity of the State. Section 70 of the POQA defines transacting business. In regard to contracts, the restrictions do not apply if:

- the contract is required of, or expressly permitted for, the member under an Act; or
- a contract is made, entered into, or accepted, by a listed or non-aligned corporation (determined in section 70);
- an Act requires or expressly permits the member to perform the service or duty; or
- neither the member nor any other person is entitled to or is entitled to and receives any reward on account of the member performing the duty or service; or
- the duty or service is the attendance at a court or other place or the giving of evidence at a court or other place in obedience to any court process.

4.1.2 *Transacting business with an entity of the State*

Section 71 of the POQA provides that a Member must not, directly or indirectly, transact business with or for an entity of the State. A Member who contravenes the provision is not entitled to receive any fee or reward.

Section 72 of the POQA provides that, if a Member contravenes section 71, the Member's seat is liable to become vacant on resolution of the Assembly. Section 73(3) of the POQA provides that the Assembly may, by resolution, disregard this disqualifying ground if the Assembly considers the ground:

- a) has stopped having effect;
- b) was in all the circumstances trivial in nature; and
- c) happened or arose without the actual knowledge or consent of the member or was accidental or due to inadvertence.

For the purposes of the POQA, a Member does not "transact business" with an entity of the State under certain circumstances, including if it is required or permitted by an Act, or if neither the Member nor another person is entitled to or receives any reward on account of performing the service or duty. A Member is not taken to be entitled to a reward, if the Member irrecoverably waives the entitlement in writing to the Speaker. A reward does not include reasonable expenses for accommodation, meals, domestic air travel, taxi fares or public transport charges and motor vehicle hire.

A duty performed as a Minister or Assistant Minister (being a duty or service expressly provided or required under an act) is excluded under section 70(2)(b) of the POQA.

The POQA does not prohibit a Member transacting business with an entity of the Commonwealth or another State. For the purposes of section 71, an “entity” of the State does not include local governments or State universities.

Members should seek the advice of the Clerk of the Parliament or their own legal advice, if they are concerned about the application of these provisions to their particular circumstances.

4.2 Interactive gambling licence

Under the Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999 and its authorising act, the *Interactive Gambling (Player Protection) Act 1998*, Members, their families and staff members of Members of Parliament are prohibited from having a beneficial interest in companies holding an interactive gambling licence, and from holding an interactive gambling licence or a key person licence.

5. APPROPRIATE USE OF INFORMATION

5.1 Committee proceedings and contempt

Standing Order 211 and 211A provide for confidentiality provisions that apply to all committees:

211. Confidentiality of proceedings for Portfolio Committees and the Committee of the Legislative Assembly

(1) The proceedings of a portfolio committee, the Committee of the Legislative Assembly Committee or a select committee or a subcommittee of any of those committees that is not open to the public or authorised to be published remains strictly confidential to the committee until the committee has reported those proceedings to the House or otherwise published the proceedings.

(2) Paragraph (1) does not prevent—

(a) the disclosure, by a committee in (1) or by a member of the committee or an officer of the committee, of proceedings to a member of Parliament or to the Clerk or another officer of the House in the course of their duties;

(b) the disclosure, by a member of the committee or an officer of the committee, to an electorate officer, opposition officer or ministerial officer engaged to assist a member of the committee;

(c) a public servant or an officer of a public entity informing their immediate supervisor, Director General or Chief Executive Officer, or responsible Minister of the evidence they have provided to a committee in (1) or evidence sought by a committee; and

(d) the disclosure of proceedings otherwise in accordance with these Standing Orders.

(3) Despite (2), a committee in (1) may resolve that some or all of its proceedings relating to an inquiry or report remain confidential to the committee, its members and officers until it reports to the House on the inquiry.

(4) Despite (2), no member shall in the House refer to any proceedings of a committee in (1) until the committee has reported those proceedings to the House or otherwise published the proceedings.

(5) A committee in (1) may authorise a submission to it to be published at any time after receiving it.

(6) A submission in (5), if not already authorised to be published, is deemed authorised to be published on the committee hearing oral evidence from the witness who made the submission subject to any express resolution of the committee to the contrary.

(7) Paragraph (1) does not prevent the release of a submission by the person who submitted it.

211A. Confidentiality of proceedings for Parliamentary Crime and Corruption Committee and Ethics Committee

(1) The proceedings of the Parliamentary Crime and Corruption Committee or a subcommittee of that committee that is not open to the public or authorised to be published remains strictly confidential to the committee until the committee has reported those proceedings to the House or otherwise published the proceedings.

(2) No member shall in the House refer to any proceedings of a committee in (1), until the committee has reported those proceedings to the House or otherwise published the proceedings.

(3) A member who wishes to refer to in camera evidence or unpublished committee documents of a committee in (1) in a dissenting report shall advise the committee of the evidence or documents concerned, and all reasonable effort shall be made by the committee to reach agreement on the disclosure of the evidence or documents for that purpose.

(4) A committee in (1) may elect for this Standing Order to not apply to a particular proceeding or a particular inquiry of the committee, and adopt its own rules in relation to the confidentiality of its proceedings for that proceeding or inquiry.

The definition of committee “proceedings” for the purpose of SO 211 and 211A is:⁹

- (a) *evidence taken by the committee by way of hearings;*
- (b) *written or oral submissions presented to the committee;*
- (c) *written briefing papers and other documents prepared for the committee by its Committee Secretary; other expert advisors or departmental advisors;*
- (d) *draft reports by the committee;*
- (e) *correspondence between the committee and witnesses, departments and Ministers; and*
- (f) *private deliberations of the committee and the records of those proceedings.*

Standing Order 211B provides for confidentiality provisions for the Ethics Committee:

(1) The proceedings of the Ethics Committee or a subcommittee of that committee on a matter before the Committee that is not open to the public or authorised to be published remains strictly confidential to the committee until the committee has reported to the House or otherwise published the proceedings.

(2) No member shall in the House refer to any proceedings of a committee in (1), until the committee has finally reported to the House or otherwise published the proceedings.

(3) When the Ethics Committee makes its final report to the House on a matter, the Committee shall at the same time, table in the House:

(a) The minutes of its proceedings relevant to the matter; and

(b) Any submissions received or evidence taken in respect of the matter (including transcripts of hearings)

unless the committee resolves that some or all of its proceedings remain confidential.

(4) The Ethics Committee shall only resolve that some or all of its proceedings remain confidential if valid grounds exist, such as:

(a) Publication of the proceedings is not in the public interest;

(b) Publication of the proceedings would be procedurally unfair to any person; or

(c) Publication of the proceedings is irrelevant to the matter.

(5) Any member of the committee is able to refer to any proceeding of the committee in a dissenting report or statement of reservation, unless the committee has resolved in accordance with (3).

It has long been held that the unauthorised premature release of committee proceedings (such as a draft report) is a contempt of Parliament.

5.1.1 The Parliamentary Crime and Corruption Committee

There are additional restrictions on disclosure by members of the Parliamentary Crime and Corruption Committee (PCCC).

Apart from the Standing Orders, section 66 of the *Crime and Corruption Act 2001* (Qld) provides that any member of the PCCC who discloses information that has come to the attention of the Member because of their membership of the committee, which is not otherwise authorised for disclosure by the Act or the commission, commits an offence.

⁹ Schedule 1, Standing Orders.

Lessons from practice – Disclosure of committee proceedings

On 25 November 2009, the Speaker referred a matter of privilege in relation to the then Deputy Leader of the Opposition, the Member for Southern Downs, who attempted to table in the House documents allegedly provided to him by a complainant to the Parliamentary Crime and Misconduct Commission (PCMC) (the predecessor to the PCCC).

After the Member attempted to table the documents in the House, the Speaker sought the urgent advice of the PCMC on the status of the documents. The PCMC advised that four of the seven documents constituted correspondence between the PCMC and the complainant, which the PCMC had not given its consent or authorisation to release.

The Speaker subsequently ruled that the tabling of these five documents would offend the Standing Orders and would not allow the documents to be tabled.

The IEPPC found that by attempting to table the documents the Member for Southern Downs intended to disclose proceedings of the PCMC which were not authorised to be disclosed. The IEPPC was of the view that had the Member been successful in disclosing or publishing those proceedings, he would have committed a contempt of deliberately interfering with the PCMC's operations. The IEPPC found, however, that the Member was prevented from disclosing or publishing by virtue of the Speaker's ruling against tabling the documents and found that there was no breach of privilege or contempt in this matter.

Accordingly, the IEPPC recommended that the House take no further action in regard to the matter of the alleged contempt. The IEPPC did, however, recommend that the Member make a statement in the House unreservedly apologising for attempting to table the documents.

5.2 The Corporations and Securities Legislation and insider trading

In the course of their duties, Members may gain information which is not generally available to the public and which has some financial value. In particular, Members on "government committees" and Members who are also Ministers may become aware of decisions made, or about to be made, by the Government which are not in the public domain and which will, therefore, have some commercial value. The use by a Member of such information may be an offence under the *Corporations Act 2001* (Cth).

Section 1043A of the *Corporations Act* provides that it is an offence for a person with "inside information" to trade in securities that will be affected by that information.

5.3 Use of the Legislative Assembly crest, emblems and other insignia

On 30 May 2000, the Speaker issued guidelines for the use of the Legislative Assembly crest and other insignia. The crest must not be used for overtly political purposes, including political advertising or for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament (see **Appendix 3**).

On 9 February 2009, Speaker Reynolds issued amendments to the guidelines for the use of the Legislative Assembly crest and other insignia to further clarify the rules regarding use of the Parliamentary crest on political publications.

The amendments specify that the crest must not be used on materials or publications which are created and published for overtly political purposes or which contain political advertising. The guidelines were also updated to clarify that in determining whether the use of the crest is in accordance with these guidelines, the source of the funding for a publication is irrelevant.

5.4 Members' records, public records, emails and other messenger apps

5.4.1 The Public Records Act 2002

The *Public Records Act 2002* (Qld) requires 'public authorities' to:

- make and keep full and accurate records of their activities having regard to any relevant policy, standards and guidelines made by the State Archivist;
- ensure safe custody and preservation of their records; and
- dispose of public records only under an authority given by the State Archivist.

The *Public Records Act 2002* (Qld):

- does not apply to Members of the Legislative Assembly or the Parliamentary Service or the records of Members of the Legislative Assembly or the Parliamentary Service;¹⁰
- only applies to Ministers and Assistant Ministers to the extent that it applies to records created or received by a Minister in their capacity as a Minister, and does not apply to records:
 - created or received in a personal capacity (private records);
 - associated with their party political activities; or
 - created or received in their capacity as a Member of the Assembly (including all records in their electorate offices).

5.4.2 Ministers and Assistant Ministers

Members who are also Ministers or Assistant Ministers are subject to the *Public Records Act 2002*, because the Act applies to "Ministerial Records". But the Act also clearly distinguishes between a Ministerial record created or received by a Minister in their capacity as a Minister and personal, party political or Member of the Assembly records. In this regard, Schedule 2 provides:

Ministerial record means a record created or received by a Minister in the course of carrying out the Minister's portfolio responsibilities but does not include—

(a) a record related to the Minister's personal or party political activities; or

(b) a record the Minister holds in the Minister's capacity as a member of the Legislative Assembly.

Ministers should take further advice on the application of the Queensland Ministerial Handbook, which now prohibits the use of private emails or message applications for any Ministerial business, and the Ministerial Information Security Policy.

5.4.3 Emails and message applications

There is no legal impediment for a member to use a private email account or message application or destroy a record that is:

- created or received in a personal capacity (private records);
- associated with their party political activities; or
- created or received in their capacity as a Member of the Assembly (including all records in their electorate offices).

¹⁰ The *Public Records Act 2002* (Qld) does not apply to the records of the Legislative Assembly or Parliamentary Service. The Legislative Assembly is not included in the definition of 'public authority' and the Parliamentary Service is specifically excluded from the definition. Consequently, the records of the Legislative Assembly and the Parliamentary Service do not constitute 'public records' for the purposes of the Act: (*Public Records Act 2002* (Qld) schedule 2 and s. 6). Nevertheless, the Parliamentary Service is committed to following the principles contained in the legislation and various information standards, policies and guidelines concerning records management of the Parliamentary Service's records. See: *The Parliamentary Service's Records Management Policy (Records Management - Policy and Processes within the Parliamentary Service)*, approved in October 2007.

Records management in electorate offices (including records destruction) is a matter for individual Members. The Parliamentary Service Records Management Policy does not apply to the personal records or party political records of Members of Parliament or records contained in electorate offices.

It is noted that the Crime and Corruption Commission has stated that it discourages the use of private emails by Members because the CCC considers that their temporal nature is an inherent corruption risk and lacks transparency for reasons which go beyond compliance with State laws dealing with preservation of public records. Members may wish to consider the CCC's views, but the views are not binding on Members.

5.4.4 Records required for judicial proceeding

Members should note that it is an offence under the *Criminal Code 1899* (s.129) for a person who, knowing something is or may be needed in evidence in a judicial proceeding, damages it with intent to stop it being used in evidence. Therefore, records knowingly needed for legal action cannot be disposed of (even if the legal proceedings have not yet commenced). While Members are not bound by the *Public Records Act 2002* – they are bound by the requirements of the *Criminal Code* regarding records.

6. RESPECT FOR PERSONS

Members should treat members of the public, officers and employees of the Parliamentary Service and other public officials with courtesy, honesty and fairness, and with proper regard for their rights, obligations, cultural differences, safety, health and welfare.

Members should not use abusive, obscene or threatening language (either oral or written) or behaviour towards any officer, employee or member of the public.

6.1 Upholding the principles of respect, justice and inclusion

Members agree to respect the religious and cultural beliefs of others, in accordance with the Universal Declaration of Human Rights.

Members agree to uphold the principles of justice and inclusion among Queensland's multicultural society, making efforts to encourage understanding of all groups.

Members agree to recognise and value diversity as an integral part of Queensland's social and economic future.

Members should promote reconciliation with Aboriginal and Torres Strait Islander peoples.

Obligations

Members must comply with the provisions of the *Anti-Discrimination Act 1991*.

Members must comply with the provisions of the *Human Rights Act 2019*.

6.1.1 *Electorate office and cross bench policy staff*

The Parliamentary Service employs electorate office and cross bench policy staff on the recommendation of Members. Parliamentary Service policies and procedures outline the requirements of employers/supervisors in regard to human resource issues, including employment discrimination, sexual harassment, workplace harassment and workplace health and safety.

The Clerk of the Parliament and People and Culture (PeopleandCulture@parliament.qld.gov.au) are available to assist Members with any questions regarding the application of relevant policies, guidelines and legislation in these areas.

6.1.2 *Standards of behaviour in the workplace*

Members of Parliament must not harass, sexually harass or discriminate against:

- a) a member of their staff
- b) another Member of Parliament
- c) a member of the staff of another Member of Parliament
- d) an employee or agent of the Parliamentary Service, or
- e) any other person who in the course of employment performs duties at Parliament House.

6.1.3 *Definitions*

For the purposes of this Code —

- a) a person *sexually harasses* another (the person harassed) if—
 - i. the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
 - ii. engages in other unwelcome **conduct of a sexual nature** in relation to the person harassed, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated; and

- b) **conduct of a sexual nature** includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing;
- c) a person is **harassed** if, an individual or a group of individuals repeatedly behaves unreasonably towards the person, and the behaviour creates a risk to health and safety.
- d) a person is **discriminated** against when they are treated less favourably than another person in the same or similar circumstances due to their attributes or characteristics, and includes unlawful discrimination under the *Anti-Discrimination Act 1991*.

6.1.4 Obligations

Through this Code, Members commit to a zero tolerance for bullying, sexual and other harassment, sexual assault and discrimination, and pledge that they will not themselves engage in such conduct.

Consistent 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 indicates they are 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 Members 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.

6.1.5 Reporting

It is the responsibility of all Members of Parliament to report any behaviour that does not meet the standards of workplace behaviour set out in this Code. Reports should be made to the Clerk of the Parliament and People and Culture (PeopleandCulture@parliament.qld.gov.au).

7. APPROPRIATE USE OF ENTITLEMENTS

Members must ensure that the administrative rules or requirements which apply, from time-to-time, to any entitlement or allowance they receive via the Parliamentary Service are observed.

7.1.1 *Members' Remuneration Handbook*

The *Members' Remuneration Handbook* outlines the salary, allowances and entitlements of Members and provides for the manner in which such allowances and entitlements may be claimed.

Whilst the Clerk of the Parliament is the Accountable Officer for the Legislative Assembly, and as such is responsible for the financial administration of the Parliament, it is the **personal responsibility** of each member to:

- familiarise themselves with the *Members' Remuneration Handbook* and the requirements set out in the Handbook;
- lodge any claim or acquittal prescribed for an allowance or benefit; and
- ensure that any claim or acquittal lodged contains the necessary detail and is accurate in all respects.

Whilst a Member may wish to delegate the compiling of claims or acquittals to persons (such as their electorate officer), their **personal responsibility** for ensuring that such claims and acquittals are appropriate and accurate cannot be delegated.

7.1.2 *Role of the Queensland Independent Remuneration Tribunal*

The *Queensland Independent Remuneration Tribunal Act 2013* (QIRT Act) establishes and outlines the functions of the Queensland Independent Remuneration Tribunal (QIRT).

Essentially, the role of the QIRT is to review remuneration policy in connection with Members and former Members of the Assembly and to make determinations setting out the policy as regards remuneration and the amount of remuneration. These determinations are provided to the Clerk of the Parliament for tabling and inclusion in the *Members' Remuneration Handbook*.

7.1.3 *Role of the Speaker of the Legislative Assembly*

Section 6 of the *Parliamentary Service Act 1988* provides that the general role of the Speaker in relation to the Parliamentary Service is to:

- decide major policies to guide the operation and management of the Parliamentary Service;
- prepare budgets;
- decide the size and organisation of the Parliamentary Service and the services to be supplied by the Parliamentary Service; and
- supervise the management and delivery of services by the Parliamentary Service.

The role of the Speaker may include the provision of some resources to Members (for example, electorate offices, equipment, and staff). Policies of the Speaker are administered by the Clerk as the accountable officer.

7.1.4 *Role of the Clerk of the Parliament*

The Clerk of the Parliament has a number of roles in relation to Members' remuneration, services and support, including to:

- table in the Parliament all determinations made by the QIRT;
- maintain and publish the *Members' Remuneration Handbook*; and
- administer (through the Parliamentary Service) the various determinations and policies that are set out in *Members' Remuneration Handbook*.

In the course of administering the Handbook, the Clerk of the Parliament may be required to assess various claims made by Members against:

- remuneration as prescribed by the QIRT's determinations; or
- accommodation or services set by the Committee of the Legislative Assembly (CLA) policy.

This process will necessarily require the Clerk of the Parliament to interpret determinations and policies of the QIRT or the CLA. The Clerk of the Parliament will make such interpretations in a way that is: consistent with the purpose of the determination or policy; consistent with principles of accountability; and consistent with ensuring Members are not impeded in carrying out their functions and duties.

Members should ensure that they adhere to such interpretations of the Clerk of the Parliament and determinations of the QIRT.

7.1.5 Assistance

If Members have any doubts about the application of the Handbook or determinations of the QIRT they should seek assistance from the Clerk of the Parliament (or his delegates) who is available to assist Members in interpreting their allowances and entitlements.

8. ELECTORAL REQUIREMENTS

8.1 General qualifications and disqualifications and the requirements of the electoral laws

Members, who are at some time also candidates for election, are to comply with the specific responsibilities placed on candidates for election under the electoral laws of the State.

8.1.1 Qualification and disqualification

Currently, in accordance with s 64(1) of the POQA, in order to be eligible to be a candidate and be elected as a Member, a person must be:

- an adult Australian citizen living in Queensland; and
- enrolled on an electoral roll for an electoral district; and
- not a “disqualified person” under s 64(2) or (3) of the POQA.

Currently, in accordance with s 64(2) of the POQA, a person is a “disqualified person” if, **amongst other reasons:**

- they are an undischarged bankrupt;
- they have executed a deed of arrangement as a debtor under the *Bankruptcy Act 1966* (Cwlth) or a corresponding law and the terms of the deed have not been fully complied with;
- their creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth) or a corresponding law and a final payment has not been made;
- they are in prison or subject to a periodic detention order;
- they have within two years before the day of nomination been convicted of and sentenced to more than one year’s imprisonment;
- they have been convicted within seven years before the day of nomination of an offence against ss 59 or 60 of the *Criminal Code*;
- they have been convicted and not pardoned of treason, sedition or sabotage; or
- they have been convicted within 10 years before the day of nomination of a disqualifying electoral offence.

Under s 68 of the POQA, persons who are elected as Members of Parliament and who hold the following appointments cannot take their seat until they stop holding the membership or appointment:

- a member of the Commonwealth Parliament or another State Parliament;
- a mayor or a councillor of a local government of another State; or
- a holder of a paid public appointment other than a paid State appointment.

Section 72 of the POQA provides that a Member is currently disqualified under Chapter 4, Part 4 of the POQA if they, **amongst other things:**

- are absent from Parliament for more than 12 consecutive sitting days without the Assembly’s permission;
- fail to take their seat within 21 sitting days of election;
- take an oath or make a declaration or acknowledgment of allegiance, obedience or adherence to, or become an agent of, a foreign state or power;
- stop being enrolled on the electoral roll;
- stop being an Australian citizen;
- become a member of the Commonwealth Parliament or another State Parliament;

- accept a paid public appointment, other than a paid State appointment;
- are elected or appointed as mayor or a councillor of a local government;
- are convicted of certain offences set out in s 72(1)(i) of the POQA, for example, an offence for which a Member is sentenced to more than one year's imprisonment (not including a suspended sentence);
- become a bankrupt under the *Bankruptcy Act 1966*, or a corresponding law of another jurisdiction; or
- have executed a deed of arrangement as debtor under the *Bankruptcy Act 1966* or a corresponding law and breach the terms of the deed, or the member's creditors accept a composition under the act, and the member breaches the terms of the deed.

A Member's seat is also declared vacant if anything else happens that causes the Member's seat to be vacant under another law.

8.1.2 Some offences are stated to be crimes

A crime is one type of criminal offence. The other criminal offences are misdemeanours and simple offences. Crimes and misdemeanours are indictable offences. An offence will usually state whether a breach of it is a crime or misdemeanour. An offence not otherwise designated is a simple offence (see section 3 of the *Criminal Code*).

8.1.3 Absence and leave of members

If a Member is absent, or intends to be absent, from the Legislative Assembly for more than four consecutive sitting days, or more than four sitting days within any period of nine consecutive sitting days, the Member shall notify the Speaker in writing of their absence or intended absence. The notification must state the length of the absence, the reason for the absence and be supported by a medical certificate or any other evidence that is acceptable to the Speaker.

Upon receipt of written notification by a Member in accordance with Standing Orders, the Speaker shall, on the next sitting day, report the Member's absence, or intended absence, to the House (see SO 263A).

The House may, by motion without notice, grant a Member a leave of notice from attending the Legislative Assembly for 12 consecutive sitting days or more. The motion must state the length of leave of absence. A Member shall be excused from attending sittings of the House, or any committee, so long as they have a leave of absence in accordance with Standing Orders. A leave of absence shall cease if the Member attends a sitting of the House or any committee before the expiry of the period of leave (see SO 263B).

8.1.4 The conduct of elections

A range of conduct by candidates for election is prohibited by the *Electoral Act 1992* (Qld) and the *Criminal Code* and significant penalties can apply. Examples of conduct which is prohibited include:

- forging or uttering electoral papers (*Criminal Code*, section 98D);
- wilfully inserting false or fictitious names or addresses on the electoral roll (*Electoral Act 1992*, section 176);
- distributing non-compliant how-to-vote- cards, or permitting or authorising someone else to do so (*Electoral Act 1992*, section 182);
- causing political material to be displayed in or around electoral booths (*Electoral Act 1992*, section 190);
- bribery (*Criminal Code*, section 98C);
- giving false/misleading information (*Criminal Code*, section 98B);
- failure to declare financial contribution from another registered political party in relation to the production of how-to-vote cards (*Electoral Act 1992*, section 185);
- providing money for illegal payments (*Criminal Code*, section 98F);

- voting if not entitled (for example, procuring someone to vote who, to the procuring person's knowledge, is not entitled to vote) (*Criminal Code*, section 98G);
- improperly influencing an electoral commissioner (*Electoral Act 1992*, section 178);
- influencing voting—by intimidation or violence (*Criminal Code*, section 98E); and
- interfering with another person's voting rights or duties under the act (*Electoral Act 1992*, section 179).

In addition to significant penalties, certain breaches under the *Electoral Act* (a “disqualifying electoral offence”) will result in a person being disqualified from being nominated as a candidate for election and elected as a Member (POQA, section 64).

8.1.5 Breaches of the Electoral Act 1992 may result in disqualification

Part 11 of the *Electoral Act 1992* provides for electoral funding and financial disclosure.

The disclosure requirements include the obligation on the agent for each candidate in an election or by-election to provide a return, in relation to the disclosure period, detailing:

- the total amount or value of all gifts received;
- the number of entities who made the gifts; and
- for those gifts over a prescribed limit, the amount or value of each gift, the date it was given and the name and address of the entity who gave the gift.

A return must also be provided detailing any expenditure on election campaigning during the disclosure period.

There are penalties for not providing the returns and for providing false or misleading information in the returns. There are penalties for breaches of the disclosure requirements.

8.1.6 Code of Conduct for Election Candidates

On 9 September 2003, the Legislative Assembly endorsed a *Code of Conduct for Election Candidates* (see **Appendix 4**), which applies to all candidates for State elections (independents and candidates endorsed by parties). The Code is voluntary, with the exception of paragraph (e)¹¹ but candidates who do not follow it will risk disfavour in the electorate.

8.1.7 Oath or affirmation of allegiance and office

A Member is required under section 22 of the *Constitution of Queensland* to take the oath or affirmation of allegiance and of office.

The oath or affirmation of allegiance and office are at **Appendix 5**.

¹¹ That is: avoid conduct which is contrary to state or Commonwealth law including but not limited to: racial and religious vilification offences under the *Anti-Discrimination Act 1991*; official misconduct under the *Crime and Misconduct Act 2001*; *Criminal Code* offences; and *Electoral Act 1992* offences. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 128, 9 September 2003, p 1188.

9. COMPLAINTS PROCEDURES

9.1 Allegations of breaches of parliamentary privilege and contempt

9.1.1 Parliamentary privilege

Parliamentary privilege has been described in Erskine May's Parliamentary Practice as:

... the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law.¹²

The principle powers, rights and immunities (privileges) of the Legislative Assembly are:

- the power to regulate its proceedings by standing rules and order having the force of law; and
- the right of free speech in Parliament without liability to action or impeachment for anything spoken in the House, including immunity of Members from legal proceedings for anything said by them in the course of parliamentary debates (see section 8 of the POQA).

9.1.2 Contempt

Contempt of the Assembly is the term given to offences against the House. Contempt of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its Members or committees.

Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—

- a) the free exercise by the Assembly or a committee of its authority or functions; or
- b) the free performance by a Member of the Member's duties as a Member.

The broad nature of the offence of contempt means that all contempts cannot be listed definitively. The Standing Orders (Part 10, Chapter 43—SO 266) provide 26 examples of contempt. Without limiting the power of the House, it may treat as a contempt any of the following—

- (1) *breaching or interfering with any of the powers, rights and immunities of the House;*
- (2) *deliberately misleading the House or a committee (by way of submission, statement, evidence or petition) (See also s.57 Criminal Code);*
- (3) *servicing legal process or causing legal process to be served within the precincts of Parliament, without the authority of the House or the Speaker;*
- (4) *removing, without authority, any documents or records belonging to the House;*
- (5) *falsifying or altering any documents or records belonging to the House;*
- (6) *as a member, receiving or soliciting a bribe to influence the member's conduct in respect of proceedings in the House or a committee;*
- (7) *as a member, accepting fees for professional services rendered by the member in connection with proceedings in the House or a committee;*
- (8) *offering or attempting to bribe a member to influence the member's conduct in respect of proceedings in the House or a committee (See also Example 5 of s.37 Parliament of Queensland Act and ss.59 and 60 Criminal Code);*
- (9) *assaulting, threatening or intimidating a member or an officer of the House acting in the discharge of the member's or the officer's duty (See also Example 2 s.37 Parliament of Queensland Act);*

¹² W McKay (ed), Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 23rd edition, Butterworths, London 2004, p.75

- (10) obstructing or molesting a member or an officer of the House in the discharge of the member's or the officer's duty;
- (11) misconducting oneself in the presence of the House or a committee;
- (12) divulging the proceedings or the report of a committee or a subcommittee contrary to Standing Orders;
- (13) publishing a false or misleading account of proceedings before the House or a committee;
- (14) failing to attend before the House or a committee after being summoned to do so by the House or the committee;
- (15) intimidating, preventing or hindering a witness from giving evidence or giving evidence in full to the House or a committee (See also Example 9 s.37 Parliament of Queensland Act);
- (16) refusing to answer a question or provide information required by the House or a committee except as permitted by the House's rules or statute;
- (17) assaulting, threatening or disadvantaging a member on account of the member's conduct in the House or a committee (See also Example 2 s.37 Parliament of Queensland Act);
- (18) assaulting, threatening or disadvantaging a person on account of evidence given by that person to the House or a committee (see also Examples 9 and 10 s.37 Parliament of Queensland Act);
- (19) assaulting, obstructing or insulting a member coming to or going from the House or a Committee proceeding (See also Example 1 s.37 Parliament of Queensland Act);
- (20) sending to a member a threatening letter on account of the member's conduct in the House or a committee (See also Examples 2 and 4 s.37 Parliament of Queensland Act);
- (21) sending a challenge to fight a member (See also Example 4 s.37 Parliament of Queensland Act);
- (22) wilfully disobeying an order of the House or disrupting the orderly conduct of the business of the House or a committee;
- (23) except by a substantive motion of censure, commenting or reflecting on the decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general;
- (24) contravening the requirements and orders imposed by operation of the Parliament of Queensland Act (See also Examples 7 and 8 s.37 Parliament of Queensland Act and s.58 Criminal Code);
- (25) a member or officer involving themselves in planning or executing a disruption of a proceeding of the Legislative Assembly or its committee; and
- (For the purpose of (25), "officer" includes Parliamentary Service or Ministerial Service officers or any other permanent parliamentary precinct pass holder with privileged access to the precinct)
- (26) making public statements (either orally or in writing) inciting or encouraging disruption of the Legislative Assembly by bringing the proper proceedings of the Legislative Assembly or its committees into disrepute.

Under section 58 of the POQA, the publication of a parliamentary record in contravention of a condition imposed by the Assembly is also a contempt.

9.1.3 Procedure for raising and considering complaints

Matters relating to potential breaches of parliamentary privilege or contempt may be referred to the Ethics Committee by the House or the Speaker. A parliamentary committee may also report that a matter involving its proceedings has arisen and recommend that the matter be referred to the Ethics Committee, in which case the matter stands referred to the Ethics Committee.

Chapter 44 of the Standing Orders sets out the procedure for raising and considering complaints about matters; including alleged breaches of parliamentary privilege and contempts (at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>).

9.1.4 Limits on charges of contempts

Standing Order 275 provides:

275. Limits on charges of contempt

- (1) Any charge of contempt in the House shall be dealt with in accordance with Chapters 44 and 45.
- (2) No allegation or charge of contempt is to be considered by the House until such time as the matter has been referred to the [ethics] committee and dealt with in accordance with Chapters 40 and 45.

Section 47 of the POQA provides that if a person's conduct is both a contempt of the Legislative Assembly and an offence against another Act, the person may be proceeded against for the contempt or for the offence against the other Act, but the person is not liable to be punished twice for the same conduct.

9.2 Allegations and complaints about the registration of interests

A Member may make an allegation, in writing, to the Registrar (the Clerk) that another Member has failed to comply with requirements relating to the registration of a matter at Schedule 2 to the Standing Orders (see Part 3.1 of this Guide).

On receipt of an allegation from a Member, the Registrar must refer the matter to the Ethics Committee and provide the Member who is the subject of the allegation with details of the allegation.

A member of the public may make a complaint, in writing, to the Registrar alleging that a Member has failed to comply with the requirements relating to the registration of a matter. If the Registrar believes on reasonable grounds that there is evidence to support an allegation which is the subject of the complaint, the Registrar must refer the matter to the Ethics Committee and provide the Member who is the subject of the complaint with details of the complaint.

The relevant procedures are detailed in Schedule 2 to the Standing Orders at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>.

9.3 Complaints about Members' use of allowances and entitlements

Any complaints about a Member's use of allowances or entitlements should be made, in writing, to the Clerk of the Parliament.

The Clerk has an obligation, under section 38 of the *Crime and Corruption Act 2001* to notify the Crime and Corruption Commission, if the Clerk suspects that a complaint, or information or matter (also a complaint), involves, or may involve, corrupt conduct.

A failure to comply with the *Members' Remuneration Handbook* or any determinations of the QIRT may require the Member to reimburse any expenditure not falling within the Handbook.

The dishonest use of an allowance or other entitlement, or a dishonest claim or acquittal, is also a breach of the criminal law. Section 408C of the *Criminal Code* provides that a person who dishonestly applies to their own use or to the use of any person, property belonging to another is guilty of the crime of fraud. The term "property" includes credit, service and any benefit or advantage. It is, therefore, an offence for a Member to dishonestly use or claim an allowance.

Under s 104C(3) of the POQA conduct by Members which involves the commission, or claimed or suspected commission of a criminal offence would be investigated by the appropriate authority—for example, the Crime and Corruption Commission or the Queensland Police Service.

9.4 Citizen's right of reply

The relevant procedures for seeking a citizen's right of reply (see Part 2.3 of this Guide) are detailed in Chapter 46 of the Standing Orders at <http://www.parliament.qld.gov.au/work-of-assembly/procedures>.

INFORMATION NOTICE NO.1A OF 2004



Standing Order 262

THIS INFORMATION NOTICE REPLACES INFORMATION NOTICE NO. 1 OF 2004 DATED 24/05/04.

FOLLOWING THE LEGISLATIVE ASSEMBLY'S ADOPTION OF NEW STANDING ORDERS, EFFECTIVE FROM 31 AUGUST 2004, PREVIOUS STANDING ORDER 158B (ADOPTED ON 27 NOVEMBER 2003) HAS BEEN RENUMBERED AS STANDING ORDER 262. THERE IS NO SUBSTANTIVE CHANGE TO THE STANDING ORDER.

Standing Order 262 provides—

262. Disclosure in representations or communications of pecuniary interest

In any representation or communication which a member may have with other members or with Ministers or servants of the Crown, a member shall disclose any pecuniary interest (of which the member is aware) that the member or a related person (as defined by the resolution for Members' Register of Interests) has in the subject matter of the representation or communication, if such pecuniary interest is significantly greater than the interest held in common with subjects of the Crown or members of the House generally.

History

Since 1974, the House of Commons has required members to declare any relevant pecuniary interest or benefit in any transactions or communications which a member may have with other members or with Ministers or servants of the Crown, whether direct or indirect or whether they were previously declared in any register.

In Queensland in September 1999 the Auditor-General presented an audit report arising out of the alleged interests by a members and a former member in a Bill passed by the House which benefited a private company in which they had shareholdings. In that report the Auditor-General suggested that members should be required to formally declare any interest they may have in a matter about which they are making representations by declaring their interests in correspondence on the matter or in the minutes of any formal meetings in respect of the matter.

The Committee in two reports (MEPPC 43 and 44) tabled in September 2000 considered the Auditor-General's report and essentially agreed with the Auditor-General's recommendation. The Committee noted the 1974 resolution by the House of Commons and suggested a Standing Order - the current SO 262 – which is based upon that resolution. The power of the House to impose this rule in Standing Orders is sourced from s.11(2)(h) of the Parliament of Queensland Act 2001 which gives the House power to make Standing Rules and Orders about the declaration and registration of interests of members and of persons related to members.

Rationale

The Standing Order recognises that the role and functions of a member extend beyond the proceedings in the House and its committees and that often members act as advocates for local issues and other projects, initiatives and law reform. It also recognizes that by virtue of their office, members have preferential access to and potential influence with decision-makers. The Standing Order is designed to ensure, where necessary, a member's pecuniary interest in the matters the subject of representation or communications with Ministers and public officers is declared.

When and how the declaration should be made

It is recognised that there may not always be formal minutes or even notes taken during meetings a member has with Ministers and public officials. (For example, much informal representation occurs.)

It is stressed that the Standing Order places an obligation and responsibility on members to declare their interest. There is no onus on Ministers or public officials to take notes of meetings between Ministers and/or public officials and members or record any declaration made by a member. It therefore follows that the member, to safeguard against any future query about their declaration being made, should make some attempt to record the declaration so that it can be evidenced in the future should the need arise.

The necessity for and form of declaration will largely be determined by the circumstances of the communication or representation and is a matter for the member to assess in the circumstances. The more significant the interest and/or the issue, the higher the onus on the member for a formal record of the declaration.

If minutes are taken, the member may request a note of their declaration in the minutes. After a meeting or conversation, the member may write and confirm the conversation or meeting and note that the declaration was made. Alternatively, the member may make their own file note or diary note of the declaration. (The obvious downside with this approach is it is essentially the member evidencing their own actions.)

If the matter at issue is raised by way of correspondence, the declaration should be noted in the earliest correspondence.

Examples:

A Member writes to the responsible Minister requesting a road alteration that will increase vehicle access to a shopping centre. The Member has a pecuniary interest in a business located in the centre. The Member, in the correspondence, should note their interest in the business located in the shopping centre.

A Member writes to the responsible Minister requesting amendments to trading hours for a particular type of business. The Member has a pecuniary interest in a business of this type. The Member, in the correspondence, should note their interest in the business.

A Member meets with the responsible Minister in the House and has a conversation about trading hours for a particular type of business. The Member has a pecuniary interest in this type of business. The Member should in the conversation with the Minister note their interest in the business. The Member should attempt to evidence their declaration by, preferably, writing a follow-up letter to the Minister. Alternatively, the Member could make a diary note or file note of the conversation and declaration.

EXTRACT FROM THE *PARLIAMENT OF QUEENSLAND ACT 2001*
PART 2—CONTEMPTS, S 37

Part 2 Contempts

37 Meaning of *contempt* of the Assembly

- (1) **Contempt** of the Assembly means a breach or disobedience of the powers, rights or immunities, or a contempt, of the Assembly or its members or committees.
- (2) Conduct, including words, is not contempt of the Assembly unless it amounts, or is intended or likely to amount, to an improper interference with—
 - (a) the free exercise by the Assembly or a committee of its authority or functions; or
 - (b) the free performance by a member of the member's duties as a member.

Examples of contempt—

- 1 assaulting, obstructing or insulting a member—
 - (a) in the member's coming to or going from the Assembly or a meeting of a committee; or
 - (b) anywhere else because of the member's performance of his or her parliamentary duties
- 2 attempting to compel a member by force, insult or menace to take a particular position in relation to a proposition or matter pending, or expected to be brought, before the Assembly or a committee
- 3 sending a threat to a member because of the member's performance of his or her parliamentary duties
- 4 sending a challenge to fight a member
- 5 offering of a bribe to or attempting to bribe a member
- 6 creating or joining in any disturbance in the Assembly or before a committee or in the Assembly's or a committee's vicinity while it is sitting that may interrupt its proceedings
- 7 contravention of section 29(1), 30(1) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)
- 8 preventing or attempting to prevent a person from complying with section 29(1), 30(1) or (4), 31(3), 32(2) or (6), 33(2) or (8) or (4), 31(3), 32(2) or (6), 33(2) or (8) or 69B(1), (2) or (4)
- 9 improperly influencing, or attempting to improperly influence, a person, in relation to any evidence to be given by the person to the Assembly or a committee
- 10 treating a person adversely and without lawful authority, or attempting to do so, because of evidence given by the person to the Assembly or a committee or because of a belief or suspicion about that evidence

GUIDELINES FOR THE USE OF THE LEGISLATIVE ASSEMBLY CREST, EMBLEMS AND OTHER INSIGNIA

- (1) The Legislative Assembly's crest, emblems and other insignia may be used for:
 - letterhead, business cards and other stationery by Members, committees and staff of the Parliamentary Service;
 - advertisements by Members relating to their constituency role, and by committees of the Parliament;
 - internet websites maintained by Members to aid in the discharge of their constituency role;
 - committee reports and papers, publications by the Parliamentary Library and other parliamentary publications; and
 - any other purpose approved by the Speaker.

- (2) The Legislative Assembly's crest, emblems and other insignia of the Parliament must not be used:
 - where there is a risk that their use might wrongly be regarded or represented as having the authority of the Legislative Assembly;
 - on materials or publications which are created and published for overtly political purposes or which contain political advertising (for example, a newsletter containing political advertising); or
 - for any other purpose which may have the effect of bringing the House into odium, contempt or ridicule, or which may compromise the integrity of the Parliament; and

- (3) In determining whether the use of the crest is in accordance with these guidelines, the source of the funding for a publication is irrelevant.

CODE OF CONDUCT FOR ELECTION CANDIDATES

The purpose of the Code is:

- (a) To maintain public confidence in the electoral process by promoting conditions conducive to the conduct of free and fair elections; and
- (b) To provide general guidance to candidates on what is fair and reasonable conduct in elections, thereby ensuring candidates know what is required of them.

The code applies to all candidates for state elections (independents and candidates endorsed by parties).

A “candidate” is any person who is publicly identified as a candidate in a state election, either by the candidate’s party, or through the actions of the person in the case of independent candidates. The Code applies to candidates who are so publicly identified before they are formally nominated as a candidate under the *Electoral Act 1992*.

The Code binds candidates personally, and not their agents. Candidates are expected to make all reasonable efforts to ensure their campaign workers are aware of and observe the standards of conduct set by the Code, and of the public interest in free and fair elections.

How election candidates shall conduct themselves.

Candidates shall conduct themselves and their campaigns so as to maintain and strengthen the public’s trust and confidence in the democratic election process, and promote integrity in our electoral system.

Candidates conduct should be fair and reasonable. This requires that a candidate will:

- (a) Act honestly in making representations about the candidate’s own claims for election, and their intention to represent the electorate.
- (b) Refrain from knowingly acting dishonestly in making representations about the claims of other candidates for election.
- (c) Avoid making public statements which the candidate knows, or ought to know, are untrue, about an opponent’s personal affairs.
- (d) Avoid making vexatious complaints to the Crime and Misconduct Commission against an opponent during a campaign.
- (e) Avoid conduct which is contrary to state or Commonwealth law including but not limited to:
 - Racial and religious vilification offences under the *Anti-Discrimination Act 1991*;
 - Official misconduct under the *Crime and Misconduct Act 2001*;
 - Criminal Code offences; and
 - *Electoral Act 1992* offences.
- (f) Avoid conduct which would tend to compromise a free and fair election process.
- (g) Avoid conflicts of interest arising from advocating election policies or proposals which would specifically deliver a private pecuniary benefit to the candidate and, if the candidate is not a Member of Parliament who has already lodged a pecuniary interests declaration on the Parliamentary Members’ Register of Interests, furnish to the Electoral Commissioner a declaration of the candidate’s pecuniary interests.

The Code is voluntary, with the exception of (e) above, but candidates who do not follow it will risk disfavour in the electorate because they have not followed the Code.

OATH OR AFFIRMATION OF ALLEGIANCE AND OFFICE—EXTRACT CONSTITUTION OF QUEENSLAND

Schedule 1 Oaths and affirmations**Oath or affirmation of allegiance and of office—member of the Legislative Assembly**

I, *(name)*, do sincerely promise and swear (*or, for an affirmation—do sincerely promise and affirm*) that

I will be faithful and bear true Allegiance to Her (*or His*) Majesty (*name of Sovereign*) as lawful Sovereign of Australia and to Her (*or His*) heirs and successors, according to law; and

I will well and truly serve the people of Queensland and faithfully perform the duties and responsibilities of a member of the Legislative Assembly to the best of my ability and according to law.

So help me God! (*or omitted for an affirmation*).