

# Operation Watts

## Progress report

September 2023

 **ibac** independent broad-based  
anti-corruption commission

Victoria

**VICTORIAN**ombudsman

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## Letter of transmittal

To

The Honourable President of the Legislative Council

and

The Honourable Speaker of the Legislative Assembly

In accordance with section 162(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act) and sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), we present IBAC and the VO's joint Operation Watts Progress report, on the Government's progress implementing the Recommendations from Operations Watts.

Yours sincerely



**Stephen Farrow**  
Acting Commissioner



**Deborah Glass OBE**  
Ombudsman

## Introduction

1. Operation Watts was the first joint investigation ever conducted by IBAC and the Victorian Ombudsman. It was an investigation into how branch stacking in the Victorian branch of the Australian Labor Party (ALP) resulted in the alleged misuse of public funds for party political purposes, and subversion of parliamentary standards and processes.
2. The investigation commenced in June 2020 after IBAC received confidential information about possible corruption, and media reports exposed widespread branch stacking by the Moderate Labor faction of the ALP. The Attorney-General referred the issues to IBAC for investigation, and the Legislative Council also made a referral to the Victorian Ombudsman. Using the powers in their respective Acts, IBAC and the Ombudsman decided to conduct a joint investigation.
3. After extensive investigation, including public and private hearings, the Operation Watts report was tabled in the Victorian Parliament on 20 July 2022. The evidence uncovered by the investigation painted a compelling picture of patronage: of jobs on the public purse according to factional loyalty and as rewards for bringing in 'the numbers', and widespread misuse of public resources for political purposes. The report illustrated a catalogue of unethical and inappropriate behaviour and concerning practices, and the environment in which such behaviour was able to flourish. They ranged from bullying, to the hiring of unqualified people into publicly funded roles, using those roles to undertake factional work, rampant nepotism, forging signatures, and attempts to interfere with government grants to favour factionally aligned community organisations – who, in some cases, failed to use the funds as intended.
4. The Operation Watts report made 21 recommendations for reform aimed at preventing such improper conduct from occurring again. The government accepted all 21 recommendations on the day the report was released. It followed up with its commitment by allocating \$8.52 million over four years to support the Department of Parliamentary Services (DPS) to implement the recommendations that related to the operation of Parliament. IBAC and the Ombudsman were also advised that a team within the Department of Premier and Cabinet (DPC) had been tasked with drafting the necessary legislation to implement the recommendations.
5. The report noted that the proposed changes could reasonably be fully implemented by June 2024, which the report explained was a date chosen on the basis that the necessary legislation would have been passed by December 2023. Recommendation 5 explicitly includes a deadline of June 2024 for the commencement of legislation. The timeline was calculated by reference to:
  - the usual time that might be expected for legislation establishing two new public integrity bodies such as the Parliamentary Ethics Committee and the Parliamentary Integrity Commissioner to be introduced and passed.
  - a period of at least six months between passage of the legislation and its commencement, during which time the new bodies would be established. The Commissioner would be recruited and be in post with sufficient time to select staff, secure premises and establish new systems and processes ready for business by June 2024.

We note that less than six weeks remain in the parliamentary sitting calendar for 2023.

6. IBAC and the Ombudsman have met with representatives from DPC and DPS twice since the release of the report to discuss progress on the implementation of the recommendations. A table of the reported progress is at **Attachment 1**.
7. We welcome the government's acceptance of our recommendations and the steps taken to date to ensure that their implementation effectively addresses the integrity risks highlighted by Operation Watts. This progress report sets out IBAC and the Ombudsman's consideration of the government's progress to date and highlights the need for prompt reform.
10. In 2019, the government introduced a range of legislative amendments in response to the Ombudsman's Red Shirts report. However, the expanded MPs' Code of Conduct introduced by the amendments did not provide for any new ways to deal with alleged breaches of the Code. It did not provide for any committee to oversee the Code's operation, as occurs in other jurisdictions, or for an entity to investigate alleged breaches in a timely and effective way. By default, breaches were to remain the responsibility of each House's Privileges Committee.
11. Neither committee has demonstrated a willingness to discipline errant MPs over the past 50 years because of the domination of the committees by members from the majority party in each House. We note that neither House of Parliament referred any of the MPs subject to adverse findings in our report to their respective Privileges Committees upon its publication.

## The Operation Watts Findings and Recommendations

### Parliamentary accountability

8. The investigation found that existing parliamentary standards and the absence of accountability permitted those MPs disposed to engage in improper practices to pursue factional objectives with impunity. Above all, the Watts report criticised the legislative framework that provides few, if any, consequences for abusing public resources and that allows such conduct to continue unchecked.
9. IBAC and the Ombudsman were unable to conclude that the commission of a criminal offence had been established. The improper conduct was not clearly captured by any existing statutory provision or the common law offence of misconduct in public office. There was also a weak legislative framework around the employment of electorate officers and the use of electoral allowances. Because of those deficiencies, the conduct became a matter for the Privileges Committees of each House to decide whether the named MPs had wilfully brought discredit upon Parliament.
12. The Watts report commented that Victoria had become a laggard rather than a leader in matters of parliamentary integrity. To address the shortcomings identified through our investigation, it recommended that:
  - a joint Parliamentary Ethics Committee be established to be responsible for monitoring and reviewing the operation of the MPs' Code of Conduct and other ethical obligations, as well as providing training and guidance.
  - an independent Parliamentary Integrity Commissioner be established to investigate allegations of non-criminal misconduct by MPs and to make recommendations to the relevant Privileges Committee about appropriate sanctions for serious breaches of the Code of Conduct.
  - the Privileges Committees be reformed to dilute the capacity of the majority in each House to determine priorities and decision-making.

## Misuse of parliamentary and ministerial staff

13. Electorate officers are employed to assist an MP to represent their constituents and with their parliamentary duties. Operation Watts found that electorate officers employed by some Moderate Labor faction MPs were being used to conduct factional business, such as recruiting new party members and organising the takeover of branches aligned with other factions. Jobs were offered to factional members or their relatives and associates without any sort of merit-based recruitment process. Similar abuses occurred in relation to the employment of ministerial advisers by some Moderate Labor ministers. The advisers were often tasked with undertaking factional work rather than work relating to their ministers' portfolios.
14. IBAC and the Ombudsman noted the minimal impact of the 2019 legislative reforms. While the amendments had clarified that electorate officers should not engage in political campaigning, they did not prevent some Moderate Labor MPs from arguing that party political administrative work by electorate officers was still permissible.
15. The Operation Watts report recommended clarification of the *Parliamentary Administration Act 2005* (Vic) (PAA 2005) to ensure that party political administrative work was included in the definition of prohibited political activities by electorate officers, and that a criminal offence be created for MPs who directed or allowed such activities to occur. Similar prohibitions and offences were recommended for ministers and their staff.
16. Another key recommendation was a prohibition on the employment of close family members by MPs. The report also recommended that DPS, which is responsible for the overall employment and management of electorate staff, should be strengthened and play a more active role in the management of such staff to ensure that public funds were being used efficiently and effectively for their intended purpose.

17. The report also contained recommendations that were associated with or consequential to the main recommendations described above.

## Managing conflicts of interest in the awarding of community grants

18. IBAC and the Ombudsman also investigated possible conflicts of interest that might have existed in relation to ministers or their staff and the awarding of grants to three community organisations that were closely linked to members of the Moderate Labor faction. A number of irregularities were identified in the report that led to recommendations to strengthen conflict of interest rules and guidance for ministers and their staff, and to improve grants management rules for funding agencies.

## Current status of the recommendations

19. IBAC and the Ombudsman continue to monitor the implementation of the Watts report recommendations. We welcome the government's prompt acceptance of the recommendations and the allocation of additional funding to Parliament for the cost of implementing the recommendations relevant to it. We also recognise that many of our recommendations directly intersect with the recommendations that IBAC recently made in its Operation Daintree special report, tabled in Parliament on 19 April 2023.
20. While it is important that the government diligently considers how to best implement our recommendations, we stress that many of the integrity risks exposed by Operation Watts require timely treatments and that careful consideration be given to the intent of our recommendations.

## Introducing legislation to establish the Parliamentary Ethics Committee and Integrity Commissioner

21. More than a year has elapsed since our recommendations to establish a Parliamentary Ethics Committee and the Parliamentary Integrity Commissioner were accepted. DPC has assured us that the enabling legislation is being worked on, but it has not yet indicated a timeframe for its introduction to Parliament beyond reiterating the government's commitment to implement key reforms by June 2024.
22. The effectiveness of the Parliamentary Ethics Committee and the Parliamentary Integrity Commissioner will also depend on how their structure and processes are detailed. We would welcome the opportunity to be consulted on the provisions of any draft Bill but note this has not yet occurred. We note that the Premier undertook in October 2022 to consult with MPs from all parties in 2023, which to our knowledge has also not yet occurred.
23. Given the usual timeframe for the creation of new statutory bodies and the commitments set out above, it seems unlikely the government will meet its deadline. A public update on the likely introduction of this legislation would help to reassure the community of the government's commitment to supporting parliamentary integrity and accountability.

## Reform and role of the Privileges Committees and the Parliamentary Integrity Adviser

24. DPC has identified Recommendations 3 (Reform and role of the Privileges Committees) and 4 (Continuing role of the Parliamentary Integrity Adviser) as being matters for Parliamentary consideration.
  25. Apart from the broader issue of the composition of the Privileges Committees, most of Recommendation 3 is dependent on the content of the legislation to create the Parliamentary Ethics Committee and Parliamentary Integrity Commissioner. Accordingly, we continue to consider Recommendation 3 to be a matter for government to progress through Parliament.
  26. In respect of Recommendation 4, we note that a new Parliamentary Integrity Adviser was appointed on 31 July 2023 after an open and competitive recruitment process and that the definition of his role and duties have been particularised in greater detail.
- ## Broadening the prohibition on electorate officers performing party-specific activities
27. Clarification of the prohibition in section 30 of the PAA 2005 to expressly exclude party specific administrative activities from the work able to be undertaken by electorate officers was at the core of the Watts report. DPC has provided an assurance that this issue is being considered, and referred to a comment in the body of the report that the proposed Ethics Committee could provide advice on the scope of the ban.
  28. IBAC and the Ombudsman consider that this change is a matter of urgency. The establishment of the Ethics Committee does not need to delay the government closing this clear regulatory gap. Without timely action, the risk of similar misconduct reoccurring remains.
  29. IBAC and the Ombudsman clarify that our comment in the Watts report was intended to illustrate the potentially useful role of an Ethics Committee (and the Parliamentary Integrity Commissioner). For instance, by providing guidance on a case by case basis to clear up related questions that might arise in the future. This potential role, however, does not impede timely action to address and shut down arguments that were used to justify clearly improper conduct.

30. It is unclear if the government considers the amendments to section 30 to be one of the 'key reforms' it will implement by June 2024. Our view is that such amendments are essential for improving Victoria's system of parliamentary integrity. The reforms are also urgent, given the long history of MPs' using this regulatory gap to divert public funds for party political purposes.
31. The November 2022 Presiding Officers' foreword to the Electorate Officers' Code of Conduct reflects the current definition of party specific activities in section 30 of the PAA 2005: that is, campaigning activities "directed for the dominant purpose of directing how a person should vote at an election."
32. That narrow definition is also reflected in other material for electorate officers, such as position descriptions.
33. As IBAC and the Ombudsman explained in the Watts report, MPs are already subject to wider obligations under various Acts and the MPs' Code of Conduct that prevent them from using publicly funded staff for party specific administrative activities.
34. We acknowledge that the general guidance to MPs on the Member's intranet gives as an example of party-specific work (reflecting the text of the 2018 Members Guide):
 

"The administration, organisation or management of a political party, or equivalent for an independent Member, such as managing the party's membership, communications, funds or property".
35. The induction process and mandatory training for electorate officers now includes a link to the IBAC website and reference to the Operation Watts recommendations, as well as reports from other jurisdictions covering issues of integrity and the misuse of public funds.

## Prohibiting the employment of close family members by MPs

36. IBAC and the Ombudsman reiterate the importance of implementing our recommendation to prohibit MPs from employing close family friends. Allowing MPs to provide jobs for relatives creates an environment ripe for the misuse of public funds. This is not an acceptable situation. As the report stated:
 

"Providing jobs for relatives using public funds is a particularly egregious example...and should be prohibited."
37. DPC advises that this recommendation has been allocated to the Parliament and DPS for implementation. DPS advises that it has:
 

"focused on creating greater awareness for Members and electorate officers of perceived and actual conflicts of interest related to private relationships including familial relationships, and to support Members who declare a perceived or actual conflict of interest."
38. While the activities described above may not be the extent of the government's intended efforts to implement this recommendation, we have not seen progress towards a clear prohibition. This is required if the government is to implement all the report's recommendations.
39. The Presiding Officers' response to this issue was that:
 

"Whilst [steps taken to facilitate the process of declaring and managing conflicts of interest] applies broadly to a range of conflicts members may encounter in their roles, a particular focus of this change has been to promote awareness among Members of where perceived and/or actual conflicts of interest might exist in the context of close private relationships, including familial relationships.

We consider that this is an appropriate measure and that for Parliament to adopt potentially discriminatory employment practices may require legislative intervention.



## Recruitment and training of electorate officers

40. We acknowledge the extensive work that has been undertaken by DPS to improve the recruitment, training and management of electorate officers as a result of the Watts report and the funding subsequently provided by the government. Much of this work is documented in Attachment 1.
41. The ad hoc employment arrangements that allowed the abuse of electorate officer roles to occur are being overhauled by a program of activities to align DPS's electorate officer employment frameworks with the commonly accepted indicia of good employment practices, including merit-based appointments, and an active training and professional development. Some new MPs have expressed their appreciation for DPS's efforts in speeches to Parliament.
42. While only a small number of MPs have as yet availed themselves of the assistance offered by DPS, we hope that increasing numbers will do so as they become aware of the advantages of having a more professionalised workforce working for them.
43. Recommendation 12 of the Watts report recommended mandatory advertising of electorate officer positions by DPS. We note that DPS advises that regardless of whether an MP uses the DPS recruitment service, all successful candidates for a role are subject to a mandatory confirmation interview with DPS that allows it to confirm the person understands the role, terms and conditions of employment and is overall suitable for the role.
44. The optional use of DPS's recruitment services has allowed DPS and MPs to develop new processes that can demonstrate their value without projecting the pressure of compulsion onto MPs. We would, however, be concerned if the uptake of DPS services did not continue to increase. We encourage the Presiding Officers and other parliamentary leaders to take the initiative in conveying an expectation that MPs should use the new recruitment services.

## Conclusion

45. We acknowledge the work that has been undertaken by DPC and DPS to date on implementing the recommendations, and which is summarised in Attachment 1. Given the gravity and volume of misconduct that we catalogued in the Watts report, we do impress upon the government the importance of implementing our recommendations in full and without delay. As the report said at the time:

*"Trust in our politicians is declining and will decline further if real action is not taken. Such action must include the clearest standards reflected unambiguously in codes of conduct, effective controls, and the cultural alignment to support those standards and controls."*

# Responses to the Recommendations – as at 31 August 2023

## Recommendation 1 – Establishing a Parliamentary Ethics Committee

That:

- (a) the government and the parliament work together to establish a Parliamentary Ethics Committee that would:
  - (i) monitor the effectiveness of the Statement of Values and Code of Conduct in the *Members of Parliament (Standards) Act 1978* and other ethical obligations imposed on MPs
  - (ii) promote and provide training and information about the Statement of Values and Code of Conduct, in the parliament and in the general community
  - (iii) prepare guidance materials on the Statement of Values and Code of Conduct
  - (iv) work with the Parliamentary Integrity Commissioner in carrying out its functions and receiving reports about ethical standards
  - (v) review the Statement of Values and Code of Conduct at least once every four years.
- (b) the Parliamentary Ethics Committee should be a Joint House Committee composed of equal numbers of members from the Legislative Assembly and Legislative Council and be established by amendment to the *Parliamentary Committees Act 2003*. Consideration should be given to including some members from each of the parliamentary privileges committees.
- (c) the government and parliament should consider for inclusion in the Parliamentary Ethics Committee's role and composition:
  - a requirement to consult the public when undertaking reviews
  - a power to appoint members of the public to assist it with its work, or specify a fixed number of members of the public to be Committee members
  - appointment of a non-government member as the chair of the Committee
  - a power for the Committee to undertake related integrity roles as may be requested, such as in relation to codes of conduct for ministers, ministerial advisors and electorate officers, or a parliamentary bullying and harassment protocol.

## Response

### Premier:

#### Media Release - 20 July 2022

- Government will support and implement all 21 recommendations
- Government will establish a Parliamentary Integrity Commissioner and work with Parliament – including representatives of Opposition and Crossbench – to establish a joint Parliamentary Ethics Committee comprised of equal numbers of members from the Legislative Assembly and Legislative Council
- MPs will be banned from employing close family members in their electorate offices
- “...we’re going to implement all of the recommendations – and go beyond them.”

#### Media Release - 12 October 2022 (in response to release of the IBAC report on donations and lobbying)

- Reiterates government commitment to all 21 Watts recommendations.
- Allocation of \$8.52m to DPS for implementation of Watts recommendations relating to Parliament
- Work is underway to draft new legislation to establish the Parliamentary Integrity Commissioner and Joint Parliamentary Ethics Committee and the Government will consult with MPs from all parties on the reforms next year.

### DPC:

#### Work underway

- Work is underway to draft legislation to establish the Parliamentary Ethics Committee (Ethics Committee).
- The Government is working with Parliament and will consult with relevant stakeholders as appropriate.
- The Government is further considering:
  - o the matters suggested in the recommendation
  - o the roles and responsibilities of the Ethics Committee and how it relates to both existing entities (such as the Parliamentary Integrity Adviser (PIA)) and new entities (such as the Parliamentary Integrity Commission (PIC)) in Victoria’s parliamentary standards and integrity regime, to ensure integrated accountability arrangements.

<b>By June 2023</b>	Undertake consultation and finalise policy positions
<b>By December 2023</b>	Draft, introduce and pass legislation
<b>By June 2024</b>	Establish new entities for commencement

## Recommendation 2 – Establishing a Parliamentary Integrity Commissioner

That:

- (a) the government and the parliament work together to establish a Parliamentary Integrity Commissioner as an independent officer of the parliament who would:
  - (i) receive and investigate complaints about possible non-criminal breaches of the Members of Parliament Code of Conduct in the *Members of Parliament (Standards) Act 1978* and other standards and rules relevant to parliamentary integrity
  - (ii) submit reports on investigations to the privileges committee of the relevant House for consideration and action where required, including recommendations on appropriate sanctions for a serious breach of the Members of Parliament Code of Conduct or other integrity rule or standard
  - (iii) monitor the effectiveness of the Statement of Values and Code of Conduct in the Members of Parliament (Standards) Act 1978 and other ethical obligations imposed on members of parliament
  - (iv) promote and provide training and information about the Statement of Values and Code of Conduct, in the parliament and the general community, in collaboration with the Parliamentary Ethics Committee
  - (v) help the Parliamentary Ethics Committee prepare guidance materials on the Statement of Values and Code of Conduct and review the Statement of Values and Code of Conduct at least once every four years
  - (vi) undertake other integrity-related functions allocated to them by the government or parliament.
- (b) the Parliamentary Integrity Commissioner be established by legislation and be appointed by or upon the recommendation of a cross-party parliamentary panel with members from both Houses selected for that purpose
- (c) the term of appointment be for more than four years and that there be narrowly defined criteria for dismissal upon a recommendation from the proposed Parliamentary Ethics Committee
- (d) the processes and sanctions available to the Parliamentary Integrity Commissioner be fair, efficient and proportionate to the nature of the alleged breach
- (e) the Parliamentary Integrity Commissioner have the powers and resources necessary to carry out their functions, including a power to apply sanctions by consent where a member of parliament acknowledges a breach of a minor nature, such as requiring an apology or a binding undertaking.

## Response

### DPC:

#### Work underway

- Work is underway to draft legislation to establish the PIC.
- Consistent with the Watts Report, the PIC is intended to provide independent and effective oversight of Members of Parliament (MPs).
- The Bill will incorporate the Government's additional commitment to allow the PIC to investigate inappropriate workplace behaviour by MPs.
- The Government is giving close consideration to the matters recommended and suggested in the Watts Report, including fair, efficient and proportionate processes.
- As suggested in the Watts Report, the Government is considering other matters as appropriate (e.g. investigative powers, and provisions to ensure transparency).
- The Government is working with Parliament and will consult with relevant stakeholders as appropriate.
- As with recommendation 1, the Government is further considering the roles and responsibilities of the PIC and how it relates to both existing entities (such as the PIA) and new entities (such as the Ethics Committee) in Victoria's parliamentary standards and integrity regime, to ensure integrated accountability arrangements.

## Recommendation 3 – Role of the Privileges Committees

That:

- (a) the privileges committees of each House be reformed to dilute the capacity of the majority in each House to determine the privileges committees' priorities and decision making
- (b) the privileges committee for the relevant House should receive the report of a Parliamentary Integrity Commissioner's investigation, provide the relevant MP with an opportunity to respond to it, and table the report in the House together with the privileges committee's comments and recommendations, within a fixed time of receiving the report
- (c) if the privileges committee disagrees with all or some of the Parliamentary Integrity Commissioner's recommendations, it must provide a comprehensive explanation of its reasons when tabling the Parliamentary Integrity Commissioner's report
- (d) the relevant House should vote within a fixed time of the tabling of the Parliamentary Integrity Commissioner's report to support or reject all or some of the Parliamentary Integrity Commissioner's or privileges committee's recommendations, but should not be permitted to amend them.

### Response

**DPC:**

This recommendation is a matter to be considered by Parliament.

## Recommendation 4 – Role of the Parliamentary Integrity Adviser (PIA)

That the Parliamentary Integrity Adviser continue to provide confidential advice to members of parliament on integrity and ethical issues and help the Parliamentary Integrity Commissioner and Parliamentary Ethics Committee with information and training activities.

### Response

**DPC:**

This recommendation is a matter to be considered by Parliament.

## Recommendation 5 – Commitment to establish a Parliamentary Ethics Committee and Parliamentary Integrity Commissioner

That whichever party or parties form government after the November 2022 state election commit to introducing and commencing the legislation to establish the Parliamentary Ethics Committee and Parliamentary Integrity Commissioner as recommended in this report, by June 2024.

### Response

**DPC:**

#### **Acquitted**

The Government committed to establishing the Ethics Committee and the PIC by June 2024 (<https://www.premier.vic.gov.au/sweeping-integrity-reforms-victoria>).

As noted above, work is underway to draft legislation to establish the Ethics Committee and the PIC.

## Recommendation 6 – Role of Parliamentary Ethics Committee and Parliamentary Integrity Commissioner

That the work of the Parliamentary Ethics Committee and Parliamentary Integrity Commissioner to promote an ethical culture in parliament:

- (a) involve and be actively supported by the leaders of all political parties represented in the parliament, as well as by the presiding officers
- (b) focus closely on the role of leadership in fostering ethical practices
- (c) reinforce respect and support for the institution of parliament
- (d) create strong links with the community and community groups.

### Response

**DPC:**

#### **Work underway**

- As noted above, work is underway to draft legislation to establish the Ethics Committee and the PIC.
- The Government is working with Parliament and will consult with relevant stakeholders where appropriate.
- It is intended that establishing these bodies, and the Government's broader response to Operation Watts, will promote an ethical culture in Parliament, noting that once the reforms are implemented, this recommendation will also be a matter for Parliament and political parties.

## Recommendation 7 – Broader prohibition on party-specific activities for Electorate Officers

That the definition of prohibited party-specific activities in section 30 of the *Parliamentary Administration Act 2005* be amended to include activities undertaken for the predominant purpose of helping the administration, organisation or management of a political party, including the recruitment and maintenance of party members.

### Response

**DPC:**

**Work underway**

The Government is giving consideration to this recommendation, noting that the Watts Report suggested that the Ethics Committee could provide advice on the scope of “party-specific activities”.

## Recommendation 8 – New offence for MPs who allow staff to undertake party-specific activities

That:

- a) an offence be created that provides that a member of parliament who directs or allows a person to undertake party-specific activities while that person is employed to help the member of parliament discharge their public duties is guilty of an offence.
- b) the government in formulating the offence and the penalty should take account of:
  - the degree of a member of parliament’s intent or recklessness in directing or allowing the employee to undertake such activities
  - activities where it is difficult to separate the party-political aspect of the work from the normal duties of an electorate officer’s role, such as attendance at a community-organised event with the member of parliament
  - unavoidable and reasonable communication with a party’s head office or local branch on minor or incidental matters.

### Response

**DPC:**

**Work underway**

The Government is giving consideration to this recommendation, noting that the Watts Report suggested that the Ethics Committee could provide advice on the scope of “party-specific activities”.



## Recommendation 9 – Review and publication of Electorate Officer Code of Conduct (EO Code)

That:

- a) the proposed Parliamentary Ethics Committee and Parliamentary Integrity Commissioner review the Electorate Officers Code of Conduct, to make it more relevant to the actual responsibilities of the electorate officer role and to explicitly prohibit party-specific work from being undertaken during an electorate officer's employment
- b) the Code of Conduct be publicly available.

### Response

#### DPS:

Ahead of the establishment of a Parliamentary Ethics Committee and Parliamentary Integrity Commissioner (which will require legislation) that may jointly lead to a full review of the Code, the Presiding Officers' foreword within the Code was re-written to include:

- an explicit statement that electorate officers are not to perform party specific activities, with reference to Section 30 of the Parliamentary Administration Act 2005
- a statement of intent for future engagement with electorate officers on a review of the Code, during the life of the 60th Parliament.

The Code, with updated Presiding Officers' foreword, has been published on a new Electorate Officer Careers page on the Parliament of Victoria website (refer to progress on Recommendation 12).

In addition, the following e-learning programs for electorate officers were updated to enhance awareness and understanding of party-specific activities and added to the induction program for new electorate officers.

- Electorate Officer Code of Conduct e-learning module
- Electorate Officer Workplace Behaviour e-learning module
- Electorate Officer Obligations & Party Specific Activity e-learning module

These three modules are mandatory training requirements for electorate officers to complete during their probation period.

The Electorate Officer Obligations & Party Specific Activity e-learning program was distributed to electorate officers in October 2022. As at 28 February 2023, 99 electorate officers have completed at least one of the eLearning modules introduced in October 2022.

The following eLearning programs were also provided to Members to support them in their role as direct supervisors of electorate officers. Programs formed part of the new Member onboarding and induction program for Members elected in the 2022 Victorian election:

- Electorate Officer Obligations & Understanding Party Specific Behaviour
- Code of Conduct for Electorate Officers
- Respectful Workplace Behaviour for Electorate Officers

## Recommendation 10 – Prohibition on employment of family members as electorate officers

That:

- a) members of parliament be prohibited from employing close family members in their electorate office
- b) the government and parliament consider whether this prohibition should extend to a member of parliament employing a close family member of another member of parliament from the same political party.

### Response

#### DPS:

DPS has focused on creating greater awareness for Members and electorate officers of perceived and actual conflicts of interest related to private relationships including familial relationships, and to support Members who declare a perceived or actual conflict of interest.

From December 2022:

- Members are required to declare perceived or actual conflicts of interest during the electorate officer recruitment process or when requesting the appointment of a candidate to an electorate officer position.
- Where a Member has indicated a perceived or actual conflict of interest with the employment of an electorate officer, DPS will assist the Member to manage conflict risks with a written management plan.

## **Recommendation 11 – Role of Department of Parliamentary Services**

That, to strengthen the capacity of the Department of Parliamentary Services to perform its role efficiently and effectively:

- a) the Secretary of the Department of Parliamentary Services be the employer of electorate office staff in their capacity as Secretary of Department of Parliamentary Services, not as a delegate of the presiding officers
- b) the contractual term for the Secretary of the Department of Parliamentary Services be made significantly longer than the duration of a parliamentary term.

### **Response**

#### **Work underway**

- Work is underway to develop legislation required to acquit this recommendation.
- The Government is consulting with Parliament and DPS on the reform as appropriate, including considering implications for EOs.

## Recommendation 12 – Recruitment processes for Electorate Officers

That the presiding officers and the Department of Parliamentary Services review the processes for recruiting and selecting electorate office staff, to promote a more competitive, open and merit-based process. Possible topics for the review include:

- a) reviewing the standard position description for electorate officers, and including an explicit statement prohibiting the successful applicant from engaging in party-specific activities
- b) requiring all non-casual roles to be advertised by the Department of Parliamentary Services. The Department of Parliamentary Services would receive all applications and forward them to the member of parliament. The desirable level of involvement by the Department of Parliamentary Services in helping a member of parliament appoint an electorate officer could be considered, for example, in respect of whether a departmental employee should sit on a selection panel, either in all cases or upon request
- c) requiring a member of parliament, when nominating an applicant for a job as an electorate officer, to provide the Department of Parliamentary Services with a selection report demonstrating the suitability and preferability of the successful applicant compared with other applicants and advising the Department of Parliamentary Services of the reasons for employing a casual electorate officer.

## Response

### DPS:

The Victorian election, with subsequent onboarding of new Members and the recruitment and selection of new electorate officers, provided an opportunity to enhance existing DPS processes to better align with the intent of Recommendation 12. The following initiatives have been implemented:

- a new intranet was launched specifically for Members and electorate officers. This improved the delivery and accessibility of information including the process and support available to assist Members in the engagement of electorate officers. New e-forms were also introduced to streamline and improve the administrative process for Members seeking to recruit an electorate officer.
- employment of electorate officer guidance material was reviewed and updated. The benefits of a competitive, open and merit-based process promoted with Members via formal communication channels and guidance documents.
- design of a DPS facilitated end-to-end recruitment service including job advertisement, candidate management and interview panel. This service is available to Members on an opt-in basis and Members can select to have DPS involved at all or any of the stages of the process.
- the addition of an electorate officer careers page on the Victorian Parliament's website, providing information about the role of an electorate officer, electorate officer values, the Code of Conduct, and links to open electorate officer vacancies. The Electorate Officer Careers site landing page has received 352 unique visitors in the two months since launch.

- Introduction of candidate capability assessments including
  - Competency assessment – a behavioural-based online psychometric assessment
  - Digital literacy
  - In-tray activities
  - Abstract Reasoning
- Introduction of mandatory candidate assessments and checks
  - Mandatory DPS confirmation interview – a brief interview to confirm the candidate’s understanding of the electorate officer role, employment terms and conditions, including the prohibition on party specific activities. This interview is also used to follow up on potential development areas identified through the capability assessments.
  - Police Check
  - Working with Children Check

Part 12 a)

The standard position description for Electorate Offices has been updated to include an explicit statement on prohibited party specific activity with reference to the Parliamentary Administration Act 2005. The updated position description has been issued to electorate officers who commenced from December 2022 onwards. A standard position description has been prepared for each grade of electorate officer. The position descriptions are published on the Members’ Intranet.

Part 12 b)

A mandatory requirement to advertise all non-casual electorate officers has been considered. At this time the opt-in end-to-end DPS facilitated recruitment service has been implemented and is available to Members for all electorate officer sourcing requirements. The end-to end process includes DPS support for the advertisement of vacancies on all relevant job boards, applicant shortlisting, and DPS participation on interview panels. Since the introduction of this service, 26 non-casual vacancies were advertised by DPS on behalf of Members, representing approx. 11% of all non-casual vacancies in that period.

Regardless of the process undertaken, a mandatory confirmation interview with DPS is held which provides an opportunity for DPS to confirm the proposed electorate officer understands the role, terms and conditions of employment and is overall suitable for the role.

Part 12 c)

The revised process for nomination of a person to be employed as an electorate officer requires the nominating Member to complete a Selection Recommendation form providing their assessment of the candidate’s skills and capabilities as required for the role of an electorate officer.

The mandatory DPS confirmation interview provides an opportunity for DPS to confirm the proposed electorate officer understands the role, terms and conditions of employment and is overall suitable for the role

## Recommendation 13 – Supervision of EOs

That:

- (a) the presiding officers and the Department of Parliamentary Services review the arrangements for managing and supervising electorate officers, to ensure that:
  - (i) electorate officers' work is undertaken within the limits of their role
  - (ii) electorate officers are competently and effectively supervised
  - (iii) electorate officers receive all the legal protections that they are entitled to
  - (iv) electorate officers are given learning and development opportunities to develop their skills
- (b) the Department of Parliamentary Services take a more active role in implementing the new arrangements described in (a).

### Response

#### DPS:

Part 13 a) i)

While the responsibilities of an electorate officer vary depending on the needs of the Member and the operations of the electorate office, DPS has reviewed what would be considered typical duties for this role and ensured clear distinction for each of the electorate officer grades 1-3. This information has been included as indicative responsibilities into a separate position description for each grade of electorate officer.

All position descriptions also contain an explicit statement that pursuant to section 30(5) of the Parliamentary Administration Act 2005, Electorate Officers are prohibited from performing 'party-specific activity' during their employment.

Proposed electorate officers are provided with a copy of the relevant position description with the offer of employment. DPS has developed a suite of e-learning programs which electorate officers must complete during their probation period. These include:

- Electorate Officer Code of Conduct e-learning module
- Electorate Officer Workplace Behaviour e-learning module
- Electorate Officer Obligations & Party Specific Activity e-learning module

Part 13 a) ii)

The face-to-face induction program for new Members following the 2022 state election included a presentation session on the Parliamentary Workplace which outlined Members' responsibilities under the Occupational Health and Safety Act 2004 as people in control of a workplace (electorate office). This session also included information on employer obligations pursuant to the Sex Discrimination and Fair Work (Respect at Work) Amendment Act 2021.

New Members were also provided with a number of eLearning programs to support them in their role as direct supervisors of electorate officers. Programs formed part of the new Member onboarding and induction program for Members elected in the 2022 Victorian election and included:

- Code of Conduct for Electorate Officers
- Respectful Workplace Behaviour for Electorate Officers
- Work Health & Safety for Electorate Officers

In addition, the extension of the HR partnering model to Members will increase the presence of and access to the DPS People & Capability team, who can support Members and senior electorate officers to effectively manage and develop electorate officer team members.

Part 13 a) iii)

DPS will support Members and electorate officers to develop greater awareness and a deeper understanding of employer obligations and employee entitlements through:

- an Electorate Officer OHS Consultative Committee
- planned introduction of First Aid Officers across the electorate offices in Victoria
- strengthened relationships with their HR business partner
- compliance-based learning programs
- clarity on all pathways available to electorate officers for support, grievances or complaints

Part 13 a) iv)

DPS recognises the critical role electorate officers play in the effective functioning of the institution of Parliament. As with any profession, ongoing professional development for electorate officers is vital to enable them to effectively manage the breadth and challenges of the role. Initiatives implemented to date include:

- Enhanced induction program
- Review of all compliance-based eLearning programs
- Extension of existing DPS learning offerings to Electorate Officers

Looking forward, DPS has increased resourcing within its Learning & Capability team to enable the extension of existing learning programs currently offered to parliamentary officers, and the creation of innovative new learning opportunities that will develop the critical skills and capabilities required of an electorate officer. Initiatives underway include:

- development of an electorate officer capability framework
- design and launch of a 2023 learning program
- an inaugural electorate officer conference (expected to be an annual activity)

The inaugural Conference was held at Parliament House on 18th to 19th July 2023 and was designed and delivered by the DPS Learning & Capability team. The theme 'Recognising your role in supporting Parliament' informed the topics and speakers selected, with a focus on providing Electorate Officers with tools and insights to effectively manage the breadth and challenges of this important support role. This included sessions focusing on developing confidence and professionalism in challenging situations, leadership, cyber safety, connection, mental health, and engagement. The conference was attended by 122 Electorate Officers with a reasonably balanced representation of regional (40 percent) and metropolitan electorates (60 percent).

Part 13 b)

DPS has taken an active role in the implementation of all relevant recommendations. In addition to the proactive identification, design and implementation of cultural, system and process-related initiatives DPS has made several internal changes, building the capacity in the People & Capability team to enable greater service levels for Members and electorate officers including:

- establishment of a central program governance and change management approach
- implementation of a People & Capability Business Partner model to provide greater support through more frequent contact with Members and electorate officers
- engagement of specialist learning & capability resources

## Recommendation 14 – Review of Department of Parliamentary Services audit program

That the presiding officers, the Department of Parliamentary Services and the Department of Parliamentary Services Audit Committee review the Department of Parliamentary Services audit program in light of this investigation's findings, to refine their approach to risk identification and the choice of issues and business operations that should be audited.

### Response

**DPS:**

The DPS audit program is reviewed on an annual basis. The recommendations, relevant to DPS, arising from Operation Watts will be considered in the 2023-24 audit workplan. Implementation of Operation Watts recommendations is a standing agenda item at Audit Committee meetings.

## Recommendation 15 – Alternative mechanism for making public interest disclosures

That section 17 of the *Public Interests Disclosures Act 2012* be reviewed to open up an alternative course for a person who has reasonable grounds for not wishing to lodge a complaint with a presiding officer.

### Response

**DPC:**

**Work underway**

- Work is underway to draft legislation to establish an alternative mechanism for making public interest disclosures about MPs.
- The Government is working with Parliament and will consult with stakeholders as appropriate.



## **Recommendation 16 – Updating Ministerial Code of Conduct (Ministerial Code)**

That the Ministerial Code of Conduct be amended to clarify that ministers must ensure that the public resources made available for performing their duties are not used for party-specific purposes.

### **Response**

**DPC:**

**Work underway**

The Government is progressing work on an updated Ministerial Code that implements this recommendation.

## **Recommendation 17 – Clarification of scope of MP Code of Conduct**

That the government and parliament clarify the extent to which it is intended that the Members of Parliament Code of Conduct and the processes for dealing with breaches of the Code should cover the actions of ministers in relation to their ministerial portfolios.

### **Response**

**DPC:**

**Work underway**

Work is underway to clarify the scope of the MP Code of Conduct, with the Government considering whether legislative amendments are required to acquit this recommendation.

## Recommendation 18 – New offence for ministers who allow staff to undertake party-specific activities

That:

- a) an offence be created that provides that a minister who directs or allows a person to undertake party-specific activities while that person is employed to assist the minister in discharging their public duties is guilty of an offence
- b) the government, in formulating the offence and the penalty, should take account of:
  - the degree of a minister’s intent or recklessness in directing or allowing the employee to undertake such activities
  - activities where it is difficult to separate the party-political aspect of the work from the normal duties of a ministerial staff member’s role, such as briefing other members of parliament and party members on matters relevant to the minister’s portfolio
  - unavoidable and reasonable communication with a party’s head office or local branch on minor or incidental matters.

### Response

**DPC:**

#### **Work underway**

The Government is giving consideration to this recommendation, noting that the Watts Report suggested that the Ethics Committee could provide advice on the scope of “party-specific activities”.

## **Recommendation 19 – Review and publication of Ministerial Staff Code of Conduct (Ministerial Staff Code)**

That:

- a) the Ministerial Staff Code of Conduct be reviewed to explicitly prohibit party specific work from being undertaken during the course of a ministerial staff member's employment
- b) the Ministerial Staff Code of Conduct be made publicly available.

### **Response**

**DPC:**

**Acquitted**

- The Ministerial Staff Code was published in July 2022 (<https://www.premier.vic.gov.au/policy>).
- The Code includes a prohibition on ministerial staff undertaking party- specific work during their employment.

## Recommendation 20 – Conflict of interest controls for ministers and ministerial staff

That the Victorian Government:

- a) undertake a comprehensive review of existing conflict-of-interest controls for ministers and ministerial staff to strengthen the identification and management of conflict of interest
- b) make appropriate revisions to the codes of conduct for ministers and ministerial staff to recognise the particular risks of conflicts of interest
- c) develop associated guidance to raise awareness of the risks associated with unmanaged conflicts of interest, and provide mandatory training for ministers and ministerial staff.

### Response

**DPC:**

#### **Work underway**

- As noted above, the Government is progressing work on an updated Ministerial Code of Conduct, that will consider conflict of interest controls.
- The Ministerial Staff Code has been strengthened, including to better deal with conflicts of interest and, as noted above, was published in July 2022.
- Following the 2022 State Election, the Government provided training to ministers about their role and obligations, including managing conflicts of interest. Two sessions were held, one provided to all ministers and a second session provided to new ministers.
- Separate training sessions were also provided to parliamentary secretaries and ministerial staff in relation to their respective roles and obligations (including about conflicts of interest).

## Recommendation 21 – Management of grants

That state and local government funders of community organisations continue to improve their policies and processes to manage grants, in accordance with evolving best practice, and make sure that monitoring and reporting practices are risk-informed and sufficiently prioritised to be implemented effectively. In particular, they should consider:

- a) requiring copies of receipts with all expenditure acquittals, and checking them against grant applications
- b) requiring payment of salaries to be accounted for, especially if existing office holders are being funded from non-recurring grant monies
- c) vetting applicant organisations' competence to undertake specific-purpose projects
- d) requiring grant recipients to certify that items of expenditure have not been claimed against other organisational revenues or grants, to prevent the use of the same receipt to acquit different reporting obligations to different grant providers
- e) adopting proactive risk-management practices to identify organisations that might have weak accountability arrangements
- f) withholding final grant payments or refusing to accept new grant applications from an applicant who has not completed a full grant acquittal report.

## Response

### DPC:

#### Work underway

- The whole-of-government Better Grants by Design guidelines were updated in October 2022 to better align with whole of Victorian Government best practice, including advice to departments around risk management and administrative costs.
- The Government has committed to undertaking grant reforms during this term of government, this recommendation will be further addressed as part of that process, in addition to consideration of broader grant reforms as appropriate.

# Appendix A.

## People named or referred to in the report and responses to the draft report

### People named or referred to in the report who are *not* subject to adverse comments or opinions

The following persons and bodies are identified in the report but are not the subject of direct adverse comments, opinions or findings by IBAC or the Ombudsman. IBAC is satisfied under section 162(7) of the IBAC Act that identifying these persons in the report is necessary or desirable in the public interest and that doing so will not cause unreasonable damage to their reputation, safety or wellbeing.

- the Attorney General
- the Parliamentary Integrity Adviser
- the Presiding Officers
- the Department of Parliamentary Services

### Responses provided by people named or referred to in the Report who are the subject of adverse comments or opinions

Where IBAC and the Ombudsman have made an adverse comment or opinion, or a comment or opinion that may be considered to be adverse, about any person or public body identified in this report, that person or public body has been given a reasonable opportunity to respond to those comments or opinions by being shown a draft version of the report. A number of persons and entities who are the subject of such comments or opinions responded to the draft report and changes were made or incorporated into the report on the basis of those responses. Those responses are not set out in any further detail in this appendix. Other recipients of the draft report made no response.

The response from the Department of Premier and Cabinet, made on behalf of that department and the Premier, is set out in full below.

## Department of Premier and Cabinet response



### Department of Premier and Cabinet

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BMIN-230802831

Stephen Farrow  
Acting Commissioner  
Independent Broad-based Anti-corruption Commission (IBAC)  
North Tower, Level 1, 459 Collins Street  
MELBOURNE VIC 3000

Dear Acting Commissioner

Thank you for your letters of 22 August 2023 to the Premier of Victoria and to me inviting comment on the draft progress report by IBAC and the Victorian Ombudsman on the implementation of recommendations from the July 2022 Operation Watts report. As noted in previous correspondence, Operation Watts directed recommendations to the Government, not the Department, and the Government publicly accepted those recommendations. Nevertheless, I am writing to you in response to both letters.

IBAC and the Ombudsman perform important roles in investigating misconduct and corrupt conduct and in recommending measures that might help prevent such conduct in the future. After integrity agencies have made recommendations, it is for the Government to decide how it responds and how it implements those decisions. The Government is then responsible to the Parliament, and through the Parliament, to the people, for implementing its commitments.

The legislative process, including policy deliberations, stakeholder consultation, parliamentary liaison and Cabinet consideration, is a complex one. Draft legislation must both achieve policy objectives and be able to find passage through both Houses of Parliament. For the sake of completeness however I observe that the Government has consistently met timelines recommended by IBAC and the Ombudsman. Some of the measures to which the Government committed recommended implementation dates of 30 June 2024; you may therefore wish to publish a progress report prior to or following that date.

I should add that many of the recommendations in IBAC's Operation Daintree report of April 2023 directly intersect with the recommendations from Operation Watts. The intersection of the recommendations from these reports is another example of the complexity of developing comprehensive legislative responses to recommendations from agencies such as IBAC.

Yours sincerely

**Jeremi Moule**  
Secretary

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