

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Privileges Committee



Inquiry into Mr Adem Somyurek's use of government resources

August 2022

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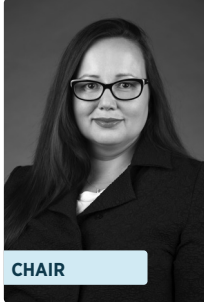
Parliament of Victoria
Legislative Council Privileges Committee

Ordered to be published

VICTORIAN GOVERNMENT PRINTER
August 2022

PP No 376, Session 2018–2022
ISBN 978 1 922882 14 1 (print version), 978 1 922882 15 8 (PDF version)

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About the Committee

Functions

The Legislative Council Privileges Committee is established under Legislative Council Standing Orders Chapter 23 – Council Committees, and Sessional Orders.

The Committee's functions are to consider any matter regarding the privileges of the House referred to it by the Council.

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This report is available on the Committee's website.

Contents

Preliminaries

Committee membership	ii
About the Committee	iii
Chair's foreword	vii

Inquiry into Mr Adem Somyurek's use of government resources

1.1 Resolution of the Council—referral to Privileges Committee	1
1.2 Background to Operation Watts	2
1.3 Scope of this Inquiry	3
1.4 Tabling of Operation Watts Report on 20 July 2022	4
1.5 Evidence from Mr Somyurek's electorate officers and ministerial staff	6
1.6 Privileges Committee remit of part 3(c) of the Council Resolution	6
1.7 Conclusions—consideration of contempt of Parliament	15

Appendices

A Letter from the Committee to the Commissioner of the Independent Broad-based Anti-corruption Commission	17
B Letter from the Commissioner of the Independent Broad-based Anti-corruption Commission to the Committee	23

Chair's foreword

The subject matter of this Privileges Committee inquiry has been the subject of an enormous volume of commentary, within the Parliament and on print and social media, including by Mr Somyurek himself. It is commentary both about his own behaviour and decisions, about other individuals, and about the work of integrity agencies.

Importantly however, the scope of this Privileges Committee inquiry and the range of options is extremely narrow. In contrast, the work of the Victorian Ombudsman and the Independent Broad-based Anti-Corruption Commission in the Operation Watts investigation was detailed, complex and far-reaching. It took place over a significant period of time, within a legislative framework that is substantially different to those parameters (through legislation, regulation, and/or convention) that guide and inform the work of parliamentary committees, including the Privileges Committee.

Mr Somyurek's referral motion to the Privileges Committee contains a number of subjective and clearly personalised assertions and suppositions about the process of the Operation Watts investigation.

These assertions have, in the view of this Committee, been subsumed by the tabling of the Operation Watts report on 20 July 2022, which itself was provided to the Privileges Committee by the IBAC as its response to Mr Somyurek's motion. In this regard, the Committee has unanimously resolved that there is no proper basis upon which to determine that the substance of Mr Somyurek's motion warrants a new consideration of matters in the far-ranging terms sought.

It is however, open to the Parliament to consider any further motion to address Mr Somyurek's conduct. And should this occur, the Privileges Committee may well find itself in a position to consider and make determinations on matters that were not within the scope of our inquiry or report.



Hon Harriet Shing MP
Chair

Inquiry into Mr Adem Somyurek's use of government resources

1.1 Resolution of the Council—referral to Privileges Committee

On 22 June 2022, the Legislative Council agreed to the following motion moved by the Hon Adem Somyurek, MLC: That this House —

(1) notes that —

- (a) the Independent Broad-based Anti-corruption Commission's (IBAC) investigation into allegations of serious corrupt conduct involving Victorian public officers, including Members of Parliament, known as Operation Watts, commenced in 2020;
- (b) IBAC, despite acknowledging at public hearings that the practice of branch stacking had been endemic in the Australian Labor Party (ALP) for generations across all the factions, and despite the Legislative Council resolving to request that their investigation be broadened to include all sections of the ALP, has only examined the Moderate Labor faction of the Victorian branch of the ALP during this investigation;

(2) further notes that —

- (a) IBAC is an investigative body that does not have the power to impose sanctions;
- (b) potential breaches of codes of conduct of Members of Parliament are matters that only the Parliament through the Privileges Committee can deal with;
- (c) unless the Privileges Committee commences an inquiry immediately it will not have time to conduct an inquiry and report its findings to the House;

(3) requires the Privileges Committee to inquire into and report to the House, by no later than Thursday, 18 August 2022, on matters raised relating to the Hon Adem Somyurek MLC, at the IBAC Operation Watts public hearings regarding the use of government resources, including the use of electoral office and ministerial staff, and in undertaking this inquiry requires the Committee to —

- (a) seek input from IBAC and examine any other matter raised at the IBAC Operation Watts public hearings that the Committee considers relevant;
- (b) take evidence from all electorate officers and ministerial staff who have worked with Mr Somyurek from 2017;

- (c) ensure that the investigation includes, but is not limited to, the following topics that IBAC showed interest in during their public hearings, being that Mr Somyurek —
- (i) employed staff based on factional affiliation;
 - (ii) pressured Members of Parliament to employ activists aligned to his faction;
 - (iii) directed staff members to do factional work during office hours;
 - (iv) allowed staff members to do factional work during office hours;
 - (v) employed staff to full entitlement when, according to IBAC, his electorate office did not have sufficient work;
 - (vi) authorised activists to use electoral roll information from the Victorian Electoral Commission to check the accuracy of membership applicants to the party;
 - (vii) breached ‘money for value’ considerations in employing casual staff;
 - (viii) employed people of cultural backgrounds who IBAC appears to think are not capable of doing office work;
 - (ix) kept a database of members according to factional alignment and cultural identity;
 - (x) allowed staff to keep a database of members according to factional alignment and cultural identity; and
- (d) conduct a transparent and public investigation.

1.2 Background to Operation Watts

Operation Watts was an investigation conducted jointly by the Independent Broad-based Anti-corruption Commission (IBAC) and the Victorian Ombudsman (VO) into a range of allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities.¹

These allegations were broadcast on a *60 Minutes* report on 14 June 2020 and subsequently reported in *The Age* the following day. Mr Adem Somyurek, Member for the South Eastern Metropolitan Region, was a key focus of the broadcast and published reports. Following these reports, the IBAC and the VO received:

- a referral dated 15 June 2020 to the IBAC from the then Victorian Attorney-General
- a referral from the Legislative Council on 17 June 2020 of related matters to the VO.

¹ Independent Broad based Anti corruption Commission / Victorian Ombudsman, *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party related activities*, July 2022, State of Victoria, 2022, p. 8.

As these referrals were on related matters, the IBAC and the VO proceeded to conduct a coordinated investigation pursuant to section 72 of the *Independent Broad-based Anti-corruption Commission Act 2011*.²

Mr Somyurek provided sworn evidence at public hearings on 8, 9, 11 and 12 November 2021.

As stated in the Council Resolution, moved by Mr Somyurek, the Privileges Committee was required to inquire into and report on matters raised relating to Mr Somyurek, at the IBAC Operation Watts public hearings regarding the use of government resources, including alleged misuse of electoral office and ministerial staff.

1.3 Scope of this Inquiry

This Committee met in early July 2022 to consider the scope of this Inquiry arising from the Council Resolution, the challenges of undertaking a Privileges Committee investigation parallel to an extant integrity agency investigation, and the existence and extent of potential limitations to meeting the motion's Terms of Reference, including the requirement to report by 18 August 2022.

At the time of Mr Somyurek's motion becoming a Resolution of the Council and the commencement of this Inquiry, the joint IBAC/VO Operation Watts investigation of related matters had not been concluded and no report had been tabled.

In addressing part 3(a) of the Council Resolution, the Committee wrote to the IBAC on 6 July 2022 inviting its input into the matters set out in the Resolution, and explicitly stating that it was not the Committee's intention to displace or otherwise interfere with the IBAC's exercise of powers, particularly as they related to an extant investigation. A copy of this letter is attached to this report at Appendix A.

On 12 July 2022, the IBAC Commissioner responded to the Committee and advised that:

in response to Part 3(a) of the Motion and the requirement for the Committee to seek IBAC's input, IBAC and the Victorian Ombudsman propose to table the joint report on 20 July 2022. If it is convenient to the Committee, this report can then be considered IBAC's input to the work of the Committee. The joint report explores and addresses each of the matters raised in the referral to the Committee in great detail.

A copy of the IBAC's letter is attached at Appendix B.

² Ibid., p. 9.

1.4 Tabling of Operation Watts Report on 20 July 2022

The joint IBAC/VO report *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party-related activities* (the Report), was tabled in both Houses out of session on 20 July 2022.³

Relevantly to this Privileges Committee Inquiry, the Report highlighted ‘extensive misconduct by parliamentary members of the Moderate Labor faction of the Victorian branch of the Australian Labor Party’.⁴ Mr Somyurek was noted as the dominant leader of the Moderate Labor (ML) faction.⁵ The Report made 21 recommendations focussed on reforms to parliamentary integrity and accountability.

The Report states that sworn evidence was received from 26 witnesses in private examinations and 7 witnesses in public examinations.

The Operation Watts investigation conducted interviews and received statements from a range of witnesses including current and former electorate and ministerial staff. To this end, the Committee notes the Report makes extensive references to the following staff of Mr Somyurek:

- 12 Electorate Officers.
- One Ministerial staffer—AB.
- Two additional public hearing witnesses who worked for Mr Somyurek.

Further, the Committee notes the IBAC investigation methodology also included:

- Analysis of data from seized devices.
- Analysis of telephone calls, text messages and lawfully recorded conversation involving Mr Somyurek.
- Analysis of relevant emails from electorate and ministerial offices.

Following release of the Report, the Committee met and resolved:

That the Committee —

- notes that the Operation Watts Report from IBAC and the Victorian Ombudsman tabled on 20 July 2022 is a significant intervening factor in the Committee’s investigations, particularly as the Report was delivered after the Legislative Council’s referral of related matters to the Committee;

³ Parliament of Victoria, Tabled Documents Database, 2022, <<https://www.parliament.vic.gov.au/taled-documents-database/details/3/11427>> accessed 3 August 2022.

⁴ *Operation Watts: Investigation into allegations of misuse of electorate office and ministerial office staff and resources for branch stacking and other party related activities*, p. 164.

⁵ *Ibid.*, p. 144.

- further notes the IBAC Commissioner’s letter dated 12 July 2022 which states that the Operation Watts Report be considered to be IBAC’s input to the work of the Committee; and
- accepts the Operation Watts Report as directly relevant to the Legislative Council’s referral motion of 22 June 2022 and the Committee’s work.

It is not within the Privileges Committee’s narrow remit to make comment on the broader findings and recommendations within the Report.

Relevantly to this Inquiry, the Report reached a number of conclusions with respect to improper conduct by Mr Somyurek in the use of public resources.

Specifically, the Report concluded that Mr Somyurek had committed the following breaches:

- Breaches of the Code of Conduct for Ministers and Parliamentary Secretaries ‘by requiring his ministerial staff to undertake party-specific activities on behalf of the ML faction during their employment in his ministerial office, and to use ministerial office resources to undertake those activities’.⁶ Specifically, the Report highlights breaches of sections 2.2, 2.6, 2.8, 2.9 and 7.1 of the Code.
- Breaches of the Members of Parliament Code of Conduct within the *Members of Parliament (Standards) Act 1978*, in particular:⁷
 - Section 12(b)—compliance with guidance on the use of public resources.
 - Section 13 (2) (a)—requiring a Member of Parliament (MP) to act ethically, reasonably and in good faith when using, and accounting for the use of, public resources in relation to the performance of their public duties.
 - Section 14 (2)—requiring an MP to respect the confidentiality of information they receive in the course of their public duties.
- Breaches of the *Parliamentary Salaries, Allowances and Superannuation Act 1968*, in particular:⁸
 - Section 4A—use of public resources to support an MP in performing their public duties.
 - Section 4B—requiring an MP to act ethically, reasonably and in good faith when using, and accounting for the use of, public resources in relation to the performance of their public duties.
 - Section 4C—requiring an MP to be responsible and accountable for their use of public resources and to be able to publicly justify their use of public resources.

⁶ Ibid., p. 147.

⁷ Ibid., p. 148.

⁸ Ibid., pp. 148-149.

- Section 9A—requiring an MP to provide value for money in using their work-related parliamentary allowances and their electorate office and communications budget (EOC budget) by making sure that the costs incurred are reasonable and proportionate to the costs of performing their public duties.
- Section 9B (1)—which prohibits an MP from claiming or using a work-related parliamentary allowance or their EOC budget unless it is claimed for the dominant purpose of performing their public duties.
- Breach of Section 36 of the *Electoral Act 2002* regarding limitations on the use of electoral roll information by an MP.⁹

In light of the extensive overlap in matters set out in the Council Resolution and those in the Report, the breaches identified in the Report have been cross-referenced against matters to be investigated by the Committee under part 3(c) of the Council Resolution at Section 1.6 below.

It is noteworthy that Mr Somyurek has made a number of admissions in relation to his conduct. However, it is not within the scope of the Committee’s Terms of Reference to reach any conclusions in relation to these matters (see Section 1.7 below).

1.5 Evidence from Mr Somyurek’s electorate officers and ministerial staff

Part 3(b) of the Council Resolution required the Privileges Committee to take evidence from all electorate officers and ministerial staff who have worked with Mr Somyurek from 2017. The Committee determined not to take evidence from these staff for a number of reasons, not the least being the extensive work undertaken in the course of the Operation Watts investigation over a considerable period of time, and the Committee’s extremely short reporting deadline.

As noted above, the Committee had resolved and confirmed with the IBAC that it did not intend to displace or interfere with the work of the IBAC on related matters, and further noted that the Operation Watts Report is a significant intervening factor in the Committee’s investigations.

1.6 Privileges Committee remit of part 3(c) of the Council Resolution

Part 3(c) of the Council Resolution required the Privileges Committee to ensure that the investigation includes, but is not limited to, a number of topics that the IBAC showed interest in during their public hearings. The following is a summary of key findings contained in the Operation Watts Report, including matters raised in public hearings, against each of the ten points in the Council Resolution:

⁹ Ibid., p. 163.

(i) Whether Mr Somyurek employed staff based on factional affiliation

Operation Watts Report found that Mr Somyurek employed staff based on factional affiliation.

Chapter 4 of the Report outlines the extensive factional work that ministerial and electorate staff were required to perform during working hours, including the staff employed by Mr Somyurek. The Report produces evidence of the ‘practice of appointing factional allies and operatives, or their relatives, to taxpayer-funded jobs in MPs’ and ministers’ offices for factional reasons’.¹⁰

Chapter 5 of the Operation Watts Report, titled *Jobs given to factional allies and operatives* provides further evidence that Mr Somyurek employed staff based on factional affiliation. The Committee notes specific case studies in the Report that supports this evidence including:

- Case study 8: employment of ALP member and recruiter Hussein Haraco.¹¹
- Case study 9: employment of Electorate Officer N as a ‘favour’ to ALP member and recruiter.¹²
- Case study 10: employment of Young Labor activist, Electorate Officer B.¹³
- Case study 11: employment of factional operative, Electorate Officer Z.¹⁴
- Case study 12: employment of longstanding ALP member and recruiter.¹⁵

The Report concludes that:

Mr Somyurek also employed staff in his electorate office despite the almost total absence of any official work for them to do in communicating with and helping constituents, or supporting Mr Somyurek in his parliamentary duties. Nevertheless, he made sure that he had a full complement of staff and used his EOC budget to also employ numerous factional members as casual employees.¹⁶

The Report further notes that:

These factional employment practices were driven by senior members in the faction, especially Mr Somyurek. The employees themselves were not responsible for the employment decisions.¹⁷

¹⁰ Ibid., p. 90.

¹¹ Ibid., pp. 92–93.

¹² Ibid., p. 94.

¹³ Ibid., p. 95.

¹⁴ Ibid., p. 96.

¹⁵ Ibid., pp. 97–98.

¹⁶ Ibid., p. 152.

¹⁷ Ibid., p. 153.

As set out in Section 1.4 above, certain breaches identified in the Operation Watts Report can be linked to Mr Somyurek employing staff based on factional affiliation including breaches of the Code of Conduct for Ministers and Parliamentary Secretaries.

The Report found that Mr Somyurek committed a breach of Section 13(2)(a) of the *Members of Parliament (Standards) Act 1978* which requires an MP to act ethically, reasonably and in good faith when using, and accounting for the use of, public resources in relation to the performance of their public duties. The Report noted:

The MP's employment of electorate office staff as a favour or reward for factional activities was not ethical, reasonable or in good faith.¹⁸

The Report also concluded Mr Somyurek was in breach of Section 9A of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* which requires a Member of Parliament to provide value for money in using their work-related parliamentary allowances and the EOC budget. The Report noted:

The costs incurred by ministers and MPs in employing electorate officers as a favour or reward to factional allies, and in the employees' use of the accommodation and facilities of the ministerial and electorate offices, did not represent value for money.¹⁹

(ii) Whether Mr Somyurek pressured Members of Parliament to employ activists aligned to his faction

The Report found that Mr Somyurek pressured Members of Parliament to employ activists aligned to his faction. The Report noted:

In addition to employing staff in their own offices for factional reasons, Mr Somyurek, and to a lesser extent Ms Kairouz, influenced or in some cases directed other ML-aligned MPs to employ certain factional operatives or allies in their offices.²⁰

The Report also made specific reference to Mr Somyurek influencing the employment of factional staff and operatives in the offices of Ms Kaushaliya Vaghela MP, Member for the Western Metropolitan Region and Dr Tien Kieu MP, Member for the South Eastern Metropolitan Region. Case study 18 in the Report outlines Mr Somyurek's involvement in securing jobs for factional operatives in Dr Kieu's electorate office.²¹

The Report illustrated a further example in case study 14, where Mr Somyurek pressured Federal Member, Mr Anthony Byrne 'to employ a longstanding ALP member and recruiter in his electorate office, seemingly without any expectation that he should attend or perform any work.'²²

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid., p. 110.

²¹ Ibid., pp. 110-111.

²² Ibid., p. 102.

(iii) **Whether Mr Somyurek directed staff members to do factional work during office hours**

The Report found that Mr Somyurek directed staff members to do factional work during office hours. The Report details how Mr Somyurek directed staff to:

- manage membership renewals²³
- approve, reject or defer applications by the Membership Administration Committee²⁴
- be involved in the attempted takeover of the Hoppers Crossing and Derrimut branches and associated disciplinary proceedings²⁵
- collect and complete ballot papers²⁶
- forge signatures on membership forms and ballot papers²⁷
- obtain federal electorate data by accessing information systems.²⁸

The Committee specifically notes case study 7 within the Report, which illustrates factional work by electorate and ministerial officer Electorate Officer X, who was employed by Mr Somyurek.²⁹ The Report notes that:

Electorate Officer X's work with Mr Somyurek involved a combination of electorate and factional work, although they said that the electorate work was minimal, with very few constituents or letters that needed responses.³⁰

The Report concluded that by requiring his ministerial and electorate office staff to undertake party-specific activities on behalf of the ML faction, Mr Somyurek had breached:

- the Code of Conduct for Ministers and Parliamentary Secretaries (2018): sections 2.2(l); 2.6; 2.8; 2.9 and 7.1³¹
- the Members of Parliament Code of Conduct contained in the *Members of Parliament (Standards) Act 1978*: sections 12(b) and 13(2)(a)³²
- the *Parliamentary Salaries, Allowances and Superannuation Act 1968*: sections 4A; 4B; 4C; 9A; 9B(1).³³

23 Ibid., pp. 47–50.

24 Ibid., pp. 51–54.

25 Ibid., pp. 55–57.

26 Ibid., pp. 61–68.

27 Ibid., pp. 68–74.

28 Ibid., pp. 77–78.

29 Ibid., pp. 80–83.

30 Ibid., p. 80.

31 Ibid., p. 147.

32 Ibid., p. 148.

33 Ibid., pp. 148–149.

The staff directed by Mr Somyurek to do factional work during office hours were also found to be in breach of Codes of Conduct, in particular:

- electorate office staff breached the Electorate Officers Code of Conduct issued by the presiding officers of the Victorian Parliament, however '[b]ecause those staff were doing this work at the direction or encouragement of their MP or other leaders in the ML faction, those MPs and leaders bear primary responsibility for those breaches'³⁴
- ministerial staff breached the Ministerial Staff Code of Conduct by failing to make sure that government and parliamentary resources were used in a proper manner, however '[b]ecause those staff were acting under the direction or encouragement of their ministers and other leaders in the ML faction, those ministers and leaders bear primary responsibility for those breaches'.³⁵

(iv) Whether Mr Somyurek allowed staff members to do factional work during office hours

The Report does not specifically draw a distinction between 'directing staff' and 'allowing staff'. However, the Report references evidence that Mr Somyurek directed staff to undertake factional work during office hours.

When giving evidence Mr Somyurek suggested that at times he became aware of staff doing factional work beyond what he had specifically directed them to do. The Report does not respond to this part of Mr Somyurek's evidence but instead focussed on the more serious breach of directing staff to do factional work during office hours.

(v) Whether Mr Somyurek employed staff to full entitlement when, according to IBAC, his electorate office did not have sufficient work

In Chapter 5 of the Report, under the sub-heading *Staff employed despite absence of work*, the Report finds that Mr Somyurek employed staff for factional work despite his office not having sufficient work.

In the case of Mr Somyurek's electorate office, the investigation found that staff were employed for factional reasons despite a clear absence of work, thereby suggesting that such employment was neither justifiable nor necessary from a value-for-money perspective and involved a misuse of resources. This included evidence that the electorate office was left unattended for days or weeks at a time.³⁶

³⁴ Ibid., p. 145.

³⁵ Ibid.

³⁶ Ibid., p. 100.

The Report concludes:

Mr Somyurek also employed staff in his electorate office despite the almost total absence of any official work for them to do in communicating with and helping constituents, or supporting Mr Somyurek in his parliamentary duties. Nevertheless, he made sure that he had a full complement of staff and used his EOC budget to also employ numerous factional members as casual employees.³⁷

As previously noted, case study 14 in the Report highlighted one example where Mr Somyurek influenced a Federal MP to employ a factionally aligned staff member without any expectation that this person attend or perform any work:

Mr Somyurek pressured Mr Byrne to employ a longstanding ALP member and recruiter in his electorate office, seemingly without any expectation that he should attend or perform any work. Mr Byrne said at examination that such requests from Mr Somyurek for him to 'put people on' were a fairly regular occurrence. Mr Byrne asserted that he was reluctant to comply with such requests, but did so in this instance '[b]ecause the consequences of not doing it would be that I probably wouldn't be sitting here before you today as a Member of Parliament', referring to the factional support needed to regain pre-selection.³⁸

(vi) Whether Mr Somyurek authorised activists to use electoral roll information from the Victorian Electoral Commission to check the accuracy of membership applicants to the party

The Report specifically details the misuse of sensitive information, including electoral rolls from the Victorian Electoral Commission, under direction from certain Members of Parliament.³⁹ In particular, the Report notes how ALP membership applications were checked against electoral roll information.⁴⁰

Section 36 of the *Electoral Act 2002* allows Members of Parliament to use electoral roll information for limited purposes. In this regard, the Report noted:

Each Victorian MP is given access to the Victorian Electoral Commission rolls for their electorate for the purpose of conducting their public duties. Factional leaders arranged for staff to improperly obtain access to the electoral rolls for the whole state of Victoria in order to scrutinise ALP membership applications for Membership Administration Committee meetings.⁴¹

³⁷ Ibid., p. 152.

³⁸ Ibid., p. 102.

³⁹ Ibid., pp. 162-163.

⁴⁰ Ibid., p. 51.

⁴¹ Ibid., p. 162.

Section 14 of the *Members of Parliament (Standards) Act 1978* states:

- (1) A Member must not use confidential information gained in the performance of their public duties to further their private interests or the private interests of a specified person.
- (2) A Member must respect the confidentiality of information they receive in the course of their public duties.

The Report concluded that Mr Somyurek was in breach of Section 14 of the *Members of Parliament (Standards) Act 1978* regarding the use of confidential information and improper use of electoral rolls:

In addition, section 14(2) of the Members of Parliament Code of Conduct requires an MP to respect the confidentiality of information they receive in the course of their public duties. It is arguable that the authorisation by Mr Somyurek of the use of electoral roll information obtained under the Electoral Act 2002 (Vic) to check the accuracy of ALP members' and applicants' addresses for membership purposes was not within the uses permitted by section 36 of that Act. Section 36 permits use by MPs of information about people in their own electorate only, and for the limited purposes of monitoring the accuracy of electoral roll information, exercising functions in relation to an MP's constituents, or in connection with an election.⁴²

(vii) Whether Mr Somyurek breached 'money for value' considerations in employing casual staff

The Report found that Mr Somyurek breached value for money considerations in employing casual staff.

Section 9A of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* (PSAS Act) states:

A Member must provide value for money in using their work-related parliamentary allowances and Budget by ensuring that the costs incurred are reasonable and proportionate to the costs of performing their public duties.

The Report found that:

- staff were employed for factional reasons despite a clear absence of work and that such employment was not justifiable or necessary from a value for money perspective⁴³
- factional leaders who directed or arranged for the employment of factional operatives in other ministers' or MPs' offices repeatedly breached the 'value for money' provisions within the PSAS Act.⁴⁴

⁴² Ibid., p. 148.

⁴³ Ibid., p. 100.

⁴⁴ Ibid., pp. 153-154.

The Report concluded that Mr Somyurek breached section 9A of the PSAS Act:

The costs incurred by Mr Somyurek in using the electorate office and communications budget to employ casual electorate officers, and directing or otherwise permitting casual and non-casual electorate officers to use publicly provided accommodation, facilities and administrative expenses while performing factional tasks, did not deliver value for money and were not reasonable and proportionate to the costs of performing Mr Somyurek's public duties.⁴⁵

The Report further concluded that Mr Somyurek breached section 9A of the PSAS Act which prohibits an MP from claiming or using a work-related parliamentary allowance or their EOC budget unless it is claimed for the dominant purpose of performing their public duties:

The use by Mr Somyurek of his EOC budget to employ casual electorate officers and otherwise support casual and non-casual electorate officers to carry out factional tasks was not for the dominant purpose of performing his public duties.⁴⁶

(viii) Whether Mr Somyurek employed people of cultural backgrounds who IBAC appears to think are not capable of doing office work

The Privileges Committee categorically rejects any inference that the IBAC 'appears to think [people from specific cultural backgrounds] are not capable of doing work'.

Moreover, it is entirely irrelevant to this Inquiry as to whether Mr Somyurek employed people from any culturally or linguistically diverse (CALD) background or heritage.

The central question for the IBAC and the Ombudsman to address in Operation Watts, and a key consideration for the Legislative Council and the Parliament, is the extent to which Mr Somyurek's staff were employed to predominantly carry out factional work as opposed to electorate office work.

In this regard, the Report finds that staff were employed for factional reasons despite a clear absence of work. In particular, the Committee notes a sub-heading in Chapter 5 of the Report titled *Staff employed despite absence of work*.⁴⁷

The Report also finds that a significant amount of factional work was performed by Mr Somyurek's staff during office hours. To this end, the Committee notes sections within the Report titled *Extent of misuse of staff*,⁴⁸ *The extent of the misuse of electorate office staff and ministerial officers*,⁴⁹ and *Improper conduct by MPs in their*

⁴⁵ Ibid., p. 149.

⁴⁶ Ibid.

⁴⁷ Ibid., pp. 100-101.

⁴⁸ Ibid., pp. 84-85.

⁴⁹ Ibid., p. 146.

use of public resources.⁵⁰ In addition, the Report finds that Mr Somyurek's 'electorate office was fully staffed but provided little or no service to his constituents.'⁵¹

The Report concludes that Mr Somyurek is in breach of section 12(b) of the *Members of Parliament (Standards) Act 1978* as it relates to compliance with the use of resources for public purposes.⁵² See also Section 1.4 above of this Committee's report.

(ix) Whether Mr Somyurek kept a database of members according to factional alignment and cultural identity

The Report finds that Mr Somyurek kept a database of party members according to factional alignment and cultural identity.

The Report outlines how computers seized from Mr Somyurek's office demonstrate management of membership databases and spreadsheets showing:

- lists of members by electorate
- lists of branches by electorate and factional affiliation, especially in relation to the federal electorate redistribution in 2018
- lists of members by ethnic or religious groupings
- lists of members from particular ethnic groups, in particular electorates linked to particular recruiters or organisers.⁵³

The Report also lists certain material, including spreadsheets on Mr Somyurek's laptop, showing the ways in which CALD communities were targeted by the ML faction.⁵⁴

The Report concludes that:

Some employees were used as recruiters, whose primary tasks were to identify, recruit and retain ALP members from their networks. Culturally and linguistically diverse (CALD) communities in particular were a substantial source of new members for the ML faction.⁵⁵

(x) Whether Mr Somyurek allowed staff to keep a database of members according to factional alignment and cultural identity

The Report does not draw a distinction between Mr Somyurek keeping such a database of members and Mr Somyurek allowing staff to keep a database. The Report finds that both Mr Somyurek and his staff had access to such databases.

50 Ibid., pp. 146-147.

51 Ibid., p. 146.

52 Ibid., p. 148.

53 Ibid., pp. 47-49.

54 Ibid., p. 46.

55 Ibid., p. 44.

As noted in part (iii) above, evidence shows that Mr Somyurek directed staff members to undertake factional work during office hours. Evidence in the Report, including that noted in part (ix) above, shows that this factional work included the management of membership databases according to factional alignment and cultural identity.

1.7 Conclusions—consideration of contempt of Parliament

Despite the breadth of matters outlined in the Council Resolution, the referral of matters to the Privileges Committee by the Legislative Council on 22 June 2022 was itself limited in scope. The Council did not specifically ask the Committee to consider whether there have been any breaches of privilege, whether any person may be in contempt of Parliament, or whether any sanctions are to be recommended.

The matters highlighted in this report of the Privileges Committee, based on findings contained in the Operation Watts Report, indicate that Mr Adem Somyurek has committed a number of breaches in the performance of his parliamentary duties.

The Operation Watts Report indicates that, where there has been a finding as to breach, the IBAC and the VO:

would expect the relevant House to take appropriate action to determine for itself whether a breach of the Members of Parliament Code of Conduct has occurred and whether sanctions should be imposed.⁵⁶

The Report also raises the question as to whether Mr Somyurek's conduct has brought such discredit to the Parliament's reputation as to amount to contempt:

Unlike other types of breaches, the question of the parliament's reputation and whether it has been discredited to the extent that a contempt of parliament has been committed is, we think, a question that only the parliament can assess. It would be a matter for the Legislative Council Privileges Committee and the Legislative Council to decide whether Mr Somyurek wilfully brought discredit upon parliament as a result of his use of his electorate office staff for party-specific activities before 20 March 2019, including the organising of votes for the National Conference ballot in 2018.⁵⁷

In light of the above, the Legislative Council may wish to consider the evidence given and findings contained within the Operation Watts Report concerning Mr Adem Somyurek.

⁵⁶ Ibid., p. 144.

⁵⁷ Ibid., p. 147.

RECOMMENDATION: Given the scope of its Terms of Reference, the Privileges Committee recommends that the Legislative Council consider the findings contained within the joint IBAC and Ombudsman Operation Watts Report concerning Mr Adem Somyurek in the use of public resources and that the Council, or the Privileges Committee by a separate referral, may determine:

- whether Mr Somyurek has wilfully brought discredit upon Parliament
- whether Mr Somyurek has committed a contempt
- any other relevant matters.

**Adopted by the Legislative Council Privileges Committee
Parliament of Victoria, East Melbourne
15 August 2022**

Appendix A

**Letter from the Committee to the
Commissioner of the Independent
Broad-based Anti-corruption
Commission**

A



6 July 2022

Hon Robert Redlich AM QC
Commissioner
Independent Broad-based Anti-corruption Commission
GPO 24234
Melbourne VIC 3001

Dear Mr Redlich,

Re: Legislative Council Privileges Committee inquiry into Mr Somyurek's use of government resources

On 22 June 2022, the Legislative Council agreed to a Motion brought by the Hon Adem Somyurek MLC requiring the Privileges Committee to inquire into matters raised at the IBAC's Operation Watts public hearings. A copy of this Motion is attached for your reference. The Committee is required to report to the House by 18 August 2022.

Part 3 (a) of the Motion requires the Committee to seek input from IBAC and examine any other matter raised at the IBAC's public hearings in Operation Watts that the Committee considers relevant.

In accordance with the Motion as agreed by the Legislative Council, I am now seeking the input of IBAC into the matters set out in the Motion itself, to the extent that you may wish to provide it.

For avoidance of any doubt, please note that it is not the Committee's intention to displace or otherwise interfere with the IBAC's exercise of powers, particularly as they relate to an extant investigation.

It would be greatly appreciated if the Committee can receive IBAC's input by no later than Wednesday 20 July 2022.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Harriet Shing'.

Hon Harriet Shing, MLC
Chair
Legislative Council Privileges Committee

HOUSE RESOLUTION – 22 JUNE 2022

PRIVILEGES COMMITTEE REFERENCE — MR SOMYUREK’S USE OF GOVERNMENT RESOURCES

— Mr Somyurek moved, That this House —

- (1) notes that —
 - (a) the Independent Broad-based Anti-corruption Commission’s (IBAC) investigation into allegations of serious corrupt conduct involving Victorian public officers, including Members of Parliament, known as Operation Watts, commenced in 2020;
 - (b) IBAC, despite acknowledging at public hearings that the practice of branch stacking had been endemic in the Australian Labor Party (ALP) for generations across all the factions, and despite the Legislative Council resolving to request that their investigation be broadened to include all sections of the ALP, has only examined the Moderate Labor faction of the Victorian branch of the ALP during this investigation;
- (2) further notes that —
 - (a) IBAC is an investigative body that does not have the power to impose sanctions;
 - (b) potential breaches of codes of conduct of Members of Parliament are matters that only the Parliament through the Privileges Committee can deal with;
 - (c) unless the Privileges Committee commences an inquiry immediately it will not have time to conduct an inquiry and report its findings to the House;
- (3) requires the Privileges Committee to inquire into and report to the House, by no later than Thursday, 18 August 2022, on matters raised relating to the Hon Adem Somyurek MLC, at the IBAC Operation Watts public hearings regarding the use of government resources, including the use of electoral office and ministerial staff, and in undertaking this inquiry requires the Committee to —
 - (a) seek input from IBAC and examine any other matter raised at the IBAC Operation Watts public hearings that the Committee considers relevant;
 - (b) take evidence from all electorate officers and ministerial staff who have worked with Mr Somyurek from 2017;
 - (c) ensure that the investigation includes, but is not limited to, the following topics that IBAC showed interest in during their public hearings, being that Mr Somyurek —
 - (i) employed staff based on factional affiliation;
 - (ii) pressured Members of Parliament to employ activists aligned to his faction;
 - (iii) directed staff members to do factional work during office hours;
 - (iv) allowed staff members to do factional work during office hours;
 - (v) employed staff to full entitlement when, according to IBAC, his electorate office did not have sufficient work;
 - (vi) authorised activists to use electoral roll information from the Victorian Electoral Commission to check the accuracy of membership applicants to the party;
 - (vii) breached ‘money for value’ considerations in employing casual staff;
 - (viii) employed people of cultural backgrounds who IBAC appears to think are not capable of doing office work;
 - (ix) kept a database of members according to factional alignment and cultural identity;
 - (x) allowed staff to keep a database of members according to factional alignment and cultural identity; and
 - (d) conduct a transparent and public investigation.

Question — put and agreed to.

Appendix B

Letter from the Commissioner of the Independent Broad-based Anti-corruption Commission to the Committee

B

From the Office of the Commissioner

Our ref: CD/22/56341

12 July 2022

The Hon. Harriet Shing MLC
Chair
Legislative Council Privileges Committee
Parliament House
Spring Street
East Melbourne Victoria 3002

Via email: Harriet.Shing@parliament.vic.gov.au

Cc: Richard.Willis@parliament.vic.gov.au

Dear Ms Shing

Re: Legislative Council Privileges Committee inquiry into Mr Somyurek's use of government resources

I refer to your letter dated 6 July 2022, regarding the Legislative Council Privileges Committee (**the Committee**) inquiry into Mr Somyurek's use of government resources.

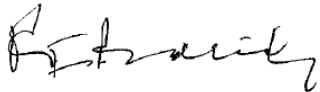
I note your advice that it is not the intention of the Committee to displace or otherwise interfere with the IBAC's exercise of powers, particularly as they relate to an extant investigation. In that regard I should bring to your attention that Mr Somyurek's legal advisors have written to IBAC seeking IBAC's agreement that it will not table the joint report on Operation Watts until the Privileges Committee has completed its inquiry and defamation proceedings which he has commenced against the Age newspaper are concluded. The letter states that it was Mr Somyurek's understanding that IBAC would be unable to table its report because of the defamation proceedings and it was for that reason that he referred himself to the Privileges Committee as the body that has purview over potential breaches of members Codes of Conduct. Mr Somyurek did not inform the Legislative Council that this was his view and intention at the time that he moved the Motion.

IBAC does not consider that the defamation proceedings or the Committee's inquiry preclude IBAC and the Ombudsman from tabling the joint report in Parliament.

Accordingly, in response to Part 3(a) of the Motion and the requirement for the Committee to seek IBAC's input, IBAC and the Victorian Ombudsman propose to table the joint report on 20 July 2022. If it is convenient to the Committee, this report can then be considered IBAC's input to the work of the Committee. The joint report explores and addresses each of the matters raised in the referral to the Committee in great detail.

In the event that any steps are taken by Mr Somyurek or any other witnesses involved in Operation Watts that have the effect of delaying the tabling of our report, may I suggest that we further communicate about the course that might be followed.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Redlich', written in a cursive style.

The Honourable Robert Redlich AM, QC
Commissioner

Legislative Council Privileges Committee

Parliament of Victoria
Spring Street
East Melbourne Vic 3002

61 3 9651 8696
council@parliament.vic.gov.au
parliament.vic.gov.au/lc-privileges