



PARLIAMENT OF VICTORIA

Privileges Committee, Legislative Council
and
Privileges Committee, Legislative Assembly

Report on the appointment of a Parliamentary Integrity Adviser

Parliament of Victoria
Privileges Committee, Legislative Council and Privileges Committee, Legislative Assembly

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Recommendation

The Privileges Committees of the Council and Assembly jointly recommend that:

In accordance with (5)(a) of the 2019 resolution, the Legislative Council and the Legislative Assembly appoint Mr Ray Purdey as parliamentary integrity adviser under the terms and conditions of appointment in Appendix 1 of this report, which have been agreed in consultation with the Speaker and the President, for the period that terminates on the day that is four months after the next general election.

Appointment of a Parliamentary Integrity Adviser

Background

The Legislative Council and Legislative Assembly each agreed to a resolution establishing the parliamentary integrity adviser in the sitting week of 30 April 2019 (the 2019 resolution). See the 2019 resolution at Appendix 2.

Under the 2019 resolution, the Privileges Committees of the Council and Assembly (the Committee) are required to report on:

- (a) a person recommended for appointment as Parliamentary Integrity Adviser; and
- (b) the terms and conditions of appointment of the Parliamentary Integrity Adviser, including any remuneration, as agreed in consultation with the Speaker and the President.

The 2019 resolution authorises the committees to meet and confer jointly for the purposes of making these recommendations.

Role of the parliamentary integrity adviser

Under the 2019 resolution, the integrity adviser will have advisory, education and training, and reporting functions.

Advisory function

To provide advice, on request, to current and former members on ethical issues and integrity matters relating to their role as a member of Parliament.

Advice must be consistent with legislation, regulations and any other rules/guidelines adopted by Parliament.

The integrity adviser cannot give legal advice.

Education and training functions

To provide periodic education and training to members about ethical issues and integrity matters relating to the role, responsibilities, functions and powers of members of Parliament.

To provide training:

- for new members at the start of each Parliament
- for new members elected/appointed to fill a casual vacancy
- on any amendments/changes to the parliamentary standards and integrity system.

Reporting functions

Report annually on:

- advice given
- training delivered
- time spent performing integrity adviser duties.

Discretionary reporting on:

- issues arising from requests for advice, including any suggested proposal to address issues
- provision of guidance on particular issues
- any other matters considered appropriate.

The integrity adviser will also meet annually with the Committee to discuss issues arising from the operation and application of the parliamentary standards framework.

The Committee's expectations of the parliamentary integrity adviser

To assist the integrity adviser in the performance of their role, the Committee sets out the following expectations.

The integrity adviser will

Provide general advice to members on integrity matters connected to their role as a member of Parliament, including issues relating to claiming parliamentary allowances, conflicts of interest etc.

Provide general advice to members on the application of the Code of Conduct in Part 3 of the *Members of Parliament (Standards) Act 1978*.

Be available for members to consult with the integrity adviser on ethical issues and integrity matters.

Provide periodic education and training to members on ethical issues and integrity matters.

Coordinate with Parliament on the provision of training to new members to best integrate training provided by the integrity adviser with the new member induction program.

Remain abreast of and effectively communicate amendments and other changes to the parliamentary standards framework in accordance with the resolution.

Identify systemic and/or recurring issues relating to the parliamentary standards framework and report back as needed.

Otherwise exercise the role and functions of the integrity adviser in accordance with the resolution including:

- keeping records of all advice given for the duration of tenure
- complying with confidentiality requirements
- annual meeting with the Committee
- annual reporting on specified matters as required
- periodic reporting on other matters as appropriate
- not engaging with any outside employment that conflicts with the role of the integrity adviser.

At the end of the integrity adviser's tenure, any documents, records, correspondence, papers and information (on whatever media and wherever located) obtained in the course of providing the Services and any material containing confidential information in their possession or control, must be promptly securely retained or otherwise as directed by the Committee in a manner consistent with the resolution.

Crossover with other parts of the parliamentary standards framework

The Committee acknowledges that, as with any new position, the scope of the role of the integrity adviser within the parliamentary standards framework may not be entirely clear from commencement.

Therefore, in stating the above expectations, the Committee recognises the significant crossover between the integrity adviser's advisory function and matters that carry certain obligations and powers of the Clerk of the Parliaments, Clerks of the Houses, Secretary of the Department of Parliamentary Services, Compliance Officer, and others, particularly in relation to the proper use of the budget and allowances, Register of Interests and compliance with the Code of Conduct.

The Committee expects that the integrity adviser will be mindful of the potential for ambiguity as to the most appropriate person to assist members on any particular matter, and refer members to that person based on the relevant circumstances in each case. While this would not preclude the integrity adviser from also giving advice

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on a particular matter, the Committee expects that the integrity adviser will consider carefully how and whether to provide advice on any given matter, particularly while they and the Parliament becomes more familiar with the new standards framework.

The integrity adviser may include observations, suggestions and recommendations about the crossover and grey areas in their reports and meetings with the Committee.

Committee process

The Committee met jointly on 19 June 2019 and established a subcommittee to undertake the appointment process and make a recommendation to the Committee. The chairs and deputy chairs of the Council and Assembly committees were appointed to the subcommittee — Stuart Grimley MLC, Harriet Shing MLC, Hon Lisa Neville MLA, and David Morris MLA. Ms Shing was elected chair of the subcommittee.

The subcommittee met with the recommended candidate, Mr Ray Purdey, on 17 July 2019. Mr Purdey's background is summarised below.

Mr Purdey was a parliamentary officer between 1974 and 2019. He was Clerk of the Legislative Assembly from 1998 and Clerk of the Parliaments from 1999. He also held the roles of Deputy Clerk, Assistant Clerk and Clerk of Committees, and Serjeant-at-Arms in the Legislative Assembly. He was Honorary Secretary, Commonwealth Parliamentary Association (Victoria Branch) 1999–2017. He has a Bachelor of Business (Accounting). In 2018 he was awarded the Public Service Medal in the Australia Day Honours.

The subcommittee considered that Mr Purdey has the knowledge, experience, personal qualities and standing within the community suitable for the office. A series of probity checks were completed confirming Mr Purdey's suitability for the role.

As required by the 2019 resolution, the subcommittee consulted with the Speaker and the President on the terms and conditions of appointment, and sought direction on the remuneration. The Speaker and President conveyed their agreement with the terms and conditions of appointment and set the remuneration in a letter of 14 August 2019.

The subcommittee recommended that the Committee recommend Mr Ray Purdey as parliamentary integrity adviser under the terms and conditions of appointment in Appendix 1 of this report.

The Committee subsequently met on 14 August 2019 to receive the report of the subcommittee and adopted the subcommittee's recommendation.

Recommendation

The Privileges Committees of the Council and Assembly jointly recommend that:

In accordance with (5)(a) of the 2019 resolution, the Legislative Council and the Legislative Assembly appoint Mr Ray Purdey as parliamentary integrity adviser under

the terms and conditions of appointment in Appendix 1 of this report, which have been agreed in consultation with the Speaker and the President, for the period that terminates on the day that is four months after the next general election.

Appendix 1

Terms and conditions of appointment

- The length of term is from the 1 September 2019 until the day that is four months after the next general election or until such time as the agreement is terminated by either party in accordance with its terms.
- The Parliamentary Integrity Adviser (PIA) must:
 - exercise due care and skill and provide the Services to a high professional standard and to the best of their ability, knowledge and expertise;
 - comply with any reasonable direction given by Parliament in relation to the provision of the Services;
 - comply with all the applicable standards and codes, laws and regulations in force from time to time;
 - when using premises or facilities owned or controlled by Parliament, comply with any occupational health and safety requirements and security guidelines notified to them from time to time;
 - provide to Parliament on request periodic progress reports relating to the Services; and
 - comply with any policies and procedures notified to them by Parliament from time to time.
- The Parliament will pay the PIA a fee of \$50,000 plus GST per year from 1 September 2019 to the day that is four months after the next general election. This includes all charges, expenses, fees and costs and may be reviewed by agreement between the parties on annual basis to reflect any increase in required activity or CPI adjustment.
- The PIA will provide their own resources including email, phone, computer and travel.
- Parliament will reimburse those expenses agreed in advance as necessary for the proper performance of the services subject to the PIA providing all relevant receipts.
- The PIA will submit to Parliament on a three monthly basis valid and properly rendered tax invoices which include their ABN and any GST payable.
- The PIA may be engaged, employed or concerned in any other business, trade, profession or other activity which does not place them in a conflict of interest with the Parliament or which would not cause them to breach, or affect their ability to provide Services under, the agreement.

- The PIA must not use or disclose to any person either during or at any time after their engagement by Parliament any confidential information about the affairs, activities or finances of the Parliament, or about any other confidential matters of which they become aware in the course of providing their services. They must use their best endeavours to prevent the disclosure or publication of any confidential information to any person.
- The PIA is bound by and must comply with the Information Privacy Principles contained in the *Privacy and Data Protection Act 2014* and any associated code of practice in performing their obligations in the same way and to the same extent as the organisation (as defined in that Act) would have been bound had it been directly done or engaged in by that organisation.
- Where any Tax File Number (TFN) data are collected, used, or disclosed in the course of providing the Services, the PIA must, in accordance with industry best practice, monitor any systems used by them or any third party engaged by them, to hold, store, or process TFN data for actual or suspected data breaches, and must immediately notify Parliament of any data breach.
- All intellectual property created by the PIA in providing Services will be owned by Parliament and the PIA will assign such intellectual property to Parliament upon their creation and to promptly execute all documents and do all acts which are reasonable to give effect to any such assignment. The PIA irrevocably and unconditionally consents to Parliament exercising its rights in, and to use works containing or incorporating, any intellectual property they develop, create or conceive during their engagement in a manner that, but for their consent, may otherwise infringe their moral rights (as defined in the *Copyright Act 1968* (Cth)) and any equivalent or analogous rights.
- The PIA is liable for and shall indemnify the Parliament for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the PIA of the terms of the agreement, including any negligent or reckless act, omission or default in the provision of the Services.
- The PIA must arrange and maintain in force for the duration of their tenure (and for obligations that survive, and risks that extend beyond, its expiry or termination) adequate insurance cover with reputable insurers acceptable to Parliament including public liability insurance of not less than \$5 million in respect of any one occurrence, worker's compensation insurance and any other insurances as required by law. The cost of insurance will be reimbursed by the Parliament and evidence of such insurances must be provided to Parliament by the PIA on request.
- The PIA may at any time terminate this agreement if payment is not made for Services provided in accordance with this agreement and Parliament fails to make payment within 30 days of being notified by the PIA in writing that the payment is over-due.
- The PIA may terminate the agreement at any time in writing to the President and the Speaker.

- The PIA may be removed from the position by resolution of the Legislative Council and Legislative Assembly for:
 - insolvency; or
 - proven misbehaviour; or
 - mental incapacity.
- At the conclusion of their tenure the PIA must return to Parliament on request any property of Parliament in their possession or control including, books, manuals and materials. Any documents, records, correspondence, papers and information (on whatever media and wherever located) obtained by the PIA in the course of providing the Services and any material containing confidential information in their possession or control, must be promptly securely retained or otherwise as directed by the Privileges Committees acting jointly in a manner not inconsistent with the resolution.
- The PIA will be an independent contractor, not an employee, worker, agent or partner of Parliament and the PIA must not hold themselves out as such. The PIA is solely responsible for, and Parliament has no liability to them for, superannuation, annual leave, sick leave, long service leave, public holidays, redundancy payments or any other similar benefits under any law or industrial instrument or for any employee-related statutory levy, tax or charge.

Appendix 2

Resolution establishing the Parliamentary Integrity Adviser

[Agreed to by the Legislative Council on 30 April 2019 and by the Legislative Assembly on 1 May 2019]

This House establishes the position of Parliamentary Integrity Adviser in accordance with the following terms:

(1) Provision of advice

- (a) The Parliamentary Integrity Adviser is to advise any member of Parliament, including former members of Parliament, when asked to do so by that member, on ethical issues and integrity matters concerning the exercise of his or her role as a member of Parliament.
- (b) The Parliamentary Integrity Adviser's advice may be sought on a range of parliamentary matters including, but not limited to, the application of any legislation or other guidelines adopted by Parliament that are relevant to members in their capacity as members of Parliament, the use of members' entitlements and declaration of potential conflicts of interest.
- (c) Any advice given by the Parliamentary Integrity Adviser should be consistent with legislation, regulations and any other rules or guidelines adopted by Parliament, but must not constitute legal advice.

(2) Education and training

- (a) The Parliamentary Integrity Adviser is to provide periodic education and training to members of Parliament about ethical issues and integrity matters concerning, but not limited to, the functions, roles, powers, and responsibilities of members of Parliament.
- (b) The Parliamentary Integrity Adviser must provide —
 - (i) training to new members of Parliament at the start of each Parliament;
 - (ii) training to new members of Parliament who are elected at a by-election or appointed to fill a casual vacancy; and
 - (iii) training on any amendments or changes to the parliamentary standards and integrity system.

(3) Records

- (a) The Parliamentary Integrity Adviser is required to keep, for the duration of his or her tenure, a record of all advice given, including any supporting material and information upon which the advice is based.
- (b) Subject to (3)(e)(ii), the Parliamentary Integrity Adviser must not divulge, to any person, entity or committee of either House, other than the person who requested the advice —
 - (i) any information provided to him or her in the course of his or her duties under this Resolution;
 - (ii) the content or details of any advice given in accordance with this Resolution —
 - unless the person who requested the advice has given express permission for such information and/or advice to be made public.
- (c) The Parliamentary Integrity Adviser must not comply with any order for the production of records by either House relating to advice given by the Parliamentary Integrity Adviser unless the person who requested the advice —
 - (i) is a member or former member of the House that made the order; and
 - (ii) in the case of advice given under (1)(a)–(c), has sought to rely on the advice for any reason; and
 - (iii) has given express permission for the records to be released to the relevant House.
- (d) Subject to 3(e), if the Parliamentary Integrity Adviser considers that the confidential advice provided to a member or former member has been publicly misrepresented, the Parliamentary Integrity Adviser may release a statement to correct the misrepresentation.
- (e) In releasing a statement under (3)(d), the Parliamentary Integrity Adviser —
 - (i) must not publicise the advice provided unless the person who requested the advice has given express permission for it to be made public; or
 - (ii) if the person who requested the advice refuses permission for it to be made public, may release the advice to the Privileges Committee of the relevant House if that Committee makes a request as part of a related inquiry connected to that person.

(4) Reporting

- (a) At least once every 12 months, the Parliamentary Integrity Adviser will meet jointly with the Privileges Committees of the Assembly and the Council to discuss matters relevant to and issues arising from the operation and application of the parliamentary standards framework.

- (b) The Parliamentary Integrity Adviser must, every 12 months, report to the Parliament on —
 - (i) advisory functions including —
 - (A) the number of ethical matters raised during the reporting period;
 - (B) the number of members and former members who sought advice during the reporting period;
 - (C) the number of times advice was given during the reporting period; and
 - (D) the amount of time spent in the course of performing duties under the terms of this Resolution during the reporting period; and
 - (ii) education functions including —
 - (A) the number of training sessions provided during the reporting period, and the number of members who attended each training session; and
 - (B) a brief description of the content of training sessions and any other training provided during the reporting period.
- (c) The Parliamentary Integrity Adviser may, at his or her discretion, report to the Parliament from time to time on —
 - (i) any issues with the parliamentary standards framework arising from requests for ethics or integrity advice, including suggested proposals to address such issues;
 - (ii) the provision of guidance to members of Parliament on particular issues, including publication of de-identified case studies in order to educate members on their obligations;
 - (iii) any other matter the Parliamentary Integrity Adviser considers appropriate.
- (d) A report of the Parliamentary Integrity Adviser under (4)(b) or (4)(c) —
 - (i) will be tabled in each House; and
 - (ii) must not divulge or cause to be divulged the identity of any person who has requested advice in accordance with this Resolution.
- (e) A House or committee of the Parliament cannot —
 - (i) refer a matter to the Parliamentary Integrity Adviser;
 - (ii) require the Parliamentary Integrity Adviser to report on the conduct of a specific member or former member, or a specified group of members and/or former members, of Parliament; or
 - (iii) require the Parliamentary Integrity Adviser to investigate any allegations of misconduct.

(5) Appointment, resignation and removal

- (a) A person will be appointed by resolution of the Council and the Assembly, on the joint recommendation of the Privileges Committees of the Council and the Assembly in accordance with (5)(c), as Parliamentary Integrity Adviser.
- (b) An appointment under (5)(a) must —
 - (i) subject to (5)(b)(iii), be made whenever the position becomes vacant; and
 - (ii) be for a period that terminates on the day that is four months after the general election that is held immediately following the Parliament during which the appointment is made; and
 - (iii) in the case of the first appointment of the Parliamentary Integrity Adviser, be made within four months after this Resolution has been agreed to by both Houses.
- (c) Prior to a resolution under (5)(a), a joint report of the Privileges Committees of the Council and the Assembly will be tabled in each House specifying —
 - (i) a person recommended for appointment as Parliamentary Integrity Adviser; and
 - (ii) the terms and conditions of appointment of the Parliamentary Integrity Adviser, including any remuneration, as agreed in consultation with the Speaker and the President.
- (d) If, within three months of the position becoming vacant, the Privileges Committees of the Council and the Assembly fail to report under (5)(c), a joint sitting of Parliament in accordance with JSO 22 will be held to appoint a person as Parliamentary Integrity Adviser on the terms and conditions, including any remuneration, agreed by the Speaker and the President.
- (e) The Parliamentary Integrity Adviser may engage in any outside employment that does not conflict with his or her role as Parliamentary Integrity Adviser.
- (f) The Parliamentary Integrity Adviser may resign in writing to the President and the Speaker.
- (g) The Parliamentary Integrity Adviser may be removed from office by resolution of the Council and the Assembly for —
 - (i) insolvency; or
 - (ii) proven misbehaviour; or
 - (iii) mental incapacity.
- (h) Prior to a resolution under (5)(g), the Privileges Committees of the Council and the Assembly must meet and confer jointly on the alleged grounds for removal and, if the grounds are found to be valid, make a joint recommendation to Parliament that the Parliamentary Integrity Adviser be removed from office.

- (i) A joint recommendation under (5)(h) will —
 - (i) be tabled in each House; and
 - (ii) include the reasons for the recommendation unless the Privileges Committees agree that it would be contrary to the public interest to do so.
- (j) The Parliamentary Integrity Adviser may be suspended from office whilst any alleged grounds for removal from office are dealt with under the terms of this Resolution.

(6) Review

The Privileges Committees of the Council and the Assembly must, in the final year of each Parliament —

- (a) cause a joint review to be made of the operation of this Resolution; and
- (b) table a report of the review in each House before the expiration of the Assembly under section 38 of the *Constitution Act 1975*.

(7) Privileges Committee

- (a) The Privileges Committee of this House is authorised and required to meet and confer jointly with the Privileges Committee of the other House for the purposes of exercising its role, functions and powers in accordance with the terms of this Resolution.
- (b) The provisions relating to the role, functions and powers of the Privileges Committee under the terms of this Resolution constitute a standing reference to the Committee for the Parliament during which its members are appointed until the dissolution or other lawful determination of the Assembly.
- (c) For the purposes of joint meetings of the Privileges Committees of the Council and the Assembly under the terms of this Resolution —
 - (i) the Chair of the Assembly Privileges Committee and the Chair of the Council Privileges Committee are joint chairs; and
 - (ii) meetings shall be chaired by the joint chairs on an alternating basis; and
 - (iii) a joint chair shall take the Chair whenever the other joint chair is not present; and
 - (iv) every Committee member shall have a deliberative vote only; and
 - (v) the Standing Orders of the Assembly shall otherwise apply insofar as they are not inconsistent with the terms of this Resolution.

and this Resolution shall continue in force unless and until it is amended or rescinded by a resolution of the Council and the Assembly in this or a subsequent Parliament.

