



Submission No. MP/5  
Received 11/05/2009  
Law Reform Committee

Hon Nick Griffiths MLC

---

Mr Johan Scheffer MLC  
Chair  
Law Reform Committee  
Parliament of Victoria  
Spring Street  
EAST MELBOURNE  
Victoria 3002

Dear Mr Scheffer

I am writing in response to your letter of 17 April 2009 seeking information in relation to the Law Reform Committee's review of the *Member of Parliament (Register of Interests) Act 1978*. You also wrote to the Clerk of the Legislative Council of Western Australia, and his contribution is incorporated in this response.

The overall view is that the existing arrangements in the Legislative Council appear to function well.

It should be noted that while both houses of the West Australian Parliament operate under the *Members of Parliament (Financial Interests Act) 1992*, the administration of the Act's requirements are handled somewhat differently. In terms of handling of the information furnished by members, the Council has sought to avoid any editorial role and simply present a copy of the Member's annual return. While the Act provides the Clerk with modest discretion [S18 (4)] in what is presented, the Council prefers to directly table a copy of all material provided by the member.

In relation to whether and how members can seek advice, advice is provided by the Clerk on the usual basis of confidentiality.

The Clerk provides general advice regarding the administrative operation of the Act. Advice to members is restricted to whether the return they submit is in accordance with the Act. Members may need to seek legal advice on how interests in particular assets or benefits received relate to the requirements of the Acts. Ministers may consult the State Solicitor's Office on such matters. The issue of pecuniary interests held by or transferred to a spouse has occasionally arisen, usually in relation to a ministerial responsibility. However, no substantial concerns in this area have been raised.

The *Members of Parliament (Financial Interests Act) 1992* does not include a code of conduct. The Legislative Council does not have a code of conduct for members, with the collective provisions of the Council's Standing Orders and statutes such as the West Australian Criminal Code considered adequate.

Arrangements for dealing with allegations of breaches of Standing Orders would normally be pursued through the Procedure and Privileges Committee.

---

PARLIAMENT OF WESTERN AUSTRALIA

The awareness of the requirements and expectations of ethical behaviour among members in Western Australia has almost certainly been sharpened by the existence and operation of the Corruption and Crime Commission in Western Australia. Section 27A of the *Corruption and Crime Commission Act 2005* provides that allegations of non-serious misconduct by members are to be referred by the Commission to the Presiding Officer. Such matters are ultimately referred to the Procedures and Privileges Committee for inquiry, with the Commission acting on its behalf. It should be noted the *Corruption and Crime Commission Act 2005* defines "misconduct" (Section 4), but does not define non-serious misconduct.

Yours sincerely



**Nick Griffiths**

President of the Legislative Council of Western Australia

G:\KAAA\Parliamentary Members\Member Information\Financial Interest Register\Vic law reform cttee-review mbrs reg of int act.doc