



KEEPING THE LEGISLATURE MODERN / THE ADDITION OF THE  
INTEGRITY COMMISSIONER AS AN OFFICER OF THE ASSEMBLY

50TH PRESIDING OFFICERS AND CLERKS CONFERENCE  
8-11 JULY 2019  
BRISBANE

Paper presented by Ms Joy Burch MLA, Speaker of the Legislative Assembly  
for the Australian Capital Territory

# INTRODUCTION

The purpose of this paper is to outline some of the more significant changes recently made to the way in which the Assembly conducts its business, through the adoption of a number of amendments to its standing orders and continuing resolutions.

The paper also provides a short background on the establishment of the new ACT Integrity Commission and briefly summarises the impact the establishment of the Commission could have on the role of the Speaker.

## REVIEW OF STANDING ORDERS AND CONTINUING RESOLUTIONS

### BACKGROUND AND CONDUCT OF THE REVIEW

Standing order 16 of the Assembly provides that, among other things, the Standing Committee on Administration and Procedure (the Committee) shall, in the third year of an Assembly term, inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly. The purpose of this requirement is to guarantee that, at least every four years, the practices and procedures of the Assembly are reviewed to ensure they remain relevant and reflect best practice.

In accordance with this standing order I, as Speaker and Chair of the Committee, informed the Assembly on 22 February 2018 that the Committee had resolved to conduct an inquiry into, and report on, the operation of the Assembly's standing orders and continuing resolutions.<sup>1</sup>

The inquiry was advertised in the press in late February 2018 with the Committee writing to the following stakeholders, in March 2018, inviting them to make a submission:

- Members of the current Ninth Assembly;
- former Members of the Eighth Assembly;
- former Chief Ministers and Speakers;
- the Labor Party, Liberal Party and ACT Greens;
- representatives of media organisations that report on Assembly proceedings;
- union and business representatives in the Territory;
- the Law Society;
- ACT Council of Social Service; and
- political science academics at the Australian National University and the University of Canberra.

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<sup>1</sup> *Minutes of Proceedings* 2016-20/709.

The 11 submissions received by the Committee came from one current<sup>2</sup> and one former Member,<sup>3</sup> the Assembly's Standing Committee on Justice and Community Safety,<sup>4</sup> ACT Ombudsman,<sup>5</sup> ACT Audit Office,<sup>6</sup> Parliamentary Counsel,<sup>7</sup> ACT Human Rights Commission,<sup>8</sup> Office of the Legislative Assembly (the Office),<sup>9</sup> ACT Government,<sup>10</sup> ACT Labor Caucus<sup>11</sup> and ACT Greens Members.<sup>12</sup>

Although the committee did not hold public hearings, it met on 11 occasions to review submissions and to consider proposed changes to the standing orders and continuing resolutions.

## THE REPORT

The Committee's report entitled [\*Review of the standing orders and continuing resolutions of the Legislative Assembly\*](#) was presented in the Assembly on 25 October 2018.<sup>13</sup> The recommendations contained in the report were in response to the submissions received and also as a result of discussions during deliberations when the Committee 'encountered opportunities for improvements ... to existing procedural arrangements embodied in the standing orders and continuing resolutions.'<sup>14</sup>

The report included 66 recommended amendments to the Assembly's standing orders and a number of amendments to continuing resolutions. All recommended amendments to the standing orders and a number of the recommended amendments to continuing resolutions (relating to the Broadcasting Guidelines and the consideration of reports of the Commissioner for Standards by the Standing Committee on Administration and Procedure) were adopted by the Assembly on 29 November 2019<sup>15</sup> with a commencement date of 1 January 2019. An additional three recommended amendments to the continuing resolution relating to the ACT Lobbyist Regulation Guidelines were adopted by the Assembly on 21 March 2019<sup>16</sup> following a further inquiry by the Committee.<sup>17</sup>

A number of submissions received by the Committee during the inquiry proposed changes to the continuing resolution relating to the Members' code of conduct, further changes to the Commissioner for Standards continuing resolution and the Ethics and Integrity Adviser continuing resolutions. It was the Committee's view, however, that given that it was probable that there would be a need to review these continuing resolutions upon the commencement of the ACT Integrity Commission, it would await the commencement of that relevant legislation before recommending any amendments to the Assembly in relation to these matters.

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<sup>2</sup> Submission 1, Mrs Giulia Jones MLA.

<sup>3</sup> Submission 2, Mr Greg Cornwell AM.

<sup>4</sup> Submission 3, Standing Committee on Justice and Community Safety.

<sup>5</sup> Submission 4, ACT Ombudsman.

<sup>6</sup> Submission 5, ACT Auditor-General.

<sup>7</sup> Submission 6, ACT Parliamentary Counsel.

<sup>8</sup> Submission 7, ACT Human Rights Commission.

<sup>9</sup> Submission 8, Office of the Legislative Assembly.

<sup>10</sup> Submission 9, ACT Government.

<sup>11</sup> Submission 10, Labor Caucus.

<sup>12</sup> Submission 11, ACT Greens Members.

<sup>13</sup> *Minutes of Proceedings* 2016-20/1077.

<sup>14</sup> Standing Committee on Administration and Procedure, *Review of standing orders and continuing resolutions of the Legislative Assembly*, p 7.

<sup>15</sup> *Minutes of Proceedings* 2016-20/1175-6.

<sup>16</sup> *Minutes of Proceedings* 2016-20/1326.

<sup>17</sup> Standing Committee on Administration and Procedure, *Inquiry into the ACT Register of Lobbyists*.

It is worth noting that a resolution was passed by the Assembly on 29 November 2018 relating to the referral of matters to and by the Commissioner for Standards and the Integrity Commissioner.<sup>18</sup> The continuing resolution now enables the Integrity Commissioner to refer matters to the Commissioner for Standards if the Integrity Commissioner considers the matter should be referred and conversely allows the Commissioner for Standards to refer matters to the Integrity Commissioner if the Commissioner for Standards considers that the complaint is more properly the purview of the Integrity Commissioner.

The Committee's report also included a number of additional recommendations, the majority of which did not relate directly to changes to the standing orders. These recommendations were noted by the Assembly<sup>19</sup> and covered the following matters:

- submission of documents required by standing orders in either electronic and hard copy;
- use of the honorific 'The Honourable' and gender neutral terms;
- title of petitions and petition responses to be included on daily program;
- co-sponsorship of e-petitions;
- disorder in public hearings; and
- reticulation of hearings of the Aboriginal and Torres Strait Islander Elected Body throughout the Assembly building

## THE AMENDED STANDING ORDERS

This paper does not propose to detail all recommended amendments to the standing orders adopted by the Assembly but seeks to detail those that have and/or will significantly alter the way the Assembly conducts its business.

### Meeting of a new Assembly—inclusion of a role for traditional custodians

Standing order 1 sets out the process for the first meeting of the Assembly following an election. This standing order was amended to include a ceremony of welcome by traditional custodians prior to Members assembling in the Chamber for the commencement of an Assembly.<sup>20</sup> It was considered that the involvement of traditional custodians at the first meeting of an Assembly in such a way would strengthen the bonds between the Assembly and the local Ngunnawal community. The inaugural ceremony of welcome will take place at the first meeting of the 10<sup>th</sup> Assembly in late 2020.

### Adjournment of Assembly—moved to a later time

Previously, standing order 34 provided that, at 6 pm each sitting day, the 'Speaker shall propose that the Assembly do now adjourn', however, it was becoming practice that on the majority of Assembly sitting days the automatic adjournment question was negatived and the Assembly continued to sit for a relatively short period of time. The amendment to the standing order included having the automatic adjournment question put at 6.30 pm. Since 1 January 2019 the automatic adjournment has been

<sup>18</sup> *Minutes of Proceedings* 2016-20/1186-7.

<sup>19</sup> *Minutes of Proceedings* 2016-20/1175-6.

<sup>20</sup> The recommended amendment by the Committee referred to 'local indigenous people', however, an amendment agreed to by the Assembly deleted those words and inserted 'traditional custodians'.

negatived on only three occasions.<sup>21</sup>

### Manner and right of speech—adjusting standing orders for MLAs with a disability

It was noted during the Committee's inquiry that a number of standing orders relating to the manner and right of speech do not currently provide for MLAs with a disability, or those who may be physically unable to stand to speak. A number of amendments were made to the standing orders to address this issue including standing order 43 that now states that 'If a Member is unable to rise, he or she will be permitted to speak while sitting'.

The earlier version of standing order 44 stated that when two or more Members rise to speak the Speaker shall call on the Member who, in the Speaker's opinion, 'rose first' but has now been amended to provide for the Speaker calling on the Member who in the Speaker's opinion was first.

### Speaking in a language other than English

Since the beginning of the 9<sup>th</sup> Assembly there have been a number of instances where Members have spoken in another language during debate.<sup>22</sup> After each instance, the Speaker has ruled that certain requirements were to apply if a Member wishes to speak in a language other than English. It was considered that rather than relying on the Speaker's ruling after each instance, it would be more desirable to include those requirements in standing orders. The relevant standing order<sup>23</sup> now provides that a Member may rise and speak in any language other than English as long as: (a) an oral translation is provided in the English language by the same Member immediately prior to the words being spoken in the language other than English; and (b) a written translation in both English and the language used is provided to the Clerk within one hour following the contribution by the Member speaking. This standing order has not be utilised since the inclusion of these provisions in the standing orders.

### Co-sponsored motions

Co-sponsored bills have been provided for in the Assembly's standing orders since 2016 and it was proposed that standing orders also allow for co-sponsored motions.<sup>24</sup> The provision for co-sponsored motions has now been incorporated into the standing orders including the time limits applying to these motions.<sup>25</sup> To date no co-sponsored motions have been debated in the Assembly, however, a motion co-sponsored by four Members was listed on the *Notice Paper* on 2 April 2019<sup>26</sup> for debate on 4 April 2019 but was subsequently withdrawn.<sup>27</sup>

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<sup>21</sup> As at 31 May 2019.

<sup>22</sup> Submission 8, Office of the Legislative Assembly, p 15.

<sup>23</sup> Standing order 42A.

<sup>24</sup> Submission 11, ACT Greens.

<sup>25</sup> Standing order 69(ga).

<sup>26</sup> *Notice Paper* (2 April 2019) 1754.

<sup>27</sup> *Minutes of Proceedings* 2016-20/1372.

## No new business after 10 pm

To reflect the Assembly's commitment to being a family friendly workplace, standing order 76 was amended to insert the provision that new business may not be taken after 10 pm unless otherwise ordered prior to 9 pm. The previous version of the standing order stated that no new business may be taken after 11 pm unless otherwise ordered prior to 11 pm.

## Matter of public importance—alteration to lodgement provisions

The Assembly's previous version of this standing order<sup>28</sup> relating to the process for lodging a matter of public importance (MPI) required each Member wishing to submit a proposal, do so every Tuesday and Thursday, irrespective of whether the matter they proposed had changed or not. The Committee's recommendation was that Members should be able to submit a proposal, and where the proposal has not been successful, it would remain with the Speaker for consideration in the next draw until either the proposal is discussed, withdrawn or replaced by the Member. A consequence of these new provisions is that if a number of Members lodge an MPI with the same terms (which is often the case in the Assembly) and Members do not withdraw or replace that MPI once the topic has been drawn and discussed in the Assembly, their lodged MPI remains active and they run the risk of having it ruled out of order by the Speaker under the same question provisions.

Since the commencement of this provision there has been an occasion where an MPI was drawn that was the same as one previously discussed in the Assembly within the same calendar year. However, due to new circumstances surrounding the issue since the initial discussion in the Assembly, the Speaker allowed the matter to progress.<sup>29</sup> On another occasion the MPI that was drawn was proposed by a Member who had been granted leave for that sitting day. As a consequence, when the MPI was reached, the discussion did not proceed as the proposer was not present.<sup>30</sup>

## Censure motions and Privileges Committee proposals—90 minutes notice

Previous practice in the Assembly has been for leave to be granted to a Member to move a motion of censure and for the Speaker to grant precedence for a Member to move a motion to establish a Privileges Committee without the terms of the motion having been circulated to Members in advance. It was proposed by a submitter<sup>31</sup> that a new standing order be inserted to ensure that Members were given adequate time to prepare for debate on such substantial motions and that such motions be circulated two hours prior to the time at which the motion is proposed to be moved. However, during debate on the Committee's report an amendment was agreed to alter that time to 90 minutes.<sup>32</sup> The agreed amendment also inserted the consideration of motions of no confidence into the standing order.<sup>33</sup>

Since the adoption of the new standing order, this provision has been used on three occasions<sup>34</sup> allowing MLAs at least 90 minutes to consider these matters prior to debate in the Chamber.

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<sup>28</sup> Standing order 79.

<sup>29</sup> *Hansard* (4 April 2019) 1325.

<sup>30</sup> *Minutes of Proceedings* 2016-20/1469.

<sup>31</sup> Submission 11, ACT Greens.

<sup>32</sup> *Minutes of Proceedings* 2016-20/1175-6.

<sup>33</sup> Standing order 81A.

<sup>34</sup> *Minutes of Proceedings* 2016-20/1322 (Proposed motion of no confidence in Minister for Health and Wellbeing), *Minutes of Proceedings* 2016-19/1380 (Proposed establishment of a Select Committee on Privileges), *Minutes of Proceedings* 2016-20/1474-5 (Proposed motion of censure in the Minister for Education and Early Childhood Development).

### **Debate on petitions and petition responses—up to 30 minutes each sitting day**

It has become practice during the 9<sup>th</sup> Assembly that, after petitions have been presented to the Assembly, Members have sought leave to make statements in relation to those petitions. If leave is granted, there is no time limit on the Member's statement and this has resulted in delays on the remainder of the program for that day. After consideration, the Committee recommended a proposal for Members to speak to petitions and petition responses, however, with a time limit in place. The standing orders now provide for a 30 minute debate on petitions and responses with a five minute time limit for each Member.

Since the adoption of this new provision, this particular motion has been proposed eight times<sup>35</sup> and only two occasions has the question not been debated.

### **Proposed amendments to motions—must be circulated prior to moving**

To ensure that Members in the chamber have sufficient time to consider the contents of a proposed amendment to a motion and to allow for more considered debate, it was put to the Committee<sup>36</sup> that, prior to an amendment being moved, copies of that amendment should be circulated to all Members. This proposed change to the standing orders was adopted by the Assembly.<sup>37</sup>

### **Proposed amendments to bills—must be considered by a committee**

Previously the standing orders provided for only those amendments proposed by the Government to its own bills being considered and reported on by the Scrutiny Committee prior to the amendments being moved. It was recommended and adopted by the Assembly that all amendments, including those by non-Executive MLAs, to all bills (not just Government bills) should be provided to the Scrutiny Committee for consideration.

### **Members caring for infants allowed onto the floor of the Chamber at the discretion of the Speaker**

During the standing orders review an amendment was recommended<sup>38</sup> to standing order 210 that deals with strangers on the floor of the Chamber. The previous version of this standing order only allowed for 'a nursing infant being breastfed by a Member or an accredited Auslan interpreter' to be present on the floor of the Chamber (other than a Member). The adopted amendment allows a Member caring for an infant to be able to participate in certain proceedings in the Chamber at the discretion of the Speaker.

### **Presentation of papers—Manager of Government Business co-ordinates**

Practice in the Assembly has been that at the conclusion of question time Ministers in order of seniority present papers and, on occasion, either seek leave to make a statement in relation the paper or move a motion to take note of the paper. It was proposed to the Committee<sup>39</sup> that the Assembly adopt a practice similar to that used in the House of Representatives to streamline the procedure for the presentation of papers. The proposal was adopted by the Assembly and the presentation of papers procedure now states that 'by 12 noon on a sitting day a schedule of papers to be presented by the

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<sup>35</sup> As at 30 April 2019.

<sup>36</sup> Submission 8, Office of the Legislative Assembly, pp 7-8.

<sup>37</sup> Standing order 139.

<sup>38</sup> Submission 8, Office of the Legislative Assembly, p 9.

<sup>39</sup> Submission 9, Office of the Legislative Assembly, p 9-10.

Executive will be made available to whips by the Manager of Government Business and will be circulated to all Members electronically. Prior to question time, Members may request that the Manager of Government Business move a motion that the Assembly take note of particular papers listed in the schedule. Upon presentation of the papers listed on the schedule, the Manager of Government Business shall move the motions as requested by Members.’<sup>40</sup>

### Circulation of committee reports when the Assembly is not sitting

Unless special provision is made by a resolution of the Assembly for a select or standing committee report to be presented when the Assembly is not sitting, at times the sitting pattern can delay the tabling of a committee report until the Assembly is next sitting. New standing order 254C enables a standing or select committee to present a report when the Assembly is not sitting. This is now also the case for government responses to committee reports.<sup>41</sup>

### Establishment of committee of chairs

A practice has been adopted, over the last several Assemblies, for the Speaker to convene a meeting of committee chairs twice a year, the purpose of which is to advise on the operation of Assembly committees. It was recommended that this practice be formalised in the standing orders and this proposal was adopted by the Assembly. The committee of chairs consists of every chair of each standing and select committee with the Speaker as chair.<sup>42</sup>

### Disclosure of documents of the Assembly and its committees held for longer than 10 years

The Committee was advised during the course of the inquiry<sup>43</sup> that standing order 243 ‘provides a mechanism for the Speaker to permit any person to examine and copy evidence which has not already been published and is in the custody of the Assembly for at least 10 years. These documents could potentially involve in camera evidence and there is little guidance [in the standing order] on how a decision to publish such a document might be made. Without deviating from the Assembly’s prerogatives to authorise the publication of documents, it was suggested that this be clarified to ensure procedural fairness.’. In response, the following provision was inserted into the standing order:

- ‘(c) witnesses who have given evidence *in camera*, either written or oral, as far as practicable, shall be given opportunity to comment on the proposal for the release of that evidence, before a decision is made. If a witness does not respond to the invitation to comment after reasonable effort has been made to contact them, the Speaker may decide whether or not to authorise disclosure in the absence of the witness’s views being made known. In making a decision, the Speaker will take into account any public or parliamentary interest and the interests of the witness.’.

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<sup>40</sup> Standing order 211.

<sup>41</sup> Standing order 254B.

<sup>42</sup> Standing order 228A.

<sup>43</sup> Submission 8, OLA, p 19.

## ACT Lobbyist Regulation Guidelines—Members and staff not to meet unregistered lobbyists

It had been raised previously by the Ethics and Integrity Adviser that the ACT Lobbyist Regulation Guidelines do not stipulate that Members/Ministers/their staff/ACT public service should not knowingly deal with a person who is not on the Register of Lobbyists. The Assembly agreed with the Committee's recommendation that such a prohibition should be included in the resolution. The following terms are now included in continuing resolution 8AC:

### ***'Prohibition on contact with unregistered Lobbyists***

Members/Ministers agree, and their personal staff and all ACT public service officers shall be directed, not to knowingly or intentionally entertain any non-exempted communication from:

- a lobbyist not registered on the ACT Register of Lobbyists;
- an employee, contractor or other person authorised to carry out lobbying activities on behalf of a registered lobbyist where that person's name does not appear on the Register in the details recorded for that registered lobbyist; or
- any registered lobbyist or employee, contractor or other person authorised to carry out lobbying activities on behalf of that registered lobbyist who in their opinion has failed to comply with the Lobbying Code of Conduct;

and shall immediately advise the Registrar if they became aware or reasonably suspected that a registered lobbyist or authorised person had contravened the ACT Lobbying Code of Conduct.'

## SUMMARY

This comprehensive review of the Assembly's standing orders and continuing resolutions undertaken in 2018 provided a clear and concise set of amendments to ensure that the Legislative Assembly for the ACT remains a modern legislature that attempts to reflect best practice in parliamentary procedure and practice.

## ACT INTEGRITY COMMISSIONER TO BECOME THE THIRD OFFICER OF THE ASSEMBLY

On Thursday, 15 December 2016<sup>44</sup> the Assembly passed a resolution establishing a Select Committee on an Independent Integrity Commission (the 2016 committee) to inquire into the most effective and efficient model of an independent integrity commission for the ACT. The 2016 committee's terms of reference required, among other things, that the committee make recommendations on the appropriateness of adapting models operating in other similarly-sized jurisdictions as well as recommendations on the structure, governance, powers and educative functions of a commission.

The report of the 2016 committee was presented to the Assembly on 31 October 2017<sup>45</sup> and made a total of 79 recommendations. In its response, presented on 20 March 2018,<sup>46</sup> the ACT Government committed to establishing an Independent Integrity Commission and set out its position on each of the recommendations contained in the 2016 committee's report.

Following the introduction of the Anti-corruption and Integrity Commission Bill 2018<sup>47</sup> by the Leader of the Opposition, the Assembly resolved, on 6 June 2018, that another select committee (the Select Committee on an Independent Integrity Commission 2018 (the 2018 committee)) be established to further inquire into the establishment of an integrity commission for the ACT, through examination of a draft Government bill<sup>48</sup> and the Anti-corruption and Integrity Commission Bill 2018. The 2018 committee report was presented in the Assembly on 31 October 2018.<sup>49</sup> That report made a total of 54 recommendations and the Government responded to the report on 27 November 2018,<sup>50</sup> the same day that the Government's Integrity Commission Bill 2018 was introduced into the Assembly.<sup>51</sup>

On 29 November 2018, the Assembly passed the Integrity Commission Bill 2018 with the [Integrity Commission Act 2018](#) (the Act) being notified on the Legislation Register on 11 December 2018. The Act establishes the ACT Integrity Commission.

Section 25 of the Act requires the Speaker to appoint an ACT Integrity Commissioner (the Commissioner) with ss 26 and 27 outlining the eligibility requirements, selection criteria and process for that appointment. In December 2018 a recruitment company was engaged following a procurement process, to assist me, as Speaker, in managing all aspects of the recruitment and appointment process for the Commissioner. The Office of the Legislative Assembly (the Office) and a Transition Support Manager (TSM), reporting to the Clerk of the Assembly, were also involved in advising and supporting the Speaker in the performance of the Speaker's statutory functions under the Act.

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<sup>44</sup> *Minutes of Proceedings* 2016-20/41-2.

<sup>45</sup> *Minutes of Proceedings* 2016-20/507.

<sup>46</sup> *Minutes of Proceedings* 2016-20/723.

<sup>47</sup> *Minutes of Proceedings* 2016-20/847.

<sup>48</sup> Integrity Commission Bill 2018—Exposure Draft, *Minutes of Proceedings* 2016-20/874.

<sup>49</sup> *Minutes of Proceedings* 2016-20/1095.

<sup>50</sup> *Minutes of Proceedings* 2016-20/1141.

<sup>51</sup> *Minutes of Proceedings* 2016-20/1142.

The [Integrity Commission \(Commissioner Selection Criteria and Process\) Determination 2019](#), which was notified on the ACT Legislation Register on 16 January 2019, details the process to be undertaken by the Speaker in relation to recruitment of the Commissioner and specifies that the Speaker must appoint an Appointment Advisory Panel (AAP) to evaluate the suitability and eligibility of applicants. The determination also lists the AAP's eligibility requirements as set out in s 26 of the Act. The AAP was appointed by me as Speaker on 13 February 2019.

## APPOINTMENT OF COMMISSIONER—OVERVIEW

Following a comprehensive and rigorous selection process, the AAP recommended to the Speaker that the Honourable Dennis Cowdroy OAM QC be appointed as the ACT's inaugural Integrity Commissioner.

The Speaker accepted the recommendation and formally sought the views of the Chief Minister, the Leader of the Opposition, the Leader of the ACT Greens and the Standing Committee on the Integrity Commission as to whether a motion in the Assembly approving the appointment would be successful (i.e. that a two-thirds majority would be achieved pursuant to s 25(3)(b) of the Act).

Upon receiving confirmation that such a motion would be successful, the Speaker, by leave, moved a motion in the Assembly on 14 May 2019 seeking the Assembly's approval of the appointment. The motion was passed by the Assembly without debate.<sup>52</sup>

Justice Cowdroy will commence in the role as the ACT Integrity Commissioner on 1 July 2019 for a period of seven years. However, those sections of the Act relating to the powers to receive complaints are not proposed to commence until **1 October 2019**. This is to provide the Commissioner with time to recruit a chief executive officer and other staff of the Commission, develop financial management arrangements, implement accommodation arrangements, develop human resource, working environment and industrial arrangements and develop corporate branding etc.

## OFFICER OF THE ASSEMBLY

The Integrity Commissioner is an Officer of the Assembly<sup>53</sup> and as is the case with other Officers of the Assembly I, as Speaker, have certain responsibilities in relation to the Commissioner. As outlined above, the Speaker is responsible for the appointment of the Commissioner. Section 29 of the Act also requires that, prior to being appointed, the incoming Commissioner must take an oath or affirmation of office before the Speaker. The Commissioner must also give a written statement of their personal and financial interests to the Speaker within seven days after the day the Commissioner is appointed,<sup>55</sup> pursuant to s 30 of the Act.

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<sup>52</sup> *Minutes of Proceedings* 2016-20/1387.

<sup>53</sup> Officers of the Assembly can be distinguished from other statutory offices, partly at least, due to the directness of their relationship to the Assembly, rather than the ACT Executive and the special role that each plays in ensuring accountability and integrity in the ACT system of government. The ACT Auditor-General and ACT Electoral Commission are also Officers of the Assembly.

<sup>54</sup> *Integrity Commission Act 2018*, s 21.

<sup>55</sup> *Integrity Commission Act 2018*, s 30.

Other responsibilities of the Speaker under the Act relate to the Commissioner's resignation, retirement, suspension, ending of suspension, ending of appointment, and leave of absence.<sup>56</sup>

The Speaker will also have responsibilities in relation to the Inspector of the Commission similar to those in respect of the Commissioner, however, currently the Ombudsman is the Inspector until an appointment is made.<sup>57</sup>

## BUDGET PROTOCOLS

A Budget Protocols Agreement has been in effect between the Treasurer and the Speaker since 2014, with the original agreement setting out the procedures and principles that applied in developing the budget for the Office. The protocols seek to recognise the independence of the Assembly in budget processes while acknowledging and supporting the right of the Executive to develop appropriations for consideration by the legislature (i.e. the financial initiative of the Executive).

In the 9<sup>th</sup> Assembly, the protocols were amended to include both the Audit Office and the Electoral Commission on the grounds that a similar level of independence in budget development arrangements ought to be provided to Officers of the Assembly.<sup>58</sup> It is expected that the incoming Commissioner may wish to be included in this Agreement so that a level of financial independence is provided within the constraints of the financial initiative of the Crown.

## SUMMARY

As outlined above the review of the Assembly's standing orders and continuing resolutions once every four years is an opportunity for the legislature to improve how it operates and serves to keep it modern. Together with the expansion of the number of Officers of the Assembly it ensures that the role of the Speaker in the ACT Legislative Assembly is continually evolving.

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<sup>56</sup> *Integrity Commission Act 2018*, ss 33 to 39.

<sup>57</sup> *Integrity Commission Act 2018*, s 229.

<sup>58</sup> As a Commonwealth agency, the Ombudsman, although an Officer of the Assembly, does not receive direct appropriation from the Assembly and is not covered by the protocols.