



ACCOUNTABILITY
ROUND TABLE

Submission by Ken Coghill¹ to the Inquiry into recommendations 10 **and** 27 of the *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces* by the **House Procedure Committee**.

Summary of Submission Recommendations.

That:

1. The Parliament have responsibility and control over the reforms recommended by *Set the Standard*.
2. Standing Orders and unwritten parliamentary conventions be reviewed by the POs and Procedure Committees, advised by a citizens' assembly.
3. The Office of Parliamentarian Staffing and Culture emphasise exemplary conduct i.e., encourage a culture of ethical conduct.
4. Vignettes depicting hypothetical ethical dilemmas (adapted from real-life examples), provided to every MHR and Senator on a smart phone app, be trialed.
5. An Ethical Counsellor be available to provide confidential advice on ethical issues to any MHR or Senator.
6. The Leader of the Government in the House of Representatives and the Deputy Manager of Government Business in the Senate, the respective POs and Procedure Committees be engaged in review of the sitting calendar and the Order/Routine of Business.

Introduction

Your House of Representatives House Committee invited me to appear before it in relation to its inquiry into recommendations 10 and 27 of the *Set the standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*.

Recommendations 10 and 27 are cross referenced with recommendations 2 and 11-27; Recommendation 10 includes “Through the implementation of the recommendations below ...”. Accordingly, this submission includes comment on recommendations additional to and relevant to recommendations 10 and 27.

The *Set the standard* Report and subsequent further inquiries and reforms are reflective of the robust, comprehensive “big bang” response argued by Rothstein (2007) to overcome the inertia

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due to pervasive misconduct in which, for example “even people that think corruption is morally wrong are likely to take part because they see no point in doing otherwise”.²

Accountability to Parliament

A fundamental point underlying this inquiry is that Executive needs to loosen its grip over the Houses of Parliament and to support each Presiding Officer in the Chair and in the administration of each House and resources provided to and for MHRs & Senators. The OPSC should be established by Parliament, not Government.

Previous governments have inverted the principle of responsible government and have subordinated the Parliament, especially the House of Representatives, to control by the Executive.

This point should be reflected in an amendment to Recommendation 11, to read:

Office of Parliamentarian Staffing and Culture

The **Parliament** should establish an Office of Parliamentarian Staffing and Culture, within 12 months, to provide human resources support to parliamentarians and Members of Parliament (Staff) Act employees that is:

- (a) centralised and accountable to Parliament, with the enforcement of standards
- (b) designed to provide human resources support and administrative functions in the areas of policy development, training, advice and support, and education.

Establishment of the OPSC should be achieved by Act of Parliament rather than the exercise of Executive powers (e.g., delegated legislation) or resolution. An Act enjoys higher status and is not vulnerable to being diminished or abolished by the Executive.³

Recommendation 1

That the Parliament have responsibility and control over the reforms recommended by the *Set the Standard Report*.

Set the Standard Recommendation 10

Whilst it is unarguable that the Presiding Officers (POs) “should review the Standing Orders and unwritten parliamentary conventions⁴”, each PO should conduct a review specific to their House and should engage the respective procedure committee.

The review should recognise that respect in each House is a product of both structure (e.g., Standing Orders) and culture (e.g., unwritten conventions, behaviour). This was illustrated in the Victorian Legislative Assembly: there was a large increase in female MLAs at the 1982 election. These women were frequently subject to disruptive interjections by certain male Opposition

² Rothstein, B (2007) *Anti-Corruption – A Big Bang Theory*, QoG WORKING PAPER SERIES 2007:3. ISSN 1653-8919, citing della Porta, Donatella, and Alberto Vannucci (1999). *Corrupt exchanges: actors, resources, and mechanisms of political corruption*. New York: Aldine de Gruyter.

³ House Procedure Committee; Senate Standing Committee on Procedure

⁴ “Unwritten parliamentary conventions” may include for example unwritten parliamentary mores for women and men and others literally recorded in writing e.g., as Rulings from the Chair.

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MLAs. That misconduct faded from use without a change in rules of procedure, aided by the retirement of some of the offending MLAs.

Each review must be conducted in such a manner as to reflect community standards⁵ and to lead to the overwhelming support and adoption of revisions to Standing Orders and unwritten parliamentary conventions by the House's Members or Senators respectively.

Community standards could be better reflected through the creation of a citizens' assembly which would provide advice to the PO and Procedure Committee – either one citizens assembly advising both or two, each advising one House.

Engaging both the Procedure Committee and a citizen's assembly would expose each House to a heightened awareness of language, behaviour and practices that are sexist or otherwise exclusionary or discriminatory and unacceptable.

Recommendation 2

That Standing Orders and unwritten parliamentary conventions be reviewed by the POs and Procedure Committees, advised by a citizens' assembly.

Set the Standard Recommendation 11

Again, creation of the Office of Parliamentary Staffing and Culture should be a matter for the Parliament to avoid Executive control of parliamentary functions. Accordingly, the recommendation should be amended to:

Office of Parliamentarian Staffing and Culture

The **Parliament** should establish an Office of Parliamentarian Staffing and Culture, within 12 months, to provide human resources support to parliamentarians and Members of Parliament (Staff) Act employees that is:

- (a) centralised and accountable to Parliament, with the enforcement of standards
- (b) designed to provide human resources support and administrative functions in the areas of policy development, training, advice and support, and education.

The underlying approach should emphasise exemplary conduct rather than prevention of misconduct. I.e., encourage a culture of ethical conduct.

The OPSC should include a counsellor available to provide confidential advice on ethical issues to any MHR or Senator. The ethics counsellor should be an independent officer of the parliament and not subject to direction.⁶

⁵ The Labor National Platform (2021) states “Labor will work towards increasing the engagement of citizens with the Australian Federal Parliament, especially through strengthening the parliamentary committee system. Committee inquiries shine a light on the performance of government, draw on ideas and creativity from across our society, and bring the public into the work of the Parliament.”

⁶ For further detail see ART's submission to the Joint Select Committee on Parliamentary Standards inquiry into the development of codes of conduct for Commonwealth parliamentary workplaces.

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Recommendation 3

That the Office of Parliamentarian Staffing and Culture emphasise exemplary conduct i.e., encourage a culture of ethical conduct.

The OPSC should be responsible for the application of continuing professional development (CPD) principles and adult learning techniques. This could include the innovative use of vignettes, provided on a smart phone app, depicting hypothetical ethical dilemmas (adapted from real-life examples) which the viewer is invited to address.⁷ Frequent refreshment of content could help keep ethical conduct front of mind.

The development and use of vignettes could be trialled for the life of the current parliament.

Recommendation 4

That vignettes depicting hypothetical ethical dilemmas (adapted from real-life examples), provided to every MHR and Senator on a smart phone app, be trialed.

Recommendation 5

That an Ethical Counsellor be available to provide confidential advice on ethical issues to any MHR or Senator.

Set the Standard Recommendations 12 – 16

No substantive comment.

Set the Standard Recommendation 17

As argued above, it is the Parliament, not the Executive, that should have responsibility for amendment of the *Members of Parliament (Staff) Act 1984* (Cth).

Set the Standard Recommendation 18

As argued above, it is the Parliament not the Executive that should have responsibility for the Parliamentary Workplace Support Service.

Set the Standard Recommendation 20

As argued above, it is the Parliament, not the Executive, that should have responsibility for the Parliamentary Workplace Support Service.

⁷ Proposed in Accountability Round Table (2022) *Submission to Joint Select Committee on Parliamentary Standards inquiry into the development of codes of conduct for Commonwealth parliamentary workplaces*. This draws on work by the [Ethicos Group](#).

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***Set the Standard* Recommendations 21 – 26**

No substantive comment.

***Set the Standard* Recommendation 27**

Although I agree that the Procedure Committee of each House should review the sitting calendar and the Order/Routine of Business, the convention and practical reality is that the sittings of the House are in the control of the Executive, relying as it does on the support of the majority. This may reflect the origins of the Westminster as a house of advisers called by the monarch, later by the Executive, to provide advice.

This authority is exercised by the Leader of the Government in the House of Representatives. In the Senate, similar authority is exercised by the Deputy Manager of Government Business in the Senate.

In view of their control over sittings, the Leader of the Government in the House of Representatives and the Deputy Manager of Government Business in the Senate should be engaged in review of the sitting calendar and the Order/Routine of Business.

Again, the respective PO and Procedure Committee should also be engaged, with a view to enhancing everyday respect for MHRs and Senators health and well-being, and public respect for the Parliament.

Recommendation 6

That the Leader of the Government in the House of Representatives and the Deputy Manager of Government Business in the Senate, the respective POs and Procedure Committees be engaged in review of the sitting calendar and the Order/Routine of Business.

Conclusion

A major opportunity now exists for comprehensive reform of structural and cultural weaknesses in the functioning of the Australian parliament. Underlying these is redress of the subordination of the Parliament by the growth of Executive control.

Parliamentary control over the making of the reforms proposed by *Set the Standard* recommendations would in itself repatriate control of the culture to the Parliament, This would give MHRs and Senators a greater sense of responsibility for their own behaviour and reputation and that of their Chambers.

Structural and cultural reform would be further enhanced by engaging the POs, the Procedure Committees and a citizens' assembly in these processes.

The reference under Recommendation 19 to Codes of Conduct highlights the inter-relationships between the *Set the Standard* recommendations. The relevance of Codes of Conduct and how they could be refreshed so as to strengthen the culture of ethical conduct is argued in ART's *Submission to the Joint Select Committee on Parliamentary Standards inquiry into the development of codes of conduct for Commonwealth parliamentary workplaces*.

Thank you for the invitation to contribute to setting the standard. Please let me know if I may be of further assistance.

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Terms of reference. To inquire into and report on:

(1) practices and procedures of the House with a view to:

- (a) eliminating language, behaviour and practices in the parliamentary chambers that are sexist or otherwise exclusionary and discriminatory, and
- (b) improving safety and respect in parliamentary chambers, and

(2) the Parliamentary sitting calendar and the House and Federation Chamber Orders of Business, with a view to enhancing wellbeing, balance and flexibility for Members and workers in Commonwealth parliamentary workplaces.

The committee is examining:

- ways to eliminate language, behaviour and practices in the chamber that are sexist or otherwise exclusionary and discriminatory
- ways to improve safety and respect in the chamber
- possible changes to the sitting calendar and Order of Business to enhance wellbeing, balance and flexibility for Members and workers in Commonwealth parliamentary workplaces.

Matters such as codes of conduct and behaviour outside of the chamber are covered by other recommendations and will not be considered as part of this inquiry.

The committee is particularly interested in hearing about how the standing and sessional orders could be changed to improve safety and respect, and to ensure women, First Nations people, LGBTIQ+ people, culturally and linguistically diverse people, or people with a disability are not excluded or discriminated against in the chamber.