

8.11.2011

Dear Mr Premier,

I write to you on behalf of the Accountability Round Table to raise our concern about the lack of clarity about what are the responsibilities and obligations of Ministers and their staff. We submit that this needs to be addressed because the failure to do so has the result that

Ministers and their staff lack clarity as to what is expected of them, and

as a consequence, adequate systems cannot be designed or put in place in Ministers' offices to minimise the risk of staff misconduct.

When ministerial staff engage in serious misconduct, whether it be about redeveloping the Windsor Hotel or unauthorised interference in Police issues, the Opposition of the day and commentators generally call for the Minister to resign. The important questions are ignored: how was the misconduct able to occur; should the minister have known; if the minister didn't know, why didn't the Minister know; and what steps need to be taken to ensure that the ministers are kept informed about what their staff are doing and that serious misconduct does not occur in the future.

These issues have been left unresolved for decades. It is reasonable to argue that the failure to resolve them has contributed to some of the more notorious examples in recent time of ministerial staff misconduct, both federal and state, resulting in acute ministerial and government embarrassment and damage to the reputation of all in government. We submit that the issues need to be addressed as soon as possible by the Parliament and on a non-partisan basis.

At the time of the last state election, all parties proposed to develop ministerial and ministerial staff codes of behaviour. While the ALP and the Coalition differed in the way they proposed that Parliament should be involved, both supported a role for the Parliament. The Greens also supported the Parliament's involvement. (The relevant correspondence may be found on the Home Page of our web-site – [www.accountabilityrt.org](http://www.accountabilityrt.org) ).

The Windsor Hotel matter and the recent police matter demonstrate the need to spell out what are the responsibilities and obligations of a minister in relation to the conduct and misconduct of a member of the minister's staff in our Parliamentary democracy, and

what should be the legitimate scope of the activities of ministerial staff and what standards of conduct should be required of ministerial staff.

The Accountability Round Table (ART) came into existence as a consequence of the AWB (formerly Australian Wheat Board) matter and the concern that, if it was accepted that a minister's ignorance was a complete answer to any mistakes or errors made by others administering or

serving that minister's portfolio, then ministerial responsibility was effectively dead. The ART put forward proposals in a revision of Prime Minister Howard's then Code for Ministers – **extract attached**. The revision set out in more specific detail the accountability obligations of ministers and the circumstances in which a minister should accept personal culpability. I attach the section of our proposal on this issue. You will see that we took the position that ignorance of a matter does not relieve a minister of personal culpability where the minister should have known about the matter or should have ensured that such matters were brought to his or her attention.

The full 2006 ART revision of the Howard Code can be found on our website([www.accountgabilityrt.org](http://www.accountgabilityrt.org)) in "Be Honest Minister!".

I also **attach** a copy of Chapter 5 of the Code as revised by the then Prime Minister Mr Rudd in 2007. While it does not directly address the issues, we draw attention to the opening section "Principle" and paras 1.1 and 1.2. and the reference to public office being a "public trust". We also draw attention to paras 5.1 and 5.2

We draw attention to the current federal Ministerial Staff Code – **copy attached**. Its adoption in Victoria would go a long way to dealing with the issues we have identified. We refer in particular to the preamble which, after referring to the importance of the role of ministerial staff, states:

" ..... Their closeness to the most significant decisions of government is a privilege that carries with it an obligation to act at all times with integrity and awareness of the expectation of the Australian community that the highest standards of conduct will be observed."

We also draw attention to paras 1,2 and 18. requiring of Ministerial staff honesty, integrity, care, diligence and compliance with authorised and reasonable directions.

One of our founding members, The Hon. Alan Hunt AM, tells a story about the advice Sir Henry Bolte gave him after appointing him to the Ministry. The substance of the advice was:

"Now listen son. You are going to make mistakes and things will go wrong. Whatever you do, don't lie about it, don't try to hide it. Admit it, apologise, say how you are going to fix it and do it."

The Windsor Hotel case and recent Police matter are evidence that Victoria has a problem with ministerial staff arrangements and conduct. This is hardly surprising when their responsibilities and those of their Minister and the standards expected of them have not been articulated or clarified. The problem should be acknowledged and fixed by Victoria's Leaders and fellow elected representatives. It is to them that Victorian electors have entrusted the power and authority to pass laws necessary for the good government of our state and to hold the executive to account. It is Victoria's Leaders and fellow elected representatives who exercise a public trust on behalf of the State's community and thus have a responsibility and duty to ensure that ministers and their staff are guided on how to act with integrity in the public interest.

Immediate action is required to introduce codes of behaviour to clarify the responsibilities and obligations of Ministers and their staff.

We would welcome the opportunity to meet you to discuss these concerns and suggest provisions for codes of behaviour for ministers and for ministerial staff.