



## MEMORANDUM OF UNDERSTANDING

Determinations of claims of immunity from production by reason of parliamentary privilege

between

### Western Australia Police Force Legislative Assembly of Western Australia Legislative Council of Western Australia

1. The parties intend by this MOU that WA Police Force functions can be performed and facilitated by access to non-privileged evidential material, whether located within the Parliamentary Precinct or other premises, while the privileges of the Parliament, and the free performance of its duties and functions and those of its Members, are properly observed and maintained.
2. Any agreement under this MOU must be consistent with the *Constitution Act 1889*, *Parliamentary Privileges Act 1891*, *Parliamentary Papers Act 1891* and the legal principles established in *The President of the Legislative Council of Western Australia v Corruption and Crime Commission [No. 2] [2021] WASC 223*.
3. Detailed protocols or procedures, as required, may be agreed between the parties to apply generally, or for a particular investigation.
4. In appropriate cases, the WA Police Force will give as much notice as is practicable to a Presiding Officer, or other appropriate person, before a search warrant is executed or a notice or order issued under the *Criminal Investigation Act 2006*, or other written law (State or Commonwealth), by an officer of the WA Police Force in relation to a current serving or former Member of Parliament, Parliamentary Officer or the staff of a Member of Parliament.
5. WA Police Force officers (excluding officers attached to the Technology Crime Division) must not have access to, or take part in the review of, data or devices that are likely to contain material that is subject to a claim of parliamentary privilege or which otherwise require a determination of parliamentary privilege to be made except, where there is agreement between the parties, to assist in further reducing the number of documents to be reviewed for parliamentary privilege.
6. Subject to paragraph 9, the parties may agree the storage of data or devices, and the review process referred to in paragraph 5, take place at Parliament.
7. Determinations of parliamentary privilege will be undertaken as expeditiously as possible.
8. After a determination of parliamentary privilege has been made with respect to data or devices, the data determined to be non-privileged is to be released to the WA Police Force or the person required to produce the data under a notice or order, as the case may be.
9. Hard copy records and electronic devices must be processed, stored and handled in a manner that ensures evidential integrity in any future prosecution.

Signed:

Chris Dawson APM  
Commissioner of Police  
Western Australia Police Force

Signed:

The Hon Michelle Roberts MLA  
Speaker of the  
Legislative Assembly

Signed:

The Hon Alanna Clohesy MLC  
President of the  
Legislative Council

Date: 24 November 2021

Date: 24. 11. 2021

Date: 24/11/21