

MEMORANDUM OF UNDERSTANDING

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

between

Corruption and Crime Commission of Western Australia Legislative Assembly of Western Australia Legislative Council of Western Australia

1. Any agreement under this MOU must be consistent with the legal principles established in *The President of the Legislative Council of Western Australia v Corruption and Crime Commission [No. 2]* [2021] WASC 223.
2. Detailed protocols or procedures, as required, may be agreed between the parties to apply generally, or for a particular investigation.
3. In appropriate cases, the Commission 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 under the *Corruption, Crime and Misconduct Act 2003* s.95 is issued in relation to a current serving or former Member of Parliament, Parliamentary Officer or the staff of a Member.
4. Commission officers (excluding officers attached to the Digital Forensics Unit) 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.
5. Subject to paragraph 8, the parties may agree the storage of data or devices, and the review process referred to in paragraph 4, take place at Parliament.
6. Determinations of parliamentary privilege will be undertaken as expeditiously as possible.
7. 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 Commission or the person required to produce the data under a notice, as the case may be.
8. Hard copy records and electronic devices must be processed, stored and handled in a manner that ensures evidential integrity in any future prosecution.

Signed:



The Hon John McKechnie, QC
Commissioner
Corruption and Crime
Commission

Date: 24 Nov 21.

Signed:



The Hon Michelle Roberts MLA
Speaker of the
Legislative Assembly

Date: 24. 11. 2021

Signed:



The Hon Alanna Clohesy MLC
President of the
Legislative Council

Date: 24/11/21