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Ruling drives a truck through Albanese's hyped Ministerial Code

Anthony Albanese's much hyped Ministerial Code has effectively been retrospectively dismantled on the key issue of potential conflicts of interest, Shadow Minister for Opposition Business, Paul Fletcher said today.

The Code says Ministers may not own managed funds which 'invest to any significant extent in a business sector that could give rise to a conflict of interest with the Minister's public duty'.

The Opposition has asked questions in Parliament about Assistant Health Minister Ged Kearney, who owned managed funds with more than ten per cent invested in healthcare companies, and about Attorney General Mark Dreyfus, who owns multiple managed funds including one which had amongst its top ten shareholdings litigation funding business Omni Bridgeway.

The Government failed to give clear answers – but we now know Mr Albanese was busy arranging a get out of jail free card.

Over the weekend his government disclosed it had a ruling from the Secretary of PM&C:

Accordingly, in order for an investment to relate to a Minister's portfolio to any significant extent, the majority of the investments in the fund in question must be held in a business sector relating to the Minister's portfolio responsibilities.

This ruling means you could drive a truck through Mr Albanese's much touted 'tougher' Ministerial Code.

The Health Minister could own a managed fund with 49 per cent of its money invested in healthcare businesses.

The Resources Minister could own a managed fund with 49 per cent of its money invested in oil, gas and coal businesses.

The Communications Minister could own a managed fund with 49 per cent of its money invested in telecommunications, television and newspaper companies.

Is this really Mr Albanese's tough new standard of Ministerial accountability?

And is this really the ordinary meaning of 'invest to any significant extent'?

When Ged Kearney sold her managed funds, it was effectively an admission that a fund with ten per cent of its money invested in healthcare businesses has invested to a significant extent in a business sector relating to the Minister's portfolio responsibilities.

Remember too that clause 3.12 says that 'If a Minister becomes aware that a fund or a trust has invested in a company that might give rise to a perception of a conflict of interest', the Minister must notify the Prime Minister and liquidate the investment if asked.

The existence of this clause is clear recognition that a perception of a conflict of interest can arise from a much smaller investment stake.

Then there is clause 3.9 which says that 'Ministers must bear in mind that their private interests can give rise to perceptions of conflict of interest that might contaminate not just their own decisions but also the decisions of the Cabinet to which they are a party.'

The PM&C advice fails to consider this. It talks only about whether an investment relates 'to a Minister's portfolio' - when it is clear from clause 3.9 that in fact the investment needs to be tested not just against the Minister's own portfolio but against all matters considered by Cabinet.

Mr Albanese claims to have a tough Ministerial Code – with specific restrictions on Ministers owning shares and managed funds.

But despite multiple breaches by his Ministers, Mr Albanese is failing to enforce his Code.

And he has now arranged for PM&C to give advice which sets a standard so low that you could drive a truck through the much-hyped Ministerial Code.

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