

SUBMISSION TO STANDING ORDERS COMMITTEE ON CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

by Ross Robertson MP

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Proposal

It is proposed that the Standing Orders Committee consider the attached draft code of conduct for Members of Parliament, and recommend its approval by the House.

Background

Parliament's standing is not high in the community. Polls have, for many years, tracked a serious and continuing erosion of the standing of Parliament and politicians in New Zealand. The latest survey in very recent months confirmed the trend, with over one-third of respondents saying that they didn't trust politicians at all and 93% giving politicians a very low score. These are disturbing figures. Such beliefs and perceptions might be based on misunderstandings, but they still matter.

This loss of standing is a topical issue. There may be many reasons for it. But it is time for Parliament itself to be taking steps to improve the situation and reverse the loss of confidence and trust. Introduction of standards and values which Parliament applies to itself and expects its Members to uphold is a necessary first step.

The possibility of a code of conduct for Members of Parliament has been raised from time to time in the past. For example, the Government Administration Committee suggested in 1997 that it carry out an inquiry into the need for a code of conduct, but with a particular focus on a register of Members' interests.

Codes of conduct of one sort or the other have been adopted by some other Parliaments. An important example in recent times is the Code of Conduct for Members of Parliament approved by resolution of the United Kingdom House of Commons in 1996. That code sets out the public duty on Members, and general principles of conduct that they must observe. It was accompanied by an elaborate and lengthy Guide that includes detailed procedures on registration and declaration of Members' interests, prohibition on paid advocacy, and handling of complaints by a Parliamentary Commissioner for Standards.

Draft Code of Conduct

The accompanying draft code of conduct is deliberately modest. There is no evidence in New Zealand of the sort of corruption scandals that have plagued other Parliaments from time to time or that are endemic in some other countries. It is noted that the United Kingdom Code was adopted in the wake of a major Parliamentary scandal in that country. It is not considered that there is any advantage in New Zealand's case in replicating the issues covered in detail in the guide to that code.

The proposed code does not therefore regulate the declaration and registration of Members' interests (apart from making mention of private interests and conflicts of interest in the general principles of personal conduct). Moreover, some provisions in that area already exist. For example, disclosure of pecuniary interests is already dealt with under S.O.s 165, 166 and 400, and improper gain by Members is a breach of Parliamentary law which will be treated as a contempt of the House. The most serious breaches may also constitute breaches of the criminal law. Guidelines applying to Ministers and Parliamentary Under-Secretaries under the Cabinet Office Manual include provision for declaration and registration of interests. It is also considered that it would not be necessary or appropriate to make provision for enforcement of the code.

But the behaviour of Members in the Chamber could be improved. For this reason, the primary emphasis of the proposed code is on conduct in the House. The starting point for the proposed code is that the public interest is central to democratic governance and should be the factor which guides all Members in the performance of their duties. The code therefore begins with a brief set of general public duties incumbent on Members, followed by a set of general principles for members to observe in their conduct, both of which are based closely on the United Kingdom Code. The general principles put appropriate emphasis on the public interest in the conduct of Members.

The proposed code then includes a final section specifically on conduct in the House. That section is primarily concerned with matters of behaviour and appearances. Some of these may appear to be minor matters, but they are important nonetheless to public perceptions. The Chamber is a very public place and the focal point of public perception of Parliament. It will surely help if we can achieve improvements in this area.

Setting standards in this regard should usefully back up the procedures in Standing Orders directed at prohibiting and controlling more serious disorderly conduct in the House. The code should also serve education and training purposes, by acting as a starting point and a reference point (or benchmark) for Members on matters of conduct.

If a well regarded country such as New Zealand adopts a code for its Parliament along the lines proposed, we may again serve as a model and provide leadership for other countries in our region, and perhaps for Parliaments further afield as well, in terms of raising public standards.

Adoption of the Code

The proposed code is intended to supplement and support Standing Orders, Speakers rulings, and any other official codes of conduct applying to any Members (such as the guidelines applying to Ministers and Parliamentary Under-Secretaries).

There are perhaps three options for the committee if it wishes to commend the draft code of conduct to the House:

- (a) To recommend that the code be incorporated into Standing Orders. The code, as it presently stands, was drafted with the intention of supplementing rather than forming part of Standing Orders. In view of its limited focus and the fact that it is not intended to operate as a sanction, it is drafted in declaratory terms, in the nature of guidelines, rather than in mandatory terms. The draft code specifies that its purpose is to assist Members in the discharge of their obligations to the House, to those they represent and to the public at large.
- (b) To recommend that the House adopt the code by resolution without any reflection at all in Standing Orders. The code would however be printed and made available in booklet form to all Members.
- (c) An intermediate approach, that is, to recommend that the House adopt the code by resolution but also to recommend any consequential amendments to Standing Orders that the committee considered appropriate. For example, it would be possible for Standing Orders to refer to the fact that further guidance on appropriate general principles for Members to observe in their conduct and on the standard of behaviour expected in the House is contained in the Code of Conduct for Members of Parliament. (The United Kingdom Code is a single, separate document, outside Standing Orders, that is intended to provide a framework within which acceptable conduct should be judged, but the Standing Orders of the House of Commons do make provision for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards to exercise certain functions, including functions of an enforcement kind, in relation to any code of conduct to which the House has agreed.)

Code of Conduct for Members of Parliament

The Code of Conduct sets out its purpose. It specifies the public duties of Members of Parliament, and the personal conduct expected of them. It also specifies the conduct expected of Members in the House.

Purpose of the Code

The purpose of the Code of Conduct is to assist Members in the discharge of their obligations to the House, to those they represent and to the public at large.

Nothing in the Code of Conduct derogates in any way from Standing Orders, Speakers' rulings, or any other official code of conduct applying to any Members. The Code of Conduct supplements and supports those requirements.

Public duties

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

Members have a general duty to act in the interests of the nation as a whole; and a special duty to those they represent.

As representatives of the people, Members have a duty to set an example to all by observing the highest standards in their conduct.

Personal conduct

Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House, or its Members generally, into disrepute.

Members are to observe the following general principles in their conduct:

- Selflessness:** Members should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- Integrity:** Members should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties. Information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and never be used for the purpose of financial gain by themselves or others.
- Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members should make choices on merit.
- Accountability:** Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness:** Members should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Honesty:** Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- Leadership:** Members should promote and support these principles by leadership and example.

Conduct in the House

1. Members are to observe a standard of conduct which the House is entitled to expect of its Members, and to behave in such manner as will enhance the dignity and decorum of the House.
2. Members should not leave the House when the Speaker is addressing it, and should not normally leave immediately after delivering a speech.
3. Members should avoid making allegations in the House that are not supported by evidence.
4. Members should not sit or stand with their backs to the Chair.
5. Members should not consume refreshments in the House.
6. Members in the House should not read books, newspapers, or other publications unrelated to their parliamentary duties.
7. Members should not bring cellular telephones, mobile phones, dictaphones or pagers into the House, or play cassette or tape recorders either in the House or the galleries, or use portable computers in the House in a visible way.
8. Members should not display flags, emblems or any exhibits in the House without permission of the Speaker.
9. Members should not conduct conversations in the House unless it is necessary to do so, and then only so as not to disturb the proceedings.
10. Members should not conduct conversations in the lobbies in such a manner as to be heard in the House.
11. Members should not shout slogans or otherwise act in a disorderly manner in the House or adjoining rooms and corridors.