



**STANDARDS FOR**

**CODES OF CONDUCT**

**FOR MEMBERS OF PARLIAMENT AND THE  
PARLIAMENTARY WORKPLACE**

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*Minimum standards, additional measures and supporting  
structures*

**RESEARCH REPORT**

## About the CPA

The Commonwealth Parliamentary Association (CPA) connects, develops, promotes and supports parliamentarians and their staff to identify benchmarks of good governance and the implementation of the enduring values of the Commonwealth. The CPA collaborates with parliaments and other organisations, including the intergovernmental community, to achieve its statement of purpose. It brings parliamentarians and parliamentary staff together to exchange ideas among themselves and with experts in various fields, to identify benchmarks of good practices and new policy options they can adopt or adapt in the governance of their societies.

## About the authors

The CPA Headquarters Secretariat extends its thanks to the authors of this publication, namely Deakin University, and in particular Andrew Young, Zim Nwokora, Amy Nethery, Peter Ferguson and Ainsley McDonald, with editorial support from Matthew Salik, Head of Programmes, CPA.

Developed in partnership with:



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# Executive Summary

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Parliaments are becoming increasingly professionalised. However, a number of scandals in recent years, particularly around women's safety, have highlighted deficiencies in the rules relating to the parliamentary workplace, and pointed to deficiencies in the ability of parliaments to properly represent some groups of people in the community.

Codes of Conduct provide basic principles of integrity and transparent conduct of Members of Parliament. They also ensure that parliaments are safe and well-functioning workplaces.

The Commonwealth Parliamentary Association (CPA) is committed to these principles.

In 2016, CPA published its *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*<sup>1</sup>. These Benchmarks for Codes of Conduct were designed to encourage ethical conduct, improve integrity, increase effectiveness, and strengthen community trust in parliaments<sup>2</sup>.

The CPA was concerned about the low adoption rate of the benchmarks into codes of conduct across Commonwealth parliaments. In addition, significant global attention had been raised for issues such as sexual harassment and assault in parliaments, and general standards of safety and behaviour in the parliamentary workplace. While not as prominent in the public's mind, there is also increasing awareness of deficiencies in procedural fairness in relation to Members and others subject to investigation and the challenges posed by social media and artificial intelligence.

Deakin University was commissioned by the CPA Headquarters Secretariat to review and update the *CPA Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*.

Recognising the diversity across the Commonwealth Parliamentary Association membership of parliaments and legislatures, 'minimum standards' and 'additional measures' assist the development of codes that are fit for purpose.

This accompanying research report provides explanatory material to provide context for the [Standards for Parliamentary Codes of Conduct 2024](#).

- **Section 1** includes our research findings, rationale for the standards, political and institutional considerations for implementing codes of conduct and five case studies.
- **Section 2** includes fundamental principles for codes of conduct and key amendments to the 2016 benchmarks to ensure contemporary standards for codes of conduct.

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1. Published by the Commonwealth Parliamentary Association (CPA), 2016. Developed in partnership with Monash University (Professor Hon. Ken Coghill).

2. CPA. 2016. *Recommended Benchmarks for Codes of Conduct applying to Members of parliament*: 5.

## **The Standards for Codes of Conduct for Members of Parliament and the Parliamentary Workplace**

The Standards for Codes of Conduct have been published by the CPA as part of its Standards in Parliament Series, 2024 edition.

The standards are comprised of nine themes.

***Theme 1: Commitment to parliamentary democracy, institutional integrity and a code of conduct***

***Theme 2: General conduct in public office***

***Theme 3: Disclosure and publication of financial and other interests and conflicts of interest***

***Theme 4: Commitment to a safe and respectful workplace***

***Theme 5: Online behaviour, social media, artificial intelligence and information management***

***Theme 6: Complaints, independent investigations, and procedural fairness***

***Theme 7: Rectification and sanctions***

***Theme 8: Ethics advisor***

***Theme 9: Awareness and education***

## **RESEARCH METHODS**

Deakin University was commissioned by the CPA Headquarters Secretariat to review and update the CPA Recommended Benchmarks for Codes of Conduct applying to Members of Parliament. The project aimed to provide:

- A holistic review of comparative parliamentary codes;
- An analysis of wider benchmarks and indicators as they relate to codes of conduct, anti-harassment policies, safeguarding, and ethics, etc.
- An information-gathering survey and key interviews as appropriate.
- A pan-CPA feedback exercise on the draft standards.

The Deakin team was also asked to come up with alternative nomenclature for the 'Recommended Benchmarks'. After analysis and consultation, the term Standards for Codes of Conduct, which are divided into Minimum Standards and Additional Measures, was proposed.

The project deployed three key research methods which were approved by the Deakin University Ethics Committee (HAE-2023-105).

### **1. Desktop analysis and review of scholarly literature**

To gain an understanding of the global diversity of codes (within and beyond the Commonwealth) we undertook a desktop analysis of codes of conduct of parliaments. This analysis did not produce a comprehensive overview, partly because some jurisdictions do not make them available on the parliament's website or there is no parliament website, merely basic information about the parliament on a government portal. Nevertheless, this exercise enabled the researchers to develop a good understanding of the global diversity of codes.

A comprehensive survey of academic literature and research reports relating to codes, parliamentary workplace





issues, and parliamentary culture, was also undertaken. This included reports such as the ‘Jenkins’ review of the Australian parliament,<sup>3</sup> the ‘Cox’ review of the UK House of Commons<sup>4</sup> and others relating to sexual harassment and assault in parliaments that have been published in recent years. The research team acknowledges the important debates around gender, diversity, safety, and quality of representation that have occurred in recent years, and the outcomes are informed by this work. A summary of further resources for parliaments can be found in Appendix One of this report.

## 2. Survey of Parliaments

An online survey was developed using the Qualtrics survey design tool. The survey asked 36 questions including whether the branch had a code of conduct; what challenges they faced if they did; the reasons why if they didn’t. A full list of the survey questions can be found in Appendix Two of this report (see page 36).

The online survey was distributed via the CPA Headquarters Secretariat to all CPA branches by email.

Forty-three branches responded to the survey, which makes a return rate of approximately 23 per cent.<sup>5</sup> Importantly, the responses came from a representative range of parliaments, including national and sub-national branches, large and small branches, and branches across the CPA’s nine regions.

## 3. Interviews

Five semi-structured interviews of 30-70 minutes were conducted with clerks or others in similar organisational roles.

The interviews developed a deeper understanding of the attitudes of various parliaments to codes of conduct in general, the usefulness of the 2016 Benchmarks in their context, and the specific challenges and constraints that they faced in adopting codes of conduct. We also shared drafts of the Standards for Codes of Conduct with interviewees, who were asked to provide feedback on the relevance of the proposed Standards to their legislature, and whether they foresaw any challenges in implementation.

## The 2016 Recommended Benchmarks for Codes of Conduct applying to Members of Parliament

Professor Hon. Ken Coghill, Monash University, a former Speaker of the Legislative Assembly in Victoria, Australia, led a comprehensive research project in 2014-15, which ultimately led to the publication of the CPA’s Benchmarks in 2016. The preparatory research included surveys and interviews with a diverse range of Commonwealth parliaments and culminated in a workshop in Victoria in 2015 attended by Clerks representing all but one of the CPA regions.

The 2016 Benchmarks largely reflect best practice at the time of their drafting. The prevailing guidance of organisations with international influence, including the CPA and UN, included related democratic benchmarks, standards in public life and governance measures designed to protect and enhance public confidence in democratic institutions. These internationally recognised standards were adapted into guidance for developing codes of conduct for Members of Parliament in the 2016 Benchmarks.

In a 2021 issue of *The Parliamentarian*, Prof. Coghill reflected on the Benchmarks and the research process:

*Whilst the recommendations seemed comprehensive when written in 2015, movements that emerge to sweep the world have a habit of identifying gaps in our thinking - gaps that rightly demand attention and remedial action.*

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3. Jenkins, Kate (2021) *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, Australian Human Rights Commission, November 2021.

4. Dame Laura Cox DBE, *The Bullying And Harassment Of House Of Commons Staff*, Independent Inquiry Report, October 2018 (Report commissioned by House of Commons Commission)

5. The CPA has approximately 180 branches. 5 survey responses were incomplete (i.e., the respondent didn’t reach the end of the survey).

*In retrospect, we see that as the research team and workshop worked on the recommendations, we were blind to gender equity, sexual harassment, sexual violence and bullying: issues now known to have been below the surface. Nor were they raised, despite the opportunity. Parliamentary workplaces that were particularly unsafe for women and the #Metoo movement were in the shadows, not yet generally recognised. The composition of our workshop was mostly male, but we did not think to redress the imbalance; there was greater balance among the interviewees<sup>6</sup>.*

Our review of the 2016 Benchmarks does not invalidate their content. Instead, it seeks to update, through amendment, the existing Benchmarks and add new standards in areas where the 2016 version lacked any content.

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6. Ken Coghill, 2021 'Building the Public's Trust in Parliamentarians: The Need For a Revised CPA Codes of Conduct', *The Parliamentarian*, 2021, Issue Three, Commonwealth Parliamentary Association (CPA): 282.







# Section 1: Research Findings

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This section provides an overview of our survey on the challenges, constraints and strategies adopted by CPA member legislatures in implementing parliamentary codes of conduct.

## ***The existence of a code and the influence of the 2016 Benchmarks***

Thirty of the 43 (70.7%) respondents said that they have a code. A majority of responses were received from unicameral parliaments, a minority of the responses from individual houses in bicameral parliaments, and two responses from one house responding on behalf of both houses of a bicameral parliament. Whether the respondents to the survey were skewed toward those parliaments and houses who have a code of conduct is unclear, but desktop research across a broader number of parliaments from different CPA regions suggests that the survey does not understate the prevalence of codes of conduct.

Of this group of respondents who did have a code, 28 answered the question of whether the code was established by Act or Standing Order/Resolution.

<b>Code established by:</b>	<b>Number</b>	<b>%</b>
Standing order / resolution	20	71.4
Act of Parliament	8	28.6

The presence of a code of conduct for Members is not necessarily a 'yes or no' matter. General standards of conduct for public officials may be regarded as sufficient basis for rules for Members, so that Members are included in the broad category of public official. In these cases, codes are found in legislation, not standing orders or continuing resolutions. For example, in Kenya, Members are included in the statutory definition of 'public officer' and subject to the code of conduct and ethics prescribed by the *Public Officer Ethics Act 2003* (revised 2009), Laws of Kenya, Chapter 183.

Nevertheless, as our research shows, in the majority of CPA jurisdictions that have a Member code of conduct, this code is designed specifically for Members. This enables a set of different standards for Members to those of public officials, taking into account unique aspects of the role of the Member of Parliament. It also enables the Member's code to set a leading example of public conduct, and it might also increase the likelihood of MPs having some sense of ownership of the code or higher regard for its importance.

The specific codes of conduct for Members were either legislated or established by resolution/standing order. Of the 29 identifiable respondents who said they had a code of conduct, 19 (65.5%) were either established or amended since the benchmarks were published in 2016.

These respondents were asked if they referred to the CPA Benchmarks in the establishment or amendment process.





Codes established or amended since 2016		Reference to CPA recommended code of conduct benchmarks 2016			
		Extensively	In passing	Not at all	Unsure
Codes first established since 2016	9	1	2	5	1
Codes established prior to 2016 and amended since 2016	10	0	2	3	5
<b>TOTAL:</b>	<b>19</b>	<b>1</b>	<b>4</b>	<b>8</b>	<b>6</b>

Only one respondent said that they referred to the Benchmarks ‘extensively’, while four respondents said that they referred to the Benchmarks ‘in passing’. These respondents came from just three regions.

### ***Institutional (parliamentary) context for codes of conduct***

The type of functions, levels of independence and influence of presiding officers also varies between legislative chambers. This variation may be reflected in their formally prescribed role in a code and broader integrity system, and actual parliamentary practice. For example, in the Pakistan Senate, the Chairman of the Senate has significant decision making and procedural powers in matters of complaints, notwithstanding the inquiry role of the Ethics Committee, chaired by the Deputy Chairman of the Senate.

Houses also differ in relation to the culture and rules surrounding how active their procedure and/or ethics committees are, including the extent to which they embed a practice of regular review of standing orders. Such a culture is more likely to extend to the establishment, ongoing review and updating of codes of conduct standards. For example, the New Zealand House of Representatives has a standing order requiring a review of its standing orders by the Standing Orders Committee, which often includes a public submission process, absent from such reviews in many other parliaments. The ACT Legislative Assembly has followed a similar path of mandating regular review in its Code of Conduct for Members.

### ***Jurisdiction size and technical expertise***

The population size of a jurisdiction may influence the extent to which certain aspects of a code are more prominent than others and the extent to which resourcing an integrity regime to enforce a code of conduct is possible or onerous.

There are 50 national and sub-national legislatures within the CPA Small Branches network (population up to 1 million): some of these jurisdictions have populations of less than 100,000.

In such cases, conflict of interest may be a more significant challenge because of the overlap of public and private interests, personal relationships, links between private entities and service providers. These challenges do not exist in isolation from the conflict of interest challenges faced by public servants and the operators of private businesses themselves. On the one hand, this may result in conflict of interest being a prominent aspect of a code of conduct. On the other hand, a pragmatic approach to managing such conflicts of interest may develop and be understood as legitimate by the community.

Some smaller branches have a majority of Members in ministerial positions and while all Members, including ministers, should be subject to a code of conduct for Members, ministers are often subject to a separate code developed by the executive government, not the Parliament, and this code may be more prominent than the code for Members.

Smaller parliaments may also find it financially prohibitive or onerous to construct an integrity regime around the code, which may include an ethics/integrity adviser, a standards commissioner, and a complaints investigation process. At a minimum there will be an incentive for such a regime to be less legalistic and for the standards and regime to be proportionate to the number of Members and likely number of issues. The conflict of interest challenges described above may equally effect the ability of local people to fulfil integrity regime roles.

Technical capacity to construct and administer an integrity regime may also influence the decision of a smaller parliament to alter recommended best practice or to dismiss it completely. The Northwest Territories in Canada

provides a clear example of a very small legislature with a heightened awareness and rules surrounding conflict of interest and behaviour of Members towards others, but an integrity regime that has become disproportionately expensive.

Based on our survey, we can observe that large parliaments are more likely to have a code. Two out of the 5 legislatures who identified as CPA 'small parliaments' (40%) do not have a code, whereas the equivalent figure for large parliaments is 4 out of 23 respondents (17%).

### ***Scope of code coverage***

The codes in operation around the Commonwealth vary in terms of what they cover. Our survey sought to explore these differences. Firstly, to ascertain whether a code ventured into financial matters, we asked respondents whether their code includes a requirement for Members to declare income or interests. We also asked respondents whether the code covers digital/online content. Out of 28 responses to these questions, 13 codes (46%) were reported to include provisions relating to both financial and digital matters; 8 (18%) dealt with financial but not digital matters; and 4 (9%) dealt with digital but not financial matters.

Furthermore, we analysed the range of actors covered in a code, by asking whether that code includes, in addition to its guidance for representatives, standards of conduct for any, or all, of the following: (i) ministerial political advisers, (ii) non-governmental political advisers, and (iii) electoral/constituency office staff. While the majority (17) of the 26 respondents to this question reported that their code did not extend to any of these groups, 9 respondents (35%) did indicate that their code applied to at least one of these groups.

### ***Appointment of an Ethics Advisor***

Only 12 of 37 identifiable respondents said that their Parliament has 'an ethics or integrity adviser who Members can seek confidential advice from'. Absence of ethics advisers may also influence the responses of some Members to surveys about their attitudes to ethics, which are interpreted as culturally divergent attitudes to ethical questions rather than a lack of awareness and understanding of the role of a Member.

### ***Natural justice and procedural fairness, including right of appeal***

In our survey, 30 identifiable respondents said that they had a code of conduct, but only 13 said that Members who were subject to a finding of a breach of that code had a right of appeal. At first glance it might be assumed that this low number is explained by a majority of respondents having codes of conduct established by resolution, rather than statute, and centred around an investigative and decision-making role of a privileges or ethics committee, rather than a commissioner for standards. However, there was no clear correlation between the mode of establishment of the code and a right of appeal and, there are increasing examples of codes established by resolution with procedures operated internally by the House, in which rights of appeal to external bodies are included<sup>7</sup>.

### ***Application of general workplace laws, including protection from harassment and sexual harassment***

In the survey, 32 respondents said that they have statutory law for the protection of workers in the general workforce, including protection against harassment and sexual harassment. Seventeen (53%) responded that these laws applied to Members in the parliamentary workplace in full; nine respondents said that the application of these laws to Members was partial and 6 said that the laws did not apply at all. The results may reflect the legal uncertainties around the status of Members in the parliamentary workplace in some jurisdictions. On the other hand, there are jurisdictions who are clear that workplace laws apply to Members, at least to some extent, despite the ambiguous employment status of Members.

Of the 32 respondents who reported the existence of laws for the protection of workers in the general workforce, including protection against harassment and sexual harassment, 25 (78%) had some form of code of conduct for Members.

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7. For example, see Legislative Assembly of Saskatchewan, *Anti-Harassment Code of Conduct*, section 10. Appeal.



## Other considerations

### *The diversity of Commonwealth parliaments*

The Commonwealth is a geographically and culturally diverse range of nations, with the CPA having approximately 180 branches including parliaments at the national and sub-national level. CPA branches are organised into nine regions: Africa; Asia; Australia; British Islands and Mediterranean; Canada; Caribbean, Americas and Atlantic; India; Pacific; and South-East Asia.

It is reasonable to assume that there are different attitudes to ethics and acceptable behaviour across the different CPA regions. There may be various influences of tradition or cultural attitudes on such matters as: hierarchy; gender sensitivity; the role of gift-giving in daily business; and kinship customs which may be seen as ethically questionable by outsiders<sup>8</sup>.

The extent to which a single set of standards can be effectively deployed across the CPA regions is unsurprisingly contested<sup>9</sup>.

### *Minimum standards and additional measures that assist the development of codes that are fit for purpose*

The specification of minimum standards and additional measures for codes of conduct, recognises that parliaments across the Commonwealth vary greatly in size, resources, cultural settings and parliamentary practice.

The OSCE/ODIHR's Parliamentary Integrity report notes that:

It is not possible to prescribe a single, one-size-fits-all solution for improving standards of parliamentary integrity. The most effective strategies are those that consider specific institutional and political conditions<sup>10</sup>.

The Standards for Codes of Conduct are designed to encourage incremental implementation from minimum standards to additional measures, while also enabling legislatures to ignore those additional measures that are not relevant to their context without facing adverse judgement for not meeting minimum standards.

The standards are not intended to be the exact measures for assessment of implementation, but rather serve as the basis for developing a separate, context-specific assessment tool. They are designed so that a parliament can monitor its progress in a meaningful and helpful way, separate from a more formal self-assessment or external assessment.

### *Code of Conduct as statute law or resolution/standing order*

Parliaments in the CPA community include chambers in which codes of conduct can be found in various forms: solely in statute (e.g. Parliament of Victoria<sup>11</sup>), solely in continuing resolutions (e.g. ACT Legislative Assembly<sup>12</sup>), and in which some standards are provided by statute and others by resolution (e.g. Legislative Assembly of Ontario<sup>13</sup>).

The 2016 Benchmarks publication rightly notes that, 'codes of conduct have a purpose different from Standing Orders which are primarily rules of procedure'.

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8. Commonwealth Parliamentary Association. 2018. *Recommended Benchmarks for Democratic Legislatures*, revised and updated, p. 1; and Commonwealth Parliamentary Association. 2016. *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*, 3.

9. See, for example, Stapenhurst, Rick and Chagani, Sarosha (2021) 'Beyond the CPA's Codes of conduct for MPs', *The Parliamentarian* 102(3), 284-286.

10. OSCE/ODIHR. 2022. *Parliamentary Integrity: A Resource for Reformers*, 15.

11. *Members of Parliament (Standards) Act 1978*, Victoria, Australia.

12. Australian Capital Territory, Legislative Assembly, Continuing Resolutions: No. 5 Code of conduct (2005, as amended); No.5AA Commissioner for Standards (2013, as amended); No.6 Declaration of private interests of Members (1992, as amended); No. 6A Ethics and Integrity Adviser (2008, as amended).

13. *Members Integrity Act 1994*, Ontario, Canada, and Legislative Assembly Members' Code of Conduct on Harassment (2018, as amended).

This distinction does not mean that codes of conduct should necessarily be legislated. There are few advantages, if any, to legislating a code of conduct.

There may be a practice in some bicameral parliaments to legislate administrative matters relating equally to both houses, but nothing prevents both houses from agreeing to mirror resolutions with the same status as standing orders.

There may be a view that a statutory code will be taken more seriously by Members. But if the statutory code provides similar complaint and enforcement procedures, such as a standards commissioner undertaking investigations of alleged breaches and making recommendations back to the House or an ethics/privileges committee, there is no lesser incentive for Members to comply with standards provided for in a resolution.

The provision of a standards or integrity commissioner who may employ staff and who may undertake integrity functions for others, such as public servants or judges, in addition to Members, is likely to require legislation. However, this does not mean that the Members' code of conduct should also be placed in the legislation. A resolution establishing a code may authorise the referral of alleged breaches of the code to a standards commissioner who is separately established by statute (e.g. Northwest Territories, Canada<sup>14</sup>). A variation of this approach occurs in New South Wales where the *Independent Commission Against Corruption Act 1988* (ICAC Act) requires both houses to separately establish ethics committees for the purpose of drafting codes of conduct and amendments. The codes of conduct, adopted by resolution rather than statute, are then subject to the jurisdiction of the Independent Commission Against Corruption in relation to any alleged breaches of the codes.<sup>15</sup>

There are some disadvantages to a statutory code of conduct that are well understood by many parliaments.

A statutory code will almost always be drafted by a minister's office and the public servants who provide support to the minister. There will be less ownership of the code by Members of all sides if it is presented to them as a government bill, to which amendments proposed by Members are often resisted and rejected by the government based on wanting to maintain control over the legislated public policy outcome. The outcome of drafting a code of conduct for Members should be controlled by Members, not the government of the day.

A statutory code will be harder to amend than a resolution, given the usual ministerial and other bureaucratic processes that are required before an amending bill is introduced. Statutory codes will also be far more susceptible to court review than a resolution with the status of standing orders, which are applied and enforced at the exclusive cognisance of the legislature.

We therefore recommend, but do not insist upon, establishing standards by standing order or resolution. Ultimately, a code of conduct provided by resolution of the House(s), maintains a clear understanding that the final decision maker of sanctions for findings of serious breaches of the Code is the House. The House's right to regulate its own affairs, free from judicial or other interference is not compromised (see Commonwealth Parliament, Australia, Joint Select Committee on Parliamentary Standards 2022<sup>16</sup>). At the same time, a contemporary code established by resolution need not provide any lesser standard of procedural fairness and transparency.

There are very practical alternatives to legislation that still achieve a distinction between a code of conduct (pertaining to the behaviour of individual Members) and the standing orders setting out rules of debate, passage of bills, questions to ministers and the like. Alternatives include:

- An appendix to the standing orders; or
- A standing resolution (resolution of continuing effect) in which the resolution is expressly given the same status as the standing orders.

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14. Northwest Territories, Canada, the *Legislative Assembly and Executive Council Act 1999* requires that the Legislative Assembly have a code of conduct and establishes the Integrity Commissioner. The Legislative Assembly has accordingly resolved the Code of Conduct and the Guide to the Rules Relating to the Conduct of Members (also established by resolution and being enforceable), which states that a person believing there has been a contravention of the Code 'may make a complaint to the Integrity Commissioner pursuant to section 100 of the Act'.

15. See Part 7A and ss.9(1)(d) and 9(3) of the ICAC Act. The Act also makes the ministerial code of conduct subject to ICAC's jurisdiction.

16. The Commonwealth Parliament (Australia) Joint Select Committee on Parliamentary Standards, Final Report, 2022 recommended that the code of conduct for Members and the parliamentary workplace standards applying to all workplace participants should be incorporated into the Standing Orders of both Houses after weighing up submissions advocating the alternatives of legislation and standing orders, 85-87 & 93-94.

This was also the view of the external inquiry that preceded the Committee's inquiry - Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, November 2021, 231.





Standards should be codified in a standing order or standing resolution, even if accompanying agencies, such as standards commissions, are provided by statute.

However, the new standards for codes of conduct leaves this decision for each parliament as the higher priority is that every house have a code, whether legislated or not.

### ***Investigation of complaints, procedural fairness, including right of appeal, and appropriate sanctions***

The preferred standard for investigation of a complaint of breach of a code is that it be conducted by a person or commission independent of the House. Given the different resourcing and other capacities of parliaments, this standard is best listed as an additional measure, rather than a minimum standard.

The two Houses of the UK Parliament have developed the most comprehensive integrity schemes, bringing together codes of conduct, external standards commissioner, a separate scheme for workplace behaviour complaints, and an independent appeals body<sup>17</sup>. In effect, there are two streams in operation.

The more recently established stream involves workplace behaviour and the process for investigating complaints, decision-making, penalties, and appeals, and is generally consistent with the CPA Benchmarks. While the Commissioner for Standards is the decision-maker, the original investigation and consideration of any appeal are undertaken by others.

The older stream, which is based on the House of Commons code of conduct (in relation to register and declaration of interests, lobbying amongst other things), and involves investigation of complaints by the Commissioner and decisions by the House's Committee on Standards, was subject to extensive review in 2021 and 2022 due to ostensible procedural shortcomings. These shortcomings related to clarity around the role of the Commissioner as investigator and perceived decision-maker and a lack of right of appeal against the final decision of the Standards Committee<sup>18</sup>. In other words, even the House of Commons integrity regime fell short of the principles laid out in the 2016 Benchmarks.

The right of appeal is a minimum standard for any code because it is a basic feature of procedural fairness. While our survey found no correlation between a code of conduct established by statute (as opposed to establishment by resolution) and a right of appeal, it is reasonable to assume that a formal and effective right of appeal provision is more likely to be established if investigations of complaints are conducted by an independent agency or investigator, rather than by a parliamentary committee. Parliamentary committees, such as privileges committees, are generally not used to having their findings appealed.

Standards should require that sanctions are proportionate and based on principles of justice and require that codes explicitly prohibit the use of sanctions to gain political advantage.

The extent to which specific sanctions for specific breaches can be prescribed in a code is less clear. To ensure standards are fit for purpose, consistent and just, they should include:

1. a prescribed list of sanctions as an additional measure, rather than a minimum standard, so that parliaments with little or no previous experience of enforcing a code can develop, practice, and aspire to a prescribed list of sanctions later by amending their code; and
2. an example of graduated, proportionate sanctions according to listed breaches, which are offered as 'indicative' guidance.

### ***The role of political parties in codes of conduct***

The existence of parties in a parliament is a relevant factor in the design of the code of conduct in some cases. Not all parliaments have political parties, but many of those that do include the role of party whip as the organiser of their party's business in the House. In some of these party-based houses, the whips are institutionalised in formal rules and practice about chamber business, orderly conduct and, in some cases, this extends to a formal role in resolution of complaints.

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17. Both Houses have codes of conduct established by resolution; there is separately an Independent Complaints and Grievance Scheme relating to bullying, harassment and sexual misconduct; there is a statutory Parliamentary Commissioner for Standards who is a decision-maker; there is an Independent Expert Panel (non-MP) to which appeals may be made in relation to decisions and penalties.

18. House of Commons, Committee on Standards, *New Code of Conduct and Guide to the Rules: promoting appropriate values, attitudes and behaviour in Parliament*, first report of Session 2022-23, May 2022, see paras 141-159.

For example, in the *Ontario Legislative Assembly's Code of Conduct on Harassment* (2018), the complainant Member may commence an informal resolution process by lodging the complaint with the Whip or the Clerk. The Whip is also involved in the formal resolution process, including having responsibility in the post-investigation phase for advising what disciplinary action is proposed.

### **Terminology: Setting professional standards for Members of Parliament**

While the priority of this project was to update the content of the inaugural Benchmarks, there was significant thought given to exploring alternatives to the terminology of 'Recommended Benchmarks'.

Benchmarks are used in other important publications, such as the CPA's *Recommended Benchmarks for Democratic Legislatures*. Benchmarks, unlike principles and guidelines, are more likely to be tangible and objectively assessable. Thus, a majority of the democratic legislature benchmarks and code of conduct benchmarks are expressed as things that 'shall' or 'shall not' be done. The term 'benchmark' is likely to make more sense where the requirement is at an institutional level, rather than the required conduct of the individual. The term 'principles' is used in foundational works, such as the Latimer House Principles and The Seven Principles of Public Life (the 'Nolan Principles'). Principles may include values or things better described as forming the culture of an organisation or profession and may be difficult to measure, albeit the Latimer House Principles include some tangible, measurable components.

Guidelines are used in important publications such as the [CWP's Anti-Harassment Policy Guidelines: A Toolkit for Commonwealth Parliaments](#). Guidelines suggest that certain policy content or standards are optional and examples only, or that the emphasis is on 'things to consider' rather than standards that should be codified regardless of cultural, political and resourcing variables. The term 'guidelines' implies recommended and prohibited behaviours to which compliance is optional. In contrast, standards are better understood as being mandatory.

Standards most commonly apply to members of a profession who are expected to act according to professional norms in their relations with colleagues, customers, clients and the community at large. Professional standards thus provide the tangible description of proper conduct as it should be understood for a specific profession and are often enforced by law. The existence of required standards of conduct and competency is frequently a key factor determining that a person in a role is a 'professional'.

More generally, the following can be said of 'standards':

- they are usually based on the 'distilled wisdom' of those in the industry that the standards apply to<sup>19</sup>;
- they may be voluntary or may be referenced by laws or other enforceable rules, where a choice is made that standards be mandatory;
- they may be a mix of specific procedures and more general guidelines;
- they seek to be fit for purpose, while also seeking consistency wherever possible;
- they are usually reviewed on a regular basis to ensure that they remain current and relevant to the industry that they serve;
- they can promote innovation and further development within the industry that is using the standards, because standards often allow flexibility and serve as a starting point for the development of better practices<sup>20</sup>;
- they enable governing bodies to govern well while behaving ethically and responsibly, which supports UN Sustainable Development Goal 16, Peace, Justice and Strong Institutions<sup>21</sup>.

Members of Parliament differ from most professions because eligibility for the profession is based solely on election (or appointment in a small number of cases). The lack of formal qualifications for the role may mean the role of a Member is better understood as an occupation, vocation, or something uniquely separate from any categorisation. However, there are several other ways in which Members might be regarded as professionals: their duties are unique to the role of a Member; their role is of fundamental importance to the lawful functioning of the society; and Members are autonomous decision-makers, even when they contribute to the binding decision of the state by way of a vote in the law-making process.

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19. See International Standards Organisation – Standards, [www.iso.org/standards](http://www.iso.org/standards).

20. See Standards Australia 'what is a standard' [www.standards.org.au](http://www.standards.org.au).

21. See International Standards Organisation, ISO 37000:2021 Governance of Organizations.

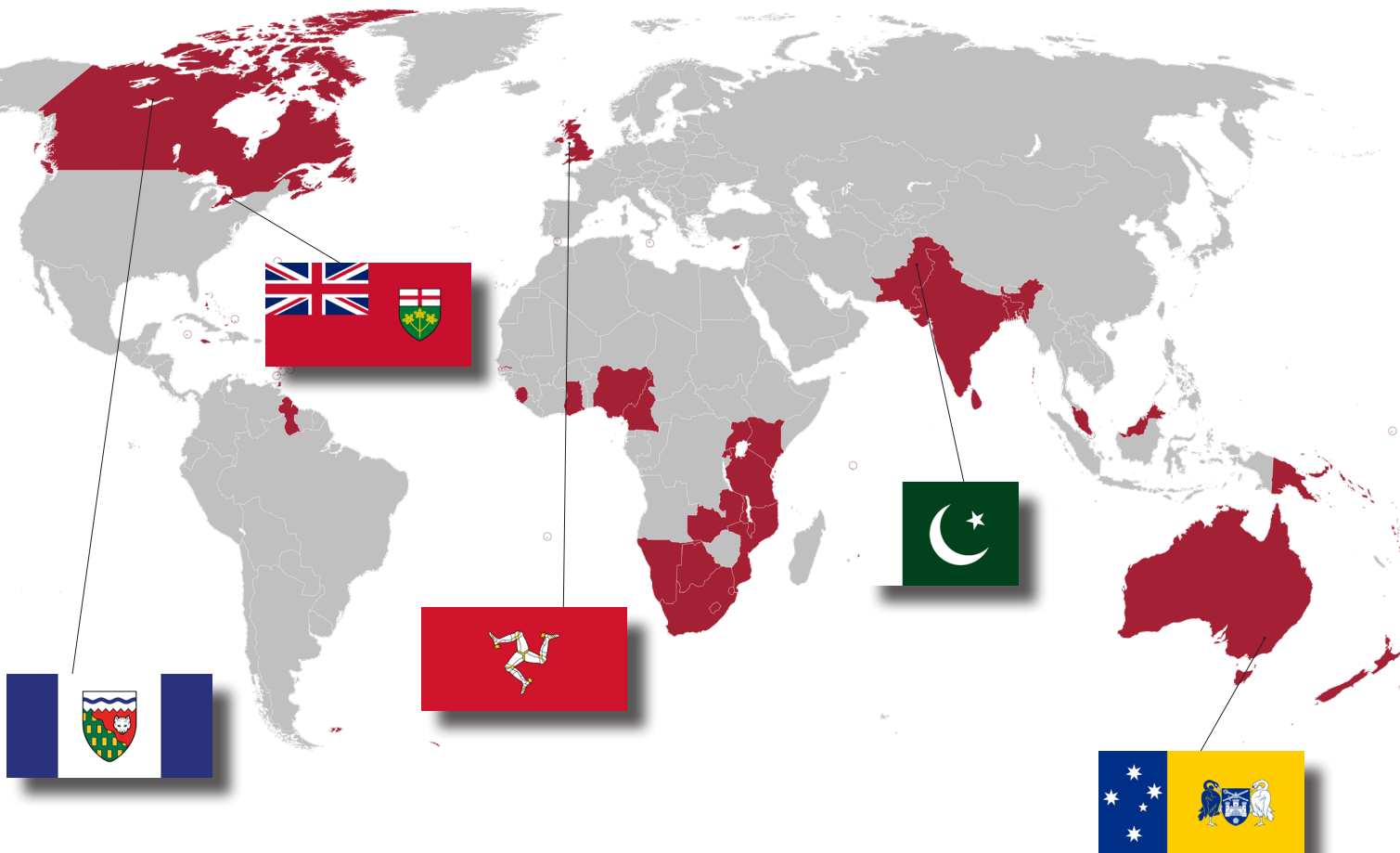


The imposition of parliament 'industry' standards on individual Members may increase Members' sense of their professionalism and responsibility to the integrity of the institution of parliament. To achieve this, parliamentary standards must be:

- at a level as high or higher than general community standards; and
- be accepted across the community of parliaments and understood as being mandatory standards; and
- include the broad range of standards related to the Member's participation as a law-making representative and a participant in the workplace.

## COMMONWEALTH PARLIAMENTS' EXPERIENCE IMPLEMENTING CODES OF CONDUCT: FIVE CASE STUDIES

Interviews were conducted with representatives from five parliaments/houses, and these form the basis for the following case studies



## **Tynwald, Isle of Man**

### **British Isles and Mediterranean Region of CPA**

The Isle of Man has a population of approximately 83,000. Members of Tynwald (Parliament of the Isle of Man) are paid as full-time Members. The Tynwald, which is uniquely a tricameral parliament has two categories of membership, Members of the House of Keys and Members of the Legislative Council, and collectively, the Tynwald Court. In the case of the Tynwald, general workplace laws do not apply to Members.

#### ***Establishment of the code and standards***

The various rules, standards and code relating to Member conduct are found in annexes to the Standing Orders (Standing Orders, Tynwald Court, Revised edition, August 2023).

A Register of Interests rule was established in 2003 and made an annex to the Standing Orders in 2021; a Required Standards of Conduct, dealing with Members' workplace relations and public relations was established in 2016 and amended in 2017; and a Code of Conduct was established in 2017 and amended in 2023.

The register of interests, standards and code came about because of instances of controversy involving Members' conduct. The CPA's 2016 Benchmarks were not influential in the development of the Standards in 2016, nor the Code in 2017.

Events and Member conduct reform in the UK Parliament are monitored by parliamentarians and the public, and have been influential in the Tynwald, in keeping with the general influence of UK public policy on Tynwald's consideration of matters of governance.

#### ***Influence of individual controversies***

The fact that developments have occurred in response to individual controversies, rather than based solely on systemic review, has led to some interesting outcomes for the various rules of Member conduct. For example:

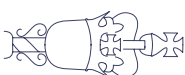
- The sequence of key developments in the rules is unusual. The Required Standards of Conduct, which are more prescriptive and include a policy against bullying and harassment, pre-dates the more principles-based Code of Conduct.
- A statement made to the House by the Acting Attorney-General warning Members against appearing to provide constituents with legal advice, was included as a separate standards of conduct annexe to the Standing Orders.
- The Required Standards commence with a range of rules directing Members not to interfere with parliamentary staff matters.
- A select committee inquiring into behaviour in the public sector led to a heightened awareness of workplace relations, which is reflected in the Standards, making them more contemporary in nature than many other codes.

#### ***Data protection obligations of members***

Isle of Man also demonstrates a comparatively higher level of awareness of Member responsibilities in relation to data privacy. While the Standards and Code do not specifically address this, a data privacy policy appears on each Member's profile on the Tynwald's website. New Member induction also includes information from the Information Commissioner on the data protection responsibilities of Members.

#### ***Independent investigations of complaints***

A recent reform that has occurred in practice (rather than in the Standards and Code) is the use of independent, non-political investigators of complaints against Members. Being smaller in population, Isle of Man has found it useful to call on investigators who live outside of jurisdiction.





## **Legislative Assembly, Northwest Territories Canada Region of the CPA**

The Northwest Territories (NWT) has a population of approximately 41,000. Members of the Legislative Assembly (MLAs) are full-time. MLAs do not have legal status as 'employees,' but do have legal status as 'employers' of their staff.

### ***Establishment of the code and statutory rules***

The NWT's integrity regime consists of:

- Statutory rules relating to conflict of interest, gifts and benefits; an annual financial interests disclosure; oversight and authorising powers of an Integrity Commissioner and investigations by a Sole Adjudicator, all provided by the *Legislative Assembly and Executive Council Act 1999*.
- A principles-based Code of Conduct, made by resolution of the House and under authority of the Act in 2019, obliging Members to comply with its provisions ([www.ntassembly.ca/meet-members/accountability](http://www.ntassembly.ca/meet-members/accountability)).
- A [Guide to the Rules Relating to the Conduct of Members](#), made by resolution of the House and therefore enforceable. The Guide provides a more detailed set of actual standards and behaviours that provide a more specific reference point for expectations, obligations, and complaints.

The Code and Guide were established in 2019 (and updated in 2023) include minor reference to the CPA's Benchmarks.

### ***Prominence of conflict of interest in a small population***

The small population of the NWT is the main reason that the integrity regime is heavily focused on conflict of interest standards. Most new MLAs are already attuned to the issue as it is pervasive throughout the NWT.

### ***Independence of Integrity Commissioner***

Similarly, the small population of the NWT meant it was appropriate that the Integrity Commissioner be based outside of NWT. The Commissioner performs the same role for another parliament in a small-population jurisdiction.

### ***Comparatively early adoption of a Member workplace harassment policy***

NWT is notable for the fact that the Assembly's board of management introduced a workplace harassment policy in 1999, which governed Member behaviour towards others, particularly staff. Initially complaints were to be lodged with the Clerk, but in the most recent parliament this responsibility was shifted to the Integrity Commissioner, relieving the Clerk of the difficulty of inquiring into Members while trying to maintain the traditional advisory role of Clerk. The absence of parties in the NWT creates a problem for MLA conduct, because there are no leaders or whips who can play a constructive role in promoting appropriate behaviour and rectifying issues. The workplace harassment policy has now been incorporated into the Guide and 'harassment' expressly includes, amongst other things, sexual harassment and sexual assault.

### ***Protection of information by MLAs***

Like the Isle of Man, NWT's guide to the Code places a strong emphasis on the need for Members to protect the confidential information of others that comes into their possession.

### ***Expense and weaponisation of the Code***

While the integrity regime in NWT is comparatively comprehensive and contemporary for a very small jurisdiction, there are two notable challenges that serve as a cautionary tale for other jurisdictions.

- The first is that the statutory provision of the Integrity Commissioner, Sole Adjudicator and investigations of complaints has resulted in a very legalistic approach which has become disproportionately expensive.
- The second is the concern that the Code can be used as a political weapon, particularly because complaints and investigations are so legalistic and consequential.

## Senate, Pakistan Asia Region of CPA

Pakistan has a population of approximately 187 million. The Parliament of Pakistan includes the National Assembly and Senate. Senators are full-time and workplace laws apply fully to Senators in their capacity as employers of staff.

### ***Establishment of the code***

The Senate's Committee on Ethics was developing its code when the CPA's Benchmarks were published in 2016. As such, the Benchmarks were highly cited by the Committee who sought to implement standards that it hoped would be universally accepted as best practice. The Code is made by resolution of the Senate, rather than by statute and commences with principles based on the Nolan Principles.

### ***Complaints and investigations***

The Code prescribes the process for complaints and investigations, which are all under the jurisdiction of the Ethics Committee and the Senate. There is no use of external commissioners. The code is notable for providing that a complaint found to be vexatious could result in the complainant being found in contempt. There is an attempt to find a balance between ensuring proper conduct by Senators and preventing the Code from being weaponised, and to this point the latter has not occurred.

### ***Protection Against the Harassment of Women at the Workplace Act, 2010***

The Code does not include workplace behaviour standards, but the *Protection Against the Harassment of Women at the Workplace Act 2010* applies equally to Senators as to the general workforce.

### ***Social media, online behaviour***

The existing code does not include standards that expressly refer to social media, online behaviour by Senators and artificial intelligence (AI). These are issues that the Senate is thinking about and a new set of code of conduct standards that includes online behaviour would be a welcome source of guidance for any future amendment of the Senate's Code.



## **Legislative Assembly, Australian Capital Territory Australia Region of the CPA**

The Australian Capital Territory (ACT) has a population of approximately 467,000. Members are full-time and workplace laws apply to them as employers of staff, with the exception of being able to discriminate on political grounds in relation to the recruitment of a person.

### ***Establishment of the code of conduct***

The ACT Assembly was established in 1989 and within three years it adopted a declaration of interests scheme in the form of a continuing resolution. After many years of drafting a code of conduct, it was finally resolved by the Assembly in 2005. There were no individual controversies that motivated this.

A separate continuing resolution established the Ethics and Integrity Adviser in 2008. One of the responsibilities of the Adviser is to periodically review the code of conduct and recommend improvements to the Assembly. A further continuing resolution established the Commissioner for Standards in 2013 with the functions of investigating complaints about Members (such complaints having to be made initially to the Clerk) and to report to the Standing Committee on Administration and Procedure.

The Assembly amended its code to include workplace behaviour standards in 2023 following a review of the code and recommendation by the Ethics and Integrity Adviser.

The prevailing view was to establish the Code and to continue to reform it in the form of a continuing resolution of the Assembly. This was preferable to establishing it as an Act, which would leave it open to review by the courts, which was felt to be undesirable.

### ***Workplace behaviour standards***

The timing of the Adviser's review of the Code was notable because of its proximity to numerous, contemporary reviews of workplace behaviour issues in other parliaments, notably the UK, Australia, New Zealand, Tasmania, South Australia and New South Wales. This helped to inform the options for, among other things: how to define 'discrimination', and whether to expressly include sexual assault in a list of prohibited behaviours. The inclusion of sexual assault in the code makes the Code more compliant with gender-sensitive audit measures. A further argument in favour of including sexual assault in the Code, despite it also being in the crimes statute, is that an allegation before the courts may take years to resolve, whereas the Assembly may use a different standard of proof and more efficient procedures to deal with a member (in a non-criminal manner) in the short term.

### ***Independent Standards Commissioner***

The Standards Commissioner is established by continuing resolution only. While it may be challenging for smaller parliaments to afford numerous office holders as part of an integrity regime, the ACT Assembly (25 Members) benefits from having an independent commissioner, rather than relying on a privileges committee in which Members are reluctant to judge other Members and it is difficult to form a committee made up of Members who do not have a close association with the accused Member.

### ***Affirmation of commitment to the Code***

The Code requires the Assembly to 'reaffirm its commitment to the principles, obligations and aspirations' of the Code within the first six months after an election. This is regarded as having more efficacy than a signed pledge, because the reaffirmation is made in the form of a resolution of the Assembly, which is a very public form of commitment to the Code.

### ***Cost of a comprehensive Code and integrity regime for a smaller jurisdiction***

The ACT Legislative Assembly is notable for being a smaller jurisdiction with a Code, an ethics adviser and a standards commissioner, all funded by the Assembly itself and separate from the statutory Integrity Commissioner who is required to investigate more serious allegations across the whole of the government sector. The regime is not considered to be disproportionately expensive. Former judges can be engaged at reasonable rates and active legal practitioners may take on such roles on a part-time or retainer basis while doing other legal work, because the Assembly does not generate full-time work for such officers.

## **Legislative Assembly, Ontario Canada Region of the CPA**

The province of Ontario has a population of approximately 14 million. Members of the Legislative Assembly are full-time and general workplace laws are held to apply fully to them.

### ***Establishment of the code of conduct***

The *Members Integrity Act 1994* provides rules applying to MLAs in relation to conflict of interest, gifts, annual declarations of private interests, and other matters. The Act has been amended on several occasions since 1994 and since 2016, but the CPA's 2016 Benchmarks have not been referenced.

A separate *Members' Code of Conduct on Harassment* was established by resolution of the House in 2018. The Code relates only to the behaviour of Members towards each other: it 'prohibits a Member from harassing another Member' and 'creates a fair, confidential, respectful and timely complainant-driven regime to receive, process, investigate, make findings and decisions on, resolve and otherwise deal with a complaint that a Member has harassed another Member'.

There was no public controversy involving behaviour of Members that led to the development of the Code. The Speaker's Panel (committee) that drafted the Code for adoption by the House was mindful of developments in the UK, but otherwise the idea for the Code was something that developed over time.

### ***Different approaches to compliance with the Act and the Code***

Compliance and investigations of the standards and obligations of Members, prescribed in the Act, is undertaken by the Integrity Commissioner, who has the status of an independent statutory officer. The 2018 Code in relation to workplace behaviour between MLAs was not added to the Act and does not come under the ambit of the Commissioner. The party whips, the Clerk and the Speaker all have roles to play if the behavioural code is activated. This is notable, and it is possible to conclude that the behavioural code is better enforced by those who have a nuanced understanding of the political/parliamentary environment. A 'neutral investigator' is engaged by the Clerk once initial processes have been undertaken in accordance with the Code.

### ***Pledge of compliance with the Code of Conduct on Harassment***

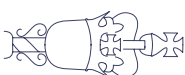
The Code requires Members to sign a pledge of compliance with the Code and to submit the pledge to the Clerk within 30 days of being elected. While this is not a public process, there has been full compliance since the Code's establishment.

### ***Social Media***

One of the more unusual aspects of the Members Integrity Act is the inclusion of social media. Recent amendments enable the Commissioner to enforce standards relating to the official social media accounts of Members, distinct from any other, personal, partisan accounts belonging to the Member.

### ***Integrity Commissioner***

The Act provides for a Commissioner of Integrity, who is appointed by the Assembly, not the Government. One of the Commissioner's tasks is to make recommendations for ongoing improvement of the obligations in the Act, which has seen governments and the Parliament respond with amending legislation over the years.





# Section 2: Fundamental Principles for Parliamentary Codes of Conduct

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This section explores how codes of conduct have developed overtime and the ideas that shape them. These have been arranged in chronological order.

## 1. SEVEN PRINCIPLES OF PUBLIC LIFE (NOLAN PRINCIPLES)

The first report of the United Kingdom's Committee on Standards in Public Life in 1995 prescribed the seven principles of public life for persons in public office, known informally as the Nolan Principles.

The seven principles are *selflessness, integrity, objectivity, accountability, openness, honesty, and leadership*<sup>22</sup>.

The Seven Principles of Public Life were updated in the 14<sup>th</sup> Report of the Committee on Standards in Public Life, *Standards Matter*, in 2013. The 2013 report noted that some codes of conduct in other sectors and other countries, developed since 1995, included additional principles, such as duty and public service and respect. While the committee was supportive of such initiatives, it was satisfied that the seven principles prescribed in 1995 remained a satisfactory guide to public life.

The CPA Recommended Benchmarks for Codes of Conduct adapted the seven principles as the principles to guide a Member of Parliament as a public office holder<sup>23</sup>. Our research indicates that most CPA member-legislatures have codes of conduct or other statements which replicate or draw significant guidance from the Nolan Principles.

The Committee's first report in 1995 is also notable for recommending that the House of Commons adopt a new code of conduct and a Parliamentary Commissioner for Standards<sup>24</sup>. The CPA's Benchmarks, which followed 21 years later in 2016, similarly recommended that parliaments adopt codes of conduct and a system for complaints to be investigated by an independent investigator. While there has been significant adoption of the Nolan Principles, there has been less adoption of more comprehensive codes and still less adoption of standards commissioners or similar independent officers tasked with investigating matters of complaints against members and their compliance with codes.

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22. Committee on Standards in Public Life (United Kingdom). 1995. *Standards in Public Life*, First Report Volume 1, May, 14.

23. See pp. 5–6.

24. Committee on Standards in Public Life (United Kingdom). 1995. *Standards in Public Life*, First Report Volume 1, May, 32

## 2. LATIMER HOUSE PRINCIPLES

The Commonwealth (Latimer House) Principles on the Three Branches of Government, which were first developed in 1998, then adopted by Commonwealth Heads of Government in 2003<sup>25</sup> include the principle of ethical governance, requiring ministers, Members of Parliament, judicial and public officers to respectively adopt and revise guidelines for ethical conduct<sup>26</sup>. The relevant guidelines provide that:

- (a). conflict of interest guidelines and codes of conduct should require full disclosure by ministers and Members of their financial and business interests;
- (b). Members of Parliament should have privileged access to advice from statutorily-established Ethics Advisors; and
- (c). whilst responsive to the needs of society and recognising minority views in society, Members of Parliament should avoid excessive influence of lobbyists and special interest groups<sup>27</sup>.

## 3. BENCHMARKS FOR DEMOCRATIC LEGISLATURES

Building on the Latimer House Principles, the CPA Recommended Benchmarks for Democratic Legislatures were developed in 2006<sup>28</sup>. The 87 indicators sought to provide a framework for excellence in Commonwealth parliamentary and legislative practice. Four benchmarks were listed under the heading of Ethical Governance and sub-heading Transparency and Integrity. Benchmark 10.1.2 provided that:

*10.1.2 The Legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts.*

The CPA Recommended Benchmarks for Democratic Legislatures were updated in 2018 and retain the existing four benchmarks.

## 4. UNITED NATIONS' 'GOVERNANCE' GOAL

The United Nations' Sustainable Development Goals (SDGs) were published in 2015. The 17 Goals and 169 accompanying actions were the key plank of the UN's 2030 Agenda for Sustainable Development, a global commitment to end poverty and set the world on a sustainable path to inclusive development.

**SDG 16 – Peace, justice and strong institutions** – is known as the 'governance goal'. This goal includes:

- 16.5 Substantially reduce corruption and bribery in all their forms.
- 16.6 Develop effective, accountable and transparent institutions at all levels.
- 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels.

At the time, the Inter-Parliamentary Union (IPU) and United Nations Development Programme (UNDP) noted how SDG 16 would underpin the success of all other goals:

Not only do the SDGs identify sectoral priorities and set ambitious new targets, they also break new ground. It is the first time that an international compact has recognized the centrality of effective, inclusive and accountable institutions in the development process. Goal 16, also known as the governance goal, reflects IPU's and UNDP's long-held view that democratic governance is not only an end in itself, but also a means to sustainable development, peace and justice<sup>29</sup>.

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25. First developed in 1998, adopted by Commonwealth Heads of Government in 2003 and subsequently broadened and revised at various times up to further publication in 2008. The development of the principles was a collaboration between the Commonwealth Lawyers' Association, the Commonwealth Legal Education Association, the Commonwealth Magistrates' and Judges' Association and the Commonwealth Parliamentary Association.

26. Principle VI) Ethical Governance, p.12.

27. *Latimer House Guidelines for the Commonwealth, 1998*, in Commonwealth (Latimer House) Principles on the Three Branches of Government, 2008, 20.

28. Commonwealth Parliamentary Association. 2006. *Recommended Benchmarks for Democratic Legislatures*, in partnership with United Nations Development Programme and World Bank Institute. The benchmarks were updated in June 2018 to include 132 benchmarks.

29. Inter-Parliamentary Union. 2016. *Parliaments and the Sustainable Development Goals, a self assessment toolkit* (with the United Nations Development Programme), 6



## 5. THE PRINCIPLE OF LEADERSHIP AND PARLIAMENTARY WORKPLACE BEHAVIOUR

The Committee on Standards in Public Life and the CPA Recommended Benchmarks for Codes of Conduct applying to Members of Parliament did not directly address parliamentary workplace behaviour, although the Benchmarks provided further guidance on the meaning of leadership to include Members being willing to challenge poor behaviour wherever it occurs and included a standard of civility, requiring that:

Members shall treat each other, the Parliament and the people with respect, dignity and courtesy, including parliamentary staff<sup>30</sup>.

It was not until the Standards in Public Life Committee's further review in 2021 that its description of 'Leadership' was amended to include the expectation that holders of public office should 'treat other with respect', recognising that:

Discussions on conduct in public life increasingly focus on how those in positions of authority interact with each other and the public, with a greater emphasis on the need to treat others with dignity and civility<sup>31</sup>.

And

Though treating others with courtesy and respect has always been an implicit part of the leadership principle, it is important in today's political climate to make the link explicit. It should also be clear that all those in public life must challenge poor behaviour, such as bullying and harassment, wherever it occurs<sup>32</sup>.

# KEY AMENDMENTS REQUIRED OF THE 2016 BENCHMARKS

### *Parliaments as workplaces*

Contemporary workplace behaviour standards were largely absent from the 2016 Benchmarks, other than two paragraphs with broad intent that could be said to include the workplace:

#### **3.4 Civility**

Members shall treat each other, the Parliament and the people with respect, dignity and courtesy, including parliamentary staff.

#### **3.5 Behaviour**

A Member shall not assault, harass, or intimidate another person.

As noted earlier, the author of the 2016 Benchmarks later acknowledged an oversight in not recommending measures to address gender equity, sexual harassment, sexual violence and bullying. It is possible that others have assumed for years that issues of sexual harassment, sexual violence and bullying were matters of the general criminal law and workplace laws that would apply to parliamentary workplaces and Members, regardless of inclusion in codes of conduct. It has been more obvious that matters such as Members' conflicts of interest and registers of interests require codification, because they are matters of transparency and integrity that are not usually part of the general law.

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30. Para 3.4, p.8.

31. Para.142, p.34.

32. Para.144, p.34.

However, whether and under what circumstances general law applies to parliamentary workplaces and to Members in particular remains an unsettled question. Much of the literature that considers codes of conduct also considers the legal context that the codes operate within. Scholars have noted the employment status of parliamentary staff and Members of Parliament as a potential impediment to enforced standards of behaviour<sup>33</sup>. The policies and laws establishing employment structures vary greatly between jurisdictions and are often complex in nature.

In some cases, parliamentary department staff, ministerial advisers and electorate staff are employed under different legislation which hold different obligations and engage different accountability mechanisms. Members of Parliament are elected representatives and are not subject to the same policies as those classed as employees<sup>34</sup>. However, they often directly employ members of their own staff<sup>35</sup>. This has led to a contentious area of law for scholars and the courts with some jurisdictions debating the definition of the terms 'employee' or 'employer' to determine their applicability to Members<sup>36</sup>. This debate raises issues with the core principles of government and the separation of powers<sup>37</sup>. In addition, principles of parliamentary autonomy (and self-regulation) have been shown to hamper effective accountability mechanisms through lack of oversight and abuse of power<sup>38</sup>.

### **Workplace behaviour and codes of conduct: the right of Members and other people to be in a safe and respectful workplace**

This report describes certain parliamentary reviews and international standards documents, that support gender-sensitive and appropriate behaviour in parliamentary workplaces. Many of these reviews and standards documents followed public and non-public controversies and incidents in parliaments<sup>39</sup>. In most cases, these parliaments had a code of conduct in place (with the exception of the federal Parliament of Australia), but often lacking standards of workplace behaviour.

There are several aspects of workplace behaviour that are very different from other aspects of codes of conduct for Members, including, but not limited to the following:

1. The inclusion of important measures that relate to many more people than just the Members. For instance, in the UK Parliament the Behaviour Code applies to all visitors and those who 'work in Parliament at Westminster and elsewhere' and anyone can contact the Independent Complaints and Grievance Scheme if they have experienced bullying, harassment, or sexual misconduct in the parliamentary workplace<sup>40</sup>.
2. The need for agencies or officers, who are separate and independent from legislatures and privileges committees, to receive complaints, investigate complaints and offer support to those who have experienced inappropriate behaviours. In some cases, such as the UK, this means there may be two streams of complaint investigation: one for workplace issues; and another for other alleged breaches of the code, which may rest with a privileges or ethics committee.

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33. M. Maley and M. Sawyer, (2024) *Toxic Parliaments: And What Can Be Done About Them*, Springer. A. Tiernan, (2007) 'Reforming the staffing system' in *Power without responsibility: Ministerial staffers in Australian governments from Whitlam to Howard*, University of New South Wales Press, Sydney.

34. C. Bosch & R. le Roux, 'Not letting them Whistle: The Labour Appeal Court's approach to the protected disclosures act and protecting parliaments employees', *Obiter*, 32/3 (2011), 591-612.

35. Gaudreault, Maryse (2016) 'Workplace Harassment Policy in a Parliamentary Context', *Canadian Parliamentary Review* 39(2).

36. *Charlton v Parliament of the Republic of South Africa* (680/2010) [2011] ZASCA 132; 2012 (1) SA 472 (SCA); [2011] 12 BLLR 1143 (SCA); (2011) 32 ILJ 2419 (16 September 2011).

37. L. Hilton, 'Rethinking Parliamentary Status: Are Parliamentarians Bound by the Protected Disclosures Act 2000? A comparison between South Africa and New Zealand', *Victoria University of Wellington Law Review*, 49/3 (2018), 341-370.

38. Blackham, Alysia and Williams, George (2013) 'The Accountability of members of Australia's Federal Parliament for misconduct', *Oxford University Commonwealth Law Journal* 13(1), 115-156.

39. Broderick, Elizabeth (2022) *Leading for Change: Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022*. Sydney. Jenkins, Kate (2021) *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, Australian Human Rights Commission, November 2021. The Bullying And Harassment Of House Of Commons Staff, Independent Inquiry Report, Dame Laura Cox DBE, October 2018 (Report commissioned by House of Commons Commission). *Compassion in Politics and Chartered Institute for Personnel and Development (CIPD)*, report commissioned by All-Party Group for Compassionate Politics, 2022, [www.compassioninpolitics.com/new\\_report\\_reveals\\_culture\\_of\\_working\\_life\\_for\\_mps\\_and\\_their\\_staff](http://www.compassioninpolitics.com/new_report_reveals_culture_of_working_life_for_mps_and_their_staff).

40. Independent Complaints and Grievance Scheme UK Parliament re: UK Parliament Behaviour Code; Bullying and Harassment Policy; Sexual Misconduct Policy, [www.parliament.uk/about/independent-complaints-and-grievance-scheme/](http://www.parliament.uk/about/independent-complaints-and-grievance-scheme/).







3. A positive onus on Members to act in support of another person who has experienced inappropriate behaviour or to intervene if they observe another person engaging in appropriate workplace behaviour. This contrasts with other aspects of a code of conduct in which the member must be mindful only of their own actions.
4. An overlap of the code with the general laws, including criminal laws, applying to all people, for example, sexual assault. In August 2023 the ACT Legislative Assembly's Ethics and Integrity Adviser made recommendations to the House, via the Committee on Administration and Procedure<sup>41</sup>, in relation to the existing code of conduct. In doing so, the adviser noted the code of conduct adopted by the Houses of the South Australian Parliament in 2021<sup>42</sup>, (in particular 5. Standards of Behaviour), which provides that a Member 'must not harass, sexually harass, or discriminate against' various people in the parliamentary workplace, including other Members. The ACT adviser noted that the South Australian code was a 'step in the right direction' and advanced of other Australian parliaments, albeit still deficient in not addressing bullying and sexual assault.
5. Traditionally, more common features of codes of conduct, such as registers and declarations of interest, have a direct relevance to the conduct of the Member in the chamber and in committees. On the other hand, some may not regard workplace behaviour as being relevant to the chamber and committees. The extent to which bullying, discrimination and harassment in the ordinary workplace can be equated with or prohibited in the debating chamber is contested. The chamber is an important part of a Member's workplace and they should have a right to be free from bullying, discrimination and harassment in all places of work and beyond. However, this may conflict with the law of Parliament in relation to a Member's right to speak freely in the chamber. As such, parliamentary privilege may be a right that clashes with another Member's right to feel safe in the workplace. Whatever answer is arrived at, it is relevant to note that most Houses already regulate Members' freedom of speech. The written rules or practices of Houses tend to prohibit unparliamentary language and include limits on what a Member may say about another Member, the sovereign or the judiciary and it is a normal duty of a presiding officer to enforce those limits and for the House and privileges committee to deal with serious breaches of the rules. The challenge for a presiding officer and the House more generally is to arrive at a common understanding of debate and theatrics in the chamber that is robust, but not bullying, discrimination or harassment for its own sake.

The 2016 Benchmarks needed to be updated by including a new section on behaviour in the workplace with an express requirement that the parliamentary workplace should be safe and respectful for everyone. These new standards are based on best practice provisions of various parliamentary codes, in which best practice is a harmonious combination of:

- contemporary standards of workplace behaviour that ensure all people feel safe and respected in the workplace; and
- recognising that the formal proceedings of parliament are a forum for sometimes robust debate, a necessary pillar of a parliament performing its representative, law-making and scrutiny roles; and
- standards expressed in a manner that should achieve universal acceptance regardless of the cultural and institutional settings.

In terms of the negative obligation (i.e. what a Member shall not do), contemporary standards must prescribe a more detailed list of prohibited behaviours. The various parliamentary codes that list prohibited behaviours use different terminology, including different definitions of discrimination, but generally overlap more than they differ.

A further significant aspect of the proposed standards is the inclusion of various positive obligations on Members, that is, what they should do in relation to their own behaviour but also in supporting any person who is subject to unacceptable behaviour or making a complaint.

41. Legislative Assembly ACT, Standing Committee on Administration and Procedure Review of the Standing Orders and Continuing Resolutions of the Tenth Assembly, Volume 1, Report 10, August 2023, Appendix B: Review of the Code of Conduct for Members of the Legislative Assembly.

42. See Parliament of South Australia, Standing Orders for Regulating the Public Business of the House of Assembly, Chapter 31A Members Code of Conduct, 105 & 106.





### ***Inclusion of Sexual Assault in workplace standards***

While not all codes of conduct for Members that include workplace behaviour expressly refer to sexual assault as a prohibited behaviour, there is justification for the inclusion of prohibited behaviour as a minimum standard for a code of conduct, notwithstanding that it is a criminal offence in the general law. In the parliamentary setting, sexual assault of women active in politics is one, highly significant example of political harassment, where 'political harassment, a form of gender-based violence committed against people active in public and political life, is a fundamental barrier to women's participation in decision making'<sup>43</sup>. The ACT Ethics and Integrity Adviser states, naming the inappropriate behaviour provokes 'concentrated thought about' and deterrence of such behaviour<sup>44</sup>.

The minimum standard for any parliament's code of conduct for Members must expressly include sexual assault as one of the prohibited behaviours.

### ***Standards of behaviour for all persons in the parliamentary workplace***

Behaviours including bullying, harassment and sexual assault are inappropriate regardless of the identity of the perpetrator. In addition to the behaviours prohibited for Members in a code of conduct, every parliament should have a statement of required and prohibited behaviour for all persons in the parliament workplace including staff, contractors, media, and visitors. This in turn, also ensures that members, along with others, are afforded rights and protections. Such a statement, in both physical and digital form, is not administratively difficult and enforcement may be determined by each parliament according to its normal practices for regulating the health and safety of staff and visitors on the precinct.

### ***Behaviour in the chamber***

In a modern parliamentary workplace, there is less justification for completely quarantining behaviour in the chamber from the workplace standards that apply beyond it. It is important to respect Members' freedom of speech in chamber and committee proceedings, particularly as it is ultimately a right belonging to the House as matter of the law of parliament. A standard that requires Members to consider the rights and reputations of others when speaking with the protection of parliamentary privilege is therefore best categorised as an additional measure for a code of conduct, rather than a minimum standard.

### ***Members' staff***

The 2016 Benchmarks did not address the responsibilities of Members in relation to their staff. While there are variations between parliaments as to whether Members have any advisory or constituency/electorate office staff and as to whether the Member is the employer or not, in any instance where they have staff the Member has at least a managerial responsibility and duty of care. This translates into three distinct obligations for the Member:

1. That they make the staff aware of the Member's commitment to the code of conduct;
2. That they make the staff aware of their rights and obligations and that the Member at least shares responsibility for the behaviour of their staff in the workplace; and
3. That they behave appropriately toward their staff.

The proposed new standards do not include obligations in relation to ministerial staff. Just as ministers are subject to a separate code of conduct (in addition to the code that ministers are subject to in their capacity as a Member), so ministerial staff are presumed to be subject to codes of conduct that are created and situated in the executive government, not parliament.

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43. ParlAmericas, Action Plan for preventing Political Harassment and Violence Against Women, annual gathering organised by the Group of Women Parliamentarians of ParlAmericas, Buenos Aires, June 2015, 8.

44. Legislative Assembly ACT, Standing Committee on Administration and Procedure Review of the Standing Orders and Continuing Resolutions of the Tenth Assembly, Volume 1, Report 10, August 2023, Appendix B: Review of the Code of Conduct for Members of the Legislative Assembly, 58.

## Social Media

Social media has become a prominent tool of political discourse and often an extension of a Member's activities and speech in the chamber and committees. It is similarly a powerful vehicle for conveying personal comments, which in the physical workplace could be a form of bullying or harassment. Just as contemporary codes of conduct must acknowledge the need for Members to be accountable for their workplace behaviour, so they must be accountable for their behaviour online.

Standards for codes of conduct should include stand-alone provisions relating to:

- minimum standards prohibiting inappropriate use of social media by Members towards other Members and other people, including behaviour that is bullying or harassment;
- a minimum standard for a Member's accountability for their use of third-party material (sharing material) which may be just as harmful as material authored directly by the Member; and
- additional measures providing that Members are accountable for the actions of their staff when they post material in the Member's name/account.

The 2016 Benchmarks did not include any express references to appropriate use of social media by Members.

The Committee on Standards in Public Life (UK), noted in its 2021 report, *Upholding Standards in Public Life*:

1.12 Social media: Social media has rapidly increased the pace of public life, leading to the expectation of an instant response to any new allegation of poor ethical standards, which regulators cannot always provide. Additionally, members of the public regularly make complaints to standards bodies regarding the conduct of elected officials online, but such matters will often be judged out of scope. The Committee recommended in its 2019 report on local government that there should be a rebuttable presumption that all public behaviour, including comments made on publicly accessible social media, should be considered as made in an official capacity. We consider that the same principle should apply to MPs and peers<sup>45</sup>.

The CPA has similarly considered the benefits and risks of social media in politics and parliament, and in 2020 the then Chairperson of the Small Branches network noted that while there is a need to somehow regulate inappropriate online behaviour towards public officials by members of the public 'there also needs to be a code of conduct in parliaments which ensures the responsible use of social media by Members'<sup>46</sup>.

Some parliaments have chosen to acknowledge social media as relevant to behavioural standards of Members, but by merely referencing general principles of behaviour. For example, the Welsh Parliament (Senedd) does not prescribe standards for social media, but instead relies on the accompanying non-enforceable guidelines to advise Members that conduct will be interpreted as including use of social media<sup>47</sup>. The Scottish Parliament similarly references social media in its guidelines and explains how general standards of conduct overlap with use of social media. It also provides guidance on how Members are to avoid misrepresenting themselves on social media and dealing with inappropriate online behaviour directed towards them<sup>48</sup>.

Ontario Legislative Assembly, on the other hand, is an example of a legislature that chose to insert express standards relating to use of social media by Members in 2021, within a pre-existing statutory framework of standards for Members enforced by an integrity commissioner<sup>49</sup>.

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45. Committee on Standards in Public Life, *Upholding Standards in Public Life*, Final Report of the Standards Matter 2 review, 2021, 23.

46. Hon. Nikki Rattle, The Challenges of utilising new technologies and social media for the betterment of our smallest democracies in the Commonwealth, in *The Parliamentarian*, Commonwealth Parliamentary Association, 2020, Vol. 1, Issue 4, 290.

47. Welsh Parliament (Senedd), *Guidance on the Code of Conduct for Members of the Senedd*, March 2021, p.6.

48. Scottish Parliament, *Guidance on the Code of Conduct for Members of the Scottish Parliament*, October 2021, Section 7, para's 4 – 8 and Section 8, para's 25 – 32.

49. Ontario, Canada, *Members' Integrity Act 1994*.





## **Artificial intelligence**

There is a growing body of work that identifies the risks and benefits of Artificial Intelligence (AI) to parliaments and democracy more generally<sup>50</sup>. Inclusion of responsible use of AI in codes of conduct also serves as a vehicle to provide ongoing education to Members in the evolving capability, risks and benefits of AI. Attempts to regulate AI or establish technological safeguards that protect parliament and democracy will be undermined if Members themselves are not held to account against express standards of conduct in their use of AI.

The Committee on Standards in Public Life reported on Artificial Intelligence and public standards in 2020, noting the use of data-enabled technologies in public sector decision-making. The Committee particularly sought to establish whether 'the existing approach to AI by the government (policy, institutions, and legal frameworks) is sufficient to ensure that public office holders continue to have the ability to uphold standards'. Its terms of reference included:

Consider to what extent the use of artificial intelligence and associated advanced technology has implications for our understanding and formulation of the Seven Principles of Public Life.

The Committee noted that the principles of objectivity, accountability and openness (transparency) were particularly relevant in this regard, but ultimately concluded that:

The Nolan Principles are strong, relevant, and do not need reformulating for AI. The Committee heard that they are principles of good governance that have stood, and continue to stand, the test of time. All seven principles will remain relevant and valid as AI is increasingly used for public service delivery<sup>51</sup>.

Codes of conduct for Members of Parliament, while incorporating the Nolan Principles, are necessarily more detailed and dynamic as they respond to emerging aspects of conduct.

## **Access to, and management of, private information by Members**

While Members should be inherently accountable for their offices and the management of information in them, an additional measure referring to a Member's accountability for making their staff aware of relevant information laws and policies is warranted in the contemporary information age.

The 2016 Benchmarks made only the following reference to the obligation of Members to use confidential information in an ethical manner:

3.1.3 A Member shall not use for personal benefit confidential information (i.e. non-public information) gained as a public officer.

This Benchmark does not sufficiently capture the importance and prevalence of information that comes into the possession of Members in the course of their legislative and representative work. There are two distinct types of information in this regard:

- Information that is not publicly available, but is provided to Members in the course of their committee work, briefings from government officials and the like; and
- Private information relating to constituents, which may include things ranging from private contact details to confidential health information which has been provided to the Member in the context of their representative role.

The first of these information types is generally understood by Members as being confidential and in some cases the penalty for breach of confidentiality will be political or a finding of contempt of parliament. Improper use of the information is likely to be for political gain and in many cases the harm caused is not to an individual. The information is often divulged to the Member, but the Member is not storing the information.

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50. See Read, Alex, 2023, *A Democratic Approach to Global Artificial Intelligence (AI) Safety*, Westminster Foundation for Democracy; Commonwealth Parliamentary Association, 2023, *Parliamentary Handbook on Disinformation, AI and Synthetic Media*, CPA in partnership with OAS, [handbook-on-disinformation-ai-and-synthetic-media.pdf](#) (cpahq.org).

51. The Committee on Standards in Public Life. 2020. *Artificial Intelligence and Public Standards*. 6 ([www.gov.uk/government/publications/artificial-intelligence-and-public-standards-report](http://www.gov.uk/government/publications/artificial-intelligence-and-public-standards-report)).

THE OTHER WAY

THAT WAY



The second type of information may be overlooked in codes of conduct and Members may not be aware of relevant information and privacy laws. A Member's staff may play an important role in receiving and storing the information. Deliberate or inadvertent breach of confidentiality or mismanagement of the information is more likely to cause harm to an individual's right to privacy. This breach of privacy is qualified if the constituent has given the Member permission to raise their information in the chamber or in representations to government or others.

Information provided to a Member by their constituents also provides an opportunity for Members and parties to store information in databases which are then used to profile electorates and individuals for political campaign purposes. Technology makes this process more viable, but also means that the individual Member may be able to store significantly more private information than in the past, which presents increased risks even when the Member is storing the information with good intentions.

In some cases, parliaments have gone beyond the requirements of the 2016 Benchmarks. For example, the Legislative Assembly of Saskatchewan includes the following comprehensive standard for their Members in the Code of Ethical Conduct:

Members of this Assembly must comply with *The Freedom of Information and Protection of Privacy Act*, Part IV, Protection of Privacy, to the extent possible and as circumstances require.

Members of this Assembly are committed to the protection of a citizen's personal information or personal health information which comes into their possession.

Members of this Assembly must, when dealing with a citizen, obtain written consent to collect, use or disclose personal information or personal health information and will determine whether the citizen agrees to share in confidence or in a public way.

Members of this Assembly must use the consent form outlined in this code with appropriate modifications.

Members of this Assembly must provide a copy upon request of that consent to other Members of the Legislative Assembly, Ministers of the Crown or public bodies when requesting information or exchanging information<sup>52</sup>.

The existing Benchmark 3.1.3 remains valid, but should be complemented by a further minimum standard that expressly refers to the obligations of Members to appropriately manage information about individual constituents that comes into their possession.

### ***Ethics advisors and education of Members***

A code of conduct should be viewed as one important piece of a system of ethical conduct and decision-making for Members. An ethics adviser is essential to this broader system and the development of a culture of ethical decision making. To encourage increased take up of ethics advisers by parliaments, there needs to be increased emphasis on the link between the role of the ethics advisers with education, awareness and public confidence in the parliament.

The traditional view of 'professional development' of Members is based on improving their procedural knowledge and representational skills. This is evident in the Recommended Benchmarks for Democratic Legislatures, which expresses the concept in the following terms:

1.6.1 The Legislature shall take measures to ensure that newly elected Members are assisted in understanding how the Legislature works and its rules of procedure.

1.6.2 The Legislature shall take measures to assist legislators increase their knowledge and

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52. Legislative Assembly of Saskatchewan, *Code of Ethical Conduct*, adopted 2015, Code of Ethical Conduct ([legassembly.sk.ca](http://legassembly.sk.ca)).

skills in the performance of their parliamentary duties.

The contemporary view of professional development of Members should include workplace behaviour awareness and education, regardless of the Member's employment background or status as an elected official. The parliament is a workplace. In most workplaces, professional development includes awareness and education about appropriate workplace behaviour, legal rights and obligations and extensions of these, such as supervisory and management skills development.

Further, there is a strong case to be made that Members operate in an environment in which many potential actions and behaviours cannot be prescribed in rules. There cannot be a complete 'manual' of how to be a Member, it is a unique position central to a system based on differences of opinion and competing social and economic interests. Many actions and behaviours of Members are therefore based on ethical decisions where a range of options are available to the Member. In this sense the Member is operating in a system of ethics and conduct in which a culture of ethics is important in addition to codified rules<sup>53</sup>.

Education and awareness of a system of rules of integrity and ethical culture should extend beyond new Member induction, which tends to be one-off training at a time when Members are overwhelmed by the experience of being newly elected. An ethics adviser who is available to Members on an ongoing basis is a necessary part of ongoing education and awareness.

The 2016 Benchmarks provided a clear expectation and model for an ethics adviser. It prescribed both ethical advice being available to Members for 'ethical dilemmas' and outlined a possible model for an ethics adviser (see paragraphs 4.1 – 4.11).

In the survey of CPA member-legislatures, 12 of 37 (32.4%) respondents said that they had an ethics adviser. This contrasts with 29 of 41 (70.7%) respondents having a code of conduct.

Eight respondents (20%) to the overall survey were CPA small branches. Of the 37 respondents to the question about an ethics adviser, 2 small branches said that they have an ethics adviser for Members and 5 said they did not.

In the context of the 2016 Benchmarks being clear about the need for ethics advisers and the comparatively high rate of codes of conduct, the absence of ethics advisers is not easily explained. A logical assumption is that smaller parliaments are less likely to see enough demand for an ethics adviser relative to the availability and cost of engaging a qualified person for the role. Options include sharing an adviser with other jurisdictions or engaging someone on a part-time or retainer basis.

An ethics adviser can provide the benefit of also performing other, related roles, including:

- Participating in Member induction;
- Providing reports to ethics committee or the House about general themes (without identifying individuals) which may lead to improved rules and guidance; and
- Increasing public confidence in the seriousness with which ethical behaviour and training is regarded by Members and the Parliament.

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53. Power, Greg, 2010, *Handbook on Parliamentary Ethics and Conduct, A Guide for Parliamentarians*, Global Taskforce on Parliamentary Ethics, Global Organisation of Parliamentarians Against Corruption (GOPAC) and Westminster Foundation for Democracy, 10.





# Sexual Harassment Complaint Form

By submitting Sexual Harassment Complaint Form, I certify that this application contains all information provided is true and accurate and contains no willful falsification. I understand that falsifications, representations, or omissions made in this application to this position. I hereby authorize responsible person to contact my current and former employers for verification, conduct a background investigation, and

Full legal name	Last Name	
Home Phone:		
City		

# Appendix 1: Further Resources

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Since the publication of the CPA's Recommended Benchmarks for Codes of Conduct in 2016, several controversies have shone a spotlight on parliament as a workplace and on Members of Parliament as having workplace rights and responsibilities. This represents a shift to previous misconceptions of parliaments as simply chambers of government.

Previous controversies mostly centred around behaviour and standards of pecuniary interests, conflicts of interest, lobbying and the like, and were subject to inquiries by privileges committees, a standards commissioner (if one existed), or a law enforcement agency if the behaviour met the standard of corruption and/or criminality. The more recent 'workplace' controversies, however, have led to reviews of parliamentary workplaces, institutional structures and codes of conduct that have been undertaken by office holders whose expertise and investigative lens has encompassed human rights, equal opportunity and workplace laws. Unlike the pecuniary and conflict of interest controversies, the 'workplace' controversies harm more than the public trust in public officials and parliament, and involve harm of persons, whether they be Members, parliamentary and political staff, or anyone else in the broader parliamentary workplace and political environment.

At the same time, there has been an increasing emphasis in international standards setting organisations on identifying and preventing violence (physical and psychological) against women and other groups in political life. An example of the relevance of the parliamentary workplace to this problem is found in a 2018 survey of women parliamentarians in Europe by the Inter-Parliamentary Union (IPU) and PACE, in which 85.2 per cent of respondents said that they had suffered psychological violence in the course of their term in office; 67.9 per cent said they had been confronted with sexist or sexual remarks on multiple occasions, and in 35.6 per cent of instances these remarks had been made in parliament buildings<sup>54</sup>.

A summary of relevant contemporary reviews and recommended standards by Commonwealth and other international agencies follows in this section.

## **1. *Bullying and Harassment of House of Commons Staff, Dame Laura Cox DBE, 15 October 2018.***

In response to reports of sexual harassment and bullying in the UK Parliament, the bicameral inquiry identified a myriad of problems including sexist and racist 'banter' within Parliament, unrealistic work demands, and a general culture of secrecy, and staff being advised against bringing complaints. In addition, there were insufficient processes for responding to, or recording, complaints, and a culture of avoidance, obfuscation, or silencing. The report established a new behavioural code for all those working for/with the House of Commons, an independent complaints and grievance scheme, and a bullying and harassment policy.

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54. Inter-Parliamentary Union (IPU). 2018. 'Sexism, harassment and violence against women in parliaments in Europe', cited in OSCE Office for Democratic Institutions and Human Rights (ODHIR). 2022. *Parliamentary Integrity: A Resource for Reformers*, 12.



## **2. Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces, Kate Jenkins, November 2021**

In the wake of the #MeToo movement, shifts in community expectations on gender equality, and several high-profile gendered-violence cases in the Australian Parliament, a review was conducted into the culture and safety of Commonwealth parliamentary workplaces. The review found that 51% of all staff have experienced at least one incident of bullying and sexual harassment/assault. Women, Member of Parliament (Staff) Act employees, and LGBTQI+ individuals were at a greater risk. Drivers include power imbalances, gender inequality, a lack of accountability, and entitlement and exclusion. Risk factors include unclear and inconsistent standards of behaviour, a leadership deficit, certain workplace dynamics (e.g. intense loyalty), the social conditions of work (e.g. work hard, play hard), and certain employment structures, conditions, and systems (e.g. irregular work hours). The recommendations focused on accountability, data collection and publication, reviewing the implementation of policy, and introducing ideas of responsibility.

## **3. Bullying and Harassment in the New Zealand Parliamentary Workplace, Debbie Francis, May 2019**

The Francis Review found that bullying and harassment are systemic in New Zealand's Parliament, that the culture tolerates and normalises unacceptable behaviours, that senior staff face fewer sanctions, and complainants are fearful of reporting incidents. High-intensity culture, complex employment arrangements, and operational rather than strategic workforce management are risk factors for bullying and harassment. A key concern within the report was not only the harm caused to victims of this behaviour, but also harm caused to Parliament's reputation in the community. The report made 85 recommendations for change.

## **4. Report of the Joint Working Group on Sexual Harassment, Scottish Parliament**

A Joint Working Group on Sexual Harassment was established to consider approaches to the issue of sexist behaviour and sexual harassment. The report recommended changes to existing policy and procedure (including the code of conduct) and a new policy on sexual harassment applicable to all people who work in and for Parliament.

## **5. Gender Sensitising Parliaments Guidelines: Standards and Checklist, Commonwealth Women Parliamentarians, 2020**

The report notes there has been both growth and stagnation in women's representation in parliaments throughout the member countries and regions of the CPA. The Guidelines are designed to assist parliaments to understand and mitigate the ways in which institutional gender insensitivities mediate parliamentary activities, interactions, and outputs, across interest representation, policy making, legislation, and scrutiny. There are four themes: equality of participation within parliament, parliamentary infrastructure, parliamentary culture, and gender equality policy and women's substantive representation. These standards and accompanying checklist are intended to work with, and augment, existing gender-sensitising parliament audit tools.

## **6. Anti-Harassment Policy Guidelines: A toolkit for Commonwealth Parliaments, Commonwealth Women Parliamentarians, 2020.**

In the wake of the #MeToo movement and the Inter-Parliamentary Union's study of sexual harassment in European parliaments, the CWP produced guidelines for institutions to establish an anti-harassment policy. The report begins by defining harassment, explaining why it occurs and outlining some common misconceptions surrounding the issue. It outlines steps for parliaments to act, including processes and accountability chains. The guidelines conclude with a list of action points for parliaments: lead by example, endorse reports, communicate with stakeholders, conduct research, work with experts, and remain focused on the goal.



## **7. International Standards: Indicators for Democratic Parliaments, Inter-Parliamentary Union, 2023**

The Indicators for Democratic Parliaments is a multi-partner initiative coordinated by the Inter-Parliamentary Union (IPU), in partnership with the Commonwealth Parliamentary Association (CPA), Directorio Legislativo Foundation, Inter Pares/International IDEA, the National Democratic Institute (NDI), the United Nations Development Programme (UNDP), UN Women and the Westminster Foundation for Democracy (WFD). The report's indicator 2.1 Parliamentary Ethics consists of five dimensions: anti-corruption; conflicts of interest; code of conduct; parliamentary income and use of parliamentary resources; and lobbying.

Dimension 2.1.3, Code of Conduct, observes that 'there is a growing trend towards the explicit codification of acceptable standards of parliamentary behaviour and conduct in general' and recommends many existing codes be updated.

- Codes 'should prohibit all forms of harassment –physical, sexual, economic, verbal, written and virtual–based on age, gender, ethnicity or any other personal characteristics.'
- Codes 'should establish clear, effective and fair rules of conduct, with mechanisms to ensure their enforcement in practice.'
- 'Procedures for monitoring breaches of the code of conduct, for investigating whether misconduct has occurred and for sanctioning offenders should be clear, consistent and transparent.'
- All MP's 'accept the code of conduct upon taking office,' a requirement absent from some existing codes.
- Codes 'should be developed via an inclusive, transparent and consultative process, with the support of all political parties in parliament, and should be publicly available.'

## **8. Issue Brief - Sexism, harassment, and violence against women parliamentarians, Inter-Parliamentary Union, October 2016**

The Inter-parliamentary Union conducted a study into sexism, harassment, and violence against women Members from 39 countries and over 5 regions of the world (Africa, Asia-Pacific, Americas, Arab Countries, and Europe). It sought to clarify the reason that such violence exists, why and in what form it occurs, who are the perpetrators, and what is the prevalence of the behaviour. The aim of the research was to alert parliaments to the issue and to encourage efforts to address it. Utilising data from 55 women Members, the study found that violence was prevalent within parliaments and could be broken down into 4 categories:

- **Psychological violence:** hostile behaviour likely to cause psychological harm. This includes sexist remarks and threats and affected 81% of women surveyed.
- **Sexual violence:** harassment and aggression of a sexual nature which affected 21.8% of women surveyed.
- **Physical violence:** any violence that inflicts bodily injury to the Members of their family that affected 25.5% of women surveyed.
- **Economic violence:** denied funds and resources to which they are entitled. This affected 32.7% of women surveyed.

The report recommendations include strong laws on gender equality and against violence against women, including specific laws against political harassment of women; countering online threats and other forms of cyber-violence; strengthening parliamentary codes of conduct and complaints procedures; and maintaining parliamentary security.

## **9. Sexism, harassment, and violence against women in parliaments in Europe, Inter-parliamentary Union, October 2018**

A survey of female Members and their female staff in European parliaments found high levels of psychological violence, sexual violence, physical violence, and economic violence among respondents. Risk factors include normalised male dominance, loyalty, long or late working hours, power imbalances, and a workplace culture that tolerates abuse. Recommendations include creating strict and properly enforced laws to prevent and combat violence against women; reinforcing parliamentary policies aimed at eliminating sexism, harassment, and gender-based violence; and transforming the political culture and mentalities. Realising these goals would involve training programs for respect in the workplace, providing counselling services, and establishing a code of conduct.



## **10. Sexism, harassment, and violence against women in parliaments in Africa, Inter-parliamentary Union, November 2018**

This second regional study was conducted in partnership with the African Parliamentary Union. Confidential interviews were undertaken with 137 women Members and 87 female parliamentary staff from 50 countries and 1 subregional parliamentary assembly. The results were similar to the previous study: high levels of psychological violence, sexual violence, physical violence, and economic violence. Risk factors for victimisation were identified and include those who are disabled, unmarried women, young women, those of minority groups, those who speak out for women's rights, and those from the political opposition. Male parliamentary colleagues were found to be the main perpetrators of violence in this context. Most violence went unreported, except where it was physical in nature. The report advocates for legislative reform (e.g. criminalising violence against women in politics), institutional reform (e.g. adopting policies to end sexism and gender-based violence in parliament), and complementary mechanisms (e.g. forums for women parliamentarians and parliamentary staff).

## **11. United Nations Women Expert Group Meeting: Report and Recommendations, 2018**

The meeting's intention was to provide a space for a diverse, specialised, and influential group of experts to identify institutional, advocacy, and legal means to enable women to fully realise their political rights. The meeting's discussions were organised into seven themes:

- Session 1: **Violence against women in politics in the world today, its causes and consequences.**
- Session 2: **Accounts of violence against women in politics and its manifestations.**
- Session 3: **Applying existing normative frameworks on human rights and violence against women with a focus on regional perspectives.**
- Session 4: **National legal and policy advances on violence against women in politics.**
- Session 5: **Country programming for violence against women in politics mitigation and response.**
- Session 6: **Measuring and monitoring violence against women in politics.**
- Session 7: **The big push to end violence against women in politics.**

The meeting noted insufficient implementation and enforcement of legislative measures (e.g. codes of conduct) to address violence against women in politics, and that a zero-tolerance approach to violence against women in politics and acknowledged that this would require the engagement of several stakeholders such as parliaments, electoral management bodies, courts, civil society, and political parties.

## **12. Parliamentary Integrity: A Resource for Reformers, Organisation for Security and Co-operation in Europe and Office for Democratic Institutions and Human Rights, 2022**

This is the most comprehensive and contemporary report on codes of conduct for parliaments identified in the research for updated CPA standards for codes of conduct. The report identifies a range of contemporary developments necessitating reform of standards and codes of conduct, noting low levels of public trust arising from repeated corruption scandals; the limiting of parliamentary oversight functions; an increased focus on public integrity of Members; in increasing focus on combating sexual harassment, gender-based violence and sexist language in parliaments; and the risks and benefits of new technologies in relation to integrity and transparency. The report notes that there is a need for codes to be fit for purpose (p.15) and for politics and politicians to be 'professionalised', noting that most professions are subject to codes of behaviour and standards. (p.20).

In addition to well-established themes of a code of conduct (conflict of interest, register of interests and assets, incompatibility of public and private interests; gifts and hospitality, and lobbyists), the report provides guidance on less-established themes, particularly in relation to gender equality and behaviour. The report also provides a significant focus on the monitoring and enforcement of standards, providing guidance and case studies on procedurally fair processes of complaint investigations; independent regulators; penalties; and providing training and advice to Members and other relevant groups.

## **13. Public Ethics and Integrity Toolkit: Guidelines for Parliaments, Organisation for Security and Co-operation in Europe and Office for Democratic Institutions and Human Rights, 2023**

This toolkit is designed to support national parliaments in developing parliamentary integrity systems and provides a concise roadmap for designing and implementing a code of conduct for Members of Parliament, as well as providing guidance for parliaments that want to improve their existing integrity systems.



# Appendix 2: Survey Questions

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The survey consists of 36 questions. However, whether you are asked a question will sometimes depend on your response to a previous question.

Please click the 'forward' arrow below to progress to the survey. You can click the 'back' arrow if you wish to edit your answers on previous pages.

Can you please identify your jurisdiction (e.g. country or province) and your chamber (if your parliament is bicameral)

Do you have a Code of Conduct and/or Code of Ethics for Members of Parliament?

- Yes
- Unsure
- No

What do you think might explain why you do not have a Code? Please feel free to select options (as many as you wish) from the list below

- Political reasons
- Cultural reasons
- Lack of technical capacity
- Not necessary
- Other

Does this Code include a requirement for MPs to declare income/interests?



- Yes
- Unsure
- No

Does this Code cover digital/online conduct?

- Yes
- Unsure
- No

Through what process was this Code originally created?

- Act of Parliament (law)
- Standing Orders
- Resolution of the House(s)
- Other (please specify)

Does the Code include standards of conduct for ministerial political advisers, non-government political advisers and/or electoral/constituency office staff? (Please select all that apply)

- Ministerial political advisers
- Non-government political advisers
- Electoral/constituency office staff
- None of the above
- Unsure

Does the Code include standards of conduct for ministerial political advisers, non-government political advisers and/or electoral/constituency office staff? (Please select all that apply)

- Ministerial political advisers
- Non-government political advisers
- Electoral/constituency office staff
- None of the above

Unsure

When was the Code first passed (into law, standing order or other)?

Has the Code ever been amended?

- Yes
- Unsure
- No

When was the Code most recently amended?

Has the possibility of a Code of Conduct been officially debated, or informally discussed, in the parliament?

- Yes, official debate
- Yes, informal discussion
- No
- Unsure

When considering establishing or reviewing your Code, did you refer to the CPA's Code of Conduct Benchmarks?

- Yes, extensively
- Yes, in passing
- No, not at all
- Unsure

How useful were the CPA Benchmarks for your purposes?

- Very useful
- Adequate



Not useful

From your perspective, how could the CPA Benchmarks be improved?

Are awareness/education sessions about the Code of Conduct provided either in person or online for Members?

Yes

Unsure

No

Is it mandatory for Members to attend/undertake the awareness/education session?

Yes

Unsure

No

Who is the legal employer (with legal duty of care) for parliamentary staff (i.e. chamber, committees, Hansard, etc)?

Who is the legal employer (with legal duty of care) for ministerial political advisers and non-government political advisers?

Who is the legal employer (with legal duty of care) for electorate/constituency office staff?



Does your jurisdiction have statutory law in relation to protection for workers in the general workforce which includes protection from harassment and sexual harassment in the workplace?

- Yes
- Unsure
- No

Does this law apply to workplace behaviour by Members of Parliament?

- Fully
- Partially (e.g. Yes with some exceptions)
- No, not at all

Have there been any recent developments in law or practice regarding the regulation of workplace relations in your parliament?

- Yes (please provide details)
- Unsure
- No

Are you aware of any situations in which workplace/industrial law has been applied or tested in its application to your parliamentary workplace?

- Yes (please provide details)
- Unsure
- No

Is there an office that a Member of Parliament can formally lodge a complaint with, other than the Presiding Officer, if they believe they have suffered inappropriate behaviour from another Member of Parliament?

- Yes (please provide details)
- Unsure
- No



Is there an office that a staff member can formally lodge a complaint with, other than the Presiding Officer, if they believe they have suffered inappropriate behaviour from another staff member (or a Member of Parliament)?

- Yes (please provide details)
- Unsure
- No

Does your parliament have an ethics or integrity adviser who Members can seek confidential advice from?

- Yes
- Unsure
- No

Could you please provide the exact job title of the person who performs the ethics/integrity adviser role

Is the occupant of this role paid/renumerated for their service?

- Yes
- Unsure
- No

How is the occupant of this role appointed?

Is there an office to address grievances from parliamentary and Members' staff against Members (such as a Standards Commissioner or similar) who is independent from the chamber, the Presiding Officer and Clerk/Secretary General, privileges committee and any other political body?

- Yes (please provide details)

- Unsure
- No

If a Member of Parliament were found to have acted inappropriately (such as harassment or bullying) towards a staff member or other person inside/outside of the chamber, could they be subject to a sanction/punishment imposed by a body other than the chamber?

- Yes (please provide details)
- Unsure
- No

Is the office able or required to recommend to the chamber or presiding officer or privileges/ethics committee a sanction or punishment for the Member of Parliament to be imposed by the chamber?

- Yes
- Unsure
- No

If a privileges/ethics committee or other body makes a finding that a Member of Parliament has breached the Code of Conduct, does the Member have a right of appeal against the finding?

- Yes
- Unsure
- No

Please briefly describe the content of this right to appeal, and where it is documented

If the Code of Conduct or relevant standards of behaviour includes Members' political advisers or electorate/constituency office staff, do they have a right of appeal against a finding?

- Yes
- Unsure
- No

Would you be prepared to participate in a short (approximately 30 mins) follow-up interview with the project team?

- Yes (please provide details of the best person to contact)
- No

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