

# PARLIAMENTARY CODES OF CONDUCT AND THE ACCOUNTABILITY OF PARLIAMENTARIANS

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**Abstract:** This paper reports original research into how parliaments (legislatures) address the ethical conduct of their members of parliament (MPs) as that may affect the accountability of MPs for their conduct, performance of the parliament and the reputation of the institution. It reports the findings of (i) a survey of all Commonwealth Parliamentary Association (CPA) member parliaments (ii) interviews of MPs and Clerks of selected CPA member parliaments and (iii) processes to develop benchmarks intended to guide CPA member parliaments in the design and/or revision of codes of conduct for MPs. Parliament is a key pillar of the National Integrity System (NIS) in a contemporary democracy. The NIS is the system of structural and behavioural features intended to improve accountability for conduct and reduce risks of corrupt behaviour, thereby improving the efficiency and effectiveness of societal outputs and hence superior social outcomes. The paper presents analysis of the range of provisions in current codes (or code-like provisions) as features of the Parliamentary Integrity System component of the NIS in CPA member parliaments. Whilst sanctions for unacceptable behaviour are found to be essential to the effectiveness of codes, behavioural factors are crucial to the effectiveness of any code. A disregard for a code and a failure to enforce it would render it ineffective. The paper discusses the effects of providing MPs with one or more sources of independent advice on ethical matters and also of providing for receipt and investigation of complaints to be independent of possible or perceived partisan influence. Finally, proposed benchmarks applicable to codes of conduct for MPs are outlined.

**Keywords:** parliament, parliamentarian, legislature, ethics; accountability; code of conduct; integrity system

## 1. INTRODUCTION

This paper reports the development of Benchmarks for Codes of Conduct intended to enhance the performance of houses of parliament.

The wave of democratisation which followed the return to democracy in Latin American countries and the collapse of the Soviet Union and other communist regimes led to major reform of parliaments and the creation of others where none had been present in former communist states (Linz & Stepan, 1996). This led to increased attention on the functioning of parliaments in other jurisdictions, such as the United Kingdom (UK) and former UK colonies – the Commonwealth of Nations (Commonwealth). Benchmarks for democratic legislatures were produced by the Commonwealth Parliamentary Association (CPA), UNDP and World Bank Institute (WBI) and published in 2006 (Commonwealth Parliamentary Association, UNDP & World Bank Institute, 2006).

Underpinning the functions of parliaments are the principles of fiduciary duty and public trust. According to these principles, the parliament must act in the best interests of the polity on whose behalf it acts and must act to protect assets held in common, such as waterways and the atmosphere, to give but two obvious examples. The case of the atmosphere brings in the further principle in international law that a state must not act so as to cause harm to others. In Commonwealth jurisdictions, members of parliaments have been held to be public officers who each hold “a fiduciary relation towards the public” and “undertakes and has imposed upon him a

public duty and a public trust”, and hence is legally obliged to uphold and discharge these principles (Brennan, 2013).

Parliaments discharge those principles through their key functions: representation; legislation; budget-making; and oversight of executive government. In order for the principles of fiduciary duty and public trust to be upheld, members of a parliament must perform these functions with integrity. Perceptions of integrity are closely related to trust, and concern about trust “is growing in importance in public life” (Gay & Rush, 2004, p. 2).

The increased interest in the functioning of parliaments has coincided with a wider concern with integrity in systems of government, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD, 2011), the United Nations Convention Against Corruption (UNCAC) (United Nations, 2004) and Transparency International’s National Integrity System (NIS) (Transparency International, 2011). An NIS aims to facilitate ethical conduct and reduce risks of corrupt behaviour through a system of structural and behavioural features.

Whilst the OECD Convention and UNCAC are primarily concerned with conduct by members of the executive, who in most Commonwealth parliaments are firstly members of the parliament, an NIS explicitly includes the parliament as a pillar upholding the overall architecture of the NIS.

The parliament is a key pillar because it makes the fundamental decisions affecting the allocation of power and resources and holds executive government (mainly the head of government - President/Prime Minister/Premier - and ministers) to account for the economy, efficiency and effectiveness with which they manage powers and resources approved by the parliament. Those actions by the parliament are a sum of the actions of parliamentarians, in both their individual capacities and as members of political parties. As decisions by parliamentarians have potential to generate huge financial or other benefits, vested interests have strong incentives to attempt to influence those decisions. As noted above, parliamentarians are public officers and are thereby obliged to place the public interest above all other interests; however, they are vulnerable to corrupting influences that seek decisions in favour of private interests and at the expense of the public interest.

The public’s trust in political institutions including parliaments has been undermined in recent decades by prominent scandals and lesser breaches of acceptable behaviour by elected members across the world. Their behaviour has subverted the responsibilities entrusted in them to exercise power on behalf of the polity. That trust is fundamental to democratic systems and must not be betrayed (Hulten, Bentinck & unnamed ECPRD correspondents, 2011). The importance of trust to the performance of democratic parliaments was recognised in the Benchmarks for Democratic Parliaments.

## 2. LITERATURE REVIEW: PUBLIC TRUST, ENTRUSTED RESPONSIBILITY

To avoid confusion, it is important to distinguish between two uses of the word ‘trust’ as it applies to parliaments and parliamentarians in English language literature. In the context of parliaments, the more common use relates to the relationship between the citizens and their parliamentarians, summed up in a Guardian Poll as: “trust politicians to act with honesty and integrity” (Guardian, 2011). The second usage relates to the public trust exercised by parliamentarians, i.e. powers entrusted in the parliamentarian or in the institution of the parliament. The terms ‘public trust’ and ‘entrusted’ do not always translate into other languages with exactly the same meanings. The English language meaning is explained by Lusty (2014) in the following way:

The central thesis of the doctrine of representative government is that all powers of government are derived from, ultimately belong to, and may only be exercised for and on behalf of, the people. It follows that persons entrusted with such power owe a fiduciary “duty of loyalty” to the public. Indeed, it is widely accepted that public office is a “public trust” and public officials are “trustees”. (Lusty, 2014, pp.337-338)

The concept of public trust is similar in effect to the Napoleonic code application of the concept of *res communes* (omnium) (Bailey, Farrell & Mattei, 2014).

Concern with threats to trust led to increasing interest in measures to reduce the risk of parliamentarians undermining trust by succumbing to improper, unethical or illegal activity in order to achieve personal, political party or other benefit.

A code of conduct was one of the recommended Benchmarks (Commonwealth Parliamentary Association et al., 2006). Such a code forms a key part of the Parliamentary Integrity System and the larger National Integrity System (Coghill, Thornton, Neesham & Kavathatzopoulos, 2014). Integrity systems are intended to enhance the reality and perception of integrity in public life. Perceptions of integrity are closely related to trust, and concern about trust “is growing in importance in public life” (Gay & Rush, 2004. p. 2). Here, the generic term ‘code of conduct’ is used for these measures but it should be noted that other formal titles are also used (e.g. code of ethics; conflict of interest code). In some bicameral parliaments similar provisions have been adopted by both Houses (i.e. Chambers) but in others each House has acted autonomously. Furthermore, their formal status ranges from a resolution of the House, which lapses upon dissolution or prorogation of the parliament, to enactment (i.e. act of parliament) and even incorporation in the constitution.

Often, the measures have been introduced in response to behaviour that has caused public outrage. In other cases it has reflected an apparent desire to boost the integrity of the parliament as an institution, the reputations of parliamentarians, or both.

Clearly, failure to exercise a public trust in the public interest risks a diminution of the citizens’ trust in the parliamentarians concerned or indeed the parliament as a whole. Thus, our concern is with factors that affect the performance of the parliament as perceived by the citizens. These perceptions are products of the conduct of the parliament’s parliamentarians in discharging the four principal functions of (i) legislating, (ii) budget-making, (iii) representation and (iv) oversight of the Executive.

### 3. RESEARCH METHODOLOGY

This paper draws on a research programme that has the overall aim to improve understanding of how parliamentarians acquire and enhance the knowledge, skills, attitudes and abilities that contribute to the performance of the parliament’s functions.

The research programme has included several projects, the most significant of which was Parliamentary Careers: Design, Delivery and Evaluation of Improved Professional Development funded by the Australian Research Council Linkage Project grant LP0989714, in which industry partners were the Inter-Parliamentary Union and AusAid (the Australian Government’s former development aid agency). Other projects in this program include Protecting the reputation and standing of the institution of parliament: a study of perceptions, realities and reform (ARC SPIRT C00106808); Pilot study of parliamentary career skills development: The 2005 Senate induction program (Monash University); International review of induction and professional development programmes for parliamentarians (Inter-Parliamentary Union); Parliamentary Career Skills Development: since Senators’ 2005 Induction Program (Monash University); Parliamentary Career Skills Development: House of Commons since 2010 Induction Programme (Monash University); and Parliamentary Codes of Conduct (Commonwealth Parliamentary Association Head Quarters) (Coghill, 2012, 2014; Coghill, Donohue et al., 2008; Coghill, Donohue et al., 2009; Coghill, Donohue & Holland, 2008; Coghill, Donohue & Lewis, 2014; Coghill, Holland, Donohue & Lewis, 2009; Coghill, Holland, Donohue, Richardson & Neesham, 2008, 2009; Coghill, Holland, Donohue, Rozzoli & Grant, 2006; Coghill, Holland, Donohue, Rozzoli & Grant, 2008; Coghill & Kinyondo, 2015; Coghill, Thornton et al., 2014; Donohue, Lewis, Coghill, Neesham & Holland, 2010; Kavathatzopoulos, Coghill & Asai, 2014; Lewis & Coghill, 2004a; Lewis & Coghill, 2004b; Lewis & Coghill, 2004c; Neesham, Lewis, Holland, Donohue & Coghill, 2010).

The focus of this paper is research and development of Benchmarks for Codes of Conduct for Parliamentarians, commissioned by the Commonwealth Parliamentary Association. Measures, including codes, are known to have been developed and introduced in several Commonwealth parliaments but little guidance has been available to assist in the revision of existing provisions or the design and implementation of a new code. It is in this context that the CPA Executive Committee authorised the CPA Secretariat to commission the research reported here, with the objective of developing benchmarks for use by member parliaments. This project aimed to assist national, state, provincial and territory legislatures of the United Kingdom and its former colonies to implement the Benchmarks for Democratic Legislatures recommendation:

*Benchmark 10.1.2 The Legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts (Commonwealth Parliamentary Association, UNDP, & World Bank Institute, 2006).*

The project comprised an initial literature review, a questionnaire survey and analysis, document collection, interviews with key informants, preparation and circulation of draft benchmarks and a workshop which reviewed the revised draft and adopted a final set of Benchmarks.

The questionnaire was sent to all national, state, provincial and territory parliaments affiliated with the Commonwealth Parliamentary Association, i.e. almost 200 Houses as bicameral parliaments are taken into account. The national Parliament of Australia was included although it was not a member of the CPA at the time. The questionnaire was distributed and returned by email where possible; in other cases it was posted; telephone calls were made as reminders in a small number of cases. 140 Houses returned a completed questionnaire, of which 98 reported that their House had provisions for some type of code. Reasons for non-returns may have included unstable political conditions in certain jurisdictions.

#### 4. RESULTS

Each House was requested to provide any current code of conduct or other legal instrument intended to guide the conduct of members of the House, as an electronic file or hardcopy. There is now a database of approximately 40 codes and like instruments in CPA member parliaments. These codes and like instruments are all public documents in their home jurisdictions, and access to the database is available on request.

The returned questionnaires and documents were analysed to identify Houses of parliament that had a code or like instrument and the significant features of codes. These features are summarised in Appendices 1, 2, 3 & 4. This information shows that, although all codes provide for declaration of pecuniary interests, there are wide variations in what is required to be disclosed. Only about a half to two thirds disallowed improper use of their positions as public officers e.g. offering or accepting bribes and other forms of inducement.

Forms of sanction or penalty for breaches also varied widely. Virtually all had provision for some mild form of action such as admonition, censure, rebuke or reprimand; most allowed withdrawal of mandate (i.e. expulsion from the House) or imprisonment; and some codes provided for both.

This analysis was used to frame interview questions to obtain deeper insights into the actual operation of codes and to better understand the cases where a code was neither in place nor contemplated. Approximately 40 interviews with parliamentarians and Clerks (i.e. secretary-generals) were conducted on the sidelines of the 60th Commonwealth Parliamentary Conference (October 2014, Yaounde, Cameroon).

The initial literature review and analysis of questionnaire data, documents and interview data were used to develop a consultation draft Benchmarks for Codes of Conduct for Parliamentarians. This was emailed to CPA parliaments and experts in the fields of legislative studies and legislative strengthening. It was also posted on the Commonwealth Connects forum website. People were asked to post their comments and suggestions on Commonwealth Connects. Less than 10 did; most comments commended the draft but several important suggestions were made which were incorporated in the draft debated at the Workshop.

#### Workshop

Development of the Benchmarks culminated in a three-day workshop. Participants were invited from each of the CPA's nine global regions; eight were represented (the representative of the ninth withdrew at the last minute); they ranged from first-term to highly experienced parliamentarians. In addition, several Clerks, academics, the US Office of Congressional Ethics co-chair and a legislative strengthening expert participated.

The three days comprised: becoming familiar with each other and the issues (day one), thoroughly examining the draft, part by part, line by line (day two), and working through proposals and wording on which there were

some differences of opinion (day three). The final draft was adopted without dissent (Commonwealth Parliamentary Association 2015).

The Benchmarks commence by highlighting the roles and functions of the parliament and its parliamentarians as public officers in a democracy. This document sets out the principles on which a code should be founded. The principles draw on the 'Nolan' Principles of Standards in Public Life and certain other principles that complement them. The Nolan Principles are: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership (Committee on Standards in Public Life (UK), 1995). This background then provides the context for the actual Benchmarks which provide guidance to a legislative House on provisions to include in a new or revised code of conduct.

Rather than prescribe precise provisions, these Benchmarks indicate the effect that the code should achieve, having regard to the number of members in the House, the human, physical and technical resources available to it, and other factors such as cultural norms affecting the functioning of the House.

The Benchmarks are structured to: indicate the types of conduct to which a code would apply; provide for ethics advice; indicate processes for complaints; suggest appropriate sanctions, and indicate processes for making and amending codes; and canvas sustaining a culture of ethical conduct.

### **Conduct**

The types of conduct affected focus on parliamentarians giving precedence to the interests of the polity ahead of interests of self, family, friends, businesses, campaign donors, political party, donors of foreign travel or any other source of influence. A code should require all parliamentarians to immediately and continuously disclose all assets, income, liabilities and gifts. These continuous disclosures are to be published by the parliament and should be liable to verification if doubts arise as to their accuracy.

Gifts (including hospitality) are a particularly interesting category, as it is often claimed that the exchange of gifts is customary and that to decline a gift may cause offence. Firstly, research has confirmed that the exchange of gifts does generate a relationship in which favoured treatment is more probable (Axelrod, 2006, p.189). This applies even when the gift is of no material value (Malmendier & Schmidt, 2012). However, this is not an argument for banning the offer or acceptance of gifts. To do so is to set the scene for failure as people of integrity find themselves accepting small gifts in innocuous circumstances (Kania, 2004). Rather the solution is to require disclosure in all circumstances in which a gift may be perceived to risk influencing behaviour. Some parliaments may find it appropriate to allow a low threshold below which disclosure is not mandatory.

The disclosure of interests held by family members is sometimes controversial. The Workshop unanimously adopted a Benchmark requiring disclosure of "interests held by the member's spouse or close family members".

Other types of conduct covered by the Benchmarks include the misuse of public property and inducements such as cash for questions or other payment for performing a parliamentarian's roles.

### **Ethics advice**

Members of parliaments are likely to be faced with ethical issues that are uncommon or unknown in prior occupations. This fact makes it especially important that they have ready access to expert advice on recognising and addressing potential ethical problems. A significant number of parliaments now have a person appointed to such a role, but there is considerable variation in the descriptions, powers and functioning of the roles. Our research suggests that there are several desirable features, which have been reflected in the Benchmarks. These include that the person should be independent of the influence, should be appointed by a non-partisan process and safe from unjustified removal, and be barred from investigating complaints about the conduct of any member. The last provision is to avoid the adviser having to investigate a complaint concerning an issue on which he or she had advised the parliamentarian who is later the subject of alleged misconduct.

In addition to these safeguards, the Benchmarks advise that the ethics adviser should be readily available and accessible, so that talking to him or her is something routine and unremarkable rather than raising suspicions that the parliamentarian is confronting a serious ethical problem.

### Enforcement

Codes of conduct require effective mechanisms for investigation of complaints alleging breaches of the code. The major problem that arises is the tendency of members of parliaments to defend members of their own political party or other close affiliation, making it difficult for an allegation to be dealt with on the merits of the case.

Here, one or more investigators must be fully independent and appointed by a non-partisan process. All complaints must be directed to the investigator and remain confidential. The investigator must determine the facts of the allegation and, if s/he finds evidence of a breach, it must be reported to the parliament.

If a breach of the law is suspected, the complaint must be referred to either the police or the corruption control agency, as appropriate.

### Sanctions

The code must include graduated sanctions (penalties). It must provide that, where the investigator has found a breach to have occurred, the parliament must decide on the appropriate sanction. Typically, sanctions range from an admonition to loss of mandate (i.e. expulsion from the parliament), although some extend to imprisonment.

### Culture

As discussed above, there is widespread acceptance that the culture among parliamentarians is fundamental to compliance with acceptable standards of conduct. In one large parliament, some parliamentarians encouraged each other to apply for allowances for expenses that were of dubious merit. Some other members of the same parliament regarded some such expenditure as ethically unjustifiable and declined opportunities to apply for the allowance (Interview 1 (HoC UK), 2014).

Accordingly, the Benchmarks strongly advise that a code must include:

- Introductory and continuing education to assist members to enhance their skills in ethical deliberation;
- Induction which includes mentoring and experience-sharing activities involving both new and experienced members;
- Exemplary behaviour by those in leadership roles;
- Endeavours to detect and act to deter even minor breaches from which serious breaches may develop;
- Members being encouraged to consult with the ethics adviser before acting on a matter that raises ethical issues;
- Members acknowledging and accepting provisions of a code of conduct when swearing an oath or making an affirmation;
- Publishing the code and making it available to both members and the public;
- Ensuring that newly elected members receive induction in the code of conduct, and engaging in self-assessment of their individual ethical competence;

- Encouraging discussions with the ethics adviser which shall be treated as routine and normal, with frequent informal contact between the ethics adviser and members;
- Requiring every member to participate in activities to enhance their ethical competence on a regular basis (these activities could be online, if resources permit);
- Requiring members to provide, on a regular basis, evidence that they have read and understood the provisions of the code; and
- Endeavouring to adapt the code to changing expectations of society with regard to ethical conduct.

### **Making and re-making a code**

The Benchmarks indicate that the code should be developed with opportunities for every parliamentarian to participate and be adopted by resolution of the House. It should also be reviewed periodically as a matter of course and revised accordingly, again involving all parliamentarians. This would have the effect of reminding parliamentarians of provisions and the reasoning underpinning them, thus helping to sustain a culture of ethical conduct amongst parliamentarians.

### **Complementary provisions**

The Benchmarks recognise that a code of conduct for parliamentarians is part of a broader integrity system and accordingly notes a number of measures that lie outside the code proper. These include:

- integrity system structures and functions;
- regulation of election campaign donations and expenditure;
- a Ministerial code of conduct;
- a code of conduct for parliamentary officers and staff;
- regulation of post-parliamentary employment by former parliamentarians;
- regulation of lobbyists, and lobbying;
- actively enabling monitoring and reporting by civil society organisations of compliance with the code of conduct;
- political parties' roles in fostering a culture of ethical conduct; and
- awards to recognise exemplary conduct.

## **5. DISCUSSION: INSTILLING TRUSTWORTHINESS BEYOND CODES**

We now turn to the relevance of this research to trust.

Codes of conduct could vary along lines of permanency of regulation, types of conduct affected, provisions for disclosure of conflict of interest, provision for independent ethical advice, independent investigation of breaches, and effective sanctions. In this context, in addition to the safety net provided by the complementary institutional provisions noted above, which contribute to a culture of ethics, our research found that, beyond the provisions of codes of conduct, the climate or culture of ethical conduct in a parliament enhances trustworthy behaviour. Also, the mere existence of a code can have a (usually positive) effect on the parliament's culture.

Here is one remarkable trend related to what might be termed the enforcement effort: members of legislative Houses with rigorously enforced codes of conduct felt that the code enhanced the performance of their parliament and that they would not be without it. Conversely, Houses with no code or weakly enforced provisions seemed unperturbed by the risks of conduct which could undermine the parliament's performance of its functions and the reputation of both the House and its parliamentarians.

The interviewees regarded an orientation towards enforcement as essential to compliance: in other words, unless a code with strong provisions is enforced, it may be ineffective in sustaining high standards of conduct.

However, interviewees felt that it was not just a matter of enforcement; it is important that a parliament's members develop and maintain, through their behaviours, a culture of ethical conduct.

We now turn to the conditions that support the more diffuse behavioural orientation of cultures of ethical conduct which engender trust. Cultures of ethical conduct are primarily affected by three conditions that are epiphenomenal to codes. These are state-wide cultural conditions, institutional climate, and induction and training for parliamentarians.

### **State-wide cultural conditions**

The first of these is the general political climate and culture of the state. Overall, cultural differences in understandings of the meanings of 'representation' or 'conflict of interest' can mean that one state's norms are another's transgressions. For instance, constituency representation in Australia can mean taking up a particular constituent's grievance or assisting them materially. An example might be helping them find public housing, or providing a reference. In at least some states in South America, this was seen as a misreading of the idea of representation, which should be for the population as a whole, not the individual, as to assist an individual was a form of corrupt influence in that it advantaged one person over others. The practice of constituency development funds (CDFs) was another example. To many the idea of allocating a CDF to a parliamentarian to distribute in his or her constituency at his or her own discretion could lead to conflict of interest and corruption. For poor states, however, it could be seen as a matter of necessity, where there was little functioning institutional infrastructure. There are frequently very few other funds or means of distributing them, for material infrastructure like housing or roads.

Variations in press intrusiveness and restraint or otherwise of reporting is another factor in creating a national climate affecting perceptions of trustworthiness, as well as actual ethical behaviour. The relative aggression with which the press can act can be a civil brake on unethical behaviour. However, it can provide a rationale for government secrecy and unwillingness to institute transparency regimes.

Political scandals that have unfolded in many jurisdictions (worldwide) in the last decade or so represent particularly time-dependent state-wide conditions. Political scandals can act as incentives for trustworthy behaviour by heightening awareness of the stakes of unethical behaviour. They also create a conducive atmosphere for the development of codes of conduct and other elements of integrity systems.

### **Institutional climate**

Institutional climate is peculiar to each parliament. However, there are some recognisable patterns that influence ethical climate in similar ways in various parliaments across the globe.

The number of members of a parliament is a factor but its significance is not a matter of a simple arithmetical progression in size. Rather, size of social groups has some critical threshold numbers. The number of people with whom we can maintain a personal relationship, or the extent of acquaintanceship (Dunbar's number) is approximately 150 (Dunbar, 2010, pp. 24-28). Affiliate groups smaller than this also exist as 'natural' social numbers. Innermost groups consist of three to five close relationships. Above this there is another natural grouping of between seven and twelve that optimises around ten. Eleven small Commonwealth parliaments



are within this range. A third grouping is of around thirty to forty-five individuals: this is the size where a group can maintain itself without factionalising. Twenty Commonwealth legislative Houses are in this range.

Cultures of ethical conduct appear to be easier to achieve in smaller parliaments, suggesting that greater efforts may be needed in large parliaments in which smaller sub-cultures may more readily emerge and which are more self-referential and thus less influenced by a general commitment to integrity. The National Assembly of Wales, at 60 members, appeared to be a great deal more cohesive as a single entity than the Westminster House of Commons, at 650. In the UK House, members find it difficult to recognise, much less know, all fellow members (Interview 9 (HoC UK), 2014). The latter has a variety of different types of affiliate groups.

The institutional ethical climate can also be affected by the rationale that catalyses the formation of affiliate groups. Most parliamentarians have a small trusted inner circle which might include a secretary or office manager and parliamentary officers or advisers. However, mid-level affiliate groups can form around parties and sub-party factions. Alternatively, the basis for the grouping can be non-partisan - for example, gender, as has occurred in Westminster, with the formation of an informal cross party women's group. Similarly, 'year of first election' affiliate groups, which reflect a particularly big intake of neophyte politicians after a given election, can also be cross-party. Another basis found for affiliation is religion:

"Every Wednesday night we have a Catholic mass down here.... And there is the Parliamentary Christian Fellowship, there's the prayer circle, there's a group of people with us at the moment, because it's Lent, we meet early in the morning for a small prayer circle and we have the prayer breakfast". (Interview 2 (HoC UK), 2014)

The importance of these groups is twofold for ethical culture. First, they are highly influential in passing on information about 'how things are done around here'. Second, they act as educational and emotional support, placing them in a powerful position of influence.

However, finding an appropriate affiliate group can simply be a matter of serendipity:

"... so there is nothing that encourages them to become part of an established group, whether that group is good or bad. And I was talking to one member who is quite a long-standing member, about a new colleague of his who'd come in through a by-election. And he was talking about the efforts he was making to make sure that that colleague had some links. But that was his personal view because he knew what it was like". (Interview 3 (HoC UK), 2014)

Similar factors can influence whether members are able to find a mentor. Mentorship grows from a trust relationship and is fostered by proximity. This means that there must be opportunities to act together. Physical and social distance in various forms can militate against these relationships. However, it is clear from interviews that, for many, though not all politicians, a mentor can be a really valuable ethical guide. Other potential sources of influence are peers (other parliamentarians) on a one-to-one basis, and advisory staff. The influence of these important political actors may not always be benign, as they may emulate poor conduct.

Size has a potentially insulating effect. Large parliaments can be a world unto themselves, and this may serve to insulate the parliamentarians from public standards of ethical behaviour. A good example of this occurred with the Westminster allowances scandal. As a tactic for political appeal, Prime Minister Thatcher refused to increase parliamentarians' salaries. However, this was done with the at least tacit acknowledgement that these limits would be made up for by allowances for parliamentary-related expenses (Interview 4 (HoC UK), 2014; Interview 5 (HoC UK), 2014). Parliamentarians found that, when making claims to the office handling allowances, they would be reminded of possible claims for allowable expenses which they may have omitted to make. Further, some legislative old hands would advise or remind other parliamentarians of allowable expenses. Surrounded by such normalising reassurance, claims became more and more extensive. A few parliamentarians were able to remain outside the normative pressure, but a great many were caught up in a claims normalcy that only became questionable when compared with public standards, as happened when more egregious claims were reported (Interview 2 (HoC UK), 2014). However, in a development that illustrates

the ambiguous role of the press as a moral arbiter, a number of parliamentarians were 'exposed' merely for clarifying whether certain expenses could be claimed – which is behaviour that a good ethical culture should encourage.

Recency in the establishment of a parliament can also be a factor in the formation of an ethical culture. Old parliaments can trail a long series of previous cultural habits. Even under conditions of major change, such as the large turnover of members at the UK 2010 election, institutional culture stuck. The UK Commissioner of Parliamentary Standards, House of Commons, spoke of "the hope that there was going to be a change in culture because so many new members had come in. But what seems to have happened is that the prevailing culture was able to infiltrate that group as well" (Interview 3 (HoC UK), 2014). For some new parliaments, the opportunity to remedy the perceived failings of older related parliaments can be a goad to consciously developing ethical and collegiate systems. For other new parliaments, in nations with little history of democracy, the absence of a previous shared democratic culture can be an impediment to ethical systems and trust.

The predominant type of party structures, whether stable two-party settlements or fluid multi-party coalitions, did not appear to make a difference to ethical culture in the parliaments investigated.

### Training of parliamentarians

Often, parliaments do not have a separate section providing induction and further training for parliamentarians. It is often attached to the work of senior staff of the parliament or other offices. These arrangements differ widely in their institutional foundations, their primary focus and the approach they take to influencing behaviour. Few understand their work to be providing a foundation for parliamentarians' ethical conduct. Further detail is beyond the scope of this paper.

## 6. CONCLUSION

The development of the Benchmarks for Codes of Conduct for Parliamentarians has demonstrated the complexity of the factors affecting conduct by this unique occupation group within the public sector and has revealed a rich field for further research, also with major implications for practice.

Directions for further research include investigation of the manner and extent to which the Benchmarks are applied within Commonwealth and other parliaments, the further development of measures of ethical competence amongst parliamentarians, including self-assessment instruments, and the effects of the operation of Codes of Conduct on the performance of parliaments.

Further work may also reveal additional social patterns connecting institutional culture with parliamentarians' attitudes to training and ethics. In addition, it may be helpful for those charged with delivering training to parliamentarians to have access to collections of training ideas and techniques that worked in other jurisdictions. Lastly, parliaments may benefit from more work that identifies the material and cultural conditions fostering trustworthy behaviour in parliaments; from the design of the buildings and administrative rules to enhance relationships and transparency; from the design of the regulatory integrity system; and from the design of the preventative mechanisms and training systems needed to bring parliamentarians up to speed.

Whilst the Benchmarks are expected to enhance standards of conduct and the performance of parliaments, these remain relatively untapped and inviting fields of research that have significant potential to add to the understanding of standards of conduct by members of parliament.

**APPENDIX 1: CODES OF CONDUCT - FRAMEWORKS (HOUSES OF COMMONWEALTH PARLIAMENTS)**

| Category of provisions  | Sub-category of provisions            | Specific provisions | Number of codes with such provision |
|---|---------------------------------------|---------------------|-------------------------------------|
| Framework for regulation (Gay, 2008) i.e., provision for application to Members of: | Parliamentary privilege               |                     | 14                                  |
|   | Parliamentary immunity                |                     | 12                                  |
|   | Criminal law                          |                     | 11                                  |
|   | Filtering of Complaints               |                     | 8                                   |
|   | Statutory                             |                     | 15                                  |
|   | Statutory regulation of donation      |                     | 16                                  |
|   | Codes of conduct                      |                     | 54                                  |
|   | Legal Processes                       |                     | 25                                  |
|   | Investigation                         |                     | 20                                  |
|   | Investigative Procedure               |                     | 21                                  |
|   | Ombudsman role                        |                     | 15                                  |
|   | Procedures for Commissioners/Advisers |                     | 43                                  |
|   | Enforcement Powers for Inquiries      |                     | 23                                  |
|   | Code proposed but NOT adopted         |                     | 21                                  |

**APPENDIX 2: CODES OF CONDUCT – DISCLOSURE REQUIREMENTS (HOUSES OF COMMONWEALTH PARLIAMENTS)**

| Category of provisions  | Sub-category of provisions | Specific provisions                              | Number of codes with such provision |    |
|---|----------------------------|--|-------------------------------------|----|
| Rules on Registration and Declaration (Stapenhurst & Pelizzo, 2008) | Tax returns                | Tax returns                                      | 17                                  |    |
|   | Wealth &/or income sources | declaration of pecuniary interests               |                                     | 82 |
|   |                            | declaration of criminal history                  |                                     | 75 |
|   |                            | conflict of interest (undefined)                 |                                     | 98 |
|   |                            | Fees and honoraria                               |                                     | 17 |
|   |                            | Retainers  |                                     | 21 |
|   |                            | Sources of patrimonial income                    |                                     | 28 |
|   |                            | Financial interests of spouse.                   |                                     | 30 |
|   |                            | Names of immediate family members                |                                     | 26 |
|   |                            | Private employer or nature of private employment |                                     | 33 |
|   |                            | Identification of trusts by trustee              |                                     | 28 |
|   |                            | Identification of trusts by beneficiary          |                                     | 32 |
|   |                            | Professional services rendered                   |                                     | 33 |
|   |                            | Real estate interests                            |                                     | 30 |
| Ownership interest in a business                                    |                            | 38   |                                     |    |

| Category of provisions | Sub-category of provisions      | Specific provisions                                       | Number of codes with such provision |
|------------------------|---------------------------------|---|-------------------------------------|
|                        |                                 | Investments   | 39                                  |
|                        |                                 | Offices and/or directorships held                         | 35                                  |
|                        |                                 | Sources of income of business of a partner or shareholder | 39                                  |
|                        |                                 | Deposits in financial institutions                        | 41                                  |
|                        |                                 | Cash surrender value of insurance                         | 37                                  |
|                        | Debt                            | Creditor indebtedness                                     | 37                                  |
|                        | Private donations               | Reimbursement of travel expenses from private sources     | 42                                  |
|                        | Benefits from public entities   | Compensated representation before public entities         | 41                                  |
|                        |                                 | Leases and other contacts with public entities            | 39                                  |
|                        | Regulated occupational licences | Professional or occupational licenses held                | 44                                  |
|                        | Other (describe)                |   | 38                                  |

### APPENDIX 3: CODES OF CONDUCT – RESTRICTED ACTIVITIES (HOUSES OF COMMONWEALTH PARLIAMENTS)

| Category of provisions  | Sub-category of provisions  | Specific provisions  | Number of codes with such provision |
|---|---|--|-------------------------------------|
| Restricted activities include the following items (Stapenhurst & Pelizzo, 2008) | Obtaining undue advantage   | use of public position to obtain personal benefit                          | 52                                  |
|   |   | competitive bidding  | 49                                  |
|   |   | nepotism   | 50                                  |
|   |   | outside employment or business activities by public officials or employees | 53                                  |
|   | Offering and accepting bribes   | providing benefits to influence official actions                           | 63                                  |
|   |   | receipt of gifts by officials or employees above a certain value           | 65                                  |
|   |   | receipt of fees or honoraria by public officials or employees              | 60                                  |
|   | Acting against the public interest  | representation private clients by public officials or employees            | 57                                  |
|   |   | political activity by employees  | 56                                  |
|   | Misuse of confidential information  | use of confidential government information                                 | 63                                  |
|   | Using public property for personal gain   | travel payments from non-government services                               | 53                                  |
|   | Gain of post-MP employment by political means                                     | post-governmental employment for 2-years                                   | 53                                  |
|   | Obstructing the course of justice (hiding information, providing false/misleading |  | 61                                  |

| Category of provisions | Sub-category of provisions   | Specific provisions             | Number of codes with such provision |
|------------------------|--|---------------------------------|-------------------------------------|
|                        | information, destroying evidence, obstructing investigators/ investigations) |                                 |                                     |
|                        | not declaring conflicts of interest  | financial conflicts of interest | 72                                  |
|                        | not declaring private interests  |                                 | 84                                  |
|                        | misuse of freedom of speech  |                                 | 68                                  |
|                        | Other (describe)   |                                 | 57                                  |

#### APPENDIX 4: CODES OF CONDUCT – SANCTIONS FOR BREACHES (HOUSES OF COMMONWEALTH PARLIAMENTS)

| Category of provisions                                  | Sub-category of provisions   | Specific provisions  | Number of codes with such provision                      |    |
|---|--|--|--|----|
| Sanctions (Stapenhurst & Pelizzo, 2008)                 | Private letter to the member concerned drawing attention to the breach and advising the member to avoid such conduct in the future | Private letter to the member concerned drawing attention to the breach and advising the member to avoid such conduct in the future |  |    |
|   | Public report or statement giving details of the breach but not recommending any further sanction                                  | Public report or statement giving details of the breach but not recommending any further sanction                                  |  |    |
|   | Rectification (MP to deal with complaint)  | Rectification (MP to deal with complaint)  |  |    |
|   | Apology demanded   | Apology demanded   | 56   |    |
|   | Warning/ Caution   | Warning/ Caution   | 69   |    |
|   | Admonition/ censure/ rebuke/ reprimand   | Remark   | Remark   | 58 |
|   |  | Censure  | Censure  | 61 |
|   |  | Reprimand  | Reprimand  | 62 |
|   |  | Admonition; Admonition to abide the standards of conduct   | Admonition; Admonition to abide the standards of conduct | 60 |
|   |  | Rebuke   | Rebuke   | 61 |
|   | Admonition to refrain from presenting at the House for a certain period of time; suspension (from office)                          | Admonition to refrain from presenting at the House for a certain period of time; suspension (from office)                          |  | 64 |
|   | Severe rebuke  | Severe rebuke  |  | 63 |
|   | Fine   | Fine   |  | 76 |
|   | Loss of salary   | Loss of salary   |  | 72 |
|   | loss of seniority  | loss of seniority  |  | 69 |
|   | Order to withdraw  | Order to withdraw  |  | 72 |
| Disqualification from membership on ground of defection | Disqualification from membership on ground of defection  |  | 80   |    |
| Expulsion   | Expulsion  |  | 81   |    |

|                  |                 |    |
|------------------|-----------------|----|
|                  | Loss of mandate | 73 |
| Committal        | Committal       | 74 |
| Imprisonment     | Imprisonment    | 83 |
| Other (describe) |                 | 73 |

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