

Codes of Conduct and rules systems in other jurisdictions

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1 Introduction

This note reviews the scope and content of Codes of Conduct for other legislatures in the United Kingdom and a small selection of overseas legislatures. The overseas legislatures considered are the Dáil Éireann, Republic of Ireland; the European Parliament; the House of Representatives, United States; and the Canadian House of Commons.

In February 2014, following a survey, it was reported that 11 out of 28 European countries including the European Parliament, said that they *have adopted a code of conduct* for Members of Parliament; 12 countries said that they have *no* code of conduct; and five said that they intend to adopt such a code within the near future (see Appendix 2).

Neither the New Zealand Parliament nor the House of Representatives in Australia have codes of conduct, although there have been campaigns in New Zealand to introduce one and some state level Parliaments in Australia have adapted codes of conduct. The Canadian House of Commons has a Conflict of Interest Code for Members of the House of Commons, which includes requirements to provide and disclose information about private interests. The Rules of the United States House of Representatives include a code of conduct (Rule XXIII)

2 United Kingdom

2.1 Overview

Table 1: Overview of the codes of Conduct in UK Parliaments and Legislatures

	House of Commons	House of Lords	Scottish Parliament	National Assembly of Wales	Northern Ireland Assembly
Purpose	Establish standards; Set rules; Ensure public confidence	Guidance for Members; Reinforce public confidence	Provide a set of principles and standards for MSPs; Inform public	Guidance for Members; Reinforce public confidence	Guidance to Members; Ensure public confidence; Transparency; Maintain integrity of Assembly
Scope	All aspects of public life	All members (unless on leave of absence, suspended or disqualified)	Conduct in relation to being an MSP	Applies to all AMs (unless on leave of absence)	Things said or done as an elected MLA
Content	Purpose; Scope; Duties of Members; General principles; Rules; Upholding the Code	General principles; Rules of conduct; Enforcement; Advice	Preamble; Background; Key principles; Detailed rules (c50 pages) from legislation	Purpose; General standards of conduct; Specific standards of conduct; Enforcement	Purpose; Scope; Principles; Rules; Duties of Commissioner and Standards Committee
Fit between Code & Rules	Rules of conduct wider than specific registration requirements	Registration requirements outlined and “test of relevant interest” defined.	Incorporated	Registration requirements outlined.	Rules of conduct wider than specific registration requirements
Legislation	N/A	N/A	Covers registration and declaration	N/A	N/A
Enforcement	Investigation and requirement to cooperate mentioned	Role of Commissioner for Standards discussed	Ultimately by courts	Set out in another document	Investigation and requirement to cooperate mentioned

Key

HoC – House of Commons

HoL – House of Lords

NAW – National Assembly for Wales

NIA – Northern Ireland Assembly

SP – Scottish Parliament

2.2 Purpose

All the codes have more than one purpose. All are addressed to Members of the respective legislature, either providing guidance (HoL, NAW, NIA) or establishing standards and setting rules (HoC), or providing principles and standards (SP). Most codes specifically state that their purposes include ensuring or reinforcing public confidence; but the SP's code states that a goal is the "education of both members and the public regarding the ethical standards expected of members in carrying out their Parliamentary duties" (Volume 1, para 1.2).

In addition to these purposes, the NIA Code seeks to:

- Provide a transparent system to ensure that Members place the public interest ahead of their private interests and to provide greater clarity to Members on how to reconcile the two; and
- Maintain the integrity of the Assembly by holding its Members to the high ethical standards expected of them by the whole community in Northern Ireland.

2.3 Scope

In all cases in the UK, the respective Code only applies to members of that House. However, in the HoL, the Code does not apply to members who are on leave of absence, disqualified from sitting or suspended from the service of the House; and similarly, in the NAW, members on leave of absence are not covered by the Code.

The other major difference between legislatures relates to which aspect of members' lives the Code applies. The HoC Code "does not seek to regulate what Members do in their purely private and personal lives"; the HoL Code "does not extend to Members' performance of duties unrelated to parliamentary proceedings, or to their private lives"; both the NIA's and SP's Codes do not cover activities of members' "private and family life". The NAW states that its Code provides guidance on the "standards of conduct expected of them [AMs] in the discharge of their Assembly and public duties". Codes for the HoC, the SP and the NIA acknowledge that conduct in relation to ministerial duties is a matter for the respective ministerial code.

2.4 Content

With the exception of the SP's Code, all the Codes are relatively short. The main headings within the Code are listed in Table 1 above. All set out a purpose (or general principles) but they vary in the extent to which they relate to the more detailed application, particularly of rules on registration and declaration of interests – with the NAW Code providing an overview. The longer Scottish Code draws on the legislation that underpins its own registration and declaration requirements – the [Interests of Members of the Scottish Parliament Act 2006](#).

Principles of public life

The Committee on Standards in Public Life (CSPL) was established in the mid-1990s, in response to the "Cash for Questions" scandal. In its first report, [Standards in Public Life](#)

(May 1995, Cm 2850-I), the CSPL set out seven principles of public life (see Table 2). It reviewed and revised the description of the principles and added a preamble, setting out to whom the principles applied in January 2013 (see Appendix 1).

All of the legislatures in the UK, utilise the CSPL’s seven principles of public life in their Codes of Conduct.

The HoC and the HoL incorporate the principles (the 1995 and 2013 editions, respectively). The Welsh and Northern Ireland Assemblies expand on them in some way: the NAW (based on the 1995 principles) provides additional commentary in relation to four principles (selflessness, integrity, accountability, openness); the NIA has revised the 1995 principles slightly and additionally agreed further principles (see below). The SP includes some principles taken from the CSPL and its own.

Table 2: Principles of public life

CSPL, HoC, HoL, NAW	Scottish Parliament	NIA
selflessness, integrity, objectivity, accountability, openness, honesty, leadership	public duty duty as a representative selflessness integrity honesty accountability & openness leadership	as CSPL plus public duty equality promoting good relations respect good working relationships

2.5 Principles v Rules

The HoL and the NAW provide more detail on the rules about registration and declaration than HoC and the NIA. The latter two include both principles of conduct and rules of conduct. The rules of conduct are wider than the requirements to register and declare interests, which is covered by the Guide to the Rules.

The SP’s Code does not have an associated guide to the rules. All the rules on registering and declaring interests and the legislation underpinning them are spelt out in the Code.

The HoL Code notes that members of the House of Lords have to sign an undertaking to abide by the Code.

3 Overseas

3.1 Republic of Ireland – Dáil Éireann

The Dáil Éireann adopted a [Code of Conduct](#) on 28 February 2002. The Code is very brief and enunciates principles rather than rules. The preamble notes that:

Members are in the unique position of being responsible to the electorate which is the final arbiter of their conduct and has the right to dismiss them from office at regular elections. Accordingly, and as a matter of principle, individual Members are not answerable to their colleagues for their behaviour, except where it is alleged to breach the obligations to answer to them which have been placed on Members by law, by Standing Orders or by Codes of Conduct established by the House.

The Committee on Members’ Interests of Dáil Éireann has drawn up [Guidelines for Members of Dáil Éireann who are not Office Holders concerning the steps to be taken by them to](#)

[ensure compliance with the provisions of the Ethics in Public Office Acts 1995 and 2001](#) (January 2015).

The role of the Committee on Members' Interests of Dáil Éireann is to publish guidelines, to draw up a Code of Conduct for the Guidance of Members who are not office holders, to provide advice to ensure compliance with the Ethics Acts and to investigate and report in relation to possible contraventions of the Ethics Acts.

The Ethics Acts provide for the disclosure of interests by holders of public office and also require there to be complaints procedures.

3.2 European Parliament

The European Parliament's [Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest](#) specifies guiding principles: "disinterest, integrity, openness, diligence, honesty, accountability and respect for Parliament's reputation"; and states that MEPs must act in the public interest without seeking any benefit or reward.

It states that MEPs must not enter into any agreement to vote in a particular way, nor "solicit, accept or receive" benefit for influencing or voting.

The Code sets out how to address conflicts of interest.

It sets out the requirements for "Declaration by Members" of financial interests – declarations must be submitted to the President of the Council, and include specified information. The information provided "shall be published on Parliament's website".

The Code states that gifts over the value of €150 should be refused. Gifts received when representing the Parliament in an official capacity are handed to the President.

Former Members who lobby do not benefit from the facilities provided to former Members.

The Code provides for the establishment of an Advisory Committee on the Conduct of Members. The Advisory Committee examines alleged breaches of the Code referred to it by the President and reports to President with recommendations. The President can impose a penalty on a Member, although Members have access to an internal appeals procedure.

Implementing Measures for the Code were agreed by the European Parliament Bureau on 15 April 2013, and came into force on 1 July 2013.¹ In July 2013, the European Parliament published a *Users' Guide*, which aimed to assist Members in applying the Code and making the Declaration.²

These documents and reports from the Advisory Committee, its rules of procedure, registers of gifts and declaration forms are available on the [Ethics and transparency](#) page of the EP's website.

3.3 United States – House of Representatives

The *Rules of the House of Representatives* include as Rule XXIII the Code of Official Conduct. It applies not only to Members as its first provision shows:

1. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House.

¹ European Parliament, [Implementing Measures for the Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest](#), Bureau Decision 15 April 2013

² European Parliament, [Users' Guide – Code of Conduct for Members](#), July 2015

The Code exhorts Members to abide by the Rules of the House and of its committees. The Code prohibits using improper influence to benefit financially.

It places restrictions on Members accepting gifts and receiving fees for speeches and writing.

It makes provisions about campaign finance and the employment of staff by Members.

It restricts the activities of Members sentenced to two or more years' imprisonment.

It specifies the oath or affirmation that must be made before access to classified information is allowed.

The Committee on Ethics website provides much more detailed information about requirements to for financial disclosure and reporting gifts.³

3.4 Canada – House of Commons – Conflict of Interest Code

Appendix 1 of the Standing Orders of the House of Commons sets out the Conflict of Interest Code. It has the following purposes:

- (a) maintain and enhance public confidence and trust in the integrity of Members as well as the respect and confidence that society places in the House of Commons as an institution;
- (b) demonstrate to the public that Members are held to standards that place the public interest ahead of their private interests and to provide a transparent system by which the public may judge this to be the case;
- (c) provide for greater certainty and guidance for Members in how to reconcile their private interests with their public duties and functions; and
- (d) foster consensus among Members by establishing common standards and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan adviser.⁴

Under the Code, Members are required to disclose their private interests, a summary of which is to be available for public inspection. The Code specifies what information has to be provided and the information that has and does not have to be disclosed.

Members are able to request an investigation if they believe another Member has not complied with the obligations under the Code. Investigations are undertaken by the Conflict of Interest and Ethics Commissioner appointed under section 81 of the *Parliament of Canada Act*, and are undertaken in private. Reports of inquiries are made public once they have been tabled in the House by the Speaker. The Commissioner is able to recommend appropriate sanctions.

The final provision of the Code states that “This Code shall form part of the Standing Orders of the House of Commons”.

4 Bibliography

4.1 Codes of Conduct

House of Commons, [Code of Conduct together with The Guide to the Rules Relating to the Code of Conduct](#), 14 April 2015, HC 1076 2014-15

³ See: Committee on Ethics, [Statutes and Rules Governing Disclosure of Financial Interests](#); Committee on Ethics, [The House Gift Rule](#)

⁴ House of Commons [Canada],

House of Lords, [Code of Conduct for Members of the House of Lords; Guide to the Code of Conduct; Code of Conduct for House of Lords Members' Staff](#), 27 May 2015, HL Paper 3 2015-16

Scottish Parliament, [The Code of Conduct for Members of the Scottish Parliament](#), Edition 5, April 2011

National Assembly for Wales, [Code of Conduct for Assembly Members](#), September 2015

Northern Ireland Assembly, [The Code of Conduct together with the Guide to the Rules Relating to the Conduct of Members amended and reissued by the Committee on Standards and Privileges for 2013-14](#)

Republic of Ireland: [Code of Conduct for Members of the Dáil Éireann other than Office Holders](#), 2011

European Parliament, [Code of Conduct for Members of the European Parliament with respect to financial interests and conflicts of interest](#)

United States – House of Representatives, [Rules of the House of Representatives](#), 114th Congress, 6 January 2015, [Rule XXIII – Code of Official Conduct](#)

Canada – House of Commons, [Standing Orders of the House of Commons](#), October 2015, [Appendix 1](#)

4.2 Briefing paper on Codes of Conduct from other legislatures

Parliament of Australia Library, [Codes of conduct in Australian and selected overseas parliaments](#), 18 September 2012

- Includes Australian Commonwealth Parliament, Australian States and Territories, UK (House of Commons), Canada, United States and New Zealand (which has no Code).
- On the Australian Commonwealth Parliament, it notes that “Although there is, as yet, no formal code of conduct, the conduct of senators and members within parliament is guided by the Standing Orders of the [Senate](#) and the [House of Representatives](#), while corruption and bribery of members of parliament is prohibited under the Commonwealth [Criminal Code](#). The [Parliamentary Privileges Act 1987](#) prohibits other forms of interference with members of parliament.”

Appendix 1 – The Committee on Standards in Public Life’s Seven Principles of Public Life

The Committee on Standards in Public Life (CSPL) drew up seven principles of public life in its First Report *Standards in Public Life* (May 1995, Cm 2850-I). The descriptions of the principles were revised in January 2013, when the CSPL’s report *Standards Matter – A review of best practice in promoting good behaviour in public life* (Cm 8519) was published.

The Original Principles (March 1995)	Revised Description (January 2013)
	<p>Preamble</p> <p>The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.</p>
<p>Selflessness</p> <p>Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.</p>	<p>Holders of public office should act solely in terms of the public interest.</p>
<p>Integrity</p> <p>Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.</p>	<p>Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.</p>
<p>Objectivity</p> <p>In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.</p>	<p>Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.</p>
<p>Accountability</p> <p>Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.</p>	<p>Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.</p>
<p>Openness</p> <p>Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.</p>	<p>Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.</p>
<p>Honesty</p> <p>Holders of public office have a duty to declare</p>	<p>Holders of public office should be truthful.</p>

The Original Principles (March 1995)	Revised Description (January 2013)
any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.	
<p>Leadership</p> <p>Holders of public office should promote and support these principles by leadership and example.</p>	<p>Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</p>

Source: Committee on Standards in Public Life, [Standards Matter – A review of best practice in promoting good behaviour in public life](#), Fourteenth Report, January 2013, Cm 8519, p24 and Appendix 6

Appendix 2: Code of Conduct for Members of Parliament – a survey of Europe

ECPRD Request No 2425, Introduction to the Summary Report, February 2014

Via the ECPRD, the Riksdag Research Service has put the following questions to all the parliaments in the EU, as well as the Norwegian Parliament and the European Parliament.

Due to a GRECO Evaluation Report, the Riksdag is examining the possibility to adopt a Code of Conduct for members of the Riksdag.

In your Parliament, do you have a Code of Conduct for MPs?

If so, could you please provide us with a copy or a link, preferably in English.

Of the 29 parliaments that were asked, 28 have replied, of which eleven countries, including the European Parliament, say that they *have adopted a code of conduct* for the members of parliament (France, Germany, Ireland, Norway, Malta, Latvia, Lithuania, Poland, Portugal, UK and the European Parliament, see appendix 1 below). Twelve countries say that they have *no* code of conduct (Austria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Greece, Hungary, Italia, the Netherlands, Slovakia and Spain, see appendix 2 below). Five countries say that they intend to adopt such a code within the near future (Belgium, Finland, Luxembourg, Romania and Slovenia, see appendix 3 below). Estonia has been looking into the issue of adopting a code for a long time but has not yet realised this goal.

According to Norway they do not have a code of conduct, but they do have an ethical code. The latter code contains several of the elements that are typical of a code of conduct, which is why the Riksdag Research Service has chosen to regard this code as a code of conduct.

Bulgaria and has not replied. However, according to an ECPRD request from 2011, shows that Bulgaria had not adopted a code of conduct at that time.