

Role of an oversight committee

Introduction

- 7.1 The approach to a code of conduct for members as discussed in this paper includes that a committee of the House should have an oversight role in relation to a code.
- 7.2 The Clerk of the Canadian House of Commons referred the Committee to the view taken in Canada when the code of conduct for members was first introduced. It was envisaged that the Ethics Commissioner would investigate complaints about breaches of the code and report to the relevant House of Commons Committee (the Standing Committee on Procedure and House Affairs). That Committee stated in a report on this matter:

... the Code **as introduced** provide[s] for a committee to play a very major role in dealing with complaints that Members have not lived up to their obligations under the Code. It was proposed that the Ethics Commissioner would investigate and report to the committee. In serious cases where the facts are disputed and no agreement on a remedy was reached between the Ethics Commissioner and the Member involved, the committee would actually conduct its own inquiry, and then report to the House ... **[U]pon further reflection we have now concluded that this model contains some serious flaws. Members are concerned about the possibility of excessive partisanship and complexity that the committee process could introduce ... We also have doubts that a committee is an effective mechanism to conduct a**

detailed, factual inquiry in which an individual's rights and reputations may be at stake, and in which procedural fairness is important. [Emphasis added]¹

- 7.3 Consequently, the Conflict of Interest and Ethics Commissioner reports directly to the House of Commons and it is for the House of Commons to take action in respect to the Commissioner's reports.
- 7.4 The Chair of the UK House of Commons Committee on Standards and Privileges cautioned the Committee that any committee dealing with issues to do with the standards of members 'has to operate in a non-partisan way'.² He noted that:
- In a committee that deals with standards cases, there are many tempting opportunities to score political points and to wrong-foot, discomfort or even destroy political opponents.³
- 7.5 Nevertheless, he concluded that the UK Committee had operated in an impartial way and so the approach had worked. It was assisted by the make up of the Committee which did not give one party (or party grouping) a majority and having the Committee chaired by an Opposition Member.⁴ The UK Committee also now is considering a proposal to appoint lay members.
- 7.6 The Committee sees the role of such an oversight committee as vital in mediating between the work of a Parliamentary Integrity Commissioner and the House. The Committee does not agree with the perspective taken by the Canadian Committee referred to earlier.
- 7.7 The Committee considers that the House committee that is best placed to take on an oversight role in relation to a code of conduct for members is the Committee of Privileges and Members' Interests, which might be renamed the Committee of Privileges, Ethics and Members' Interests, because of an extended role. The Committee has a long record of bipartisan operation and therefore there should be no need for any change to the existing membership along the lines of the UK Committee on Standards and Privileges. The Committee has considerable experience of conducting detailed investigations, including of matters involving members. The Committee also has very well developed procedures to ensure that any inquiry would be conducted with regard to procedural

1 Submission from Ms Audrey O'Brien, p. 6.

2 Submission from Rt Hon Kevin Barron MP, p. 1.

3 Ibid.

4 Ibid, p. 1-2.

fairness. These procedures could be amended to include dealing with complaints relating to the code of conduct.

- 7.8 The Committee would envisage that the work of detailed investigation largely would be a matter for a Parliamentary Integrity Commissioner who would report to the Committee. It would only be in unusual circumstances that the Committee might need itself to undertake any form of code of conduct investigation. The purpose of having an independent Parliamentary Integrity Commissioner to investigate complaints is to ensure that the process is at one step removed from the political sphere.

Roles of an oversight Committee

- 7.9 The Committee considers that the possible Committee of Privileges, Ethics and Members' Interests could have the following roles in relation to a code of conduct for members:
- oversight the process for the selection of the Parliamentary Integrity Commissioner and make a recommendation to the House;
 - consider any matter relating to the conduct of members, including complaints made for alleged breaches of the code which have been investigated and reported on by the Parliamentary Integrity Commissioner and report to the House on such matters as required including making any findings and recommending sanctions;
 - recommend to the House any proposed changes to the code of conduct following reviews undertaken by the Parliamentary Integrity Commissioner; and
 - assist with the education of members and the public about the code of conduct and the consequent expectations of the ethical standards and behaviour to be shown by members.