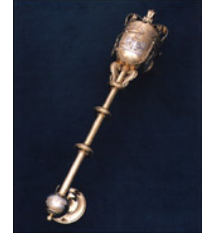


Appendix 5.1

Sample Codes of Conduct

Appendix 5.1 Sample Codes of Conduct

- (A) United Kingdom House of Commons
- (B) Legislative Assembly of Saskatchewan
- (C) Legislative Assembly of Nunavut
- (D) Federal House of Commons



Appendix 5.1 (A)

United Kingdom House of Commons Code of Conduct



The Code of Conduct

together with

The Guide to the Rules relating to the conduct of Members

2005

Appendix 5.1 (A) United Kingdom House of Commons



The Code of Conduct

*Approved by The House of Commons on
13 July 2005*

together with

The Guide to the Rules relating to the conduct of Members

*Approved by the House of Commons on
14 May 2002*

*Ordered by The House of Commons
to be printed 13 July 2005*

Appendix 5.1 (A) United Kingdom House of Commons

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Appendix 5.1 (A) United Kingdom House of Commons

The Code of Conduct for Members of Parliament

Prepared pursuant to the Resolution of the House of 19th July 1995

I. Purpose of the Code

1. The purpose of this Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large by:
 - a) Providing guidance on the standards of conduct expected of Members in discharging their parliamentary and public duties, and in so doing
 - b) Providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those duties.

II. Scope of the Code

2. The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the House and the rulings of the Chair, and to those which apply to Members falling within the scope of the Ministerial Code.

III. Public Duties of Members

4. By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.
5. Members have a duty to uphold the law, including the general law against discrimination, and to act on all occasions in accordance with the public trust placed in them.
6. Members have a general duty to act in the interests of the nation as a whole; and a special duty to their constituents.

IV. General Principles of Conduct

7. In carrying out their parliamentary and public duties, Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office.¹ These principles will be taken into consideration when any complaint is received of breaches of the provisions in other sections of the Code.

¹ Cm 2850-I, p 14.

“Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

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.

Accountability

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.

Openness

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.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.”

V. Rules of Conduct

8. Members are expected in particular to observe the following rules and associated Resolutions of the House.

9. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

- 10.** No Member shall act as a paid advocate in any proceeding of the House.²
- 11.** The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.³
- 12.** In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.
- 13.** Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.
- 14.** Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the House on the use of such expenses, allowances, facilities and services.
- 15.** Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.

VI. Registration and Declaration of Interests

- 16.** Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Members' Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.⁴

VII. Duties in respect of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges

- 17.** The application of this Code shall be a matter for the House of Commons, and for the Committee on Standards and Privileges and the Parliamentary Commissioner for Standards acting in accordance with Standing Orders Nos 149 and 150 respectively.
- 18.** Members shall cooperate, at all stages, with any investigation into their conduct by or under the authority of the House.
- 19.** No Member shall lobby a member of the Committee on Standards and Privileges in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code.

² Resolution of 6 November 1995.

³ Resolutions of 2 May 1695, 22 June 1858, and 15 July 1947 as amended on 6 November 1995 and 14 May 2002.

⁴ Resolutions of the House of 22 May 1974, 12 June 1975 as amended on 19 July 1995, 12 June 1975, 17 December 1985, 6 November 1995 as amended on 14 May 2002, and 13 July 1992.

Appendix 5.1 (A) United Kingdom House of Commons

The Guide to the Rules relating to the conduct of Members

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The Guide to the Rules relating to the conduct of Members

Introduction

1. The purpose of this Guide is to assist Members in discharging the duties placed upon them by the Code of Conduct agreed by the House. It replaces the Guide approved by the House on 24 July 1996 (HC 688 (1995–96)).
2. No written guidance can provide for all circumstances; when in doubt Members should seek the advice of the Parliamentary Commissioner for Standards who, if necessary, will seek adjudication from the Committee on Standards and Privileges.
3. The Guide is divided into four Sections dealing with (1) Registration of Interests (paragraphs 8–54); (2) Declaration of Interests (paragraphs 55–70); (3) Lobbying for Reward or Consideration (paragraphs 71–82) and (4) Procedure for Complaints (paragraphs 83–93).
4. The Code of Conduct provides a framework within which acceptable conduct should be judged. The purpose of the Resolution of 6th November 1995 relating to “Conduct of Members” is to remove a major area of potential conflict of interest by prohibiting lobbying for reward or consideration. This Guide contains guidelines (paragraph 75) to assist Members in applying the rule. A further rule (paragraph 82) deals with the conflict of interest that may arise when a Member holding a relevant financial interest takes part in a delegation involving the source of that interest.
5. Other Resolutions of the House, agreed on 19th July and 6th November 1995, supplement and strengthen the long established rules on disclosure of financial interest. The House has two distinct but related methods for the disclosure of the personal financial interests of its Members: registration of interests in a Register which is open for public inspection; and declaration of interest in the course of debate in the House and in other contexts. The main purpose of the Register is to give public notification on a continuous basis of those pecuniary interests held by Members which might be thought to influence their parliamentary conduct or actions. The main purpose of declaration of interest is to ensure that fellow Members of the House and the public are made aware, at the appropriate time when a Member is making a speech in the House or in Committee or participating in any other proceedings of the House, of any past, present or expected future pecuniary interest which might reasonably be thought to be relevant to those proceedings. The Resolution of 19th July 1995 provides for declaration of interest in respect of all written notices (paragraph 60). The Resolution of 6th November 1995 relating to certain agreements for the provision of services requires the deposit of such agreements with the Commissioner for Standards (paragraphs 49–54).
6. The rules described in this Guide derive their authority from Resolutions of the House, rather than from statute or common law, and are therefore enforceable by the House of Commons.
7. Ministers of the Crown who are Members of the House of Commons are subject to the rules of registration and declaration in the same way as all other Members (although

Ministerial office is not registrable and the restrictions imposed by the ban on lobbying for reward or consideration do not apply to Ministers when acting in the House as Ministers). In addition, Ministers are subject to further guidelines and requirements laid down by successive Prime Ministers in order to ensure that no conflict arises, or appears to arise, between their private interests and their public duties (“The Ministerial Code”). These requirements are not enforced by the House of Commons and so are beyond the scope of this Guide.

1. Registration of Members' Interests

Rules of the House

"Every Member of the House of Commons shall furnish to a Registrar of Members' Interests such particulars of his registrable interests as shall be required, and shall notify to the Registrar any alterations which may occur therein, and the Registrar shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public."

(Resolution of the House of 22nd May 1974)

"For the purposes of the Resolution of the House of 22nd May 1974 in relation of disclosure of interests in any proceeding of the House or its Committees, any interest declared in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees."

(Part of the Resolution of the House of 12th June 1975)

8. Under the Resolution agreed by the House on 22nd May 1974, and under the Code of Conduct, Members are required to register their pecuniary interests in a Register of Members' Interests. The duty of compiling the Register now rests with the Parliamentary Commissioner for Standards, whose functions are set out in Standing Order No. 150. The Commissioner is assisted by the Registrar of Members' Interests.

Definition of the Register's purpose

9. The main purpose of the Register of Members' Interests is "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament."¹ The registration form specifies ten Categories of registrable interests which are described below. Apart from the specific rules, there is a more general obligation upon Members to keep the overall definition of the Register's purpose in mind when registering their interests.

10. The purpose of registration is openness. Registration of an interest does not imply any wrongdoing.

Duties of Members in respect of registration

11. Members of Parliament are required to complete a registration form and submit it to the Commissioner for Standards within three months of their election to the House (whether at a general election or a by-election). After the initial publication of the Register (or, in the case of Members returned at by-elections, after their initial registration) it is the responsibility of Members to notify changes in their registrable interests within four weeks of each change occurring.

12. Any Member having a registrable interest which has not at the time been registered, shall not undertake any action, speech or proceeding of the House (save voting) to which

1 Select Committee on Members' Interests, First Report, Session 1991–92, "Registration and Declaration of Financial Interests", HC 236, paragraph 27.

the registration would be relevant until notification has been given to the Commissioner for Standards of that interest.

13. Members are responsible for making a full disclosure of their interests, and if they have relevant interests which do not fall clearly into one or other of the specified categories, they are nonetheless expected to register them.

14. A reference in any Category to a spouse includes a Member's partner.

15. Interests the value of which does not exceed 1 per cent of the current parliamentary salary² do not have to be registered. All single benefits of whatever kind which exceed that threshold should be registered in the appropriate Category (unless a higher threshold is specified in the relevant Category). All benefits received from the same source in the course of a calendar year, which cumulatively amount to more than 1 per cent of the current parliamentary salary, should also be registered. In addition, if a Member considers that any benefit he or she has received falls within the definition of the main purpose of the Register set out in paragraph 9, even though it does not exceed the 1 per cent threshold, the Member should register it in the appropriate Category or under Category 10 (Miscellaneous).

Publication and public inspection

16. The Register is published soon after the beginning of a new Parliament, under the authority of the Committee on Standards and Privileges, and annually thereafter. Between publications the Register is regularly updated in a loose leaf form and, in that form, is available for public inspection in the Committee Office of the House of Commons. It is also available on the Internet. At the discretion of the Commissioner copies of individual entries in the Register may be supplied on request.

The Categories of Registrable Interest

[Note: Each of the boxes in this section contains a description of one of the Categories of interest which the House has agreed should be registered and which appear in the registration form]

Category 1

Directorships: Remunerated directorships in public and private companies including directorships which are individually unremunerated, but where remuneration is paid through another company in the same group.

17. In this Category, and in others, "remuneration" includes not only salaries and fees, but also the receipt of any taxable expenses, allowances, or benefits, such as the provision of a company car. Remuneration which in the course of a calendar year does not exceed 1 per cent of the current parliamentary salary may be disregarded. It is necessary to register the name of the company in which the directorship is held and to give a broad indication of the company's business, where that is not self-evident from its name. In addition to any remunerated directorships, a Member is also required to register any directorships he or she holds which are themselves unremunerated but where the companies in question are

2 About £590 as at April 2005.

associated with, or subsidiaries of, a company in which he or she holds a remunerated directorship. Otherwise, Members are not required to register unremunerated directorships (see Category 10).

18. Companies which have not begun to trade or which have ceased trading need not be registered, either under this Category or under Category 9 (Shareholdings). “Not trading” should, however, be interpreted in a strict sense; if a company is engaged in any transaction additional to those required by law to keep it in being, then a remunerated directorship in that company should be registered. If a Member wishes to register a directorship in a company which is not trading the Member should make the position clear by adding the words “not trading” after the name of the company.

Category 2

Remunerated employment, office, profession, etc: Employment, office, trade, profession or vocation (apart from membership of the House or ministerial office) which is remunerated or in which the Member has any pecuniary interest. Membership of Lloyd’s should be registered under this Category.

19. All employment outside the House and any sources of remuneration which do not fall clearly within any other Category should be registered here if the value of the remuneration exceeds 1 per cent of the current parliamentary salary. When registering employment, Members should not simply state the employer company and the nature of its business, but should also indicate the nature of the post which they hold in the company or the services for which the company remunerates them. Members who have paid posts as consultants or advisers should indicate the nature of the consultancy, for example “management consultant”, “legal adviser”, “parliamentary and public affairs consultant”.

20. Members who have resigned from Lloyd’s should continue to register their interest as long as syndicates in which they participated continue to have years of account which are open or in run-off. The date of resignation should be registered in such circumstances. Members of Lloyd’s are also required to disclose the categories of insurance business which they are underwriting. Any member of Lloyd’s receiving financial assistance (including relief from indebtedness or other loan concessions but excluding any general settlement available to all Lloyd’s members) from a company, organisation or person within or outside the United Kingdom should register that interest under Categories 5 or 7, as appropriate.

21. Members who have previously practised a profession may wish to register that profession under this Category with a bracketed remark such as “[non practising]” after the entry. This is particularly desirable in cases of sleeping partnerships and where it is likely that the Member will resume the profession at a later stage.

22. Further guidance about media work is given in paragraph 54.

Category 3

Clients: In respect of any paid employment registered in Category 1 (Directorships) and Category 2 (Remunerated employment, office, profession, etc.), any provision to clients of services which depend essentially upon, or arise out of, the Member's position as a Member of Parliament should be registered under this Category. All clients to which personal services are provided should be listed together with the nature of the client's business in each case. Where a Member receives remuneration from a company or partnership engaged in consultancy business which itself has clients, the Member should list any of those clients to whom personal services or advice is provided, either directly or indirectly.

23. The types of services which are intended to be covered here include those connected with any parliamentary proceeding, or other services relating to membership. A Member who has clients in a non-parliamentary professional capacity (for example as a doctor, solicitor or accountant) is not required to register those clients, provided it is clear beyond doubt that the services which are being provided do not arise out of or relate in any manner to membership of the House.

24. Under this Category, if a Member is employed as a parliamentary adviser by a firm which is itself a consultancy and therefore is providing such advice and services to its clients, the Member should disclose those of the consultancy's clients with whom he or she has a personal connection or who benefit from the Member's advice and services. The same requirement applies where a Member, on his or her own account, accepts payment or material benefit for providing such services, but not on such a regular basis as to warrant registration as employment under Category 2. Where a company is named as a client, the nature of the company's business should be indicated.

Category 4

Sponsorships:

(a) Any donation received by a Member's constituency association which is linked either to candidacy at an election or to membership of the House; and

(b) any other form of financial or material support as a Member of Parliament,

amounting to more than £1,000 from a single source, whether as a single donation or as multiple donations of more than £200 during the course of a calendar year.

25. This Category deals with sponsorship or other forms of support by companies, trade unions, professional bodies, trade associations, other organisations and individuals. Political donations which Members are required to report to the Electoral Commission should be entered under this Category unless —

- a) it would be more appropriate to enter them under another Category, such as Category 5 (Gifts, benefits and hospitality (UK)) or Category 6 (Overseas visits); or
- b) they are exempt from registration.

26. Category 4(a) deals with financial contributions to *constituency associations*. Support should be regarded as "linked" directly to a Member's candidacy or membership of the House if it is expressly tied to the Member by name, e.g. if it is a contribution to the Member's fighting fund or a donation which has been solicited or encouraged by the

Member. Financial contributions to constituency associations which are not linked to a Member's candidacy or membership of the House do not have to be registered.

27. Category 4(b) covers support from which the Member receives any financial or material benefit in support of his or her role as a Member of Parliament. (Any contribution for the *personal benefit* of a Member should be entered under Category 5 (Gifts, benefits and hospitality (UK)).) The types of support which should be registered under this Category include the services of a research assistant or secretary whose salary, in whole or in part, is met by an outside organisation or individual; the provision of free or subsidised accommodation for the Member's use, other than accommodation provided by a local authority to a Member for the sole purpose of holding constituency surgeries or accommodation provided solely by the constituency party; and financial contributions towards such services or accommodation.

Category 5

Gifts, benefits and hospitality (UK): Any gift to the Member or the Member's spouse or partner, or any material benefit, of a value greater than 1 per cent of the current parliamentary salary from any company, organisation or person within the UK which in any way relates to membership of the House.

28. The specified financial value above which tangible gifts (such as money, jewellery, glassware etc.), or other benefits (such as hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services etc.) must be registered is 1 per cent of a Member's annual parliamentary salary.³

29. The rule means that any gift, or other benefit, which in any way relates to membership of the House and which is given gratis, or at a cost below that generally available to members of the public, should be registered whenever the value of the gift or benefit is greater than the amount specified above. Any similar gift or benefit which is received by any company or organisation in which the Member, or the Member and the Member's spouse or partner jointly, have a controlling interest should also be registered.

30. Gifts and other benefits from the same source in the course of a calendar year which *cumulatively* are of a value greater than 1 per cent of the current parliamentary salary should be registered, even if each single gift or benefit is of lesser value.

31. Benefits, such as tickets to sporting or cultural events, received by another person together with or on behalf of a Member should be registered as if they had been received by the Member.

32. Gifts, or other benefits, from another Member of Parliament are registrable in the same way as those from anyone else.

33. There are three important exceptions to this rule:

- a) gifts and benefits known to be available to all Members of Parliament need not be registered;

3 About £590 as at April 2005.

- b) a Member need not register attendance at a conference or a site visit within the United Kingdom where the organiser meets reasonable travel costs and subsistence only; and
- c) hospitality provided by Her Majesty's Government, any of the devolved institutions in Scotland, Wales or Northern Ireland, or non-departmental public bodies, including a Member's local authorities or health authorities, is exempt from registration.

34. Gifts and material benefits in this Category (and other Categories) are exempt from registration if they do not relate in any way to membership of the House. The extent to which this exemption applies in any particular case is necessarily a matter of judgement. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the House, or would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it should be registered.

Category 6

Overseas visits: With certain specified exceptions, overseas visits made by the Member or the Member's spouse or partner relating to or in any way arising out of membership of the House where the cost of the visit was not wholly borne by the Member or by United Kingdom public funds.

35. The Member should enter in the Register the date, destination and purpose of the visit and the name of the Government, organisation, company or individual which met the cost. Where only part of the cost was borne by an outside source (for example the cost of accommodation but not the cost of travel), those details should be stated briefly. When an overseas visit was arranged by a registered All-Party or parliamentary group or by a party backbench group, it is not sufficient to name the group as the sponsor of the visit: the Government, organisation, company or person ultimately meeting the cost should be specified.

36. The following categories of visit, which are mainly paid for from United Kingdom public funds or which involve reciprocity of payment with other Governments or Parliaments, together with any hospitality associated with such a visit and available to all participants, are exempt from registration:

- i) Visits which are paid for by, or which are undertaken on behalf of, Her Majesty's Government or which are made on behalf of an international organisation to which the United Kingdom Government belongs;
- ii) Visits abroad with, or on behalf of, a Select Committee of the House, or undertaken under a Resolution of the House;
- iii) Visits undertaken on behalf of, or under the auspices of, the Commonwealth Parliamentary Association, the Inter-Parliamentary Union (or the British-Irish Parliamentary Body), the British American Parliamentary Group, the Council of Europe, the Western European Union, the Westminster Foundation for Democracy, the NATO Parliamentary Assembly, the OSCE Parliamentary Assembly, the Armed Forces Parliamentary Scheme, the Police Service Parliamentary Scheme, or the National Council for Voluntary Organisations' MP Secondment Scheme;
- iv) Visits arranged and paid for wholly by a Member's own political party;

- v) Visits paid for wholly by an institution of the European Union or by a political group of the European Parliament;
- vi) Visits as part of an Industry and Parliament Trust fellowship.

Similar categories of visit may be added to this list from time to time by the Committee on Standards and Privileges. Visits which are entirely unconnected with membership of the House, or the cost of which does not exceed 1 per cent of the current parliamentary salary, are also exempt from registration.

Category 7

Overseas benefits and gifts: Any gift to the Member or the Member's spouse or partner, or any material advantage, of a value greater than 1 per cent of the current parliamentary salary from or on behalf of any company, organisation or person overseas which in any way relates to membership of the House.

37. The financial limits and guidelines which apply to Category 5 also apply here. Members should enter a cross-reference under this Category where an interest already entered in Categories 1, 2 or 3 entails the receipt of payments from abroad. There are legal restrictions on Members' accepting benefits from abroad in connection with their political activities, about which they may wish to take advice.

Category 8

Land and property: Any land or property—

- (a) which has a substantial value (unless used for the personal residential purposes of the Member or the Member's spouse or partner), or
- (b) from which a substantial income is derived.

The nature of the property should be indicated.

38. Property used for the personal residential purposes of the Member or the Member's spouse or partner (that is, homes and second homes) does not need to be registered under Category 8(a). It *may* need to be registered under Category 8(b), but only if the Member derives an income from it *and* derives a *substantial* income from his total property portfolio (see paragraph 40). A property, such as a farm, on which the Member has a residence should be registered if it has a substantial value aside from the residential use.

39. "Substantial value" means a value greater than the current parliamentary salary. If a Member's total property portfolio (*excluding* homes and second homes) has a substantial value, it should be registered.

40. "Substantial income" means an income greater than 10 per cent of the current parliamentary salary. If the income from a Member's total property portfolio (*including* homes and second homes) is substantial, all the properties from which any income is derived should be registered.

41. Entries should be reasonably specific as to the nature of the property and its general location, for example:—

“Woodland in Perthshire”

“Dairy farm in Wiltshire”

“3 residential rented properties in Manchester”.

Category 9

Shareholdings: Interests in shareholdings held by the Member, either personally, or with or on behalf of the Member’s spouse or partner or dependent children, in any public or private company or other body which are:

- (a) greater than 15 per cent of the issued share capital of the company or body; or
- (b) 15 per cent or less of the issued share capital, but greater in value than the current parliamentary salary.

The nature of the company’s business in each case should be registered.

42. When determining whether or not shareholdings are registrable under the criteria set out above, Members should include not only holdings in which they themselves have a beneficial interest but also those in which the interest is held with, or on behalf of, their spouse or partner or dependent children. Members should also include identifiable holdings of overseas trusts of which they are actual or potential beneficiaries.

43. For each registrable shareholding, the entry should state the name of the company or body, briefly indicate the nature of its business, and make clear which of the criteria for registration is applicable.

44. The value of a shareholding is determined by the market price of the share on the preceding 5th April; but if the market price cannot be ascertained (e.g. because the company is unquoted and there is no market in the shares), the nominal value of the shareholding should be taken instead. Interests in shareholdings include share options.

45. In considering whether to register any shareholdings falling outside (a) and (b) Members should have regard to the definition of the main purpose of the Register: “to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament”. If a Member considers that any shareholding which he or she holds falls within this definition, the Member should register the shareholding either in this Category or under Category 10.

Category 10

Miscellaneous: Any relevant interest, not falling within one of the above categories, which nevertheless falls within the definition of the main purpose of the Register which is “to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches, or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament,” or which the Member considers might be thought by others to influence his or her actions in a similar manner, even though the Member receives no financial benefit.

46. The main purpose of this Category is to enable Members to enter in the Register any interests which they consider to be relevant to the Register's purpose, but which do not obviously fall within any of the other categories. As the Select Committee on Members' Interests pointed out in its First Report of Session 1991–92: "it is a cardinal principle that Members are responsible for making a full disclosure of their own interests in the Register; and if they have relevant interests which do not fall clearly into one or other of the specified Categories, they will nonetheless be expected to register them".⁴

47. Members should register under this category potential or actual interests in overseas trusts, except where these have been registered under Category 9.

48. The general principle of the Register is that the requirement to register is limited to interests entailing remuneration or other material benefit.⁵ Members are not, therefore, required by the rules to register unremunerated directorships (e.g. directorships of charitable trusts, professional bodies, learned societies or sporting or artistic organisations) and the Category should not be used to itemise these or other unremunerated interests. However, when a Member considers that an unremunerated interest which the Member holds might be thought by others to influence his or her actions in a similar manner to a remunerated interest, such an interest may be registered here.

Agreements for the provision of services

"Any Member proposing to enter into an agreement which involves the provision of services in his capacity as a Member of Parliament shall conclude such an agreement only if it conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members; and a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000, shall be deposited with the Parliamentary Commissioner for Standards at the same time as it is registered in the Register of Members' Interests and made available for inspection and reproduction by the public.

Any Member who has an existing agreement involving the provision of services in his capacity as a Member of Parliament which conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members, but which is not in written form, shall take steps to put the agreement in written form; and no later than 31st March 1996 a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000 shall be deposited with the Parliamentary Commissioner for Standards and registered in the Register of Members' Interests and made available for inspection and reproduction by the public.

Provided that the requirement to deposit a copy of an agreement with the Commissioner shall not apply —

- (a) if the fees or benefits payable do not exceed 1 per cent of the current parliamentary salary; nor
- (b) in the case of media work (but in that case the Member shall deposit a statement of the fees or benefits payable in the bands specified above)."

(Part of a Resolution of the House of 6th November 1995, amended on 14th May 2002)

49. Under a Resolution of the House of 6th November 1995 the House agreed that Members should deposit certain agreements for the provision of services with the

4 *Op.cit.*, paragraph 29.

5 *Ibid*, paragraph 31.

Parliamentary Commissioner for Standards. The two Resolutions set out above have continuing effect. Any Member who has an existing agreement or proposes to enter into an agreement which involves the provision of services in his or her capacity as a Member of Parliament should:

- ensure that the agreement does not breach the ban on lobbying for reward or consideration (see paragraphs 71–82 below);
- put any such agreement in written form;
- deposit a full copy of the agreement with the Parliamentary Commissioner for Standards. The agreement should indicate the nature of the services to be provided and specify the fees or benefits the Member is to receive in bands of (1) up to £5,000; (2) £5,001 to £10,000 (and thereafter in bands of £5,000);
- make the appropriate entry in the Register of Members’ Interests; and
- declare the interest when it is appropriate to do so (see paragraphs 55–70).

Deposited agreements may be inspected in the Committee Office of the House of Commons.

50. If the fees or benefits the Member is to receive do not exceed 1 per cent of the current parliamentary salary, the Member is not required to deposit a copy of an agreement with the Commissioner. Nor is the Member required to specify the fees or benefits, or to register the interest.

51. The Select Committee on Standards in Public Life⁶ gave the following guidance in respect of the application of the rule:—

“The present rule is that all remunerated outside employment must be included in the Register, irrespective of whether it has any bearing on a Member’s actions in Parliament. We have no doubt that this discipline should continue to be observed.

If our recommendation that paid advocacy⁷ in Parliament should be prohibited altogether is adopted by the House, it is essential that no future agreements should require Members to take part in activities which can be described as advocacy.

The new requirement for employment agreements⁸ to be put in writing will apply principally to any arrangement whereby a Member may offer advice about parliamentary matters. We think it right, however, that it should also include frequent, as opposed to merely occasional, commitments outside Parliament which arise directly from membership of the House. For example, a regular, paid newspaper column or television programme would have to be the subject of a written agreement, but ad hoc current affairs or news interviews or intermittent panel appearances would not.⁹

6 Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraphs 39–42.

7 Referred to in the Guide as “lobbying for reward or consideration”.

8 Referred to in the Guide as “agreements for the provision of services”.

9 But see also paragraph 54 below.

It may not always be immediately obvious whether a particular employment agreement arises directly from, or relates directly to, membership of the House. At one end of the spectrum are those Members whose outside employment pre-dates their original election, whilst at the other extreme are those who have taken up paid adviserships since entering the House. In between there will be many cases which are difficult to classify. Some Members, for example, may provide advice on Parliamentary matters incidentally as part of a much wider employment agreement covering matters wholly unrelated to the House. In these circumstances, it would be for an individual Member to decide how far it would be proper to isolate the Parliamentary services within a separate, depositable agreement; in reaching that decision he may wish to consult the Commissioner.”

52. On the basis of this guidance the Committee on Standards and Privileges has agreed that disclosing the remuneration for parliamentary services separately from remuneration for other services would be justified only in exceptional circumstances; e.g. where the parliamentary services are separately identifiable and form only a small proportion of the services as a whole. In any such case the entry in the Register should make it clear that the remuneration is for parliamentary services as part of a wider agreement.

53. The scope of the Resolutions is not limited to employment registered under Category 2 (Remunerated employment, office, profession, etc.) but includes other forms of employment, such as directorships (including non-executive directorships), when these involve the provision of services by the Member in his or her capacity as a Member of Parliament.

54. The following provisions apply to media work (journalism, broadcasting, speaking engagements, media appearances, training, &c.):

- a) The deposit of an agreement for the provision of services is not required.
- b) Instead Members who register any form of media work under Category 2 (Remunerated employment, office, profession, etc.) should declare the remuneration, or value of the reward, they receive for each commitment, or group of commitments for the same organisation or audience in the same calendar year, in bands of (1) up to £5,000; (2) £5,001–£10,000 (and thereafter in bands of £5,000).
- c) But such declarations are not required —
 - i) for media work which is wholly unrelated to parliamentary affairs, such as a sports column in a newspaper, or
 - ii) in any case where in the course of a calendar year total remuneration received from an employer or client, or through an agency, does not exceed 1 per cent of the current parliamentary salary.

2. Declaration of Members' Interests

Rules of the House

"In any debate or proceeding of the House or its Committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have."

(Resolution of the House of 22nd May 1974)

"For the purposes of the Resolution of the House of 22nd May 1974 in relation to disclosure of interests in any proceeding of the House or its Committees,

- (i) Any interest declared in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees.
- (ii) The term 'proceeding' shall be deemed not to include the asking of a supplementary question."

(Resolution of the House of 12th June 1975, amended on 19th July 1995)

"This House takes note of the First Report from the Select Committee on Members' Interests, Session 1990–91 (House of Commons Paper No. 108), relating to the interests of Chairmen and members of Select Committees, and approves the recommendations of the Committee relating to declaration of interest in Select Committees (paragraphs 8 to 16), withdrawal from Committee proceedings (paragraph 24) and procedures prior to the election of a Chairman (paragraph 25)."

(Resolution of the House of 13th July 1992: Members' Interests (Interests of Chairmen and members of Select Committees))

55. In 1974 the House replaced a long standing convention with a rule that any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, should be declared in debate, or other proceeding. The same rule places a duty on Members to disclose to Ministers, or servants of the Crown, all relevant interests. The term 'servants of the Crown' should be interpreted as applying to the staff of executive agencies as well as to all staff employed in government departments.

Past and potential interests

56. The rule relating to declaration of interest is broader in scope than the rules relating to the registration of interests in two important respects. As well as current interests, Members are required to declare both relevant past interests and relevant interests which they may be expecting to have. In practice only interests held in the recent past, i.e. those contained in the current printed edition of the Register, need normally be considered for declaration. Expected future interests, on the other hand, may be more significant. Where, for example, a Member is debating legislation or making representations to a Minister on a matter from which he has a reasonable expectation of personal financial advantage, candour is essential. In deciding when a possible future benefit is sufficiently tangible to necessitate declaration, the key word in the rule which the Member must bear in mind is "expecting". Where a Member's plans or degree of involvement in a project have passed beyond vague hopes and aspirations and reached the stage where there is a reasonable expectation that a financial benefit will accrue, then a declaration explaining the situation should be made.

Relevance

57. It is the responsibility of the Member, having regard to the rules of the House, to judge whether a pecuniary interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a pecuniary interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but should make specific reference to the nature of the Member's interest.

58. The House has endorsed the following advice on the occasions when such a declaration of interest should be made: “no difficulty should arise in any proceeding of the House or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the House, include debates in Standing Committees, the presentation of a Public Petition, and meetings of Select Committees at which evidence is heard. On all such occasions the Member will declare his interest at the beginning of his remarks ... it will be a matter of judgement, if his interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure”.¹⁰ Any declaration “should be sufficiently informative to enable a listener to understand the nature of the Member's pecuniary interest ...”.¹¹

59. In a debate in the House the Member should declare an interest briefly, usually at the beginning of his or her speech. If the House is dealing with the Committee or Consideration stages of a Bill it will normally be sufficient for the Member to declare a relevant interest when speaking for the first time. In Standing Committee Members should declare relevant interests at the first meeting of the Committee or on the first occasion on which they address the Committee. It will not be necessary for a declaration to be repeated at subsequent meetings except when the Member speaks on an Amendment to which the interest is particularly relevant. When giving notice of an Amendment or a Motion (including a Motion for leave to introduce a “Ten Minute Rule” Bill), giving notice of the presentation of a Bill or adding a name to an Amendment or Motion, Members should declare any relevant interest in the appropriate manner (see paragraphs 60–63 below).

Declaration of interest in respect of written notices

60. On 19th July 1995 the House agreed, with effect from the beginning of Session 1995–96, to extend the rules relating to declaration of interest by abolishing the exemption granted to the giving of written notices in the Resolution of 22nd May 1974. Declaration of relevant interest is required on the Order Paper (or Notice Paper) when tabling any written notice, i.e.:

- a) Questions (for oral or written answer, including Private Notice Questions);
- b) Early Day Motions, Amendments to them, or any names added in support of such Motions or Amendments;

10 Select Committee on Members' Interests (Declaration), First Report, Session 1974–75, HC 102, paragraph 43; approved by the House, 12th June 1975.

11 Select Committee on Members' Interests, First Report, Session 1991–92, *op.cit.*, paragraph 80.

- c) a notice of a Motion for leave to introduce a “Ten Minute Rule” Bill;
- d) a notice for the presentation of a Bill (including a “Ballot” Bill);
- e) any other Motions, Amendments, or added names in support of them;
- f) Amendments to Bills (whether to be considered in the House or in a Committee) and any names added in support of them.

61. Whenever such an interest is declared, the symbol “[R]” is printed after the Member’s name on the Notice Paper or Order Paper. The Office accepting the written notice (including any written notice of a Member adding his or her name to a Motion or an Amendment) assumes that no interest is declarable unless the notice clearly indicates a declaration: this should be done by inserting “[R]” after the Member’s name on the Motion or Amendment, as the case may be, or filling in the appropriate box which appears on the form for parliamentary Questions.

62. “Relevant interests” which should be declared include any interest which the Member is required to register in the Register of Members’ Interests, or which the Member should declare in debate. It will therefore usually be the case that the interest to which the Member is drawing the attention of the House will already be entered in the Register. Provided it is readily apparent which of the Member’s registered interests are applicable, the Member need take no further action. If this is not the case, or if the interest is a new interest which is not yet available for inspection in the Register, then the Member when giving notice should attach to that notice a brief written description of the interest which is being declared. This will then be available for inspection by Members in the Office where the notice was given, viz.: the Table Office, the Public Bill Office, or the Private Bill Office. In the case of Private Notice Questions which are allowed, a Member with a relevant interest should declare that interest when the Question is formally asked in the House.

63. All Members need to exercise particular care when invited to add their names to any EDMs or other Motions or Amendments and to ensure that they have considered whether they have a relevant declarable interest. Given the informal way in which support for Motions and Amendments is often sought, the need for declaration may not be foremost in Members’ minds, but great care needs to be exercised by Members in these circumstances.

Declaration of interest in applications for adjournment or emergency debates

64. Requests for emergency debates under Standing Order No. 24 and applications for daily adjournment debates and adjournment debates in Westminster Hall are made to the Speaker. Such applications should be accompanied by a declaration of any relevant interest. When a Member is notified that he or she has been successful in obtaining an adjournment debate it is the Member’s responsibility to notify the Table Office and to ensure that an indication of the relevant interest appears at the earliest opportunity on the Notice Paper or Order Paper. The procedure will be similar to that for written notices described in paragraph 60. If the Speaker allows a Member to present an application to the House for an emergency debate under Standing Order No. 24 a Member with a relevant interest should begin his or her remarks to the House with a declaration of that interest.

Declaration of interest in select committees

65. Members of Select Committees on any matter or Bill are bound by the Resolution of the House of 13th July 1992 which approved certain paragraphs of a Report by the Select Committee on Members' Interests relating to the financial interests of Chairmen and members of Select Committees.¹² The main provisions are:

- before the Committee proceeds to the election of a Chairman all Members nominated to serve upon a Select Committee are required to send to the Clerk of the Committee details of any pecuniary interests for circulation to the Committee under the authority of the senior Member before its first meeting. The procedure is not necessary in the case of Select Committees of a wholly procedural nature. [Paragraph 25]
- “when a member of a Committee, particularly the Chairman, has a pecuniary interest which is directly affected by a particular inquiry or when he or she considers that a personal interest may reflect upon the work of the Committee or its subsequent Report, the Member should stand aside from the Committee proceedings relating to it.” [Paragraph 24]
- “before proceeding to business after the election of the Chairman, the Chairman of the Committee should invite all members of the Committee to declare any interests they may have which relate to the terms of reference of that Committee, or which are likely to be relevant to a substantial part of the work which the Committee may be expected to undertake”. [Paragraph 13]
- “A Member should make a declaration of interest at an early stage in any inquiry to which that interest particularly relates. If the interest is especially relevant to one witness or group of witnesses appearing before the Committee, the interest should be declared again at the appropriate session of evidence”. [Paragraph 13]
- A Member is required to “declare an interest when asking any questions which relate directly, or which might reasonably be thought by others to relate directly, to the pecuniary interest he or she holds ... Such a declaration must be made irrespective of any declaration having been made at an earlier meeting of the Committee”. One such declaration is sufficient for any questions asked of the same witnesses during one evidence Session. [Paragraph 13]
- “Although the main purpose of declaration of interest is to inform colleagues, it is right that witnesses and the public, if the Committee is meeting in public, should also be informed. When a Committee meets in public, declaration of interest should be in public Session. When a Committee meets in private and regularly takes oral evidence, declaration should be made when witnesses are present.” [Paragraph 13]
- “In making any declaration a Member should clearly identify the nature of the pecuniary interest. The form in which a declaration of interest is made, and its extent, must be primarily for the individual Member.” A casual reference is not sufficient. “A

¹² Select Committee on Members' Interests, First Report, Session 1990–91, HC 108. The paragraphs which the House specifically approved were: 8–16, 24 and 25. The references in square brackets relate to the paragraphs in that Report.

Member should make a declaration in clear terms and should ensure that such a declaration is entered in the Minutes of Proceedings of the Committee.” [Paragraph 14]

- It is “perfectly acceptable for a Member, when declaring an interest which is registered in the Register of Members’ Interests ... to refer to his or her entry in the Register”. [Paragraph 16]
- “we stress the importance of declaration when relevant and of declaring a pecuniary interest at the moment when it is most appropriate to do so. We do not wish to create a situation where the proceedings of Committees are frequently interrupted by declarations of tangential relevance to what is being considered ... the interests that a Member is required to register may not be at all relevant to his or her work on the Select Committee and consequently may never need to be declared during its proceedings.” [Paragraph 16]

66. Where the subject matter of an inquiry of a Select Committee is of direct concern to an outside body in which a Member has a pecuniary interest, the Member must consider whether on grounds of conflict of interest it is proper to take part in the inquiry. The Member must also consider whether the relationship of his or her interest to the subject of the inquiry is so close that it is not possible to participate effectively in the inquiry without crossing the borderline into advocacy.

Rule on declaration of interests relating to Private Bills

67. Under Standing Order 120 relating to Private Business a Member nominated by the Committee of Selection to serve on a Committee on a Private Bill is required to sign a declaration “that my constituents have no local interest, and I have no personal interest, in the said Bill”. To be disqualified the Member’s interest must be a direct interest where there is a potential benefit or disadvantage to the Member arising from the matter in issue; or the constituency interest must be a local interest affecting the constituency as a whole or a significant number of constituents. Where a Member is in doubt, the Clerk of Bills should be consulted.

Other occasions when declaration of interest should be considered

68. The requirement to declare a relevant interest **at the appropriate time** covers almost every aspect of a Member’s parliamentary duties extending to correspondence and meetings with Ministers and public officials. Frankness with colleagues is also important. In 1975 the House agreed to the report of the Select Committee on Members’ Interests (Declaration) which contained these words: “it should be a matter of honour that a pecuniary interest is declared not only, as at present, in debate in the House and its Committees but also whenever a Member is attempting to influence his fellow Members, whether in unofficial committees and gatherings or at any kind of sponsored occasion, with or without entertainment, or simply in correspondence or conversation. Above all it should be disclosed when a Member is dealing with Ministers of the Crown and civil

servants, and this obligation becomes of paramount importance when a foreign government is involved either directly or indirectly”.¹³

69. In its application of the 1974 Resolution the House has always recognised that there are certain proceedings where declaration of interest is impracticable; e.g. during oral Questions or when asking a question in response to ministerial statement on a matter of public policy or supplementary to a Private Notice Question. (The Member asking the Question should, however, declare an interest; see paragraphs 60–62.) However, Members are advised to declare any relevant interest when such a declaration does not unduly impede the business of the House, for example in relation to a request for a debate made in response to a Business Question or statement.

Divisions

70. For the purpose of taking part in any division in the House or in Committee, it is sufficient for the relevant interest to be disclosed in the Register of Members’ Interests. A Member should seek to ensure prior to a vote taking place that any relevant interest is registered, or, where it is not, should register the interest immediately after the vote.

13 Select Committee on Members’ Interests (Declaration), First Report, Session 1974–75, HC 102, paragraph 40 (quoting the Report of the Select Committee on Members’ Interests (Declaration), Session 1969–70, HC 57).

3. Lobbying for Reward or Consideration

The 1947 and 1995 Resolutions

71. On 6th November 1995¹⁴ the House agreed to the following Resolution relating to lobbying for reward or consideration:

“It is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body, controlling or limiting the Member’s complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof: and that in particular no Members of the House shall, in consideration of any remuneration, fee, payment, or reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received is receiving or expects to receive —

(i) Advocate or initiate any cause or matter on behalf of any outside body or individual, or

(ii) urge any other Member of either House of Parliament, including Ministers, to do so,

by means of any speech, Question, Motion, introduction of a Bill or Amendment to a Motion or a Bill or any approach, whether oral or in writing, to Ministers or servants of the Crown.”

(Resolution of the House of 15th July 1947, amended on 6th November 1995 and on 14th May 2002)

72. This Resolution prohibits paid advocacy. It is wholly incompatible with the rule that any Member should take payment for speaking in the House. Nor may a Member, for payment, vote, ask a Parliamentary Question, table a Motion, introduce a Bill or table or move an Amendment to a Motion or Bill or urge colleagues or Ministers to do so.¹⁵

73. The Resolution does not prevent a Member from holding a remunerated outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House. Nor does it prevent a Member from being sponsored by a trade union or any other organisation, or holding any other registrable interest, or from receiving hospitality in the course of his or her parliamentary duties whether in the United Kingdom or abroad.¹⁶

74. The Resolution extends and reinforces an earlier Resolution of the House in 1947 that a Member may not enter into any contractual arrangement which fetters the Member’s complete independence in Parliament by any undertaking to press some particular point of view on behalf of an outside interest.¹⁷ Nor, by virtue of the same Resolution, may an outside body (or person) use any contractual arrangement with a Member of Parliament as an instrument by which it controls, or seeks to control, his or her conduct in Parliament, or to punish that Member for any parliamentary action.¹⁸

14 The Resolution was subsequently amended on 14th May 2002.

15 The principal Resolutions of the House relating to lobbying are set out in the Appendix, at pages 39–40.

16 Such interests must, of course, be registered or declared when appropriate (see Sections 1 and 2 above).

17 Committee of Privileges, Report, Session 1946–47, HC 118, paragraphs 11 to 15.

18 Committee of Privileges, Second Report, Session 1974–75, HC 634, paragraph 3.

75. In addition to the requirements of the ban on lobbying for reward or consideration, Members should also bear in mind the long established convention that interests which are wholly personal and particular to the Member, and which may arise from a profession or occupation outside the House, ought not to be pursued by the Member in proceedings in Parliament.

Guidelines on the application of the ban on lobbying for reward or consideration

76. If a financial interest is required to be registered in the Register of Members' Interests, or declared in debate, it falls within the scope of the ban on lobbying for reward or consideration. The Committee on Standards and Privileges has provided the following Guidelines to assist Members in applying the rule:

1. ***Parliamentary proceedings:*** When a Member is taking part in any parliamentary proceeding or making any approach to a Minister or servant of the Crown, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside Parliament, from which the Member has received, is receiving, or expects to receive a pecuniary benefit, or upon any registrable client of such a body (or individual). Otherwise a Member may speak freely on matters which relate to the affairs and interests of a body (or individual) from which he or she receives a pecuniary benefit, provided the benefit is properly registered and declared.
2. ***Constituency interests:*** Irrespective of any relevant interest which the Member is required to register or declare, he or she may pursue any constituency interest in any proceeding of the House or any approach to a Minister or servant of the Crown, except that:
 - where the Member has a financial relationship with a company in the Member's constituency the guidelines above relating to parliamentary proceedings shall apply;
 - where the Member is an adviser to a trade association, or to a professional (or other representative) body, the Member should avoid using a constituency interest as the means by which to raise any matter which the Member would otherwise be unable to pursue.¹⁹

77. The current Guidelines give effect to a recommendation from the Committee on Standards in Public Life in the following terms:

“In recommending in the First Report a ban on agreements between MPs and multi-client consultancies, we were concerned to avoid a situation in which MPs could be presented as participating in ‘a hiring fair’. We retain that concern. On the other hand, we are anxious that the rules should not unnecessarily inhibit the ability of MPs to become well informed and to use their expertise and experience effectively.

19 The above Guidelines supersede the Guidelines in force until 14th May 2002 which reflected the distinction drawn by the Select Committee on Standards in Public Life between the initiation of, and participation in, parliamentary proceedings.

Bearing in mind the evidence that we have heard about the present guidelines on ‘initiation’ and the ban on paid advocacy, we believe that they are operating unnecessarily harshly and that they should be amended. We recommend that the ban on paid advocacy should remain in place, but that the restriction on initiation should be removed and the guidelines relating to participation extended to include both participation and initiation. The effect of this would be that an MP who had a personal interest would be permitted to initiate proceedings in the same way that he or she is able to participate in proceedings under the current guidelines, but that MP (a) would not be able to engage in ‘paid advocacy’ or seek to confer benefits exclusively on a particular individual or body and (b) would be required to register and declare the benefit in accordance with the guidelines. We recommend a further safeguard (c) that, reinforcing present practice regarding the declaration of interests when tabling a written notice, in addition to registration and oral declaration, the MP would also be required to identify his or her interest on the Order Paper (or Notice Paper) by way of an agreed symbol.”²⁰

78. The Committee on Standards and Privileges has made it clear that it would regard it as a very serious breach of the rules if a Member failed to register or declare an interest which was relevant to a proceeding he had initiated.²¹

[Note: “Initiating a parliamentary proceeding” includes:

- *presenting a Bill;*
- *presenting a Petition;*
- *tabling and asking a Parliamentary Question;*
- *asking a supplementary question to one’s own Question;*
- *initiating, or seeking to initiate an adjournment (or other) debate;*
- *tabling or moving any Motion (e.g. an “Early Day Motion” a Motion for leave to introduce a Bill under the “Ten Minutes Rule” or a Motion “blocking” a Private Bill;*
- *tabling or moving an Amendment to a Bill;*
- *proposing a draft Report, or moving an Amendment to a draft Report, in a Select Committee;*
- *giving any written notice, or adding a name to such notice, or making an application for and introducing a daily adjournment debate, or an emergency debate.*

A similar consideration applies in the case of approaches to Ministers or civil servants.]

Parameters to the operation of the ban on lobbying for reward or consideration

79. The Committee on Standards and Privileges has also agreed to the following parameters to the operation of the rule:—

20 Sixth Report of the Committee on Standards in Public Life, *Reinforcing Standards*, Cm. 4557–I, January 2000, paragraph 3.96.

21 Fourth Report, Session 2001–02, *Restrictions on the Initiation of Parliamentary Proceedings: A Consultation Paper*, HC 478, paragraph 15.

- 1) *Registrable interests*: The ban on lobbying for reward or consideration is to apply with equal effect to any registrable or declarable pecuniary benefit irrespective of the source of that benefit (i.e. no distinction is drawn between financial benefits received from a company, a representative organisation, a charity, a foreign government or any other source). Similarly, no distinction should be drawn in the application of the advocacy rule to different categories of registrable or declarable benefit²² (except for the provision below relating to ballot bills, to overseas visits, and to membership of other elected bodies). Non-pecuniary interests registered by Members do not fall within the scope of the Resolution agreed by the House on 6th November 1995 and the rule does not apply to them.
- 2) *Past, present, and future benefits*: Unlike the Register, which lists current benefits, or benefits received in the immediate past, the Resolution on lobbying of 6th November 1995 also refers, as does the rule on declaration, to past and expected future benefits. It is difficult to contemplate circumstances where any benefit received some time in the past, particularly an interest which is not in the current printed Register, could be sufficiently relevant to be taken into account under the rule (see (4) below). Expected future interests, on the other hand, may be more significant. For example, Members expecting to derive direct financial benefit from particular legislation should, as well as declaring the interest in debate as appropriate, not seek to move Amendments to advance the expected future interest. The same consideration applies to other proceedings.
- 3) *Continuing benefits*: Continuing benefits, i.e. directorships, other employment, and sponsorship, can be divested to release a Member with immediate effect from the restrictions imposed by the rule, providing that the benefit is disposed of and there is no expectation of renewal.
- 4) *“One-off” benefits*: The rule applies to “one-off” registrable benefits, both visits and gifts, from the day upon which the interest was acquired until one year after it is registered.
- 5) *Family benefits*: The rule includes relevant payments to a Member’s family, but any payment to a member of the family of any Member which arises out of the family member’s own occupation is not regarded as a benefit for the purposes of the Resolution.²³
- 6) *Ballot Bills*: Private Members successful in the Ballot for Bills are not prevented from introducing and proceeding with a Bill by reason of the fact that they receive free or subsidised assistance from an organisation connected with the purposes of the Bill provided the Member had no pre-existing financial relationship with the organisation which is registered, or is required to be registered.
- 7) *Overseas Visits*: Although, except as set out in paragraph 35, overseas visits must be registered and declared, such visits shall not be taken into account when applying the rule.

22 Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraphs 33 and 34.

23 *Ibid*, paragraph 37.

- 8) *Membership of other elected bodies:* Membership of the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, the European Parliament and local authorities in the United Kingdom shall not be taken into account when applying the rule.
- 9) *Ministers:* The restrictions imposed by the rule do not apply to Ministers when acting in the House as Ministers.

80. The financial interests of Members are extremely varied, as the Register demonstrates. Each Member will need to apply the rule and the Guidelines to his or her particular circumstances. When in doubt, Members will be able to seek the advice of the Commissioner, or the Committee on Standards and Privileges. However, some illustrative examples of the application of the Guidelines may be of value:—

- a) A Member who is director of a company may not seek particular preference for that company (e.g. tax relief, subsidies, restriction of competition) in any proceeding of the House or any approach to Ministers or officials.
- b) In the case of trade associations, staff associations, professional bodies, charities (or any similar representative organisation):
 - i) Membership alone of any representative organisation does not entail any restrictions under the rule.
 - ii) A Member who is, for example, a remunerated adviser:
 - may not advocate measures for the exclusive benefit of that organisation; nor speak or act in support of a campaign exclusively for the benefit of the representative organisation or its membership (e.g. a campaign for special tax relief, or for enhanced pay and numbers);
 - may speak or act in support of a campaign which is of particular interest to the representative organisation (e.g. in the case of an animal welfare organisation, a campaign to prohibit the importation of animal fur, or prohibit blood sports; in the case of a charity for cancer research, a campaign for the prohibition of smoking).
- c) When a Member has a problem involving a company within his or her constituency the Member may take any parliamentary action to resolve that problem, even though he or she may hold a remunerated position with a body representing the relevant sector of the industry regionally or nationally, or with another company outside the constituency in the same industrial sector. Similarly a Member who has a remunerated position with a representative association is not restricted in any way in taking up the case of a constituent who is a member of that association, or is employed by a member of that association. The only circumstances when the Member's actions are restricted are when the Member has a registrable interest with the company concerned when the guidelines provide that the Member forfeits the special position he or she has as a constituency Member.
- d) Members are reminded that when accepting foreign visits they should be mindful of the reputation of the House. However, the knowledge obtained by Members on such visits can often be of value to the House as a whole. While it is desirable that Members

should be able to use that knowledge in debate in the House there is a point at which promoting the interests, of e.g. a foreign Government from which hospitality has been received, crosses the line between informed comment and lobbying. Members may not, for example, advocate in debate increased United Kingdom financial assistance to a Government from which they have recently received hospitality. Nor may the Member advocate any other measure for the exclusive benefit of the host Government. Subject to this constraint Members could, having declared their interest, raise matters relating to their experiences in the country either in a speech or by initiating any other proceeding. Similarly they could raise matters relating to the problems of the country generally, or make use of any local insight they have obtained into regional problems (e.g. the situation in the Middle East or in South East Asia, economic or social problems or an external threat) or information they have obtained on local developments or initiatives.

- e) A Member whose visit was funded by a non-governmental organisation (NGO) or other agency would not be inhibited in speaking about its work or the problems it was dealing with. Only a matter which was for the exclusive benefit of the NGO or agency, e.g. a request for a grant-in-aid to the particular organisation, could not be pursued.
- f) Under the rule, a Member who is receiving free office accommodation provided by a local authority should not advocate measures for the exclusive benefit of the local authority itself (as distinct from the interests of those whom the local authority represents). In practice, since Members also have a paramount duty to represent their constituents there will be few occasions when the application of the rule will place a limit on a Member's parliamentary actions. In any event, accommodation provided solely for the purpose of holding constituency surgeries is exempt from registration and therefore from the application of the rule.

Responsibility of the Member

81. In common with the rules of the House relating to registration and declaration of interest the main responsibility for observation of the ban on lobbying for reward or consideration lies with the individual Member. The Select Committee on Standards in Public Life stated in its Second Report that “it is important to make clear that it will not be the function of the Chair to enforce the ban ... during speeches, either by interrupting a Member thought to be contravening it, or by declining to call him. Complaints will be a matter for the Commissioner to investigate in the first instance”.²⁴ The Speaker has declined to receive points of order relating to registration or lobbying.²⁵

Delegations

“... a Member with a paid interest should not initiate or participate in, including attendance, a delegation where the problem affects only the body from which he has a paid interest.”

(Part of a Resolution of the House of 6th November 1995)

²⁴ Select Committee on Standards in Public Life, Second Report, Session 1994–95, HC 816, paragraph 26.

²⁵ E.g. HC Deb, vol 276, col 605 and vol 277, cols 767–68.

82. A further Resolution agreed by the House on 6th November 1995 restricts the extent to which any Member with a paid interest may participate in, or accompany, a delegation to Ministers or public officials relating to that interest. A Member should not initiate, or participate in, or attend any such delegation where the problem to be addressed affects only the body with which the Member has a relevant interest, except when that problem relates primarily to a constituency matter.

4. Procedure for Complaints

83. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is incompatible with the Code of Conduct or with this Guide, should be addressed in writing to the Parliamentary Commissioner for Standards.

84. Both the Commissioner and the Committee on Standards and Privileges will be guided by the view of the former Select Committee on Members' Interests that "it is not sufficient to make an unsubstantiated allegation and expect the Committee to assemble the supporting evidence", and that it "would not normally regard a complaint founded upon no more than a newspaper story or television report as a substantiated allegation".²⁶ The Commissioner will not entertain anonymous complaints.

85. It is a basic courtesy that a Member making a complaint to the Commissioner should at the same time send a copy of the letter of complaint to the Member concerned.

86. Communications between a member of the public and the Commissioner are not covered by Parliamentary privilege (and may not be privileged at law) unless and until the Commissioner decides the case has some substance to merit further inquiry. If he decides to the contrary, he may at his discretion reject the complaint without further reference to the Committee. The receipt of a complaint by the Commissioner is not to be interpreted as an indication that a *prima facie* case has been established.

87. If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify his taking the matter further, he will ask the Member to respond to the complaint and will then conduct a preliminary investigation. If he decides, after some inquiry, that there is no *prima facie* case, he will report that conclusion briefly to the Committee on Standards and Privileges. If he finds that there is a *prima facie* case or that the complaint raises issues of wider importance, he will normally report the facts and his conclusions to the Committee.

88. In the case of admitted failures to register or declare interests where the interest involved is minor or the failure to register or declare was inadvertent, the Commissioner has discretion to allow the Member to rectify the matter. In the case of non-registration, rectification requires a belated entry in the current Register, with an appropriate explanatory note; in the case of non-declaration, it requires an apology to the House by means of a point of order. Any rectification is reported briefly to the Committee.

89. The Committee on Standards and Privileges will consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches of the Code of Conduct or Guide to which the House has agreed and which have been drawn to the Committee's attention by the Commissioner.

90. The Committee has power under its Standing Order to send for persons, papers and records; to order the attendance of any Member before it; and to require that specific documents in the possession of a Member relating to its inquiries or to the inquiries of the Commissioner be laid before it.

26 Select Committee on Members' Interests, First Report, Session 1992–93, HC 383, paragraph 4.

91. While it is the practice of the Committee to deliberate in private, the Committee determines for itself whether sessions at which evidence is to be taken shall be held publicly or in private, and is empowered to refuse leave for the broadcasting of any public sessions.

92. On specific complaints for which the Commissioner has decided there is a *prima facie* case, the Committee will make recommendations to the House on whether further action is required. It may also report to the House on other complaints if it thinks fit.

93. The Committee has said that where it feels that a complaint from a Member was frivolous or had been made only for partisan reasons, it would expect to state that in any report it made about the complaint.

Appendix to The Guide to the Rules: Resolutions of the House relating to the Conduct of Members

Registration and Declaration of Members' Interests

Resolutions of 22nd May 1974: Members' Interests (Declaration)

“In any debate or proceeding of the House or its Committees or transactions or communications which a Member may have with other Members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.”

“Every Member of the House of Commons shall furnish to a Registrar of Members' Interests such particulars of his registrable interests as shall be required, and shall notify to the Registrar any alterations which may occur therein, and the Registrar shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public.”

*

Resolution of 12th June 1975, amended on 19th July 1995: Members' Interests Declaration)

“For the purposes of the Resolution of the House of 22nd May 1974 in relation to disclosure of interests in any proceeding of the House or its Committees,

- (i) any interest disclosed in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division in the House or in any of its Committees.
- (ii) the term ‘proceeding’ shall be deemed not to include the asking of a supplementary question.”

*

Resolution of 12th June 1975: Members' Interests (Declaration)

“Pursuant to the Resolutions of the House of 22nd May 1974, this House agrees with the recommendations made in the Report of the Select Committee on Members' Interests (Declaration) relative to the arrangements for the registration of Members' Interests, and with the recommendations contained in paragraphs 43 and 47 of that Report in relation to the declaring of such interests; and that a Register of such interests be established as soon as possible in accordance with the proposals made in that Report.”

Paragraph 43 of the First Report from the Select Committee on Members' Interests (Declaration) (Session 1974–75) HC 102, reads:—

“No difficulty should arise in any proceeding of the House or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the House, includes debates in Standing Committees, the presentation of a Public Petition, and meetings of Select Committees at which evidence is heard. On all such occasions the Member will declare his interest at the beginning of his remarks in exactly the same way as he has hitherto done by convention. It will be a matter for his judgement, if his interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure.”

Paragraph 47 of the same Report provides that declarations of interest made in Select Committees shall be recorded in their Minutes of Proceedings.

*

Resolution of 17th December 1985: Register of Members' Interests

“This House ... emphasises that it is the personal responsibility of each Member to have regard to his public position and the good name of Parliament in any work he undertakes or any interests he acquires; confirms that the scope of the requirement to register remunerated trades, professions or vocations includes any remunerated activity in the fields of public relations and political and parliamentary advice and consultancy; in particular ... in regard to the registration and declaring of clients that the services which require such registration and, where appropriate, declaration, include, as well as any action connected with any proceedings in the House or its Committees, the sponsoring of functions in the Palace, making representations to Ministers, Civil Servants and other Members, accompanying delegations to Ministers and the like ...”

[Note: This Resolution should be read in conjunction with the Resolutions of 6th November 1995 on lobbying (Conduct of Members) and delegations (Standards in Public Life).]

*

Resolution of 6th November 1995, amended on 14th May 2002: Agreements for the Provision of Services

“(1) With effect from Wednesday 15th November 1995, any Member proposing to enter into an agreement which involves the provision of services in his capacity as a Member of Parliament shall conclude such an agreement only if it conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members; and a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000, shall be deposited with the Parliamentary Commissioner for Standards at the same time as it is registered in the Register of Members' Interests and made available for inspection and reproduction by the public;

(2) any Member who has an existing agreement involving the provision of services in his capacity as a Member of Parliament which conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members, but which is not in written form, shall take steps to put the agreement in written form; and no later than 31st March 1996 a full copy of any such agreement including the fees or benefits payable in bands of: up to £5,000, £5,001–£10,000, and thereafter in bands of £5,000 shall be deposited with the

Parliamentary Commissioner for Standards and registered in the Register of Members' Interests and made available for inspection and reproduction by the public; ...

Provided that the requirement to deposit a copy of an agreement with the Commissioner shall not apply —

- (a) if the fees or benefits payable do not exceed 1 per cent of the current parliamentary salary; nor
- (b) in the case of media work (but in that case the Member shall deposit a statement of the fees or benefits payable in the bands specified above)."

*

Resolution of 13th July 1992: Members' Interests (Interests of Chairmen and members of Select Committees)

"This House takes note of the First Report from the Select Committee on Members' Interests, Session 1990–91 (House of Commons Paper No. 108), relating to the interests of Chairmen and members of Select Committees, and approves the recommendations of the Committee relating to declaration of interest in Select Committees (paragraphs 8 to 16), withdrawal from Committee proceedings (paragraph 24) and procedures prior to the election of a Chairman (paragraph 25)."

Lobbying for Reward or Consideration

Resolution of 2nd May 1695: Against offering Bribes to Members

"The Offer of any Money, or other Advantage, to any Member of Parliament, for the promoting of any Matter whatsoever, depending, or to be transacted, in Parliament, is a high Crime and Misdemeanour, and tends to the Subversion of the Constitution."

*

Resolution of 22nd June 1858: Rewards to Members

"It is contrary to the usage and derogatory to the dignity of this House, that any of its Members should bring forward, promote or advocate, in this House, any proceeding or measure in which he may have acted or been concerned for or in consideration of any pecuniary fee or reward."

*

Resolution of 15th July 1947, amended on 6th November 1995 and 14th May 2002: Conduct of Members

"It is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body, controlling or limiting the Member's complete independence and freedom of action in

Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof and that in particular no Member of the House shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received, is receiving, or expects to receive—

- (i) advocate or initiate any cause or matter on behalf of any outside body or individual, or
- (ii) urge any other Member of either House of Parliament, including Ministers, to do so,

by means of any speech, Question, Motion, introduction of a Bill or amendment to a Motion or Bill, or any approach, whether oral or in writing, to Ministers or servants of the Crown.”

*

Resolution of 6th November 1995: Standards in Public Life

“This House agrees with the recommendations in the Second Report from the Select Committee on Standards in Public Life (House of Commons Paper No. 816) relating to the cessation of paid advocacy (paragraph 54);¹ and further that a Member with a paid interest should not initiate or participate in, including attendance, a delegation where the problem affects only the body from which he has a paid interest.”

Conduct

Resolution of 19th July 1995: Code of Conduct

“This House endorses the principle of a Code of Conduct, and instructs the appropriate Select Committee to prepare such a draft Code for approval as soon as possible, taking into account the suggestions of the Nolan Committee and any relevant overseas analogues; and whilst restating its commitment to the objectives of the Resolution of the House of 15th July 1947 relating to privileges, accepts the need to review its wording in the context of the work to be undertaken on the draft Code.”

*

Resolution of 24th July 1996: Code of Conduct

“This House approves the Third Report from the Committee on Standards and Privileges, House of Commons Paper No. 604, and in particular—

¹ “Activity constituting paid advocacy would be outside our proposed rules and should therefore cease from the start of the new Parliamentary session (1995–96).”

- (a) approves the Code of Conduct prepared pursuant to the Resolution of the House of 19th July 1995,
- (b) approves the Guide to the Rules relating to the Conduct of Members, the modifications to the rules of the House contained therein, and the guidelines to the application of the Resolution of the House of 6th November 1995, (Conduct of Members) contained in paragraph 58² of the Guide, and
- (c) authorises the Committee on Standards and Privileges to make such minor amendments to the Guide to the Rules as appear to it to be justified by experience or necessarily reflect decisions of the House; and to report such amended versions of the Guide to the House.”

*

Resolution of 14th May 2002: Code of Conduct

“(1) This House approves the Ninth Report from the Committee on Standards and Privileges (House of Commons Paper No. 763), A new Code of Conduct and Guide to the Rules; ...

(4) the Code of Conduct and the Guide to the Rules relating to the Conduct of Members (House of Commons Paper No. 688 (1995–96)) shall be amended as proposed in Annex 2 to the Report; and

(5) the registration forms submitted for the next published Register of Members’ Interests shall comply with the new rules on the registration of Members’ interests; and any requirement under the new rules to register an interest which is not registrable now shall come into force on the publication of the next Register.”

*

Resolution of 13th July 2005: Standards and Privileges

“That this House takes note of the Fourth Report of the Committee on Standards and Privileges, Session 2004–05 (House of Commons Paper No. 472), and approves the revised Code of Conduct set out in the Annex to the Report.”

2 The amended guidelines are set out in paragraph 76 of this Guide.

Appendix 5.1 (A) United Kingdom House of Commons

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Appendix 5.1 (B)

Legislative Assembly of Saskatchewan Code of Conduct

Appendix 5.1 (B) Legislative Assembly of Saskatchewan

Code of Ethical Conduct For Members of the Legislative Assembly *(Adopted June 14, 1993)*

Preamble

As Members of the Legislative Assembly we recognize that our actions have a profound impact on the lives of all Saskatchewan people. Fulfilling our obligations and discharging our duties responsibly requires a commitment to the highest ethical standards.

Statement of Commitment

- To the people of this province, we owe the responsible execution of our official duties, in order to promote human and environmental welfare.
- To our constituents, we owe honesty, accessibility, accountability, courtesy and understanding.
- To our colleagues in this Assembly, we owe loyalty to shared principles, respect for differences, and fairness in political dealings.
- We believe that the fundamental objective of public office is to serve our fellow citizens with integrity in order to improve the economic and social conditions of all Saskatchewan people.
- We reject political corruption and will refuse to participate in unethical political practices which tend to undermine the democratic traditions of our province and its institutions.

Declaration of Principles

- Members of this Assembly must carry out their official duties and arrange their private financial affairs in a manner that protects the public interest and enhances public confidence and trust in government and in high standards of ethical conduct in public office.
- Members of this Assembly must act not only lawfully but also in a manner that will withstand the closest public scrutiny; neither the law nor this code is designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.
- Every Member is individually responsible for preventing potential and actual conflicts of interest, and must arrange private financial affairs in a manner that prevents such conflicts from arising.
- Members of the Assembly must carry out their official duties objectively and without consideration of personal or financial interests.
- Members of the Assembly must not accept gifts, benefits or favours except for incidental gifts or customary hospitality of nominal value as provided for in legislation.

- Members of the Assembly must not take personal advantage of or private benefit from information that is obtained in the course of or as a result of their official duties or positions and that is not in the public domain.
- Members of the Assembly must not engage in personal conduct that exploits for private reasons their positions or authorities or that would tend to bring discredit to their offices.
- Members of the Assembly must not use, or allow the use of, public property or services for personal gain.
- Members of the Assembly, when leaving public office and when they have left public office, must not take improper advantage of their former office.



Appendix 5.1 (C)

Legislative Assembly of Nunavut Members Obligations

Appendix 5.1 (C) Legislative Assembly of Nunavut

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Members (MLA s)

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Members Obligations

As an elected Member of the Legislative Assembly of Nunavut, I acknowledge that I have been entrusted with a great responsibility and duty. With this comes certain obligations to my colleagues and constituents.

The values which guide me are Inuit Qaujimajatuqangit (Inuit traditional knowledge), Aisimi Ippigusuttiarniq (respect for others), Pilirriqatigiikniq (working together), Qinuisaaniq (patience and humility) and Angiqatigiikniq (consensus-building).

I will perform my duties with honesty, fairness, compassion, openness and courage. I will do my utmost to provide an effective and accountable voice for the public I serve.

I will ensure that the decisions taken by this Legislative Assembly will, in all ways possible, respect our cultural diversity and honour those who have built our past and worked for the creation of Nunavut; while fostering the aspirations and goals of our youth; and respecting the role and place of all residents of Nunavut.

Where I have a duty to pursue issues of concern to my constituents, I will do so without fear or favour. I will respect confidences and privileged information entrusted to me as a legislator and as a guardian of the public trust.

In acknowledging my human vulnerabilities, I will refrain from behaviour that may bring dishonour or disrepute to myself, the Legislative Assembly or the people of Nunavut.

I will neither act nor condone others in acting in ways that exploit, slander or discriminate against others. I will not condone actions that are dishonest or which exploit positions of privilege for personal gain.

I will work with determination, in a spirit of goodwill and good faith, to find solutions for problems that create hardships for our people and to strengthen the greatness of our land.

As a Member of the Legislative Assembly of Nunavut, I will hold true to these obligations.

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Appendix 5.1 (C) Legislative Assembly of Nunavut

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Appendix 5.1 (D)

Federal House of Commons Conflict of Interest Code

Appendix 5.1 (D) Federal House of Commons

**APPENDIX**
**CONFLICT OF INTEREST CODE
FOR MEMBERS OF
THE HOUSE OF COMMONS**
Purposes**1. The purposes of this Code are to**

(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.

Principles**2. Given that service in Parliament is a public trust, the House of Commons recognizes and declares that Members are expected**

(a) to serve the public interest and represent constituents to the best of their abilities;

(b) to fulfill their public duties with honesty and uphold the highest standards so as to avoid real or apparent conflicts of interests, and maintain and enhance public confidence and trust in the integrity of each Member and in the House of Commons;

(c) to perform their official duties and functions and arrange their private affairs in a manner that bears the closest public scrutiny, an obligation that may not be fully discharged by simply acting within the law;

(d) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest; and

(e) not to accept any gift or benefit connected with their position that might reasonably be seen to compromise their

ANNEXE
**CODE RÉGISSANT LES
CONFLITS D'INTÉRÊTS
DES DÉPUTÉS**
Objet**1. Le présent code a pour objet :**

a) de préserver et d'accroître la confiance du public dans l'intégrité des députés ainsi que le respect et la confiance de la société envers la Chambre des communes en tant qu'institution;

b) de montrer au public que les députés doivent respecter des normes qui font passer l'intérêt public avant leurs intérêts personnels et d'établir un mécanisme transparent permettant au public de juger qu'il en est ainsi;

c) de fournir des règles claires aux députés sur la façon de concilier leurs intérêts personnels et leurs fonctions officielles;

d) de favoriser l'émergence d'un consensus parmi les députés par l'adoption de normes communes et la mise en place d'un organe indépendant et impartial chargé de répondre aux questions d'ordre déontologique.

Principes**2. Vu que les fonctions parlementaires constituent un mandat public, la Chambre des communes reconnaît et déclare qu'on s'attend à ce que les députés :**

a) soient au service de l'intérêt public et représentent au mieux les électeurs;

b) remplissent leurs fonctions avec honnêteté et selon les normes les plus élevées de façon à éviter les conflits d'intérêts réels ou apparents et à préserver et accroître la confiance du public dans l'intégrité de chaque député et envers la Chambre des communes;

c) exercent leurs fonctions officielles et organisent leurs affaires personnelles d'une manière qui résistera à l'examen public le plus minutieux, allant au-delà d'une stricte observation de la loi;

d) prennent les mesures voulues en ce qui touche leurs affaires personnelles pour éviter les conflits d'intérêts réels ou apparents qui sont prévisibles, ceux-ci étant réglés de manière à protéger l'intérêt public;

e) évitent d'accepter des cadeaux ou des avantages qui sont liés à leur charge et qu'on pourrait

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personal judgment or integrity except in accordance with the provisions of this Code.

raisonnablement considérer comme compromettant leur jugement personnel ou leur intégrité, sauf s'ils se conforment aux dispositions du présent code.

Interpretation

Définitions

Definitions.	3.(1) The following definitions apply in this Code.	3.(1) Les définitions qui suivent s'appliquent au présent code.	Définitions.
"common-law partner" « conjoint de fait ».	"common-law partner", with respect to a Member, means a person who is cohabiting with the Member in a conjugal relationship, having so cohabited for a period of at least one year.	« commissaire » Le commissaire à l'éthique nommé au titre de l'article 72.01 de la <i>Loi sur le Parlement du Canada</i> .	« commissaire : "Ethics Commissioner."
"Ethics Commissioner" « commissaire ».	"Ethics Commissioner" means the Ethics Commissioner appointed under section 72.01 of the <i>Parliament of Canada Act</i> .	« conjoint de fait » La personne qui vit dans une relation conjugale avec un député depuis au moins un an.	« conjoint de fa "common-law partner."
"spouse" « époux ».	"spouse", with respect to a Member, does not include a person from whom the Member is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.	« époux » N'est pas considérée comme un époux la personne dont un député est séparé et dont les obligations alimentaires et les biens familiaux ont fait l'objet d'un accord de séparation ou d'une ordonnance judiciaire.	« époux » "spouse."
Furthering private interests.	(2) A Member is considered to further a person's private interests, including his or her own private interests, when the Member's actions result, directly or indirectly, in any of the following (a) an increase in, or the preservation of, the value of the person's assets; (b) the extinguishment, or reduction in the amount, of the person's liabilities; (c) the acquisition of a financial interest by the person; (d) an increase in the person's income from a source referred to in subsection 21(2); (e) the person becoming a director or officer in a corporation, association or trade union; and (f) the person becoming a partner in a partnership.	(2) Sont de nature à favoriser les intérêts personnels d'une personne, y compris ceux du député, les actes de celui-ci qui ont pour effet, même indirectement : a) d'augmenter ou de préserver la valeur de son actif; b) de réduire la valeur de son passif ou d'éliminer celui-ci; c) de lui procurer un intérêt financier; d) d'augmenter son revenu à partir d'une source visée au paragraphe 21(2); e) d'en faire un dirigeant ou un administrateur au sein d'une personne morale, d'une association ou d'un syndicat; f) d'en faire un associé au sein d'une société de personnes.	Intérêts person
Not furthering private interests.	(3) For the purpose of this Code, a Member is not considered to further his or her own private interests or the interests of another person if the matter in question (a) is of general application; (b) affects the Member or the other person as one of a broad class of the public; or (c) concerns the remuneration or benefits of the Member as provided under an Act of Parliament.	(3) Pour l'application du présent code, ne sont pas considérés comme les intérêts personnels d'un député ou d'une autre personne ceux : a) qui sont d'application générale; b) qui le concernent en tant que membre d'une vaste catégorie de personnes; c) qui ont trait à la rémunération ou aux avantages accordés au député au titre d'une loi fédérale.	Exclusions.
Family members.	(4) The following are the members of a Member's family for the purposes of this Code: (a) the Member's spouse or common-law partner; and (b) a child of the Member, or a child of the Member's spouse or common-law partner, who has not reached the age of 18 years or who has reached that age but is primarily dependent on the Member or the Member's spouse or common-law partner for financial support.	(4) Pour l'application du présent code, sont considérés comme des membres de la famille d'un député : a) son époux ou conjoint de fait; b) son propre enfant ou celui de son époux ou conjoint de fait, enfant qui n'a pas atteint l'âge de dix-huit ans ou qui, l'ayant atteint, dépend principalement, sur le plan financier, du député ou de son époux ou conjoint de fait.	Membres de la

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	Application	Application	
Application to Members.	4. The provisions of this Code apply to conflicts of interest of all Members of the House of Commons when carrying out the duties and functions of their office as Members of the House, including Members who are ministers of the Crown or parliamentary secretaries.	4. Les dispositions du présent code régissent les conflits d'intérêts de tous les députés, y compris ceux qui sont ministres ou secrétaires parlementaires, lorsqu'ils exercent la charge de député.	Application aux députés.
Assisting constituents.	5. A Member does not breach this Code if the Member's activity is one in which Members normally and properly engage on behalf of constituents.	5. Le député ne manque pas à ses obligations aux termes du présent code s'il exerce une activité à laquelle les députés se livrent habituellement et à bon droit pour le compte des électeurs.	Défense des intérêts des électeurs.
Jurisdiction of the Board of Internal Economy.	6. Nothing in this Code affects the jurisdiction of the Board of Internal Economy of the House of Commons to determine the propriety of the use of any funds, goods, services or premises made available to Members for carrying out their parliamentary duties and functions.	6. Le présent code n'a pas pour effet de limiter la compétence du Bureau de régie interne de la Chambre des communes pour ce qui est de décider si les députés utilisent convenablement les fonds, les biens, les services ou les locaux mis à leur disposition pour l'exercice de leurs fonctions parlementaires.	Compétence du bureau de régie interne
Activities outside Parliament.	7. Nothing in this Code prevents Members who are not ministers of the Crown or parliamentary secretaries from any of the following, as long as they are able to fulfill their obligations under this Code: (a) engaging in employment or in the practice of a profession; (b) carrying on a business; (c) being a director or officer in a corporation, association, trade union or non-profit organization; and (d) being a partner in a partnership.	7. Le présent code n'a pas pour effet d'empêcher les députés qui ne sont pas ministres ou secrétaires parlementaires, dès lors qu'ils s'y conforment : a) d'occuper un emploi ou d'exercer une profession; b) d'exploiter une entreprise; c) d'être un dirigeant ou un administrateur au sein d'une personne morale, d'une association, d'un syndicat ou d'un organisme à but non lucratif; d) d'être un associé au sein d'une société de personnes.	Activités extra-parlementaires.
	Rules of Conduct	Règles de déontologie	
Furthering private interests.	8. When performing parliamentary duties and functions, a Member shall not act in any way to further his or her private interests or those of a member of the Member's family, or to improperly further another person's private interests.	8. Le député ne peut, dans l'exercice de ses fonctions parlementaires, agir de façon à favoriser ses intérêts personnels ou ceux d'un membre de sa famille ou encore, d'une façon indue, ceux de toute autre personne.	Favoritisme.
Using influence.	9. A Member shall not use his or her position as a Member to influence a decision of another person so as to further the Member's private interests or those of a member of his or her family, or to improperly further another person's private interests.	9. Le député ne peut se prévaloir de sa charge pour influencer la décision d'une autre personne de façon à favoriser ses intérêts personnels ou ceux d'un membre de sa famille ou encore, d'une façon indue, ceux de toute autre personne.	Influence.
Insider information.	10.(1) A Member shall not use information obtained in his or her position as a Member that is not generally available to the public to further the Member's private interests or those of a member of his or her family, or to improperly further another person's private interests.	10.(1) Le député ne peut utiliser les renseignements qu'il obtient dans le cadre de sa charge et qui ne sont généralement pas à la disposition du public pour favoriser ses intérêts personnels ou ceux d'un membre de sa famille ou encore, d'une façon indue, ceux de toute autre personne.	Utilisation des renseignements
Information not to be communicated.	(2) A Member shall not communicate information referred to in subsection (1) to another person if the Member knows, or reasonably ought to know, that the information may be used to further the Member's private interests or those of a member of his or her family, or to improperly further another person's private interests.	(2) Le député ne peut communiquer ces renseignements s'il sait ou devrait raisonnablement savoir que ceux-ci peuvent servir à favoriser ses intérêts personnels ou ceux d'un membre de sa famille ou encore, d'une façon indue, ceux de toute autre personne.	Communication des renseignements
Attempts.	11. A Member shall not attempt to engage in any of the activities prohibited under sections 8 to 10.	11. Le député ne peut tenter de se livrer à aucune des activités interdites aux termes des articles 8 à 10.	Tentatives.
Disclosure of a private interest.	12.(1) A Member who has reasonable grounds to believe that he or she or a member of his or her family has a private interest that might be affected by a matter that is before the House of Commons or a committee of which the Member is a member shall, if present during consideration of the	12.(1) Lorsqu'il participe à l'étude d'une question dont la Chambre ou un comité dont il est membre est saisi, le député est tenu de divulguer dans les plus brefs délais, verbalement ou par écrit, la nature générale des intérêts personnels qu'il croit, pour des	Divulgaration des intérêts personnels

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	matter, disclose orally or in writing the general nature of the private interest at the first opportunity. The general nature of the private interest shall be disclosed forthwith in writing to the Clerk of the House.	motifs raisonnables, que lui-même ou un membre de sa famille détient dans cette question et qui pourraient être visés. Le greffier de la Chambre doit sans délai être avisé par écrit de la nature générale des intérêts personnels.	
Subsequent disclosure.	(2) If a Member becomes aware at a later date of a private interest that should have been disclosed in the circumstances of subsection (1), the Member shall make the required disclosure forthwith.	(2) Si le député se rend compte ultérieurement de l'existence d'intérêts personnels qui auraient dû être divulgués aux termes du paragraphe (1), il doit sans délai les faire connaître de la façon requise.	Divulgence subséquente.
Disclosure recorded.	(3) The Clerk of the House shall send the disclosure to the Ethics Commissioner, who shall file it with the Member's public disclosure documents.	(3) Le greffier de la Chambre communique ces renseignements au commissaire, qui les classe avec les documents du député relatifs à la divulgation publique.	Publication.
Debate and voting.	13. A Member shall not participate in debate on or vote on a question in which he or she has a private interest.	13. Le député ne peut participer à un débat ou voter sur une question dans laquelle il a un intérêt personnel.	Débat ou vote.
Prohibition: gifts and other benefits.	14.(1) Neither a Member or any member of a Member's family shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that is related to the Member's position.	14.(1) Le député ou un membre de sa famille ne peut, dans le cadre de la charge du député, accepter, même indirectement, de cadeaux ou d'autres avantages, sauf s'il s'agit d'une rétribution autorisée par la loi.	Interdiction : cadeaux et autres avantages.
Exception.	(2) A Member or a member of the Member's family may, however, accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Member's position.	(2) Le député ou un membre de sa famille peut toutefois accepter les cadeaux ou autres avantages qui sont des marques normales ou habituelles de courtoisie ou de protocole ou des marques d'accueil habituellement reçues dans le cadre de la charge du député.	Exception.
Statement: gift or other benefit.	(3) If gifts or other benefits that are accepted under subsection (2) exceed \$500 in value, or if the total value of all such gifts or benefits received from one source in a 12-month period exceeds \$500, the Member shall, within 30 days after receiving the gifts or other benefits, or after that total value is exceeded, file with the Ethics Commissioner a statement disclosing the nature of the gifts or other benefits, their source and the circumstances under which they were given.	(3) Si un cadeau ou un autre avantage visé au paragraphe (2) a une valeur supérieure à 500 \$ ou si, sur une période de douze mois, des cadeaux ou autres avantages de même provenance ont une valeur totale supérieure à cette somme, le député dépose auprès du commissaire, dans les trente jours suivant la date de la réception du cadeau ou de l'avantage ou celle à laquelle la valeur totale dépasse 500 \$, une déclaration mentionnant la nature de chaque cadeau ou avantage, sa provenance et les circonstances dans lesquelles il a été donné.	Déclaration : cadeaux et autres avantages.
Exception.	(4) Any disclosure made pursuant to the requirements of section 15 does not need to be disclosed as a gift or other benefit under subsection (3).	(4) Ce qui est divulgué en application de l'article 15 n'a pas à être déclaré comme un cadeau ou un autre avantage aux termes du paragraphe (3).	Exception.
Statement: sponsored travel.	15.(1) If travel costs of a Member for a trip that arises from or relates to his or her position exceed \$500 and those costs are not wholly paid from the Consolidated Revenue Fund or by the Member personally, his or her political party or any interparliamentary association or friendship group recognized by the House, the Member shall, within 30 days after the end of the trip, file a statement with the Ethics Commissioner disclosing the trip.	15.(1) Si les frais payables pour tout déplacement qu'il effectue dans le cadre de sa charge dépassent 500 \$ et ne sont pas entièrement pris en charge par le Trésor, par lui-même ou son parti, ou par un groupe d'amitié ou une association interparlementaire reconnu par la Chambre, le député dépose auprès du commissaire une déclaration faisant état du déplacement, dans les trente jours qui en suivent la fin.	Déclaration : déplacements parrainés.
Content of statement.	(2) The statement shall disclose the name of the person or organization paying for the trip, the name of any person accompanying the Member, the destination or destinations, the purpose and length of the trip, the nature of the benefits received and the value, including supporting documents for transportation and accommodation.	(2) La déclaration comporte le nom de la personne ou de l'organisation qui prend en charge les frais de déplacement, le nom de toute personne accompagnant le député, la ou les destinations, le but et la durée du déplacement, la nature des avantages reçus et leur valeur, ainsi que des documents justificatifs pour les frais de transport et de logement.	Contenu de la déclaration.
Publication.	(3) By January 31 of each year, the Ethics Commissioner shall prepare a list of all sponsored travel, including the details set out in subsection (2), and the Speaker shall lay the list upon the Table when the House next sits.	(3) Au plus tard le 31 janvier de chaque année, le commissaire établit une liste de tous les déplacements parrainés, en y incluant les détails prévus au paragraphe (2), et le Président la dépose sur le bureau à la prochaine séance de la Chambre.	Publication.
Government contracts.	16.(1) A Member shall not knowingly be a party to a contract with the Government of Canada or any federal	16.(1) Le député ne peut sciemment être partie à un contrat, conclu avec le gouvernement du Canada ou	Contrats.

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	agency or body under which the Member receives a benefit.	un organisme fédéral, qui lui procure un avantage.	
Clarification.	<p>(2) A Member may participate in a program operated or funded, in whole or in part, by the Government of Canada under which the Member receives a benefit if</p> <p>(a) the Member meets the eligibility requirements of the program;</p> <p>(b) the Member does not receive any preferential treatment with respect to his or her participation; and</p> <p>(c) the Member does not receive any special benefit not available to other participants.</p>	<p>(2) Le député peut participer à un programme qui est exploité ou financé, en tout ou en partie, par le gouvernement du Canada et qui lui procure un avantage, si les conditions suivantes sont respectées :</p> <p>a) il satisfait aux critères d'admissibilité du programme;</p> <p>b) il ne reçoit pas de traitement préférentiel en ce qui concerne sa participation;</p> <p>c) il ne reçoit pas d'avantages particuliers auxquels d'autres participants n'ont pas droit.</p>	Précision.
Public corporations.	<p>17.(1) A Member is not prohibited from owning securities in a public corporation that contracts with the Government of Canada unless the holdings are so significant that the Ethics Commissioner is of the opinion that they are likely to affect the Member's obligations under this Code.</p>	<p>17.(1) Le député peut posséder des titres dans une société publique ayant des liens d'affaires avec le gouvernement du Canada, sauf si le commissaire estime, en raison de l'importance de la quantité de ces titres, que le député risque de manquer à ses obligations aux termes du présent code.</p>	Sociétés public
Trust .	<p>(2) If the Ethics Commissioner is of the opinion that the Member's obligations under this Code are likely to be affected under the circumstances of subsection (1), the Member may comply with the Code by placing the securities in a trust under such terms established in section 19 as the Ethics Commissioner considers appropriate.</p>	<p>(2) Si le commissaire estime qu'il y a un risque que le député manque à ses obligations aux termes du présent code dans les circonstances exposées au paragraphe (1), le député peut se conformer au présent code en mettant ses titres en fiducie selon les modalités prévues à l'article 19 que le commissaire juge appropriées.</p>	Fiducie.
Partnerships and private corporations.	<p>18. A Member shall not have an interest in a partnership or in a private corporation that is a party to a contract with the Government of Canada under which the partnership or corporation receives a benefit unless the Ethics Commissioner is of the opinion that the interest is unlikely to affect the Member's obligations under this Code.</p>	<p>18. Le député ne peut détenir, dans une société de personnes ou une société privée qui est partie à un contrat conclu avec le gouvernement du Canada, un intérêt qui procure un avantage à celle-ci, sauf si le commissaire estime que le député ne risque pas de manquer à ses obligations aux termes du présent code.</p>	Sociétés privée: personnes.
Pre-existing contracts.	<p>19.(1) Sections 16 and 18 do not apply to a contract that existed before the Member's election to the House of Commons, but they do apply to its renewal or extension.</p>	<p>19.(1) Les articles 16 et 18 ne s'appliquent pas au contrat conclu avant l'élection du député à la Chambre des communes, mais ils s'appliquent au renouvellement ou à la prorogation d'un tel contrat.</p>	Contrats préexi
Trust.	<p>(2) Section 18 does not apply if the Member has entrusted his or her interest in a partnership or in a private corporation that is a party to a contract with the Government of Canada under which the partnership or corporation receives a benefit to one or more trustees on all of the following terms:</p> <p>(a) the provisions of the trust have been approved by the Ethics Commissioner;</p> <p>(b) the trustees are at arm's length from the Member and have been approved by the Ethics Commissioner;</p> <p>(c) the trustees may not consult with the Member with respect to managing the trust, but they may consult with the Ethics Commissioner;</p> <p>(d) the trustees may, however, consult with the Member, with the approval of the Ethics Commissioner and in his or her presence if an extraordinary event is likely to materially affect the trust property;</p> <p>(e) in the case of an interest in a corporation, the Member shall resign any position of director or officer in the corporation;</p> <p>(f) the trustees shall provide the Ethics Commissioner with</p>	<p>(2) L'article 18 ne s'applique pas si le député a mis en fiducie auprès d'un ou de plusieurs fiduciaires l'intérêt qu'il détient dans une société de personnes ou une société privée qui est partie à un contrat conclu avec le gouvernement du Canada dans le cadre duquel elle obtient un avantage, dès lors que les règles suivantes sont respectées :</p> <p>a) le commissaire a approuvé les modalités de la fiducie;</p> <p>b) les fiduciaires n'ont aucun lien de dépendance avec le député et ont reçu l'agrément du commissaire;</p> <p>c) les fiduciaires ne peuvent consulter le député sur la gestion de la fiducie, mais ils peuvent consulter le commissaire;</p> <p>d) les fiduciaires peuvent toutefois consulter le député, sur autorisation du commissaire et en sa présence, s'il se produit un événement extraordinaire susceptible d'avoir des incidences importantes sur l'actif de la fiducie;</p> <p>e) dans le cas d'un intérêt dans une personne morale, le député est tenu de démissionner de tout poste d'administrateur ou de dirigeant de celle-ci;</p> <p>f) les fiduciaires remettent au commissaire un rapport</p>	Fiducie.

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	<p>a written annual report setting out the nature of the trust property, the value of that property, the trust's net income for the preceding year and the trustees' fees, if any; and</p> <p>(g) the trustees shall give the Member sufficient information to permit the Member to submit returns as required by the <i>Income Tax Act</i> and give the same information to the Canada Customs and Revenue Agency.</p>	<p>annuel qui précise la nature et la valeur de l'actif de la fiducie, le revenu net de celle-ci au cours de l'année précédente et, le cas échéant, leurs honoraires;</p> <p>g) les fiduciaires donnent au député les renseignements suffisants pour lui permettre de fournir les déclarations requises par la <i>Loi de l'impôt sur le revenu</i> et donnent les mêmes renseignements à l'Agence des douanes et du revenu du Canada.</p>	
Interest acquired by inheritance.	(3) Sections 16 to 18 do not apply to an interest acquired by inheritance until the first anniversary date of the acquisition.	(3) Les articles 16 à 18 ne visent pas l'intérêt acquis par succession avant la date du premier anniversaire de l'acquisition.	Intérêt acquis par succession.
Disclosure statement.	20. (1) A Member shall, within 60 days after the notice of his or her election to the House of Commons is published in the <i>Canada Gazette</i> , and annually on or before a date established by the Ethics Commissioner, file with the Ethics Commissioner a full statement disclosing the Member's private interests and the private interests of the members of the Member's family.	20. (1) Dans les soixante jours qui suivent l'annonce de son élection dans la <i>Gazette du Canada</i> et tous les ans par la suite, au plus tard à la date fixée par le commissaire, le député dépose auprès de celui-ci une déclaration complète de ses intérêts personnels et des intérêts personnels des membres de sa famille.	Déclaration.
Reasonable efforts.	(2) Information relating to the private interests of the members of the Member's family shall be to the best of the Member's knowledge, information and belief. The Member shall make reasonable efforts to determine such information.	(2) L'information concernant les intérêts personnels des membres de la famille est fournie au mieux de la connaissance du député. Le député doit faire des efforts raisonnables en ce sens.	Efforts raisonnables.
Confidentiality.	(3) The Ethics Commissioner shall keep the statement confidential.	(3) Le commissaire assure la confidentialité de la déclaration.	Confidentialité.
Content of disclosure statement.	21. (1) The statement shall	21. (1) La déclaration contient les renseignements suivants :	Contenu.
	(a) identify the assets and liabilities of the Member and the members of the Member's family and state their value;	a) les éléments d'actif et de passif du député et des membres de sa famille, ainsi que la valeur de ces éléments;	
	(b) state the income that the Member and the members of the Member's family have received during the preceding 12 months and are entitled to receive during the next 12 months, and indicate the source of that income;	b) tout revenu que le député et les membres de sa famille ont touché au cours des douze mois précédents et sont en droit de recevoir au cours des douze prochains mois, ainsi que la source de ce revenu;	
	(c) state all benefits that the Member and the members of the Member's family, and any private corporation in which the Member or a member of the Member's family has an interest, have received during the preceding 12 months, and those that the Member and the members of the Member's family or corporation are entitled to receive during the next 12 months, as a result of a contract with the Government of Canada, and describe the subject-matter and nature of each such contract;	c) tout avantage que le député et les membres de sa famille, ainsi que toute société privée dans laquelle lui ou un membre de sa famille détient un intérêt, ont reçu au cours des douze mois précédents ou sont en droit de recevoir au cours des douze prochains mois dans le cadre d'un contrat conclu avec le gouvernement du Canada, et une description de l'objet et de la nature du contrat;	
	(d) if the statement mentions a private corporation,	d) si elle fait mention d'une société privée :	
	(i) include any information about the corporation's activities and sources of income that the Member is able to obtain by making reasonable inquiries,	(i) les renseignements sur ses activités et les sources de ses revenus que le député peut raisonnablement obtenir,	
	(ii) state the names of any other corporations with which that corporation is affiliated, and	(ii) le nom des autres personnes morales affiliées à cette société,	
	(iii) list the names and addresses of all persons who have an interest in the corporation;	(iii) le nom et l'adresse des personnes qui détiennent des intérêts dans cette société;	
	(e) list all corporations, associations and trade unions in which the Member or a member of the Member's family is a director or officer and all partnerships in which he or she or a member of his or her family is a partner; and	e) les noms des personnes morales, associations et syndicats au sein desquels le député ou un membre de sa famille occupe un poste de dirigeant ou d'administrateur, ainsi que les noms des sociétés de personnes dont le député ou un membre de sa famille est un associé;	

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	(f) include any other information that the Ethics Commissioner may require.	f) tout autre renseignement que le commissaire peut exiger.	
Source of income.	(2) For the purposes of paragraph (1)(b), a source of income is (a) in the case of income from employment, the employer; (b) in the case of income from a contract, the party with whom the contract is made; and (c) in the case of income arising from a business or profession, that business or profession.	(2) Pour l'application de l'alinéa (1)b) : a) l'employeur est la source du revenu tiré d'un emploi; b) le cocontractant est la source du revenu tiré d'un contrat; c) l'entreprise ou la profession est la source du revenu d'entreprise ou de profession.	Source de revenu
Material change.	(3) The Member shall report in writing any material change to the information required under subsection (1) to the Ethics Commissioner within 30 days after the change.	(3) Le député signale par écrit tout changement important apporté aux renseignements contenus dans la déclaration, dans les trente jours suivant le changement.	Changements importants.
Meeting with the Ethics Commissioner.	22. After reviewing a Member's statement filed under section 20, the Ethics Commissioner may require that the Member meet with the Ethics Commissioner, and may request the attendance of any of the members of the Member's family, if available, to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Code.	22. Après avoir examiné la déclaration visée à l'article 20, le commissaire peut exiger de rencontrer le député et demander la présence des membres de sa famille si ces derniers sont disponibles, en vue de vérifier la conformité de la déclaration et de discuter des obligations du député aux termes du présent code.	Rencontre avec le commissaire.
Disclosure summary.	23.(1) The Ethics Commissioner shall prepare a disclosure summary based on each Member's statement filed under section 21 and submit it to the Member for review.	23.(1) Le commissaire établit à partir de la déclaration du député un sommaire qu'il soumet à l'examen de celui-ci.	Sommaire.
Public inspection.	(2) Each summary is to be placed on file at the office of the Ethics Commissioner and made available for public inspection during normal business hours.	(2) Le sommaire est gardé au bureau du commissaire et rendu accessible au public pour examen pendant les heures normales d'ouverture.	Consultation.
Content of disclosure summary.	24.(1) The summary shall (a) subject to subsection (3), set out the source and nature, but not the value, of the income, assets and liabilities referred to in the Member's statement filed under section 20; (b) identify any contracts with the Government of Canada referred to in that statement, and describe their subject-matter and nature; (c) list the names of any affiliated corporations referred to in that statement; and (d) include a copy of any statements of disclosure filed by the Member under subsections 14(3) and 15(1).	24.(1) Le sommaire comporte les éléments suivants : a) sous réserve du paragraphe (3), une mention de la source et de la nature, mais non de la valeur, du revenu et des éléments d'actif et de passif indiqués dans la déclaration du député déposée conformément à l'article 20; b) tout contrat conclu avec le gouvernement du Canada dont fait mention cette déclaration, ainsi que l'objet et la nature du contrat; c) les noms des personnes morales affiliées mentionnées dans cette déclaration; d) une copie des déclarations visées aux paragraphes 14(3) et 15(1).	Contenu.
Categorization of interests.	(2) An interest in a partnership or corporation may be qualified in the summary by the word "nominal", "significant" or "controlling" if, in the opinion of the Ethics Commissioner, it is in the public interest to do so.	(2) Le commissaire peut qualifier l'intérêt détenu dans une société de personnes ou une personne morale de « symbolique », « important » ou « majoritaire », s'il estime que l'intérêt public le justifie.	Qualification.
Items not to be disclosed.	(3) The following shall not be set out in the summary: (a) an asset or liability with a value of less than \$10,000; (b) sources of income if the total amount of income from all sources was less than \$10,000 during the 12 months before the relevant date;	(3) Ne sont pas mentionnés dans le sommaire : a) l'élément d'actif ou de passif d'une valeur inférieure à 10 000 \$; b) les sources de revenu si le total des revenus de toutes les sources est de moins de 10 000 \$ durant les douze mois qui précèdent la date considérée;	Exceptions.

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	(c) real property or immovables that the Member uses as a principal residence or uses principally for recreational purposes;	c) le bien immeuble ou réel que le député utilise comme résidence principale ou principalement à des fins de loisir;	
	(d) personal property or movable property that the Member uses primarily for transportation, household, educational, recreational, social or aesthetic purposes;	d) le bien meuble ou personnel que le député utilise principalement à des fins de transport, domestiques, éducatives, décoratives, sociales ou de loisir;	
	(e) cash on hand or on deposit with a financial institution that is entitled to accept deposits;	e) les sommes d'argent en caisse ou en dépôt dans une institution financière habilitée à accepter des dépôts;	
	(f) fixed-value securities issued or guaranteed by a government or by a government agency;	f) les valeurs mobilières à valeur fixe émises ou garanties par un gouvernement ou un organisme gouvernemental;	
	(g) a registered retirement savings plan that is not self-administered or self-directed;	g) le régime enregistré d'épargne-retraite qui n'est pas autogéré;	
	(h) investments in a registered retirement savings plan that is self-administered or self-directed that would not be publicly disclosed under this section if held outside the plan;	h) le placement dans un régime enregistré d'épargne-retraite autogéré qui ne serait pas déclaré au titre du présent article s'il était détenu hors du régime;	
	(i) an interest in a pension plan, employee benefit plan, annuity or life insurance policy;	i) l'intérêt dans un régime de retraite, un régime de prestations aux employés, une rente ou une police d'assurance-vie;	
	(j) an investment in an open-ended mutual fund;	j) le placement dans un fonds mutuel de placement à capital variable;	
	(k) a guaranteed investment certificate or similar financial instrument; and	k) le certificat de placement garanti ou un instrument financier analogue;	
	(l) any other asset, liability or source of income that the Ethics Commissioner determines should not be disclosed because	l) tout autre élément d'actif ou de passif et toute autre source de revenu qui, de l'avis du commissaire, ne doit pas être divulgué :	
	(i) the information is not relevant to the purposes of this Code, or	(i) soit parce qu'un tel renseignement n'est pas pertinent pour l'application du présent code,	
	(ii) a departure from the general principle of public disclosure is justified in the circumstances.	(ii) soit parce qu'une dérogation au principe de déclaration publique se justifie en l'espèce.	
Evasion.	25. A Member shall not take any action that has as its purpose the circumvention of the Member's obligations under this Code.	25. Le député ne peut prendre de mesures dont l'effet est de contourner les obligations prévues au présent code.	Contournement
Opinions		Avis	
Request for opinion.	26.(1) In response to a request in writing from a Member on any matter respecting the Member's obligations under this Code, the Ethics Commissioner may provide the Member with a written opinion containing any recommendations that the Ethics Commissioner considers appropriate.	26.(1) Sur demande écrite d'un député, le commissaire peut lui donner un avis, assorti des recommandations qu'il juge indiquées, sur toute question concernant les obligations du député aux termes du présent code.	Demande d'avis
Confidentiality.	(2) The opinion is confidential and may be made public only by the Member or with his or her written consent.	(2) L'avis est confidentiel et ne peut être rendu public que par le député ou avec son consentement écrit.	Confidentialité.
Opinion binding.	(3) An opinion given by the Ethics Commissioner to a Member is binding on the Ethics Commissioner in relation to any subsequent consideration of the subject-matter of the opinion so long as all the relevant facts that were known to the Member were disclosed to the Ethics Commissioner.	(3) Le commissaire est lié par son avis dans toute nouvelle demande portant sur l'objet de celui-ci, pourvu que tous les faits pertinents dont le député avait connaissance lui aient été communiqués.	Nouvelle dema
Publication.	(4) Nothing in this section prevents the Ethics Commissioner from publishing opinions for the guidance of Members, provided that no details are included that could identify the Member.	(4) Le présent article n'empêche pas le commissaire de publier des avis pour guider les députés, à condition de ne pas révéler de détails permettant d'identifier un député.	Publication.

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	Inquiries	Enquêtes	
Request for an inquiry.	27.(1) A Member who has reasonable grounds to believe that another Member has not complied with his or her obligations under this Code may request that the Ethics Commissioner conduct an inquiry into the matter.	27.(1) Le député qui a des motifs raisonnables de croire qu'un autre député n'a pas respecté ses obligations aux termes du présent code peut demander au commissaire de faire une enquête.	Demande d'enc
Form of request.	(2) The request shall be in writing and shall identify the alleged non-compliance with this Code and set out the reasonable grounds for the belief that it has not been complied with.	(2) La demande d'enquête est présentée par écrit et énonce les motifs pour lesquels il est raisonnable de croire que le présent code n'a pas été respecté.	Forme de la der
Direction by the House.	(3) The House may, by way of resolution, direct the Ethics Commissioner to conduct an inquiry to determine whether a Member has complied with his or her obligations under this Code.	(3) La Chambre peut, par résolution, ordonner au commissaire de faire une enquête pour déterminer si un député s'est conformé à ses obligations aux termes du présent code.	Ordre de la Cha
Initiative of Ethics Commissioner.	(4) The Ethics Commissioner may, on his or her own initiative, and on giving the Member concerned reasonable written notice, conduct an inquiry to determine whether the Member has complied with his or her obligations under this Code.	(4) Le commissaire peut, de sa propre initiative, après avoir donné par écrit au député un préavis raisonnable, faire une enquête pour déterminer si celui-ci s'est conformé à ses obligations aux termes du présent code.	Enquête à l'init du commissaire
Respect for the inquiry process.	(5) Once a request for an inquiry has been made to the Ethics Commissioner, Members should respect the process established by this Code and permit it to take place without commenting further on the matter.	(5) Une fois qu'une demande d'enquête a été adressée au commissaire, les députés devraient respecter le processus établi par le présent code et permettre son déroulement sans formuler d'autres commentaires à ce sujet.	Respect du proc
Non-meritorious requests.	(6) If the Ethics Commissioner is of the opinion that a request for an inquiry is frivolous or vexatious or was not made in good faith, or that there are no or insufficient grounds to warrant an inquiry or the continuation of an inquiry, the Ethics Commissioner shall so state in dismissing the request. The Ethics Commissioner shall report the dismissal in accordance with section 28 and may recommend that further action be considered against the Member who made the request.	(6) S'il est d'avis qu'une demande d'enquête est frivole ou vexatoire ou n'a pas été présentée de bonne foi ou qu'aucun motif suffisant ne justifie la tenue ou la poursuite d'une enquête, le commissaire le précise lorsqu'il rejette la demande. Le commissaire fait rapport de sa décision, conformément à l'article 28, et il peut de plus recommander que des mesures soient prises à l'égard du député qui a fait la demande.	Demande non f
Inquiry to be private.	(7) The Ethics Commissioner is to conduct an inquiry in private and with due dispatch, provided that at all appropriate stages throughout the inquiry the Ethics Commissioner shall give the Member reasonable opportunity to be present and to make representations to the Ethics Commissioner in writing or in person by counsel or by any other representative.	(7) Le commissaire procède à huis clos et avec toute la diligence voulue, en donnant au député, à tous les stades de l'enquête, la possibilité d'être présent et de lui faire valoir ses arguments par écrit ou en personne ou par l'entremise d'un conseiller ou d'un autre représentant.	Huis clos.
Cooperation.	(8) Members shall cooperate with the Ethics Commissioner with respect to any inquiry.	(8) Les députés sont tenus de collaborer avec le commissaire dans toute enquête.	Collaboration.
Report to the House.	28.(1) Forthwith following an inquiry, the Ethics Commissioner shall report to the Speaker, who shall present the report to the House when it next sits.	28.(1) Une fois son enquête terminée, le commissaire remet sans délai un rapport d'enquête au Président, lequel présente le rapport à la Chambre à sa prochaine séance.	Rapport à la Ch
Report to be public.	(2) The report of the Ethics Commissioner shall be made available to the public upon tabling in the House, or, during a period of adjournment or prorogation, upon its receipt by the Speaker.	(2) Le rapport du commissaire est accessible au public dès qu'il est déposé à la Chambre ou, pendant une période d'ajournement ou de prorogation, dès qu'il est reçu par le Président.	Publicité du rap
Report after dissolution.	(3) During the period following a dissolution of Parliament, the Ethics Commissioner shall make the report public.	(3) Si le Parlement est dissous, le commissaire rend son rapport public.	Rapport en cas dissolution.
No contravention.	(4) If the Ethics Commissioner concludes that there was no contravention of this Code, the Ethics Commissioner shall so state in the report.	(4) Si le commissaire conclut que le présent code n'a pas été enfreint, il l'indique dans son rapport.	Aucune infracti
Mitigated contravention.	(5) If the Ethics Commissioner concludes that a Member has not complied with an obligation under this Code but that the Member took all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgment made in good faith, the Ethics Commissioner shall so state	(5) S'il conclut que le député ne s'est pas conformé à une obligation aux termes du présent code, mais qu'il a pris toutes les précautions raisonnables pour éviter de l'enfreindre, ou que l'infraction est sans gravité, est survenue par inadvertance ou est imputable à une erreur de jugement commise de	Infraction sans

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	in the report and may recommend that no sanction be imposed.	bonne foi, le commissaire l'indique dans son rapport et peut recommander qu'aucune sanction ne soit imposée.	
Sanctions.	(6) If the Ethics Commissioner concludes that a Member has not complied with an obligation under this Code, and that none of the circumstances in subsection (5) apply, the Ethics Commissioner shall so state in the report and may recommend appropriate sanctions.	(6) S'il conclut que le député n'a pas respecté une obligation aux termes du présent code et qu'aucune des circonstances énoncées au paragraphe (5) ne s'applique, le commissaire l'indique dans son rapport et peut recommander l'application des sanctions appropriées.	Sanctions.
Reasons.	(7) The Ethics Commissioner shall include in the report reasons for any conclusions and recommendations.	(7) Le commissaire motive ses conclusions et recommandations dans son rapport.	Motifs.
General recommendations.	(8) The Ethics Commissioner may include in his or her report any recommendations arising from the matter that concern the general interpretation of this Code and any recommendations for revision of this Code that the Ethics Commissioner considers relevant to its purpose and spirit.	(8) Le commissaire peut formuler dans son rapport sur l'affaire des recommandations concernant l'interprétation générale du présent code ou sa modification, eu égard à son objet et son esprit.	Recommandations générales.
Right to speak.	(9) Within five sitting days after the tabling of the report of the Ethics Commissioner in the House of Commons, the Member who is the subject of the report shall have a right to make a statement in the House immediately following Question Period, provided that he or she shall not speak for more than 20 minutes.	(9) Dans les cinq jours de séance suivant le dépôt à la Chambre du rapport du commissaire, le député qui fait l'objet du rapport a le droit de faire une déclaration à la Chambre immédiatement après la période des questions, sous réserve que son intervention ne dépasse pas vingt minutes.	Déclaration du
Deemed concurrence.	(10) A motion to concur in a report referred to in subsection (4) or (5) may be moved during Routine Proceedings. If no such motion has been moved and disposed of within 10 sitting days after the day on which the report was tabled, a motion to concur in the report shall be deemed to have been moved and adopted at the expiry of that time.	(10) Une motion portant adoption du rapport visé aux paragraphes (4) ou (5) peut être proposée pendant la période réservée aux affaires courantes. Si une telle motion n'est pas proposée et soumise à une décision dans les dix jours de séance suivant le dépôt du rapport, une motion portant adoption du rapport est réputée proposée et adoptée à la fin de ce délai.	Adoption d'offi
Report to be considered.	(11) A motion respecting a report referred to in subsection (6) may be moved during Routine Proceedings, when it shall be considered for no more than two hours, after which the Speaker shall interrupt any proceedings then before the House and put forthwith and successively, without further debate or amendment, every question necessary to dispose of the motion. During debate on the motion, no Member shall speak more than once or longer than ten minutes.	(11) Une motion concernant le rapport visé au paragraphe (6) peut être proposée pendant la période réservée aux affaires courantes où elle est prise en considération durant au plus deux heures; à la fin de cette période, le Président interrompt les délibérations de la Chambre et met aux voix, sur-le-champ et successivement, sans autre débat ni amendement, toutes les questions nécessaires à la prise d'une décision. Pendant le débat sur la motion, aucun député ne peut parler plus d'une fois, ni plus de dix minutes.	Étude du rappo
Vote.	(12) If no motion pursuant to subsection (11) has been previously moved and disposed of, a motion to concur in the report shall be deemed to have been moved on the 15th sitting day after the day on which the report was tabled, and the Speaker shall immediately put every question necessary to dispose of the motion.	(12) Si aucune motion proposée aux termes du paragraphe (11) n'a fait l'objet d'une décision dans les quinze jours de séance suivant le dépôt du rapport, une motion portant adoption du rapport est réputée proposée à la fin de cette période, et le Président met immédiatement aux voix toutes les questions nécessaires à la prise d'une décision.	Vote.
Referral back.	(13) The House may refer any report back to the Ethics Commissioner for further consideration, with or without instruction.	(13) La Chambre peut renvoyer un rapport au commissaire afin qu'il l'examine à nouveau, avec ou sans instructions.	Renvoi.
Suspension of inquiry.	29.(1) The Ethics Commissioner shall immediately suspend the inquiry into a matter if (a) there are reasonable grounds to believe that the Member has committed an offence under an Act of Parliament, in which case the Ethics Commissioner shall refer the matter to the proper authorities; or (b) it is discovered that: (i) the act or omission under investigation is also the subject of an investigation to determine if an offence under an Act of Parliament has been committed, or	29.(1) Le commissaire suspend l'enquête sans délai : a) s'il y a des motifs raisonnables de croire que le député a commis une infraction à une loi fédérale, auquel cas il en avise les autorités compétentes; b) s'il est constaté que les faits – actes ou omissions – visés par l'enquête font l'objet : (i) soit d'une autre enquête visant à établir s'ils constituent une infraction à une loi fédérale,	Sursis.

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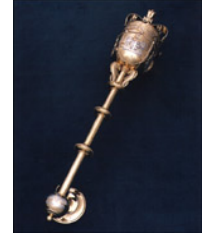
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(ii) a charge has been laid with respect to that act or omission.

(ii) soit d'une accusation.

Inquiry continued.	(2) The Ethics Commissioner shall not continue his or her inquiry until the other investigation or the charge regarding the act or omission has been finally disposed of.	(2) Le commissaire ne peut poursuivre son enquête qu'à l'issue de l'autre enquête ou que s'il a été statué en dernier ressort sur l'accusation.	Reprise de l'enq
Miscellaneous		Dispositions diverses	
Rules.	30. (1) The Ethics Commissioner shall submit any proposed rules for the administration of this Code to the Standing Committee on Procedure and House Affairs.	30. (1) Le commissaire soumet au Comité permanent de la procédure et des affaires de la Chambre tout projet de règle d'application du présent code.	Règles.
Tabling of rules.	(2) Any rules approved by the Committee shall be reported to the House and shall come into effect when the report is concurred in by the House.	(2) Les règles agréées par le Comité font l'objet d'un rapport présenté à la Chambre et entrent en vigueur dès l'adoption du rapport par celle-ci.	Dépôt.
Retention of documents.	31. The Ethics Commissioner shall retain all documents relating to a Member for a period of 12 months after he or she ceases to be a Member, after which the documents shall be destroyed unless there is an inquiry in progress under this Code concerning them or a charge has been laid against the Member under an Act of Parliament and the documents may relate to that matter.	31. Le commissaire garde les documents relatifs à un député pendant les douze mois suivant la cessation de ses fonctions parlementaires. Ces documents sont ensuite détruits, sauf si une enquête est en cours aux termes du présent code ou qu'une accusation a été portée contre le député au titre d'une loi fédérale et que les documents peuvent être pertinents.	Archives.
Educational activities.	32. The Ethics Commissioner may undertake educational activities for Members and the general public regarding this Code and the role of the Ethics Commissioner.	32. Le commissaire peut organiser des activités afin de renseigner les députés et le public sur son rôle et sur le présent code.	Activités éduca
Committee review.	33. The Standing Committee on Procedure and House Affairs shall, within five years of the coming into force of this Code and every five years thereafter, undertake a comprehensive review of its provisions and operation, and shall submit a report thereon, including a statement of any changes the Committee recommends.	33. Dans les cinq ans suivant l'entrée en vigueur du présent code et tous les cinq ans par la suite, le Comité permanent de la procédure et des affaires de la Chambre procède à un examen exhaustif des dispositions du présent code et de son application, et présente un rapport assorti des modifications qu'il recommande, le cas échéant.	Examen par le c
Part of the Standing Orders.	34. This Code shall form part of the Standing Orders of the House of Commons.	34. Le présent code fait partie du Règlement de la Chambre des communes.	Règlement.

Appendix 5.1 (D)



Appendix 5.2

Sample Codes of Conduct for the Members of the House of Assembly

Appendix 5.2 Sample Codes of Conduct for the Members of the House of Assembly

Purpose

The purpose of a code of conduct is to help the members of the House of Assembly achieve their goals and to appropriately represent the voting public in the legislature. To do this, the code provides members with guidelines for the conduct expected of them in fulfilling their duties. These guidelines help to reinforce the concept of accountability which is necessary for members to obtain the public confidence necessary to perform their legislative duties. These general principles of conduct provide the necessary components of an effective code of conduct.

Sample A

Scope of the Code of Conduct

This Code applies to all members of the legislature and is designed to provide guidelines in various aspects of a members' public life. The purpose of this code is not meant to infringe upon a members private, non public life.

General Principles of Conduct

The Committee on Standards in Public Life in the United Kingdom¹ identified general principles of conduct members are expected to observe in carrying out their legislative duties. These standards, as identified below, are hereby adopted as applicable to the House of Assembly:

Selflessness

Decisions made by members should be for the good of the public. Decisions should not be made to directly benefit the member or the member's family and friends.

Integrity

Members should not put themselves in situations whereby outside individuals or corporations or other organizations or interest groups influence their decision making process and overall performance of their duties as a member of the legislature.

¹ The Nolan Committee on Standards in Public Life, October 2004

Objectivity

All member decisions related to the making of public appointments, awarding of tenders or recommendations for rewards and benefits should be based upon merit and not patronage.

Accountability

All members are accountable and responsible for the decisions they make and the actions they take should accept public criticism and scrutiny appropriate to their office.

Openness

Members should be as open as possible about all the decisions and actions they take. Information to support member's decisions should be made available to the public and only restricted in situations where revealing the information would be detrimental to the operation of the legislature.

Honesty

Members must disclose all conflicts of interest between private interests and public duties and take appropriate actions to resolve such conflicts in a way that protects the public interest.

Leadership

Members should lead by example and portray the general principles of conduct discussed in this section.

Sample B²

1. Standards of Behaviour, Impartiality and Conflicts of Interest

Members of the legislature are expected to act with integrity and honesty in carrying out their duties in the legislature. Members are expected to provide the highest possible standard of service to the public.

The onus is on every member to disclose to the House, the Speaker and the House of Assembly Management Commission, as appropriate every potential conflict of interest in which he or she is involved. Members should not be associated with any type of private activity which could bring, or have the potential to bring the

² This model code of conduct was developed with the assistance of a paper written in February 2004 by the Local Government Staff Commission for Northern Ireland. This paper was entitled "Code of Conduct for Local Government Employees"

legislature into disrepute. Members must not use information obtained while performing their public duties to further their private interests.

Members must bring to the attention of the appropriate official any breach of the terms of this code, as outlined in the Whistle blowing section below.

2. *Appointments and Other Employment Matters*

All appointments should be made in accordance with the recruitment procedures of the Provincial government. Members should not be involved in the decisions related to discipline, promotion, or pay adjustments to any employee who is a friend, partner, or person where a family relationship exists.

3. *Outside Commitments*

Outside commitments of members must not be seen by the public to conflict with the Members' position in the legislature or in any way weaken the public's confidence in the House of Assembly.

4. *Personal Interests*

Members must present to the appropriate official any financial or non-financial interests that they consider to be in conflict with their political duties. An example of such a conflict could be the membership in an organization receiving government grants or funding. While this code is not intended to prevent members from being a part of outside organizations, it does require members to declare personal interests where there is, or could be perceived to be a conflict of interest.

5. *The Tendering Process*

The entire tendering process must be based on fairness and impartiality. Members who have access to confidential information related to the tendering process must not disclose that information to any unauthorized party. Members must ensure that there is no special favour shown to current or former members or their friends, partners or persons where a family relationship is deemed to exist.

6. *Corruption*

Members need to be aware of fact that it is an illegal offence for members to give or receive any gift, loan, fee, or other advantage for doing, or not doing something in relation to his or her duties as a member of the House of Assembly.

7. *Use of Financial Resources*

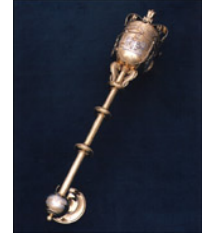
It is every member's responsibility to ensure that public funds entrusted to him or her are not used in an illegal, unauthorized or improper manner. It is also a member's responsibility to ensure that public funds are used responsibly and that government funds receive the appropriate value for money. Members shall at all times ensure that their expenses, allowances, and facilities provided from the public purse are in accordance with appropriate spending policies. Members are responsible for ensuring that they do not exceed the spending limits assigned to them by the legislature. Any over expenditures must be reported to the House of Assembly Management Commission immediately.

8. *Gifts*

Members should not accept gifts (other than insignificant tokens) from contractors, members of the public or outside suppliers as this could be perceived as a conflict of interest.

9. *Whistle Blowing*

If a member becomes aware of any activities which are believed to be illegal, unethical, or improper, the member must report the matter in the manner contemplated by the *Members' Resources and Allowances Rules* to the investigator, the Citizen's Representative appointed under the *Citizen's Representative Act*.



Appendix 5.3

Access to Information Legislation and a Publication and Disclosure Regime for the House of Assembly

**Appendix 5.3 Access to Information Legislation and a Publication and Disclosure Regime
for the House of Assembly**

**Access to Information Legislation and a Publication and Disclosure
Regime for the House of Assembly**

**Christopher Dunn
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**Review Commission on Constituency Allowances and Related Matters
2007**

ACCESS TO INFORMATION LEGISLATION AND A PUBLICATION AND DISCLOSURE REGIME FOR THE HOUSE OF ASSEMBLY

Access to information legislation should apply in a whole-of-government fashion. Once accepted this principle would apply to the institution that makes the law as well as to the institution that implements the law. Those who insist on others being open should be open. This is the essence of transparency. This principle is defensible in theory, but it is not commonly put into practice by legislatures. Our contention is that it should be. In this respect, Newfoundland and Labrador could be ahead of the wave, could demonstrate a best practice. We look to the other provinces, to the United Kingdom and to public reports, especially, for guidance.¹ This paper will review which legislatures have “Freedom of Information” legislation applying to them; which reports suggest introducing FOI at a federal level; why FOI is a good idea in the legislative arena; and what some recommendations for increased access should be.

The federal House of Commons and Newfoundland and Labrador’s House of Assembly share an important characteristic: access to information legislation does not apply them. However, the provincial House has never contemplated changing this situation, whereas the federal has. There have been various federal reports and partial movement on them, but much remains to be done.

The UK Parliament² and the Scottish Parliament³ are latecomers to freedom of information legislation, but leaders as far as access to parliamentary information is concerned. Newfoundland came early to FOI/ATI, and it may be another early convert to legislative information access.

First, a brief note about terminology. The terms “access to information” (ATI) and “freedom of information” (FOI) are used interchangeably in this paper. The term “freedom of information,” however is the writer’s preference, because it is the one used commonly throughout the world, and by most legislatures in Canada, the federal parliament’s use of the term “access” notwithstanding. “Freedom of information” also more strongly connotes a right, than does the word “access”; the latter suggests, to us, that the onus is on government to decide what information to release.

¹ Much useful overview with respect to the Canadian situation is provided in Kristen Douglas, “*The Access to Information Act and Recent Proposals for Reform*,” (February 6, 2006), online: Parliament of Canada - Library <http://www.parl.gc.ca/information/library/PRBpubs/prb0555-e.html>

² Regarding the UK Parliament’s legislation, see *Freedom of Information Act 2000*, c. 36, online: Office of Public Sector Information <http://www.opsi.gov.uk/acts/acts_2000/20000036.htm>; see also online: Information Commissioner’s Office <http://www.ico.gov.uk/what_we_cover/freedom_of_information/legislation_in_full.aspx>.

³ Regarding the Scottish Parliament’s legislation, see *Freedom of Information (Scotland) Act 2002*, (2002), A.S.P. 13, online: Office of Public Sector Information <<http://www.opsi.gov.uk/legislation/Scotland/acts2002/20020013.htm>>

PARLIAMENTS AND FREEDOM OF INFORMATION

UK Parliament

Its theoretical attractiveness notwithstanding, FOI is fairly restricted in its ability to open doors to parliaments and legislatures. In the UK, Freedom of Information legislation applies to the UK Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly. FOI legislation however cannot be considered by itself; it is book ended in each jurisdiction by a “publication scheme,” intended to offset the expensive and admittedly cumbersome nature of the request process by a generally accessible and universal scheme that covering much (but not all) of the information that might be sought under FOI.

The UK’s *Freedom of Information Act 2000* came into effect in January 2005. It gives a general right of access to information held by public authorities. The House of Commons and the House of Lords are separate public authorities under the *Act* and therefore merit separate arrangements for complying with the *Act*. The *Act* mandates that public bodies prepare a publication scheme; Parliament began to comply with this requirement in November 2002. The scheme was available in print and on the Web. Information on Members' allowances and details of the House's internal procedures for handling requests were added to it in late 2004.

The House of Commons Commission, the analogue of our IEC, notes this about publication of Members’ allowances in its 2006 Report:⁴

Members' salaries, allowances and pensions are paid from the Members Estimate and administered by the Department of Finance and Administration (DFA). The Estimate has separate governance arrangements from the House's administrative expenditure, and is reported on separately. The annual accounts for 2004/05, which will contain further information, will be published in the second half of 2005. Members are entitled to a range of parliamentary allowances including a staffing allowance, an incidental expenses provision and an allowance for overnight stays away from their main home. They are also provided with centrally-purchased computer equipment on loan....

The Members Estimate Committee (MEC) oversees the policy relating to Members' allowances and is advised by the Advisory Panel on Members' Allowances. Both bodies meet regularly. This year they have discussed items to do with the Senior Salaries Review Body report on Parliamentary pay and allowances..., guidance for Members leaving the House and a revision of the "Green Book" which sets out Members' entitlements and the rules associated with them...

⁴ UK Parliament, House of Commons Commission Twenty Seventh Annual Report, "Supporting individual Members and their staff," paras. 11 D-11, online: House of Commons Commission - Twenty Seventh Annual Report <<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmcomm/65/6505.htm>>.

The *Freedom of Information (FOI) Act* came into force in January 2005. The MEC had previously decided to act in advance of this date to put information about individual Members' use of allowances in the public domain. A publication scheme was agreed in the summer and DFA organised relevant information for each Member, covering each of the previous three financial years, for publication on 21 October 2004. It constitutes a considerable extension in openness and transparency about allowances paid to Members. It is intended that, from now on, the publication scheme will be updated each autumn with information for the most recent financial year.

As was the case in Scotland, the burden of FOI requests was offset somewhat by the publication and information services of the Commons:

134. During the first three months of 2005 (after implementation of the FOI Act), the House received an average of around ten requests per week which required formal handling under the Act. However, the vast majority of routine requests for information continued to be dealt with as part of normal activity (for example, the House's Information Office handled an average of 33 requests a week).⁵

Scottish Parliament

In Scotland, the *Freedom of Information (Scotland) Act* requires that each public authority produce a publication scheme that outlines categories of information available, its manner of publication and any relevant financial charges for access.

This Publication Scheme refers to information which the Parliament and SPCB already publishes or intends to publish. Publish can mean make available to the public in a variety of ways, including: electronically (such as on our website) or hard copy (such as printed leaflets, booklets, brochures or books, etc.; videos, DVD and CD ROMs or other audio or visual recordings, including photographs, etc.).⁶

The categories of information available for the Scottish Parliament include parliamentary business, parliamentary procedure, Members of the Scottish Parliament (MSPs), the Scottish Parliament and the wider community, and administration of the Scottish Parliament.

The offsetting nature of the publication scheme appears to be achieving its purpose in Scotland. This can be seen in the first report published by the Scottish Parliament Corporate Body (SPCB) covering 2005, the year that FOI came into existence in Scotland.⁷ The SPCB provides the Parliament with its

⁵ UK Parliament, House of Commons Commission Twenty Seventh Annual Report, "Providing information and access for the public," para. 134, online: House of Commons Commission -Twenty-seventh Annual Report <<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmcomm/65/6506.htm>>.

⁶ Scottish Parliament Corporate Body Publications Scheme, Version 1.1 (September 2004), "Background," at ss. 3.

⁷ *SPCB Annual Report 2006*, online: Scottish Parliament - Annual Reports and Management Plan <<http://www.scottish.parliament.uk/corporate/anrep-accts/spcb/ar-06/spar06-01.htm#11>>.

budget-making, allowances, property, staff and services. The SPCB is the analogue to the IEC in Newfoundland and Labrador, but includes a secretariat as well, which would correspond to the House of Assembly Service.

Over the period covered in the annual report (April 2005 to March 2006), the SPCB received 292 requests under the *The Freedom of Information (Scotland) Act (FOISA)*. These requests covered a variety of topics ranging from the Scottish Parliament's records management policy to correspondence between the Presiding Officer and Sir Sean Connery.⁸ Internal records made available to the author reveal that this level of requests to the SPCB was low compared to other Scottish Public sector organizations: Requests to the Scottish Parliament in the calendar year 2005 numbered 327, compared to 782 to the Scottish Police Service, 187 to the Scottish Enterprise Network, 461 to SEPA, 939 to all Scottish Universities, 199 to the House of Commons, and 60 to the Northern Ireland Assembly.⁹

The allowances information was also made available. The SPCB Report had this to say about the nature and purpose of reporting:

In order to ensure that the Scottish Parliament's allowances system is as open and accessible as possible, and with our obligations under FOISA in mind, it was agreed that all Members' allowances information should be published on the Parliament's website.

A joint MSP/parliamentary staff working group was established to report on the options for publication. After careful consideration of the group's report, the Corporate Body agreed the format and content of the information to be published and, following a great deal of work, the first 'batch' of on-line allowances information - quarters 1 and 2 of 2005-06 - was published in June 2006.

We consider that the facility, which allows members of the public to view and search on-line MSPs claims and accompanying receipts in respect of allowances claimed while carrying out parliamentary duties, was an important step in ensuring that the work of the parliament continues to be as open and transparent as possible.¹⁰

Both the claims and receipts can be seen online.

The offsetting/balancing nature of the FOI and the publication scheme was highlighted by the internal report: "The relatively low volume for the SPCB compared to other Scottish public sector organizations can be attributed to the extensiveness of our Publication Scheme, since we define and record as FOI requests only those that ask for information that we have not already placed in the public domain."¹¹ Still, allowances were a part of the FOI load; requests for allowances information

⁸Ibid.

⁹ Scottish Parliament, Freedom of Information & Allowances - MSP Working Group Remit - 02/11/2005. Annex A.

¹⁰ SPCB Annual Report 2006, ss. 1.2. #11

¹¹ Scottish Parliament, Freedom of Information & Allowances - MSP Working Group Remit - 02/11/2005. Annex A.

accounted for 31% and 4,957 hours were spent on, all FOI requests.

Canadian Provinces

Some Canadian provinces have FOI provisions that apply to the legislatures of the province,¹² but, as Chart 1 on page 7 indicates, they are in the minority. Unlike the practice in the UK, there does not seem to be a conscious effort to link a legislated publication scheme to the *FOI Act*, perhaps because of the generally low visibility of provincial legislatures in the public consciousness. As the experience of Newfoundland and Labrador shows, this low visibility could change with a series of scandals involving public expenditures.

There is, however, an implied link to a legislated publication scheme. The Alberta Legislative Assembly may refuse to release information if it is otherwise available: already published, available for purchase, or about to be published within 60 days of receipt of the request.¹³ Alberta's *Freedom of Information and Protection of Privacy Act* stipulates at s. 29(3) that "If the information is not published or released within 60 days after the applicant's request is received, the head of the public body [the Assembly being one such body] must reconsider the request as if it were a new request received on the last day of that period, and access to the information requested must not be refused under subsection."

Some provinces are not fond of FOI in the legislative arena. Newfoundland and Labrador, Nova Scotia, New Brunswick, Manitoba, Saskatchewan and British Columbia have categorical bars to FOI access to their legislatures. There are some provinces that allow partial access to the legislature: Prince Edward Island's provisions allow access to the office of an officer of the legislature but not to the office of the Speaker or a Member;¹⁴ Quebec's arrangement features the obverse, allowing much of what PEI forbids;¹⁵ Ontario's approach can only be described as *sui generis*.

¹² See David Johansen, "Federal and Provincial Access to Information Legislation: An Overview," (July 1997; revised May 2005), online: Library of Parliament - Parliamentary Research Branch <<http://www.parl.gc.ca/information/library/PRBpubs/bp383-e.htm>>.

¹³ See Appendix 5 of this essay

¹⁴ See Appendix 7 of this essay.

¹⁵ See Appendix 6 of this essay.

CHART 1 APPLICATION AND NON-APPLICATION OF FREEDOM OF INFORMATION LEGISLATION TO PROVINCIAL LEGISLATURES IN CANADA	
Clear indications Act applies to legislature	Quebec, Alberta
Clear indications Act does not apply to legislature	Newfoundland and Labrador, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, British Columbia
<i>i</i> applies partially	PEI: office of an officer of the legislature but not the office of the Speaker or a Member; Ontario: only for records of defined “reviewable expenses” of the leaders of a recognized opposition party and the persons employed in their respective offices.

FEDERAL REVIEWS AND STUDIES OF ACCESS TO INFORMATION AND ITS APPLICATION TO PARLIAMENT

The Canadian federal *Access to Information Act (ATIA)* has been in force since 1983. Subject to exemptions related to national security, commercial confidentiality, individual privacy or policy-making confidences, it gives Canadians a broad legal right to information controlled by federal institutions within fixed time limits. Records containing Cabinet confidences are excluded from the operation of the *Act* for 20 years from the date of their making. Complaints regarding refusal of access are investigated by an information Commissioner with ombudsman-type powers, and are appealable to the Federal Court. Yet, originally, the *Act* did not apply to Parliament or to Officers of Parliament.

As it turned out, application of the *ATIA* to Parliament was not a burning issue. The fact that multiple reviews had called for parliamentary application and that not much had been done was largely ignored. In fact, information laws themselves were not heavily investigated. The 1983 *Act* like some other reform legislation of the era, included a provision for a statutory review. This took place three years later. It would be a decade and a half before official Ottawa once again turned its attention to access legislation; afterwards there was something of a renaissance in the area. What is notable, however, in this intermittent history is not the frequency of the reviews, but that most of the reviews advocated the application of access to information legislation to Parliament.

- (i) *Open and Shut: Enhancing the Right to Know and the Right to Privacy* - Report of the House of Commons Standing Committee on Justice and Solicitor General, 1987.

In 1987, the Commons Justice Committee tabled an ambitious and widely respected report. It had commenced a statutorily mandated study of the *Access to Information Act* and the *Privacy Act* the year before, and its unanimous report, *Open and Shut*, was to be an inspiration to subsequent studies in the field.¹⁶ It advocated including both the Senate and Commons (but excluding the offices of Senators and Members of the Commons), the Library of Parliament and the five officers of Parliament, namely the Auditor General, the Chief Electoral Officer, the Information Commissioner, the Privacy Commissioner and the Official Languages Commissioner. Its general view was that all publicly funded bodies should fall under the purview of the *Act*. However, it failed to have any major effect.

(ii) *Access to Information: Making It Work for Canadians* – (Report of the Access to Information Review Task Force), 2002

In 2000, the Treasury Board President and the Minister of Justice established the Access to Information Review Task Force to perform a comprehensive review of the *ATIA* and to make appropriate recommendations. The resultant report, *Access to Information: Making it Work for Canadians*, was issued in June 2002.

The ATI Review concurred with the 1986 Parliamentary Committee that the access legislation should apply to Parliament and parliamentary bodies based on the rationale that they were public institutions. It also agreed that the bodies in question should include the Senate, the House of Commons, and the Library of Parliament. Also, like the Committee, the Task Force excepted the offices of individual Senators and Members of the House of Commons from the reach of the *Act*.

In making its recommendations the Task Force was respectful of legislative autonomy, parliamentary privilege and the functional needs of officers of parliament. Parliamentary privilege, the collective and individual rights enjoyed by parliamentarians that guarantee they will be able to carry out their representative functions without obstruction, should be the guiding principle in access questions. The Task Force urged that, the *Act* apply to information touching on the administrative operations of the Senate, the House, and the Library of Parliament, save for information that would be protected by parliamentary privilege. This stipulation would protect the independence and effectiveness of the two Houses. It also recommended the exclusion of the records of the political parties, as well as the personal, political and constituency records of individual Senators and Members of the House of Commons.

The redress and appeal procedures in the Task Force's vision were also mindful of legislative autonomy and parliamentary immunities and privileges. If Parliament objected to having the Federal Court as the second tier of redress, Parliament could itself serve in a review capacity. A blue-ribbon panel of current or former parliamentarians, jointly appointed by the two Houses, could serve as the analogue of the Federal Court's judicial review, if the first stage of redress - the reception of the

¹⁶ Canada, Standing Committee on Justice and Solicitor General on the Review of the Access to Information Act and the Privacy Act, *Open and Shut: Enhancing the Right to Know and the Right to Privacy*, (Ottawa: Queen's Printer for Canada, 1987).

complaint by the Information Commissioner, the Commissioner's investigation and the Commissioner's subsequent recommendation - was deemed to provide an unsatisfactory result.

Officers of Parliament were also a focus of the Task Force. It recommended that the *Act* apply to the Offices of the Auditor General, the Commissioner of Official Languages, the Information Commissioner and the Privacy Commissioner, but not to the Office of the Chief Electoral Officer. In order to respond to the concerns of the first four offices, the Task Force recommended the exclusion of records connected with the audit or investigatory functions of an officer of Parliament, or such records from other government institutions in the custody of an officer. In order to respond to the concerns of the Chief Electoral Officer, but to respect the spirit of openness, it recommended amending the *Canada Elections Act* to include access to information about the administration of the Office of the CEO, together with a suitable dispute resolution provision.

(iii) Responses to the Task Force and Subsequent Developments

In the next half decade the pace of ATI commentary picked up somewhat, to a considerable degree due to the work of the Task Force. Along with the new interest in the *Act* came new calls for the inclusion of Parliament within its reach. The Information Commissioner responded to the Task Force report with a special reporting of his own, by outlining his own recommendations in an appendix called "Blueprint for Reform." In it, he called for more institutions, including the Senate and the House of Commons, to be included in the preview of the *Act*, but excluded the offices of members of these Houses.¹⁷

The federal Minister of Justice responded in part to the Task Force's directions in April of 2005. He invited commentary from the House of Commons Standing Committee on Access to Information, Privacy and Ethics on whether to follow the Task Force's recommendations, and specifically on "whether and how parliamentary institutions and Members, as well as Officers of Parliament, such as the Ethics Commissioner, Speaker and Clerk of the Houses, should be subject to the *Act* (and *Privacy Act*), and what special protections they would need if they were covered, as well as on possible redress mechanisms."¹⁸ He also invited the Committee's views on "whether some or all Officers of Parliament should be made subject to the *Act*, and if so, how this should be accomplished."¹⁹ Four alternative approaches in particular could be considered with regard to the five aforementioned Officers of Parliament: (1) apply the *Act* to all activities of the Agents, but include exemptions to protect from disclosure the records of their investigative, audit and policy-advice activities; (2) cover all of the activities, but exclude from the application of the *Act* the Agents' investigative or audit activities; (3) apply the *Act* to all the Agents, but only as far as provision of goods and services, travel and hospitality, and allowances and benefits are concerned; and (4) engage in a voluntary policy of disclosure by the Agents with regard to travel and hospitality, contracts over \$10,000, and

¹⁷ Information Commissioner of Canada, *Response to the Report of the Access to Information Review Task Force: A Special Report to Parliament*, (Ottawa: Minister of Public Works and Government Services of Canada, 2002).

¹⁸ "A Comprehensive Framework for *Access to Information* Reform: A Discussion Paper," (April 2005), p. 9, online: Department of Justice Canada <http://www.justice.gc.ca/en/dept/pub/ati/ati_whitepaper.pdf>.

¹⁹ *Ibid.*, p. 10.

reclassification.²⁰ Special oversight and investigation suggestions were made for the Information and Privacy Commissioners.

The Committee was in no mood for further study; it merely asked Information Commissioner John Reid to develop a bill outlining amendments to the *Act*. The Commissioner's proposals, called the "Open Government Act," would have had all federal institutions covered by the *Act* except the offices of Members of the House of Commons, and Senators and the courts. The *Act* also proposed to include the Auditor General, the Chief Electoral Officer, the Information Commissioner, the Privacy Commissioner and the Official Languages Commissioner of Canada.²¹

In 2005, a federal commission of enquiry, the Gomery Commission, touched upon access to information questions in its *Phase II Report*. While it did not explore the application of the *Act* to Parliament, it made recommendations that were in keeping with the duty to maintain records. As we have seen, misleading or missing records were one of the problems with the allowances issue. These recommendations would have been useful had they been in practice at the time in this province:

Recommendation 16 The Government should adopt legislation requiring public servants to document decisions and recommendations, and making it an offence to fail to do so or to destroy documentation recording government decisions, or the advice and deliberations leading up to decisions.²²

Recommendation 17 The *Financial Administration Act* should be amended to add a new section stipulating that deliberate violation of section 34 of the *Act* by an employee of the federal government is grounds for dismissal without compensation.²³

(iv) The Political Realm

In the turbulent politics of the early decade, information and ethics became a political issue. The federal Conservative Party's platform of 2006 demanded the expansion of the coverage of the *Access to Information Act* to "all Crown corporations, Officers of Parliament, foundations, and organizations that spend taxpayers' money or perform public functions."²⁴ Missing, however, was mention of the application to the institution of Parliament itself.

The *Federal Accountability Act (FAA)* follows on this theme of reforming access to the Officers of Parliament, but not the institution of Parliament itself.²⁵ Part 3 enacts amendments to the *Access to*

²⁰ Ibid., p. 10.

²¹ "Proposals of the Information Commissioner to Amend the *Access to Information Act*," (September 2005), online: Department of Justice Canada <<http://www.justice.gc.ca/en/dept/pub/atia/prop/prop.html>>.

²² Canada, *Report of the Commission of Inquiry into the Sponsorship Program and Advertising Activities - Phase 2 Report: Restoring Accountability*, (February 2006), (Chair: Hon. John H. Gomery), p. 181, [*Gomery 2*].

²³ *Gomery 2*, p. 188.

²⁴ *Stand Up for Canada: The Conservative Party of Canada Federal Election Platform 2006*, p. 12, online: Conservative Party of Canada <<http://www.conservative.ca/media/20060113-Platform.pdf>>.

²⁵ Statutes of Canada, 2006, *An Act providing for conflict of interest rules, restrictions on election financing and*

Information Act and expands the range of its application to seven Agents and Officers of Parliament, to all parent Crown corporations and their wholly-owned subsidiaries, as well as to three foundations. It accommodates the particularities of the added Officers and other entities by instituting new exemptions or exclusions relating to them.

The seven Agents and Officers of Parliament, and the relevant sections of the *FAA*, are:

- the Auditor General (s. 167),
- the Chief Electoral Officer (s. 168),
- the Commissioner of Official Languages (s. 169),
- the Information Commissioner (s. 170),
- the Privacy Commissioner (s. 171),
- the Commissioner of Lobbying (s. 91), and
- the Public Sector Integrity Commissioner (s. 221).

The Governor-in-Council may prescribe criteria for adding other officers to the list of Offices subject to the *Act*.

It is notable as well, that the non-inclusion of Parliament *per se* has escaped almost all critical commentary.

WHY FREEDOM OF INFORMATION/ACCESS TO INFORMATION SHOULD APPLY TO THE HOUSE OF ASSEMBLY

Access to information can by now be regarded as a fundamental value not only of our country, but also of many others. As a fundamental value, its drift is towards universalism. It is significant that the scope of the program has been steadily outward, to become more inclusive, like a tree takes on rings. It began as a program three decades ago, first in the provinces, then in the federal sphere; its emphasis has steadily expanded.

Application of the *Act* to the Assembly is the next step. The arguments for it are convincing:

- The mother of the Parliaments, “Westminster, has adopted this initiative;
- Regional parliaments in Great Britain have adopted initiative as well;
- There has been relatively little controversy or debate of a negative sort in countries and provinces that have adopted FOI in parliamentary context;

measures respecting administrative transparency, oversight and accountability. First Session, Thirty-ninth Parliament, 55 Elizabeth II, 2006.

- The consensus of most federal reports on reform of Access to Information legislation has been toward including Parliament and Officers of Parliament within the ambit of the *Act*;
- The offices of individual Members of Parliament and Senators are a common-sense exclusion from the reach of the legislation;
- The provincial press has complained about the lack of access to information about the House and its Officers;
- A concerned public or press could have, it can be argued, used an *Access to Information and Protection of Privacy Act* with legislative application to review Members' allowances and spending patterns, and to bring the allowances issue to public attention, especially in light of the blockages experienced by auditors in this decade;
- The technological basis for expanded access has now reached a satisfactory point; and,
- At least one provincial political party has lent its support to the idea, and more may in the future.

RECOMMENDATIONS:

1. The Newfoundland and Labrador *Access to Information and Protection of Privacy Act* should be amended to apply to the House of Assembly, and to its elected and statutory Officers, save for the Auditor General.
2. The current language of the definitions section of the Newfoundland and Labrador *Access to Information and Protection of Privacy Act* should be amended. Currently, it reads

(p) "public body" means

- (i) a department created under the *Executive Council Act*, or a branch of the executive government of the province,
- (ii) a corporation, the ownership of which, or a majority of the shares of which is vested in the Crown,
- (iii) a corporation, commission or body, the majority of the members of which, or the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister,
- (iv) a local public body,

and includes a body designated for this purpose in the regulations made under section 73 , but does not include,

- (v) the office of a member or an officer of the House of Assembly,
- (vi) the Trial Division, the Court of Appeal or the Provincial Court, or
- (vii) a body listed in the Schedule;

This section should be amended to strike out the qualifying exclusionary phrase at the end, and read instead, after subsection (iv):

- (v) the Lieutenant-Governor, the House of Assembly, agencies whose members are appointed by the Assembly and every person designated by the Assembly to an office under its jurisdiction, together with the personnel under its supervision;
- (vi) the Auditor General is excluded from the effect of subsection (v).

In other words, this means, that they are classified as “public bodies.”

3. The *Act* should apply to information touching on the financial and administrative operations of the House of Assembly, save for information that would be protected by parliamentary privilege.
4. The records of the political parties, as well as the personal, political and constituency records of individual Members of the House of Assembly, should be excluded from the reach of the *Act*.
5. In the case of Statutory Officers of the House of Assembly, records connected with the audit or investigatory functions, or such records from other government institutions in the custody of an Officer, should be excluded from the reach of the *Act*.
6. The head of a department of the government of Newfoundland and Labrador shall publish an annual report of all expenses incurred by his or her office and paid out of the Consolidated Revenue Fund.
7. It should be made an offense to alter the administrative records regarding the decisions of, or the advice and recommendations leading to recommendations of, the administrative arrangements of the House of Assembly.
8. Legislation should specify that it is the House of Assembly that decides which Officers should be subject the reach of the *Act*.

9. There should be in the reformed *Access to Information and Protection of Privacy Act*, or its replacement, a statutory requirement that a publication scheme accompany and complement the access provisions, especially as regards the operation of the House of Assembly.
10. There should be a study of the organizational and financial ramifications of the publication scheme, but the starting point should be to introduce "Source 2" as described by the House of Assembly staff. (See Appendix 2.)
11. Records management practices in the House of Assembly should be improved, taking into consideration the memo by the House of Assembly included as Appendix 3.
12. Some consideration should be given to changing the name of the *Act* to include the terms "Freedom of Information," to reflect the emphasis on information as a right, and to reflect terminology commonly used in the rest of the country and in the Western world.

APPENDIX 1
PROVINCIAL LEGISLATURES AND ACCESS TO INFORMATION

PROVINCE	NAME OF RELEVANT ACT	PROVISIONS OF THE ACT INCLUDING OR EXCLUDING THE LEGISLATURE
Newfoundland and Labrador	<i>Access to Information and Protection of Privacy Act</i> , S. Nfld. and Labrador 2002	The <i>Act's</i> definition of a public body specifically excludes "the office of a member or an officer of the House of Assembly."
Nova Scotia	<i>Freedom of Information and Protection of Privacy Act</i> , S.N.S. 1993, c.5 as amended.	The <i>FOIPOP Act</i> generally applies to a "public body" as outlined in Section 3(j), and the legislature is not included. For greater certainty, the Office of the Legislative Counsel is exempt, probably based on the relationship with the House.
Prince Edward Island	<i>Freedom of Information and Protection of Privacy Act</i> , R.S.P.E.I. 1988, c. F.-15.01 as amended.	The <i>Act</i> applies to "public bodies," including the office of an officer of the Legislative Assembly, but excluding the Office of the Speaker of the Legislative Assembly and the office of a Member of the Legislative Assembly.
New Brunswick	<i>Right to Information Act</i> , S.N.B. 1978, c. R-10.3 as amended.	In New Brunswick, the Legislative Assembly is not subject to the <i>Right to Information Act</i> (right of individuals to apply for access to legislative documents including MLA expense accounts, etc). However, under section 30(3) of the <i>Legislative Assembly Act</i> , the Minister of Finance must table in each fiscal year a detailed account of MLA expenses. The reference in this provision is to all expenses paid to MLAs (House sitting, committee meetings, intersessional travel, constituency office expenses, kilometric allowances, travel expenses, and so forth).
Quebec	<i>An Act respecting Access to Documents held by Public Bodies and the Protection of Personal Information</i> , S.Q. 1982, c. 30 as amended (R.S.Q., c. A-2.1).	The <i>Act</i> applies to the "National Assembly, agencies whose members are appointed by the Assembly and every person designated by the Assembly to an office under its jurisdiction, together with the personnel under its supervision."
Ontario	<i>Freedom of Information and Protection of Privacy Act</i> , R.S.O. 1990, c. F.31 as amended.	The <i>Act</i> also applies to the Provincial Parliament, but only for records of defined "reviewable expenses" of the Leaders of a

PROVINCE	NAME OF RELEVANT ACT	PROVISIONS OF THE ACT INCLUDING OR EXCLUDING THE LEGISLATURE
		recognized opposition party and the persons employed in their respective offices. However, the <i>Act</i> requires the same for Ministers of the Crown, including Associate Ministers, and ministers without portfolio, parliamentary assistants and for persons employed in their respective offices; information in this case which comes not from the legislature, but from the government.
Manitoba	<i>Freedom of Information and Protection of Privacy Act</i> , C.C.S.M., c. F175	The Legislative Assembly is exempt. The <i>Act</i> only applies to government, government departments and Cabinet Ministers in their capacity as heads of government departments; it does not include the offices of Members of the Legislative Assembly who are not Ministers, or the offices of officers of the Legislative Assembly.
Saskatchewan	<i>Freedom of Information and Protection of Privacy Act</i> , S.S. 1990-91, c. F-22.01 as amended.	The <i>Act</i> specifically exempts from its reach the Legislative Assembly Office, the offices of MLAs, and the members of the Executive Council.
Alberta	<i>Freedom of Information and Protection of Privacy Act</i> , R.S.A. 2000, c. F-25 as amended.	The <i>Act</i> 's definition of "public bodies" includes the Legislative Assembly Office, the Office of the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, and the Information and Privacy Commissioner.
British Columbia	<i>Freedom of Information and Protection of Privacy Act</i> , R.S.B.C. 1996, c.165 as amended.	The <i>Act</i> excludes from its reach the office of a person who is a member or officer of the Legislative Assembly.

Sources: Correspondence with Clerks of Provincial Legislatures, and David Johansen, "Federal and Provincial Access to Information Legislation: An Overview."

APPENDIX 2
Publication of Members' Expenses
Online Access
(Memorandum by the Legislative Library, House of Assembly)

There are several ways to electronically make available Members' expenses information:

Source 1:

- A generic description of the Members' indemnities and benefits.

This source would include the basic Members' indemnity, additional indemnities for various positions (Premier, Speaker, Ministers, Committee Chairs, *etc.*) and would also include information about allowances and expenses (including details about per diems, allowable mileage, *etc.*) and other benefits (health, pensions, *etc.*). The information would be largely static, up-dated only as key information became superceded.

A document containing this type of information will flow naturally from the recommendations of the Green Report and the resulting final set of rules and procedures. It would be initially prepared by the Speaker's/Clerk's Office in conjunction with the Administration Division and with the approval of the IEC.

This type of document can be simply posted in a text or PDF document on the House of Assembly website. New editions could be posted as required but older editions could also be retained for comparison. Members, staff and the public would be able to access this information on the website.

Source 2:

- A periodic report of Members' actual expenses.

This would be a source that outlines in detail the actual expenses claimed by Members for a given period of time (annual, bi-annual, quarterly). The document would be prepared by the Administration Division and would be likely compiled from information maintained in the Financial Management System (FMS). The Administration Division would have to advise further on the logistics and complexities of producing such a document.

Production logistics notwithstanding, this type of document in its final form can also be simply posted in a text or PDF document on the House of Assembly website. New editions could be posted on schedule but older editions could be retained for comparison. Members, staff and the public would be able to access this information on the website.

Issue: Privacy issues associated with publicly posting this kind of information for individual Members may need to be considered.

Source 3:

- A searchable database of Members' expenses that can be accessed and sorted by various criteria.

This source would contain up-to-date information about Members' expenses. It would be accessible only by the Members or their proxy. The FMS would likely contain much if not all of the relevant information; however, it is unlikely that the FMS itself could be used to access this information directly without some modification. The information would have to be either:

- 1) transferred to a customized FMS module – Permission to develop a customized module would have to be obtained from the Comptroller General, proprietor of the FMS.
- 2) downloaded into a commercial software that suits the purpose – A commercial database suitable for this purpose would have to be identified and purchased. It is not known whether such software exists.
- 3) downloaded to custom built database – A custom database would have to be built either by the OCIO or an outside technology consultant. There may be significant associated development time and costs. The OCIO will have to be consulted if this option is pursued.

The Administration Division would have to be closely involved in the design, development and implementation of this database.

This database could be accessible through the network and/or via a House of Assembly Intranet. Note there are additional costs and development work associated with an Intranet.

Summary:

Sources 1 and 2 involve typically static but periodically up-dated text or PDF documents. Their production and online posting can be handled with existing House of Assembly resources. Source 3 would have to involve the OCIO and/or an outside technology consultant. Significant cost and/or development time may be involved.

APPENDIX 3

RECORDS MANAGEMENT PRACTICES (SUBMISSION BY HOUSE OF ASSEMBLY)

The Director of Information Management has responsibility for development and implementation of the Information Management (IM) policies, procedures, standards and infrastructure¹ required to manage the administrative and operational records of the House of Assembly including all of the offices created under the authority of the legislature:

- Speaker of the House of Assembly
- Clerk of the House of Assembly (including Finance, Information Management, Hansard and Broadcast divisions)
- Auditor General
- Chief Electoral Officer
- Commissioner of Members' Interests
- Citizens' Representative
- Child and Youth Advocate
- Information and Privacy Commissioner

Records include paper, electronic, magnetic, digital and all other types of records created and owned by the House of Assembly. To date, the Director has not had the opportunity or resources to implement sound records management practices within the House of Assembly. The Director has a dual role, encompassing records management and the Legislative Library. Upon taking the role of Director of Information Management, the current incumbent's immediate task was to rehabilitate the Legislative Library that had itself suffered for several years from lack of resources and poor management. All time and resources were directed to that goal and some progress has been made while other efforts continue. Unfortunately, because only minimal resources are available to the Director, the records management responsibilities have not been adequately dealt with.

Some of the problems identified by the 2006 Auditor General's reports may have been identified sooner or have been more evident if stronger records management practices had been in place. In hindsight, the lack of policies and procedures made it almost impossible for anyone other than a file creator to access information. As the House of Assembly is currently reviewing operations with a view to adopting best practices, this is the right time and opportunity to direct some resources towards records management initiatives, including staff resources. Ideally, a new position of Records Manager/Analyst would be created. This individual would have the skills required to implement sound practices and the dedicated time and resources to do so. Reporting to the Director of

¹ This is done in accordance with Federal and Provincial laws and policies, including the *Management of Information Act*, S.N.L. 2005 c. M 1-01.

Information Management, this position would be accountable for designing, developing, recommending and implementing cost-effective records management systems and protocols for all administrative and operational records/documents in the House of Assembly. The result should be reliable and standardized records creation, easier access to records by authorized personnel, more efficient workflow, ensured security and efficient and cost effective disposition of records.

APPENDIX 4

“Government proclaims *Access to Information and Protection of Privacy Act*,” (NLIS 3), (December 13, 2004) online: News Releases – Government of Newfoundland and Labrador

< <http://www.gov.nl.ca/releases/2004/just/1213n03.htm> >

Justice Minister and Attorney General Tom Marshall today announced access and privacy legislation for the province with the proclamation of the access provisions of the *Access to Information and Protection of Privacy Act* (ATIPPA). The new provisions included in ATIPPA follow extensive review and consultation to modernize and replace the *Freedom of Information Act*.

Approximately 460 public bodies are subject to ATIPPA, including government departments and agencies, school boards, public post-secondary institutions, health boards and municipalities. The Access to Information provisions will come into effect Monday, January 17, 2005, with proclamation of privacy provisions to take effect at a later date to be determined.

"We are pleased to move forward with this legislation which supports the Blueprint commitment to proclaim new freedom of information legislation, and governments openness and accountability agenda. This legislation will improve people's right to access information, and clearly define privacy provisions for the collection, use and disclosure of personal information," stated Minister Marshall. "Public bodies will become more open and accountable, while remaining committed to protecting personal privacy."

ATIPPA provides clarity for the people in the province of their right to information, and introduces a personal privacy regime to limit the collection, use and disclosure of personal information held by government or any of its agencies.

The Department of Justice will be responsible for the administration and coordination of ATIPPA. An ATIPP office has been established to provide strategic and operational leadership of this new legislation for all public bodies in the province. The office will act as government's primary technical, educational, advisory and policy resource in the administration of this legislation.

"The ATIPP office will facilitate a consistent coordinated approach to the administration of this legislation. The Department of Justice has completed extensive training and policy development, and continues to work with all public bodies to ensure they are familiar with ATIPPA," added Minister Marshall.

Pursuant to a resolution endorsed by the House of Assembly, Phil Wall has been appointed as the province's Information and Privacy Commissioner. As an officer of the House of Assembly, Mr. Wall will be responsible for informing the public about the legislation, providing an independent review mechanism for the citizens of the province, and will ensure that the legislation is upheld throughout

government. The commissioner will investigate and mediate complaints, as well as make recommendations to government and agencies.

"We are delighted to welcome Mr. Wall and are confident that he will provide solid leadership in his work with government and agencies to ensure that the legislation is upheld in a responsible manner," added the minister.

Media contact: Heather MacLean, Justice, (709) 729-6985 or (709) 690-2498.

APPENDIX 5
**RELEVANT SECTIONS OF THE ALBERTA FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT.**

Online: Alberta Government - FOIP - Freedom of Information and Protection of Privacy Act
<<http://foip.gov.ab.ca/legislation/act/section4.cfm>>

(Legislature applications have bold added for emphasis)

Section 4 - Records to which this Act applies

4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

(a) information in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta or The Provincial Court of Alberta, a record of a master of the Court of Queen's Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the *Justice of the Peace Act*, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;

(b) a personal note, communication or draft decision created by or for a person who is acting in a judicial or quasi-judicial capacity including any authority designated by the Lieutenant Governor in Council to which the *Administrative Procedures Act* applies;

(c) a quality assurance record within the meaning of section 9 of the *Alberta Evidence Act*;

(d) a record that is created by or for or is in the custody or under the control of an officer of the Legislature and relates to the exercise of that officer's functions under an Act of Alberta;

(e) information that is collected by or for or is in the custody or under the control of the Ethics Commissioner and relates to the disclosure statements of deputy ministers and other senior officers that have been deposited with the Ethics Commissioner;

(f) a record that is created by or for or is in the custody or under the control of the Ethics Commissioner and relates to any advice relating to conflicts of interest whether or not the advice was given under the *Conflicts of Interest Act*;

(g) a question that is to be used on an examination or test;

(h) teaching materials

(i) of an employee of a post-secondary educational body,

- (ii) of a post-secondary educational body, or
 - (iii) of both an employee of a post-secondary educational body and the post-secondary educational body;
- (i) research information of an employee of a post-secondary educational body;
 - (j) material that has been deposited in the Provincial Archives of Alberta or the archives of a public body by or for a person or entity other than a public body;
 - (j.1) published works collected by a library of a public body in accordance with the library's acquisition of materials policy;
 - (k) a record relating to a prosecution if all proceedings in respect of the prosecution have not been completed;
 - (l) a record made from information
 - (i) in the Personal Property Registry,
 - (ii) in the office of the Registrar of Motor Vehicle Services,
 - (iii) in the office of the Registrar of Corporations,
 - (iv) in the office of the Registrar of Companies,
 - (v) in a Land Titles Office,
 - (vi) in an office of the Director, or of a district registrar, as defined in the *Vital Statistics Act*, or
 - (vii) in a registry operated by a public body if that registry is authorized or recognized by an enactment and public access to the registry is normally permitted;
 - (m) a personal record or constituency record of an elected member of a local public body;
 - (n) a personal record of an appointed or elected member of the governing body of a local public body;
 - (o) a personal record or constituency record of a member of the Executive Council;
 - (p) a record created by or for the office of the Speaker of the Legislative Assembly or the office of a Member of the Legislative Assembly that is in the custody or control of the Legislative Assembly Office;**

(q) a record created by or for**(i) a member of the Executive Council,****(ii) a Member of the Legislative Assembly, or****(iii) a chair of a Provincial agency as defined in the *Financial Administration Act* who is a Member of the Legislative Assembly****that has been sent or is to be sent to a member of the Executive Council, a Member of the Legislative Assembly or a chair of a Provincial agency as defined in the *Financial Administration Act* who is a Member of the Legislative Assembly;**

(r) a record in the custody or control of a treasury branch other than a record that relates to a non-arm's length transaction between the Government of Alberta and another party;

(s) a record relating to the business or affairs of Credit Union Central Alberta Limited, a credit union or a dissolved credit union or relating to an application for incorporation as a credit union that is obtained or produced in the course of administering or enforcing the *Credit Union Act* or the regulations under it, other than a record that relates to a non-arm's length transaction between the Government and another party;

(t) a record of the information referred to in section 120(3) of the *Credit Union Act* or respecting loans made by a credit union that are subsequently assumed by the Credit Union Deposit Guarantee Corporation;

(u) health information as defined in the *Health Information Act* that is in the custody or under the control of a public body that is a custodian as defined in the *Health Information Act*.

(2) In this section and sections 23(1)(b) and 94(1)(n), "governing body"

(a) in relation to a university, means the board of governors or the general faculties council as described in the *Post-secondary Learning Act*,

(b) in relation to a public college, means the board of governors or the academic council as described in the *Post-secondary Learning Act*, and

(c) in relation to a technical institute, means the board of governors or the academic council as described in the *Post-secondary Learning Act*.

(3) In this section, "judicial administration record" means a record containing information relating to a judge of the Court of Appeal of Alberta, the Court of Queen's Bench of Alberta or The Provincial Court of Alberta or to a master of the Court of Queen's Bench of Alberta or a sitting

justice of the peace or a presiding justice of the peace under the *Justice of the Peace Act*, and includes

- (a) the scheduling of judges and trials,
- (b) the content of judicial training programs,
- (c) statistics of judicial activity prepared by or for a judge, and
- (d) any record of the Judicial Council established under Part 6 of the *Judicature Act*.

(4) For the purposes of subsection (1)(r) and (s), a non-arm's length transaction is any transaction that has been approved

- (a) by the Executive Council or any of its committees,
- (b) by the Treasury Board or any of its committees, or
- (c) by a member of the Executive Council.

RSA 2000 cF-25 s4;RSA 2000 cH-5 s114;RSA 2000 s16(Supp) s46;2003 cP-19.5 s139;2003 c21 s3;2006 c17 s3

<<http://www.foip.gov.ab.ca/legislation/act/section 29.cfm>>

Section 29 - Information that is or will be available to the public

29(1) The head of a public body may refuse to disclose to an applicant information

- (a) that is readily available to the public,
 - (a.1) that is available for purchase by the public, or
 - (b) that is to be published or released to the public within 60 days after the applicant's request is received.

(2) The head of a public body must notify an applicant of the publication or release of information that the head has refused to disclose under subsection (1)(b).

(3) If the information is not published or released within 60 days after the applicant's request is received, the head of the public body must reconsider the request as if it were a new request received on the last day of that period, and access to the information requested must not be refused under subsection (1)(b).

RSA 2000 cF-25 s29;2003 c21 s6

APPENDIX 6

An Act respecting Access to documents held by public bodies and the Protection of Personal Information, R.S.Q., c. A-2.1

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/A_2_1/A2_1_A.html

<http://www.cai.gouv.qc.ca/index-en.html>

(Relevant sections have bold added for emphasis)

CHAPTER I

APPLICATION AND INTERPRETATION

DOCUMENTS

1. This Act applies to documents kept by a public body in the exercise of its duties, whether it keeps them itself or through the agency of a third party.

Public bodies

3. The Government, the Conseil exécutif, the Conseil du Trésor, the government departments and agencies, municipal and school bodies and the health services and social services institutions are public bodies.

For the purposes of this Act, the Lieutenant-Governor, the National Assembly, agencies whose members are appointed by the Assembly and every person designated by the Assembly to an office under its jurisdiction, together with the personnel under its supervision, are classed as public bodies.

Exception.

The courts within the meaning of the *Courts of Justice Act* (chapter T-16) are not public bodies.

Restricted documents

34. No person may have access to a document from the office of a member of the National Assembly or a document produced for that member by the services of the Assembly, unless the member deems it expedient.

The same applies to a document from the office of the President of the Assembly or of a member of the Assembly contemplated in the first paragraph of section 124.1 of the *Act respecting the National Assembly* (chapter A-23.1) or a minister contemplated in section 11.5 of the *Executive Power Act* (chapter E-18), and to a document from the office staff or office of a member of a municipal or school body.

1982, c. 30, s. 34; 1982, c. 62, s. 143; 1983, c. 55, s. 132; 1984, c. 47, s. 1.

Deliberations

35. A public body may refuse to disclose the records of the deliberations of a meeting of its board of directors or, as the case may be, of its members in the performance of their duties until the expiry of fifteen years from their date.

1982, c. 30, s. 35.

Draft bill

36. A public body may refuse to release a preliminary draft of a bill or regulations until the expiry of ten years from its date.

Related study

Subject to subparagraph 5 of the first paragraph of section 33, the same applies to studies directly relating to the draft bill or draft regulation, unless the draft bill has been tabled in the National Assembly or the draft regulation has been made public in accordance with the law.

1982, c. 30, s. 36; 1982, c. 62, s. 143.

.....

not in force

Measures.

63.2. A public body, except the Lieutenant-Governor, the National Assembly or a person designated by the National Assembly to an office under its jurisdiction, must protect personal information by implementing the measures enacted for that purpose by regulation of the Government.

2006, c. 22, s. 34.

**APPENDIX 7
FREEDOM OF INFORMATION
AND PROTECTION OF PRIVACY ACT (PEI)
CHAPTER F-15.01**

(Relevant sections have bold added for emphasis)

Definitions

1. In this Act

h) “officer of the Legislative Assembly” means the Auditor General, the Clerk, Clerk Assistant and Sergeant-at-Arms, Chief Electoral Officer, the Information and Privacy Commissioner or the Conflict of Interest Commissioner;

(k) “public body” means

- (i) a department, branch or office of the Government of Prince Edward Island,
- (ii) an agency, board, commission, corporation, office or other body designated as a public body in the regulations,
- (iii) the Executive Council Office, and
- (iv) the office of an officer of the Legislative Assembly, but does not include
- (v) the office of the Speaker of the Legislative Assembly and the office of a Member of the Legislative Assembly, or
- (vi) the Supreme Court of Prince Edward Island or the Provincial Court of Prince Edward Island

Records to which this Act applies

4. (1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:

(c) a record that is created by or for or is in the custody or under the control of an officer of the Legislative Assembly and relates to the exercise of that officer’s functions under an enactment;

(j) a record created by or for the office of the Speaker of the Legislative Assembly or the office of a member of the Legislative Assembly;

(h.1) a personal record or constituency record of an elected or appointed member of a public body;

(i) a personal record or constituency record of a member of the Executive Council;

(j) a record created by or for the office of the Speaker of the Legislative Assembly or the office of a member of the Legislative Assembly;

(k) a record created by or for

(i) a member of the Executive Council, or

(ii) a member of the Legislative Assembly that has been sent or is to be sent to a member of the Executive Council or a member of the Legislative Assembly;

Privileged information

25. (1) The head of a public body may refuse to disclose to an applicant

(a) information that is subject to any type of legal privilege including solicitor-client privilege or parliamentary privilege.

(3) Only the Speaker of the Legislative Assembly may determine whether information is subject to parliamentary privilege.

2001,c.37,s.25; 2002,c.27,s.17.

(5) This section does not apply

(a) to a decision by the Speaker of the Legislative Assembly that a record is subject to parliamentary privilege;

(b) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislative Assembly, to a decision, act or failure to act of that person when acting as the head of that office; or

(c) to a decision, act or failure to act of the Commissioner when acting as the head of the Office of the Information and Privacy Commissioner.

2001,c.37,s.60; 2005,c.6,s.17.

PART IV

REVIEWS AND COMPLAINTS

Division 1

Reviews by the Commissioner

60. (1) A person who makes a request to the head of a public body for access to a record or for correction of personal information may ask the Commissioner to review any decision, act or failure to act of the head that relates to the request.

(5) This section does not apply

- (a) to a decision by the Speaker of the Legislative Assembly that a record is subject to parliamentary privilege;
- (b) if the person who is appointed as the Commissioner is, at the same time, appointed as any other officer of the Legislative Assembly, to a decision, act or failure to act of that person when acting as the head of that office; or

APPENDIX 8
FREEDOM OF INFORMATION ACT 2000 (UK)

(SECTIONS FROM THE ACT)

An *Act* to make provision for the disclosure of information held by public authorities or by persons providing services for them and to amend the *Data Protection Act 1998* and the *Public Records Act 1958*; and for connected purposes.

[30th November 2000]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

PART I

ACCESS TO INFORMATION HELD BY PUBLIC AUTHORITIES

Right to information

General right of access to information held by public authorities.

1. (1) Any person making a request for information to a public authority is entitled-
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.
- (2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.
- (3) Where a public authority-
 - (a) reasonably requires further information in order to identify and locate the information requested, and
 - (b) has informed the applicant of that requirement,
 the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.
- (4) The information-
 - (a) in respect of which the applicant is to be informed under subsection (1)(a), or
 - (b) which is to be communicated under subsection (1)(b),
 is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.
- (5) A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).

(6) In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as "the duty to confirm or deny".

Publication schemes.

19. (1) It shall be the duty of every public authority-

- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner (in this *Act* referred to as a "publication scheme"),
- (b) to publish information in accordance with its publication scheme, and
- (c) from time to time to review its publication scheme.

(2) A publication scheme must-

- (a) specify classes of information which the public authority publishes or intends to publish,
- (b) specify the manner in which information of each class is, or is intended to be, published, and
- (c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.

(3) In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest-

- (a) in allowing public access to information held by the authority, and
- (b) in the publication of reasons for decisions made by the authority.

(4) A public authority shall publish its publication scheme in such manner as it thinks fit.

(5) The Commissioner may, when approving a scheme, provide that his approval is to expire at the end of a specified period.

(6) Where the Commissioner has approved the publication scheme of any public authority, he may at any time give notice to the public authority revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is given.

(7) Where the Commissioner-

- (a) refuses to approve a proposed publication scheme, or
- (b) revokes his approval of a publication scheme, he must give the public authority a statement of his reasons for doing so.

Model publication schemes.

20. (1) The Commissioner may from time to time approve, in relation to public authorities falling within particular classes, model publication schemes prepared by him or by other persons.

(2) Where a public authority falling within the class to which an approved model scheme relates adopts such a scheme without modification, no further approval of the Commissioner is required so long as the model scheme remains approved; and where such an authority adopts such a scheme with modifications, the approval of the Commissioner is required only in relation to the modifications.

(3) The Commissioner may, when approving a model publication scheme, provide that his approval is to expire at the end of a specified period.

(4) Where the Commissioner has approved a model publication scheme, he may at any time publish, in such manner as he thinks fit, a notice revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is published.

(5) Where the Commissioner refuses to approve a proposed model publication scheme on the application of any person, he must give the person who applied for approval of the scheme a statement of the reasons for his refusal.

(6) Where the Commissioner refuses to approve any modifications under subsection (2), he must give the public authority a statement of the reasons for his refusal.

(7) Where the Commissioner revokes his approval of a model publication scheme, he must include in the notice under subsection (4) a statement of his reasons for doing so.

Parliamentary privilege.

34. (1) Information is exempt information if exemption from section 1(1)(b) is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.

(2) The duty to confirm or deny does not apply if, or to the extent that, exemption from section 1(1)(a) is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.

(3) A certificate signed by the appropriate authority certifying that exemption from section 1(1)(b), or from section 1(1)(a) and (b), is, or at any time was, required for the purpose of avoiding an infringement of the privileges of either House of Parliament shall be conclusive evidence of that fact.

(4) In subsection (3) "the appropriate authority" means-

- (a) in relation to the House of Commons, the Speaker of that House, and
- (b) in relation to the House of Lords, the Clerk of the Parliaments.

SCHEDULES

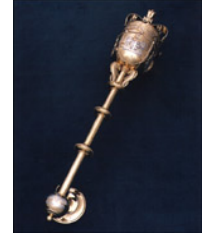
SCHEDULE 1

PUBLIC AUTHORITIES

PART I

GENERAL

1. Any government department.
2. The House of Commons.
3. The House of Lords.
4. The Northern Ireland Assembly.
5. The National Assembly for Wales.
6. The armed forces of the Crown, except-
 - (a) the special forces, and
 - (b) any unit or part of a unit which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in the exercise of its functions.



Appendix 5.4

Current Members' Constituency Expense Claim Form



Appendix 5.5

The Applicability of the Accounting Officer Position in the House of Assembly

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Assembly**

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in the House of Assembly**

**Christopher Dunn
Department of Political Science
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Review Commission on Constituency Allowances and Related Matters 2007

One of the issues that has emerged during the course of the Commission's operations has been the locus of management responsibility in the House of Assembly. At various times in the history of the allowances issue, it has seemed as if the responsibility for management decisions has been shared between the IEC, the Speaker, the Clerk and the Director of Financial Operations of the House. The job of the Commission should be to help clarify such responsibility. One promising avenue to achieve this is the position of Accounting Officer, as practised in the UK Parliament. It is incumbent on us, then, to offer recommendations after having examined: the nature of existing practices regarding the Clerk in this province, the nature of the position of the Accounting Officer in Britain, the possibility of such a reform in Canada, and the advantages and disadvantages of such a position.

Our contention is that the Clerk of the House should be accorded the responsibilities and powers of an Accounting Officer in the UK tradition. This is a somewhat awkward recommendation to make, because the UK system involves the generalization of the position throughout the executive government, not just in the parliamentary context. Newfoundland and Labrador does not have such a tradition in the executive branch, of course, and to date government policy has been silent on the notion of the Accounting Officer. Nevertheless, there may be advantage in adopting selected aspects of the tradition in this province.

Existing practices regarding the Clerk in Newfoundland and Labrador

The Clerk of the House of Assembly, partly by practice and partly by oblique legislative reference to arrangements in the UK, is expected to play a prime role in the financial management of the House.

The position of Clerk is as old as the House of Assembly in Newfoundland; that is, it dates back to 1833. So important was the position deemed, merited its own legislation early in the period of Responsible Government¹ and early in the era of provincial government.² His or her position is a Lieutenant-Governor-in-Council appointment (effectively, a Cabinet appointment),³ as is that of the Assistant Clerk of the House of Assembly and the Sergeant-at-Arms of the House of Assembly.

The language of the Clerk's duties has not changed since the dawn of representative government, and no explicit, detailed direction was or is offered with regard to the management responsibilities of the Clerk. *The Clerk's Act* of 1990 has only two sections describing duties, one records related and one referring to 'general duties' based on those of the Commons Clerk in the UK. Section 4 has virtually the same wording as the 1878 legislation:

4. The Clerk and Assistant Clerk of the House of Assembly shall have the custody of, and be responsible for the safe-keeping of the records of, the House of Assembly and all despatches, bills, petitions and documents presented to or laid on the table of the House of Assembly, and shall produce them when required by the Speaker or by his or her order on motion of a Member of the House of Assembly.

¹ An Act to Regulate the Office of the Clerk of the General Assembly, cap. 11, Statutes of Newfoundland 1878.

² An Act respecting the Office of the Clerk of the House of Assembly, Revised Statutes of Newfoundland, 1952.

³ See Section 4 of the *IEC Act*.

5. The general duties of the Clerks of the House of Assembly, where no special provision is made, shall be similar to those of the Clerks of the House of Commons in England according to the practice of Parliament, or as may be provided by resolution of the House of Assembly.⁴

In turn, this description of duties is almost identical to that established for the Clerk in the provincial legislature's original *Act* after Confederation. However, this post-Confederation *Act* mentions in addition that the Clerk annually prepares the estimates which cover the Member's indemnities, and all salaries, allowances and contingent expenses of the House, beginning July 1, and that these are submitted to the Commission of Internal Economy for approval.⁵

Thus it occurs that there is even less specificity regarding the incumbent's financial responsibilities in recent Clerk's legislation than there was in the original. This is compensated for somewhat by the inclusion of Clerk-related duties in the most recent *Internal Economy Commission Act*:

6. (1) An estimate of the amounts required to be provided by the Legislature for the payment of the member's salaries and other expenses of the House of Assembly during the year beginning on April 1 in each year shall be prepared annually by the clerk.

(2) The estimates prepared by the clerk shall be submitted to the commission for its approval and may be altered by the commission.

(3) The estimates as approved or altered by the commission shall be submitted to the minister and shall be laid before the House of Assembly with the other estimates for the year.⁶

The legislation, however, says nothing about the management or accountability functions of the Clerk of the Assembly. In cases where Members and the public need to be able to affix administrative responsibility for financial affairs, therefore, the legislation is of little assistance. Perhaps it is time to look elsewhere, where responsibility is more clearly delineated.

⁴ Referenced in the *Clerk of the House of Assembly Act*, R.S.N.L. 1990, c. C-19, as amended 2001 c. N-3.1 s. 2. The description of duties is almost identical to that of 1878, with slight differences to modernize terms.

⁵ *An Act respecting the Office of the Clerk of the House of Assembly*, Revised Statutes of Newfoundland, 1952.

⁶ R.S.N.L. 1990 c I-14.

The UK Clerk of the House as Accounting Officer

Contrast this state of affairs with the management role of the Clerk of the Commons in the United Kingdom. Rogers and Walters say,

It may seem strange the Clerk combines the somewhat academic precision of procedural matters with overall responsibility to the management of the House's services. In fact it would be strange if he were not to do so. He is the authority on all aspects of the House's core business - not just the drier matters of procedure - and no one is in a better position to understand from long experience how the main functions of the House need to be supported and how they can be made more effective.⁷

In the UK Parliament, the Clerk of the House is Accounting Officer for the entire House of Commons Administration Estimate (which in 2004-2005 amounted to £148m). Accordingly, the Clerk is responsible for the expenditure of all six House departments: Department of the Clerk of the House, Department of the Sergeant-at-Arms, Department of the Library, Department of Finance and Administration, Department of the Official Report [Hansard] and Refreshment Department. The Clerk is also responsible for other expenditure items included under the Administration Estimate. These include superannuation, police and security services, postage, telecommunications and computer services. In addition to the Administration Estimate, the Clerk is the Accounting Officer for the Members' Salaries and Allowances, amounting to more than £120m. Salaries and allowances for Members' chosen personal, secretarial and support staff are charged against each Member's Staffing Allowance.⁸ As Accounting Officer, the Clerk is responsible for matters of propriety and economy of expenditure.

However, serving as Accounting Officer is only one of several significant managerial responsibilities. The Clerk's functions as head procedural official are no doubt the most well-known, and they are aided by a Clerk's Department of about 360 staff,⁹ but over and above this are formidable managerial responsibilities overseeing a small administrative empire. As the official factsheet describing the Clerk of the House outlines,

The Clerk's wider role has become more prominent in recent years, and now includes duties as Chief Executive of the House of Commons Service and its 1,400 staff (since July 2000), [now around 1,700], and Corporate Officer (according to the requirements of the *Parliamentary Corporate Bodies Act 1992*).

The Clerk's role as Chief Executive means that he or she is responsible for a wide range of matters relating to the administration of the services of the House of Commons. The six Departments of the House ... are answerable to the House of Commons Commission, a

⁷ Robert Rogers and Rhodri Walters, *How Parliament Works*, 6th ed. (Harlow, England: Pearson Longman, 2006), p. 58.

⁸ UK House of Commons Information Office, "The House of Commons Administration Factsheet G15 General Series," (Revised January 2005). Online: UK Parliament - Factsheets <<http://www.parliament.uk/documents/upload/g15.pdf>>.

⁹ Rogers and Walters, p. 62.

statutory body of Members of the House presided over by the Speaker, which came into being in 1978, and also to the Clerk as Chief Executive. The Clerk of the House is the Commission's principal adviser and attends their meetings. He or she also chairs the Board of Management on which sit the heads of all the other five Departments of the House and a representative of the Clerk's Department. The Clerk presides over the Whitley Committee, where management meets trade unions representing many staff in all House Departments. Similarly, the Clerk is Accounting Officer for expenditure borne on both House Estimates...¹⁰

Accounting officers

Accounting Officers have existed in the United Kingdom since 1872 by Treasury practice, and since 2000 by statute [the *Government Resources and Accounts Act*].¹¹ The Treasury issues each Accounting Officer, "The responsibilities of an Accounting Officer."¹² Crucial aspects of the Clerk's responsibilities are included in sections 5 and 6 of that document:

5. The appointment of the permanent head of a department as its Principal Accounting Officer reflects the fact that under the minister he or she has personal responsibility for the overall organisation, management and staffing of the department and for department-wide procedures, where these are appropriate, in financial and other matters. The permanent head must ensure that there is a high standard of financial management in the department as a whole; that financial systems and procedures promote the efficient and economical conduct of business and safeguard financial propriety and regularity throughout the department; and that financial considerations are fully taken into account in decisions on policy proposals. Specific responsibility for the organisation, management, staffing and financial and other procedures in a defined area of the department may be assigned to an Additional Accounting Officer or an agency Accounting Officer...

The specific of Accounting Officers

6. The essence of an Accounting Officer's role is a personal responsibility for the propriety and regularity of the public finances for which he or she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the available resources.

The concepts of "propriety" and "regularity" are therefore core responsibilities of the

¹⁰ UK House of Commons Information Office, The Clerk of the House, Factsheet G16 General Series, (Revised July 2003), online: UK Parliament – Factsheets: <<http://www.parliament.uk/documents/upload/g16.pdf>>

¹¹ C.E.S. (Ned) Franks, "The Respective Responsibilities and Accountabilities of Ministers and Public Servants: A Study of the British Accounting Officer System and its Relevance for Canada," in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies* Volume 3, pp. 157-230. This study, an addition to other works by Franks, is an important and invaluable examination of the Accounting Officer considered in a comparative UK-Canada context, and is relied upon heavily in subsequent sections of this essay.

¹² For a review of these modern responsibilities, see the Treasury site:
http://www.government-accounting.gov.uk/current/content/ga_04_1.htm

Accounting Officer, and have been since the 19th century. A modern responsibility, added in the late 20th century, is that of “value-for-money.” The meanings of these terms are outlined in various Treasury financial documents. The Treasury’s *Regularity and Propriety and Value for Money: Treasury Officers of Accounts* describes regularity and propriety this way:

Regularity is “the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorizing them, any applicable delegated authority and the rules of Government Accounting.”¹³

Propriety is a more complex and less clear-cut matter than regularity:

Whereas regularity is concerned with compliance with appropriate authorities, propriety goes wider than this and is concerned more with standards of conduct, behaviour and corporate governance. It is concerned with fairness and integrity and would include matters such as the avoidance of personal profit from public business, even-handedness in the appointment of staff, open competition in the letting of contracts and the avoidance of waste and extravagance.¹⁴

Proper behaviour is hard to identify in certain situations. According to a C.E.S. Franks, the Treasury indicates that to be proper, a certain course of action should:

- follow the rules and seek approval where this is required;
- put in place and follow clear procedures;
- resolve any conflict of interests;
- not use public money for private benefit;
- be even-handed;
- include records; and
- be transparent and so able to accept scrutiny.¹⁵

Another outlines three criteria to aid in value-for-money assessments by Accounting Officers:

- Economy: minimizing the cost of resources used or required spending less.
- Efficiency: the relationship between the output from goods or services and the resources to produce them - spending well.

¹³ United Kingdom, HM Treasury, *Regularity, Propriety and Value for Money: Treasury Officer of Accounts*, (November, 2004), p.9.

¹⁴ *Ibid.*, p. 11.

¹⁵ *Ibid.*, p.39.

- Effectiveness: the relationship between the intended and the actual results of public spending - spending wisely.¹⁶

In the UK tradition, the ball is in the court of the Public Accounts Committee, rather after the fact. The procedure is that the Accounting Officer (usually a Permanent Secretary - the analogue to the Deputy Minister in Canada) informs the Minister if he or she objects to a proposed ministerial course of action which he/she feels would infringe upon the requirements of propriety or regularity. If the Minister persists in the proposed course of action, the Accounting Officer puts in writing his or her objections to the proposal, the reasons for those objections, and his or her duty to notify the Comptroller and Auditor General (C&AG) should the advice be overruled. If the Minister proceeds, the Accounting Officer may seek a written instruction to take the action in question. If the Accounting Officer receives an instruction from the Minister in writing, he or she is bound to comply with it, but informs the Treasury of what has occurred, and transmits the papers to the C&AG “without undue delay.” The Accounting Officer is likely to be called to testify before the venerable Public Accounts Committee of the House with regard to the accounts which he or she has signed off on, as well as other responsibilities, including those arising from the written disagreements with the Minister that the C&AG may use in reports to the Public Accounts Committee. There are not many cases of written disagreements (the average is between one and two a year in the whole of government), and not many relevant Public Accounts investigations (only about 50 a year, and not all department-related), but the deterrent value is great.

The Steps to the Introduction of the Accounting Officer in Canada

Essentially, Accounting Officers are Deputy Ministers or equivalents who are held to account before parliamentary committees for powers that are directly assigned or delegated to them by legislation. Whereas the United Kingdom has had Accounting Officers for well over a century, the government of Canada has only recently introduced legislation to introduce them into the federal service. The idea has gained currency despite much official opposition in the last few decades, especially since it was recommended in the 1979 Lambert Committee Report as one of three distinct but interrelated procedures for setting goals and reviewing their achievement.¹⁷ In addition to commissions and committees, academics and the government have recommended the move to Accounting Officers in Canada.

Commissions and Committees

The Lambert Commission recommended that

¹⁶ United Kingdom, HMTreasury, *Guide to the Scrutiny of Public Accounts*, (2004), para. 2.12.

¹⁷ Canada, Royal Commission on Financial Management and Accountability *Final Report* (Ottawa: Minister of Supply and Services Canada, March 1979), (Chair: Allen Thomas Lambert). See especially Chapter 9.

Deputy Ministers be liable to be called to account directly to their assigned and delegated responsibilities before the parliamentary committee most directly concerned with administrative performance, the Public Accounts Committee.¹⁸

“Assigned duties” were those formal definitions of deputies’ directly assigned duties and responsibilities outlined in relevant Acts of Parliament; and “delegated duties” involved authority delegated to deputies by Ministers or by central agencies responsible for administering the Act. Deputy heads were not at that time held accountable in a systematic and coherent way for program management and departmental administration. It was essential that the authority of deputies with regard to administration be clearly prescribed, and that the deputies be accountable for that administration. In order to bolster and complement their other accountabilities and those of other actors.

Parliamentary committees have supported this notion, often in the face of substantial government opposition. In 1985, the McGrath Committee on the Reform of the House of Commons called for the accountability of Deputy Ministers before parliamentary committees for the administration of their departments, arguing that ministerial accountability for this only obscured the issue.

The individual responsibility of ministers concerns the administration of their departments. It is no longer reasonable that a minister be accountable or responsible when, through no fault of the minister, senior officials misuse or abuse their powers....

The idea of a minister being responsible for everything that goes on in a department may once have been realistic, but it has long since ceased to be so. A minister cannot possibly know everything that is going on in a department. The doctrine of ministerial accountability undermines the potential for genuine accountability on the part of the person that ought to be accountable - the senior officer of the department.¹⁹

The Canadian House of Commons Public Accounts Committee in 2005 reported that the Sponsorship Scandal had exhibited a breakdown in accountability and responsibility.²⁰ Attracted by the example of the British Accounting Officer, the Committee made several interrelated recommendations. The language of these recommendations in many places relies directly upon that of the British Treasury.

Recommendation No. 1

¹⁸ Ibid., p. 189.

¹⁹ Special Committee on Reform of the House of Commons, *Third Report*, (Ottawa: Queen’s Printer for Canada, 1985), pp. 20-21, (Chair: Hon. James McGrath).

²⁰ *Governance in the Public Service of Canada: Ministerial and Deputy Ministerial Accountability*, (Ottawa: Library of Parliament, May 2005), (Chair: John Williams).

That deputy ministers be designated as accounting officers with responsibilities similar to those held by accounting officers in the United Kingdom. Features of this arrangement must include, but not limited to, the following:

- *The personal duty of signing the financial accounts described in his or her letter of appointment.*
- *The personal responsibility for the overall organization, management and staffing of the department and for department-wide procedures in financial and other matters.*
- *Ensuring that there is a high standard of financial management in the department as a whole.*
- *Personal responsibility for all powers and authorities either delegated or directly held.*
- *Ensuring that financial systems and procedures promote the efficient and economical conduct of business and safeguard financial propriety and regularity throughout the department.*
- *Ensuring that the department complies with parliamentary requirements in the control of expenditure with particular attention ensuring that funds are spent only to the extent and purposes authorized by Parliament.*
- *As accounting officers, the personal responsibility of deputy ministers for negligence and wrongdoing does not diminish over time.*

Recommendation No. 2

That as accounting officers, deputy ministers be held to account for the performance of their duties and for their exercise of statutory authorities before the House of Commons Standing Committee on Public Accounts.

Recommendation No. 3

That the following procedures be adhered to when deputy ministers (as accounting officers) are in disagreement with their ministers regarding administration and operation of their departments:

- 1. The deputy minister must inform the minister if he or she has objections to a course of action proposed by the minister.*
- 2. If the minister still wishes to proceed, the deputy minister must set out his or her objections to the course of action in a letter to the minister stating the reasons for the objections and the deputy minister's duty to notify both the Auditor General of Canada and the Comptroller General of Canada.*
- 3. If the minister still wishes to proceed, he or she, must instruct the deputy minister in writing to do so.*
- 4. If instructions to proceed are received in writing, the deputy minister must send copies of the relevant correspondence to both the Auditor General of Canada and Comptroller General of Canada.²¹*

The last Commission to recommend a version of the Accounting Officer was Gomery's. In did so in its "Phase II Report," which considered changes necessary to the Canadian parliamentary and public administration practice to prevent a repeat of the Sponsorship Scandal.²² Gomery was flexible as to whether the written disagreement between Minister and Deputy should simply be sent to the Comptroller and Auditor General as in (the UK tradition), or referred to the Treasury Board for an actual decision (the new Canadian policy). The crux of the matter was what protection was necessary for Parliamentary supremacy, the rule of law, and ministerial responsibility. In the end, Gomery offered a version of the UK system:

²¹ Ibid., p. ix-x.

²² Canada, Commission of Inquiry into the Sponsorship Program & Advertising Activities, *Restoring Accountability: Recommendations Phase 2 Report* (Ottawa: February, 2006), p. 200.

Recommendation No. 4

In order to clear up the confusion over the respective responsibilities and accountabilities of Ministers and public servants, the Government should modify its policies and publications to explicitly acknowledge and declare that Deputy Ministers and senior public servants who have statutory responsibility are accountable in their own right for their statutory and delegated responsibilities before the Public Accounts Committee.

Recommendation No. 5.

The Government should establish a formal process by which a Minister is able to overrule a Deputy Minister's objection to a proposed course of action in an area of jurisdiction over which the Deputy Minister possesses statutory or delegated powers. The decision of the Minister should be recorded in correspondence to be transmitted by the Deputy Minister concerned to the Comptroller General in the Treasury Board Secretariat, and be available there for examination by the Office of the Auditor General.

Academics

Academics have since made similar recommendations, calling for direct deputy accountability. Donald Savoie's 2003 indictment of the lack of clarity regarding political and official boundaries in the federal government, and in particular with relation to the lack of specificity about ministerial and deputy minister roles, had this to say: "Nothing in the past has prevented Deputy Ministers from requesting their Ministers to put in writing instructions when propriety is in question, but there has never been formal recognition of such a responsibility."²³ Such recognition might have bolstered the Deputy Minister of Public Works and Government Services, when his Minister directed him to give advertising contracts to Groupeaction in 1996 and 1997 outside of the strictures of the *Financial Administration Act*; instead, the Auditor General in her explosive 2004 report noted that senior civil servants had "broken just about every rule in the book." The advantage of having an Accounting Officer in every department would be that it could "create administrative space for career officials, while respecting the doctrine of ministerial accountability ... ministerial responsibility would still apply, and ministers would have their way provided that, if necessary, they were prepared to issue their instructions in writing."²⁴

Aucoin and Jarvis suggest that deputies, not Ministers, accept responsibility for matters within their statutory area, but they do not agree with the written disagreements procedure:

A fully effective accountability regime for public governance and management in a Westminster parliamentary system requires

²³ Donald Savoie, *Breaking the Bargain: Public Servants, Ministers and Parliament* (Toronto: University of Toronto Press, 2003), p. 259.

²⁴ *Ibid.*, p. 259.

three things:

- 1) transparency - so that the facts and files on a matter for which an account must be rendered are public knowledge;
- 2) audit and review - so that independent and professional assessments are provided to those who must hold others to account; and
- 3) scrutiny - so that those who must provide accounts are questioned and their reports challenged.

In Canada, considerable progress has been made to what once was a closed if not highly secretive system. There has been a major expansion to the mandate and capacity of Parliament's audit and review agencies, especially to that of the Office of the Auditor General. And Question Period continues to be a forum for intense political scrutiny, especially because it is televised. However, parliamentary scrutiny via parliamentary committees, which in the modern era must carry the main burden of holding to account ministers and their departmental officials (and the boards of arm's length agencies), has not been up to the task ...House committees are all too often merely an extension of the government; Senate committees do not have the required democratic legitimacy.

In this context, the failure to adopt measures that explicitly acknowledge and accept deputy minister accountability in Parliament, separate from ministerial accountability, has served to diminish public respect for the constitutional convention of ministerial responsibility. The public and media perception that nothing happens when things go wrong is fed by a misconception that ministers (or public servants) will immediately accept responsibility and personal culpability when things go wrong, without any effort by Parliament to extract accounts and to hold someone accountable. Unfortunately, only the audit agencies of government and Parliament appear to be functioning properly, in part obviously because they have the mandate to evaluate and assess the performance of ministers and their officials.²⁵

In keeping with this tack, the authors suggest a modified form of accountability for Deputy Ministers:

In practice, deputy ministers are already held accountable by

²⁵Peter Aucoin and Mark D. Jarvis, *Modernizing Government Accountability: A Framework for Reform* (Ottawa: Canada School for Public Service, 2005), pp. 88-89.

parliamentary committees. This is as it should be, given that they have personal assigned and delegated authorities and responsibilities. Deputy minister accountability to Parliament is a logical extension of the ministerial responsibility regime as it has evolved in Canada, given the limits on ministerial authority and responsibility respecting the management of their departments. Nonetheless, its formal recognition would help to clarify public accountability in the Canadian regime. In addition to this recognition, two major principles should be understood:

- deputy ministers should be held publicly accountable exclusively and solely for the authorities and responsibilities assigned by statute or delegated to them by the Treasury Board and the Public Service Commission; and
- deputy ministers should not expect their minister to accept responsibility for decisions that fall within the deputy's sphere of authority and responsibility.

The recognition of the limited sphere of deputy minister authority and responsibility is important for two reasons. First, a deputy's sphere of authority and responsibility does not, by definition, encompass everything some would want to include under a generic definition of "management," "administration," "policy implementation," "service delivery" or "operations." Rather, the sphere is defined by what is stated in the law and in formal instruments of delegation from the Treasury Board and the Public Service Commission.

Second, we do not think that Canada should adopt the British procedure that permits an accounting officer to request her or his minister to put an instruction in writing whenever the accounting officer disagrees with the minister on a course of action and the minister insists. In this instance, as noted, the written instruction is sent to the Public Accounts Committee, the Auditor General and the Treasury. This procedure in Canada would invariably establish distrust between a minister and a deputy, and would reduce the capacity for collaboration in the direction and management of a department. The fact that the procedure is rarely used in Britain is testimony to this concern. In any event, when faced with proposed transactions that fall within the deputy's authorities and responsibilities, but which the deputy does not want to approve, the deputy, in our view, should either inform her or his minister that she or he will not approve them or accept personal responsibility and accountability before a parliamentary committee. A deputy minister must be able and willing to draw the line at what goes beyond good public administration. They should not be allowed to escape responsibility by sending the Public Accounts

Committee and the Auditor General a card proclaiming that “the devil made me do it.” And a deputy can always consult with the Clerk when a minister wishes to pursue a dubious course of action that, in the deputy’s judgment, would reflect poorly on the government. For their part, departmental ministers can always speak to the Clerk or even the Prime Minister directly when they do not feel well served by their deputies. There are, in other words, existing courses of action for each.²⁶

As can be seen from the literature, however, that these authors are among the outliers in opinions regarding Accounting Officers, as can be seen from the literature.

C.E.S. (Ned) Franks makes some positive recommendations in a paper for the Gomery Commission:

- Deputy ministers should be accountable in their own right as the holders of responsibility before the Public Accounts Committee.
- The Government should establish a formal process through which a Minister can overrule a Deputy Minister’s objections on matters related to the powers that deputy ministers hold in their own right.
- These overrulings should be recorded in correspondence between the Minister and the Deputy. This correspondence should be transmitted to the appropriate officer in the Treasury Board Secretariat and be available for examination by the Office of the Auditor General.
- Deputy ministers should serve in an office for three to five years.
- The Treasury Board should prepare a protocol that instructs and informs deputy ministers on the scope of those matters for which they hold personal responsibility and are liable to be held accountable before the Public Accounts Committee. This protocol should be agreed to by the Public Accounts Committee, and it should establish the ground rules for the appearance of deputy ministers as witnesses before the Committee.
- Members of the Public Accounts Committee should be expected to serve on the Committee for the duration of a Parliament.²⁷

Government

²⁶Ibid., pp. 79-80.

²⁷Franks, *ibid.*

Lastly, government has become comfortable with the concept of the accounting officer after years of reticence. Jean Chretien, for example, in 2002 asked the President of the Treasury Board to bring down “new measures ... to provide for more explicit accounting by deputy ministers for the affairs of their departments.”²⁸ However, this declaration was not matched with clear action to bring it into effect.

The 2006 Conservative White Paper, *The Federal Accountability Act and Action Plan*, signaled that the new Government would opt for an arrangement analogous to, if not exactly similar to, that existing in the UK:

The [*Federal Accountability*] Act will designate deputy ministers and deputy heads as accounting officers for their department, within the framework of ministerial responsibility. Deputy ministers and deputy heads will be accountable before the appropriate committee of Parliament to answer questions related to their responsibilities, which consist of the following: ensuring that resources are organized to deliver departmental objectives in compliance with government policy and procedures; ensuring that there are effective systems of internal control; signing departmental accounts; and performing other specific duties assigned by law or regulation in relation to administration of the department. The Act will require that a clear process be followed in the event that a minister and deputy minister are unable to agree on the interpretation or application of a Treasury Board policy, directive, or standard. In this case, the Act will require that:

- deputy ministers seek guidance in writing from the Secretary of the Treasury Board;
- if the matter remains unresolved, the minister would refer the matter to the Treasury Board for a decision; and
- a copy of the Treasury Board decision be shared with the Auditor General as a confidence of the Queen’s Privy Council.²⁹

The *Federal Accountability Act (FAA)* received royal assent December 12, 2006. Its provisions relative to the Accounting Officers, and amending the *Financial Administration Act*, are attached as Appendix 5.5.2 to this paper. Among the key provisions of the *Act* are these:

16.4 (2) Within the framework of the appropriate minister’s responsibilities under the Act or order constituting the department and his or her accountability to Parliament, the accounting officer of a department named in Part II or III of Schedule VI is accountable

²⁸“Prime Minister Announces New Ethics Guidelines for the Ministry and New Appointments Procedure for Ethics Counsellor,” News Release, (Ottawa: Office of the Prime Minister, June 11, 2002).

²⁹ *Federal Accountability Act and Action Plan*, (Ottawa: President of the treasury Board, April 11, 2006)pp. 30-31.

before the appropriate committees of the Senate and the House of Commons for

- (a) the measures taken to organize the resources of the department to deliver departmental programs in compliance with government policies and procedures;
- (b) the measures taken to maintain effective systems of internal control in the department;
- (c) the signing of the accounts that are required to be kept for the preparation of the Public Accounts pursuant to section 64; and
- (d) the performance of other specific duties assigned to him or her by or under this or any other Act in relation to the administration of the department.

Later in December, the Prime Minister responded to a letter by 65 critics of the Gomery Commission's *Phase II report* and, by implication, critics of the Government, which had made moves toward implementing some of the directions in the report.³⁰ He observed that the amendments to federal legislation, together with new provisions in the *Federal Accountability Act*, from the Government's perspective, were beneficial. Especially beneficial were those provisions which amended the *Financial Administration Act* relating to the introduction of Accounting Officers. Some of the benefits were that Deputy Ministers' managerial duties are set out in one statute; "the Act sends a strong message about the importance of strong departmental management, and clarifies the role of the deputy in achieving it"; the provision of Accounting Officers does not change the framework of "ministerial responsibility and accountability to Parliament" in any way; Accounting Officers "will not be *accountable to* parliament and thus subject to censure and demands for action in the manner of Ministers" - which continues to be the case for Ministers only - but "*accountable before* the appropriate parliamentary committee" and thus of aid to Parliament in holding Ministers themselves to account; and finally, the provision for written expressions of disagreement between the Minister and deputy "does not simply document the disagreement for purpose of assigning blame after the fact" (an implicit criticism of the UK practice), but provides a method for authoritative resolution of disagreements before the fact and within the doctrine of ministerial responsibility.³¹

³⁰ "Prime Minister responds to eminent Canadians on Gomery recommendations," (News Release), (December 20, 2006), pp. 5-6, online: Prime Minister of Canada <<http://www.pm.gc.ca/eng/media.asp?category=1&pageId=26&featureId=6>>. This website contains both what the media has dubbed both the "Letter from the 65" and the "Letter to the 65." This list of points is from the "Letter to the 65."

³¹ "Letter to the 65," pp. 5-6.

Arguments For and Against Accounting Officers

This purpose of this essay is to contemplate an Accounting Officer for the House of Assembly. So far, oblique references have been made to opposition to the concept. Such opposition has focussed on the executive branch, and the following material will review it in summary for context. Given the mandate of the Commission it will then also consider arguments for and against adopting Accounting Officers in the legislative context.

There are many criticisms of, and arguments for, the idea of introducing Accounting Officers in Canada.³² Arguments against this idea are usually offered with the assumption that what is being criticized:

- Deputy Ministers would be accountable to Parliament, or the Public Accounts Committee, or Parliamentary Committees, whereas our constitutional system depends on the convention of ministerial accountability, with public servants appearing on behalf of their Ministers.
- Public servants would be directed by committees and subject to positive or negative incentives, contrary to the convention of public sector anonymity.
- Relations between Ministers and Deputies are based on confidential advice; this relationship would be violated.
- The relationship of trust between Ministers and Deputies would be harmed by the provision of “written directions.”
- Parliament hesitates to distinguish between the responsibilities and accountabilities of Ministers and Deputies; the official is said to have no constitutional personality apart from that of their Minister.
- Deputy Ministers do not have statutory powers in their own right for which to hold them accountable before the Public Accounts Committee.

³² These are a combination of arguments presented in pro and con fashion in many sources: Franks, “The Respective Responsibilities and Accountabilities of Ministers and Public Servants;” C.E.S. Franks, “Ministerial and Deputy Ministerial Responsibility and Accountability in Canada,” (Submission to the House of Commons Standing Committee on Public Accounts), (January 11, 2005); C.E.S. Franks “Not Anonymous: Ministerial Responsibility and the British Accounting Officers.” (Winter 1997) 40:4 *Canadian Public Administration* pp. 626-52; Sharon L. Sutherland, “Responsible Government and Ministerial Responsibility: Every Reform Is Its Own Problem.” (March 1991)24:1 *Canadian Journal of Political Science*, pp. 91-120; Aucoin and Jarvis; James R. Mitchell and Sharon L. Sutherland, “Relations between Politicians and Public Servants,” in Mohamed Charih and Arthur Daniels, eds., *New Public Management and Public Administration in Canada*, Toronto: Institute of Public Administration of Canada, 1997); “Letter from the 65” and “Letter to the 65.”

- The position of Accounting Officer is based on the idea of the politics/administration dichotomy, which is not a central part of the Canadian public administration tradition, per se.
- The public service would be politicized.
- The British Public Accounts Committee (PAC) has a long history of non-partisan, public-administration-oriented and hard-working effort upon which the idea of the Accounting Officer depends; the Canadian PAC, on the other hand, has a partisan and short-term political emphasis and features a short-term, relatively less committed membership.
- Britain may have its way of resolving disputes between Ministers and permanent secretaries, but so does Canada; deputies can appeal a decision to the Clerk of the Privy (Executive) Council or to the Prime Minister (Premier), thus recognizing the appointive and adjudicative role of the first minister, the need for confidentiality and individual ministerial responsibility.
- The Canadian way prevents inappropriate actions, whereas the British practice is retrospective and after-the-fact.

The arguments for introducing of Accounting Officers are also numerous. Most of the critiques above are given convincing refutation.

- British practice proves that Accounting Officers are consistent with the practice of cabinet/parliamentary government.
- Parliamentary committees in Britain and Canada neither instruct nor reward public servants, but depend on the traditional power offered by Parliament's role of scrutiny: namely, negative publicity.
- The practice already exists (committees hold deputies to account); adopting the position of Accounting Officer would merely formalize this.
- Deputies need to be held accountable for the exercise of the powers, since some acts are aimed at the responsibilities of deputies alone, not deputies and ministers.
- Ministerial responsibility and accountability is not altered by having Accounting Officers, only clarified.
- Recourse to the letter practice in Britain is so infrequent - about 1.5 cases yearly on average in recent decades - that fears about destruction of confidentiality and trust are misplaced.
- The lack of responsibility demonstrated in scandal after scandal has undermined public

confidence; corrective action may resurrect it.

- Public Accounts Committees at the federal level have shown themselves to be up to the task of professionalism in recent years, as have other committees of Parliament; they can serve as a model for the Newfoundland and Labrador House.
- The Canadian model of prospective and proactive behaviour is more a myth than a reality; deputies are too intimidated by Ministers and the PM to raise many points of difference.

Perhaps the most compelling argument for having Accounting Officers in Canada, however, is that Deputy Ministers hold statutory and other responsibilities in their own right, responsibilities for which Ministers cannot be held accountable. Deputy Ministers have a distinct accountability relationship with Parliament alone, one that cannot be assumed by any other actor.

Introducing a Legislative Accounting Officer

Of course, the point of this exercise is to consider whether or not an Accounting Officer is justified in the legislative context. Reflecting upon the executive branch gives some points, or leads, to consider, but so does reflecting upon facts arising from the allowance issue history. The arguments for the position in the context of the allowances issue and of the province's legislative culture are significant:

- The fact that the UK parliament has an Accounting Officer is testimony to the position's "fit" with the cabinet/parliamentary system.
- The establishing of the position of legislative accounting officer would help clarify the management responsibilities of the Clerk of the House of Assembly, which are anything but clear at the present time.
- The practice to date has been that the Clerk has not challenged many of the decisions of the IEC, but has become tarred with the results of them.
- The past pattern of delegating managerial decisions to a subordinate in the House establishment would be discouraged.
- The Public Accounts Committee plays no discernable role commenting on the Auditor General's report, or in holding either the Clerk or the IEC accountable; in the accounting officer framework, it would have a definite role.
- Public faith in the legislative system, a system which is at the centre of the political regime, is at a low ebb; a restorative measure is necessary.
- The dangers of lack of confidence and trust between Minister and deputy would not be

problematical in the legislative context, since the prime relationship is between the IEC and the Clerk; the Speaker is not a perfect analogy with the Minister in managerial matters.

- The potential problem of the intimidation of the Clerk can be handled by increasing the status of the Clerk by virtue of a different appointment process: either appointment by the House, analogous to the AG appointment, or appointment by the Lieutenant-Governor in a fashion similar to the appointment of the UK House of Commons Clerk.
- The notion of a politics/administration dichotomy is entrenched in the Commons administration in both Britain and Canada, so this presents no major problem.
- The problem of preventative action as opposed to retrospective action is a real one, but a problem that can be alleviated somewhat by giving a preventative role to, and otherwise clarifying the role of, the Speaker.
- It is inappropriate to imitate the language of the *Federal Accountability Act*, since it makes reference to the Treasury Board as the arbiter, whereas the Clerk would operate in the context of legislative supremacy.
- It could be argued that by making reference to the “The general duties of the clerks of the House of Assembly, where no special provision is made, shall be similar to those of the clerks of the House of Commons in England according to the practice of Parliament” the *Clerk of the House of Assembly Act* has already established a mandate for adopting a UK style Accounting Officer in the House.
- The alternative route for the introduction of the Clerk’s duties is provided in the subsequent wording of the same section: “The general duties of the clerks of the House of Assembly ... may be provided by resolution of the House of Assembly.” This does not, however, prevent the House from turning to statute to emphasize additional aspects of the Clerk’s duties.

Recommendations

It seems in retrospect that the main choice facing Canadian policy makers increasingly was not whether to have an Accounting Officer, but rather whether to adopt the UK model or the “Treasury Board” model, which featured the Treasury Board as a proactive arbiter of disagreements. In light of this conundrum, the writer is inclined to take the traditional UK route, for two important reasons. The responsible entity for House administration is not a Minister, but a committee, and there is no equivalent to the Treasury Board in House operations.³³ Therefore, our recommendations

³³ Accordingly, to Alan Gilmore, there are several other reasons to prefer the UK Model over the Canadian (federal) one. Some of these are: “Unlike their UK counterparts, Canadian accounting officers don’t have a “personal responsibility” and their responsibilities do not include the overall management, including staffing and department-wide procedures. Nor are they responsible for ensuring that standards of financial management are high and that financial systems promote the efficient and economical conduct of business and safeguard financial propriety and

and rationale are that:

1. The House adopt a practice of having the Clerk serve as Accounting Officer in the UK tradition,
2. The appointment processes for the Clerk reflect this new role,
3. The management responsibilities of the Clerk be set by statute rather than by resolution, to reflect the gravity with which they are taken,
4. The legislation be drafted to emphasize the Clerk's personal accountability for ensuring regularity, propriety and value-for-money accounting,
5. The Clerk be directly accountable before the Public Accounts Committee for organizing the resources of the House Administration, ensuring that proper systems of control are in place, and the signing of accounts necessary for the preparation of the Public Accounts,
6. The *Clerk of the House of Assembly Act* be repealed, and that language to this effect be added to new legislation governing the House of Assembly:

Clerk accountable to Public Accounts Committee as Accounting Officer

- (1) The Clerk, as Accounting Officer, shall be personally and directly accountable before the Public Accounts Committee of the House of Assembly for the authorities and responsibilities assigned by law or delegated to him or her by the Commission, including for:
 - (a) the organization, management and staffing of the House of Assembly Service
 - (b) the measures taken to organize the resources of the House of Assembly service to deliver programs in compliance with established policies and procedures
 - (c) the tendering of advice to the Commission on matters of financial regularity, propriety and value for money
 - (d) the measures taken to implement efficient and economical financial management policies,
 - (e) the measures taken to maintain effective systems of internal control,
 - (f) the certifications that are made in annual public reports regarding the accuracy of members' transactions and the minutes of proceedings of the

regularity. In addition, they do not have a responsibility to ensure that decisions on policy proposals fully take into account financial considerations and that ministers are given advice on financial propriety and regularity and prudent and economical administration, efficiency and effectiveness and value for money. In addition, unlike their UK counterparts, Canadian accounting officers are not required and probably cannot disclose to the Public Accounts Committee or the Auditor General instances where their advice has been overruled by ministers." See Alan Gilmore, "The Accounting Officer: What are Canadians getting?" FMI Journal 18:1 (Autumn 2006), pp. 20-23 at 23.

- Commission,
- (g) the performance of other specific duties assigned to him or her by or under this or any other Act in relation to the administration of the House of Assembly service and the statutory offices;
- (2) The obligation of the Clerk under this section is to appear before the Public Accounts Committee and answer questions put to him or her by members of the committee in respect of the carrying out of the responsibilities and the performance of the duties referred to in subsection (1);
 - (3) Except where provisions regarding advance rulings on allowance use apply, if the Speaker or the Commission are unable to agree with the Clerk on the interpretation or application of a rule, directive, policy or standard applicable to a member, the House of Assembly service or the statutory offices, the Clerk shall seek guidance in writing on the matter from the Comptroller General or the Deputy Minister of Justice;
 - (4) Where guidance is provided under subsection (3) and the matter remains unresolved, but the Speaker or Commission nevertheless requests in writing action by the Clerk in accordance with their direction, the Clerk shall comply with the direction but shall forthwith notify the Auditor General, the Comptroller General and the Attorney General of the direction and his or her disagreement therewith;
 - (5) No reprisal, as defined in paragraph 44(c) shall be taken against the Clerk for actions taken by him or her in good faith under this section,
7. The Public Accounts Committee review the Clerk's adherence to the matters covered in (1) above, the audited accounts and the annual reports of the Auditor General, the annual or special reports prepared by the Speaker and any other matters pertaining to the better financial management of the House as may be determined by the House.

Appendix 5.5.1: The responsibilities of an Accounting Officer (issued by HM Treasury)

Introduction

1. Accounting Officers for government departments and trading funds are appointed by the Treasury in compliance with, respectively, section 5(6) or 5(8) of the Government Resources and Accounts Act 2000 or section 4(6) of the Government Trading Funds Act 1973, as amended by the Government Trading Act 1990. The Chief Executives of executive agencies established under the Next Steps initiative which do not have their own Estimate or RfR or trading fund are designated as Agency Accounting Officers by the appropriate departmental Accounting Officer (i.e. either by the Principal Accounting Officer or by an Additional Accounting Officer - see paragraphs 21-3 below). An Accounting Officer has the personal duty of signing the accounts described in his or her letter of appointment (or, in the case of some Additional Accounting Officer appointments, for the production of information to inform the accounts to be signed by the Principal Accounting Officer) and, by virtue of that duty, the further duty of being a witness before the Committee of Public Accounts (PAC), to deal with questions arising from those accounts or, more commonly, from reports made to Parliament by the Comptroller and Auditor General under the National Audit Act 1983. Associated with these duties are the further responsibilities which are the subject of this memorandum. More detailed guidance for the Accounting Officer and supporting staff is contained in the Treasury manual entitled *Government Accounting*.
2. It is incumbent on the officials who serve as Accounting Officers to combine these duties with their duty to serve the minister in charge of their department, to whom they are responsible and from whom they derive their authority (subject only to any further specific powers which may be vested in them by statute, as in the case of the Board of Inland Revenue or the Commissioners of Customs and Excise). The minister in turn is responsible to Parliament in respect of the policies, actions and conduct of the department.
3. It is the long-standing practice, approved by the PAC, that the Permanent Secretary of a department (or permanent head of a minor department, who may be of lower rank) is appointed as its Principal Accounting Officer. However, operational or financial management considerations may make it appropriate for other very senior managers responsible in a department for particular activities to be appointed as additional Accounting Officers. In some cases, it may be appropriate to appoint a senior official as an additional Accounting Officer both in their parent department and in one or more other departments to enable clear accountability arrangements to be put in place for joined-up operations. In the case of executive agencies each Chief Executive must have a defined Accounting Officer responsibility.
4. Paragraph 5 below describes the general responsibilities of the Principal Accounting Officer of each department. Paragraphs 6-18 set out the responsibilities which, unless otherwise provided for (see paragraphs 19-24), are common to all Accounting Officers in respect of the

public funds for which they are responsible. Paragraphs 19 and 20 deal with the relationship between the permanent head of a department and any Additional Accounting Officers in that department (whether appointed by the Treasury or by the Principal Accounting Officer). Paragraphs 21-4 explain the position of Chief Executives of executive agencies. The responsibilities of the senior officials in certain non-departmental bodies are covered in paragraphs 34-8 below.

The general responsibilities of the permanent head of department

5. The appointment of the permanent head of a department as its Principal Accounting Officer reflects the fact that under the minister he or she has personal responsibility for the overall organization, management and staffing of the department and for department-wide procedures, where these are appropriate, in financial and other matters. The permanent head must ensure that there is a high standard of financial management in the department as a whole; that financial systems and procedures promote the efficient and economical conduct of business and safeguard financial propriety and regularity throughout the department; and that financial considerations are fully taken into account in decisions on policy proposals. Specific responsibility for the organization, management, staffing and financial and other procedures in a defined area of the department may be assigned to an Additional Accounting Officer or an agency Accounting Officer (see paragraphs 19-24 below).

The specific responsibilities of Accounting Officers

6. The essence of an Accounting Officer's role is a personal responsibility for the propriety and regularity of the public finances for which he or she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the available resources.
7. The Accounting Officer must:
 - a) sign the resource, trading and other accounts assigned to him or her, and in doing so accept personal responsibility for their proper presentation as prescribed in legislation or by the Treasury. It may be the case in some departments that this responsibility will fall to the Principal Accounting Officer (although, in practice, he or she will seek appropriate assurances from Additional Accounting Officers about the presentation of data for the part of the resource account for which they are responsible);
 - b) ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management as well as in the form prescribed for published accounts;
 - c) ensure that the public funds for which he or she is responsible are properly and well managed (see paragraph 8 below) and safeguarded, with independent and effective checks of cash

balances in the hands of any official;

- d) ensure that assets for which he or she is responsible, such as land, buildings or other property, including stores and equipment, are controlled and safeguarded with similar care, and with checks as appropriate; and
 - e) ensure that in considering proposals relating to the expenditure or income for which he or she has responsibilities as Accounting Officer, all relevant financial considerations are taken into account, the value for money of the proposal is assessed in accordance with the principles set out in the Treasury guidance *The Green Book: Appraisal and Evaluation in Central Government* and full regard is had to any issues of propriety or regularity. Where necessary, such considerations should be brought to the attention of ministers;
 - f) sign the Statement on Internal Control (SIC) (21.3).
8. An Accounting Officer should ensure that a sound system of internal control is maintained in the department to support the achievement of the department's policies, aims and objectives; and should regularly review the effectiveness of that system. An Accounting Officer should also ensure that managers at all levels in the department:
- a) have a clear view of their objectives, and the means to assess and, wherever possible, measure outputs or performance in relation to those objectives;
 - b) are assigned well-defined responsibilities for making the best use of resources (both those consumed by their own commands and any made available to organizations or individuals outside the department), including a critical scrutiny of output and value for money; and
 - c) have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

Joined-up activities

- 9. An Accounting Officer should ensure that the impact of departmental activities on others is properly identified and, where appropriate, taken into account.
- 10. For example, it might be decided that a department should contribute to a joined-up activity working with one or more other body and, although this would not directly contribute to the achievement of the department's own objectives, its contribution would assist in the achievement of other Government objectives. The Accounting Officer will need to be satisfied that participation represents good value for money for the Exchequer overall and that appropriate controls are in place both to safeguard propriety and to provide proper accountability.
- 11. An Accounting Officer may share with another Accounting Officer responsibility for a joined-up service or for the achievement of a target which depends on the success of separate

services. Similarly, a senior official could serve as an Additional Accounting Officer both in his or her parent department and one or more other department for this purpose. The lines of responsibility in all such cases should be designed to support the effective delivery of the service and clearly defined in terms which align responsibility and accountability, so clarifying what each Accounting Officer or Additional Accounting Officer is responsible and accountable for. It will usually be beneficial to set out these arrangements in a Memorandum of Understanding between the departments concerned.

12. In some circumstances, an activity proposed by a department might lead to additional expenditure pressures arising on another department's programme or have an impact on the amount of revenue collected by the Exchequer. The Accounting Officer should ensure that any such activity would provide value for money for the Exchequer overall and that, in implementing the activity, the department's staff have as much regard to value for money being secured as they would if the impacts fell directly on their own department.

Regularity and propriety of expenditure

13. An Accounting Officer has a particular responsibility for ensuring compliance with parliamentary requirements in the control of expenditure. A fundamental requirement is that funds should be applied only to the extent and for the purposes authorized by Parliament. Parliament's attention must be drawn to losses or special payments, by appropriate notation of the relevant account. In the case of voted expenditure, any expenditure incurred or payments made must be within the ambit and amount of the Estimate, and parliamentary approval must have been sought and given. Amounts appropriated in aid of such expenditure must be derived from classes of income set out in the Estimate and also be within the limits approved by Parliament. In cases not covered by the original Estimate, e.g. in connection with a service not contemplated when that Estimate was presented, or where a temporary advance from the Contingencies Fund has been sanctioned by the Treasury, the Accounting Officer must ensure that parliamentary approval is sought and given at the earliest practicable opportunity by way of a Supplementary Estimate or, if necessary, Excess Vote.
14. An Accounting Officer is responsible for ensuring that specific Treasury sanction for expenditure has been obtained in all cases where it is required. It is required for any expenditure not covered by any standing authorities delegated by the Treasury to the department. It is required before expenditure is incurred on any section of an RfR in excess of the amount specified for that section in the departmental Estimates, even though savings may be available elsewhere and the expenditure itself falls within the delegated authority of the department. The Accounting Officer is also responsible for ensuring that adequate machinery exists for the collection and bringing to account in due form of all income and receipts of any kind connected with the Estimate and accounts for which he or she is responsible.

Advice to the minister

15. An Accounting Officer has particular responsibility to see that appropriate advice is tendered to ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness. He or she will need to determine how and in what terms such advice should be tendered, and whether in a particular case to make specific reference to his or her own duty as Accounting Officer to justify to the PAC transactions for which he or she is accountable.
16. If the minister in charge of the department is contemplating a course of action involving a transaction which the Accounting Officer considers would infringe the requirements of propriety or regularity (including where applicable the need for Treasury authority), the Accounting Officer should set out in writing his or her objections to the proposal, the reasons for those objections and his or her duty to notify the C&AG should the advice be overruled. If the minister decides, none the less, to proceed, the Accounting Officer should seek a written instruction to take the action in question. Having received such an instruction, he or she must comply with it, but should then inform the Treasury of what has occurred, and should also communicate the papers to the C&AG without undue delay. Provided that this procedure has been followed, the PAC can be expected to recognize that the Accounting Officer bears no personal responsibility for the transaction.
17. If a course of action in contemplation raises an issue not of formal propriety or regularity but relating to the Accounting Officer's wider responsibilities for economy, efficiency and effectiveness as set out in paragraph 6, the Accounting Officer has the duty to draw the relevant factors to the attention of his or her minister and to advise in whatever way he or she deems appropriate. Such factors may include an assessment of the risks associated with the proposed action and the impact these would have on the value for money provided by the action should some or all of these materialize. If the Accounting Officer's advice is overruled and the proposal is one which he or she would not feel able to defend to the PAC as representing value for money, he or she should seek a written instruction before proceeding. He or she will no doubt wish to refer to the probability of a PAC investigation. He or she must then comply with the instruction, but should inform the Treasury and communicate the request for the instruction and the instruction itself to the C&AG without undue delay, as in cases of propriety or regularity.
18. If, because of the extreme urgency of the situation, there is no time to submit advice in writing to the minister in either of the eventualities referred to in paragraphs 16 and 17 before the minister takes a decision, the Accounting Officer must ensure that, if the minister overrules the advice, both the advice and the minister's instructions are recorded in writing immediately afterwards.

Relationship between permanent heads of departments and Additional Accounting Officers

19. Where one or more senior officials, other than the permanent head of the department, are appointed as Accounting Officers for certain accounts, RfRs or distinct parts of an Estimate,

there should be a clear and written understanding of their relationship both with their minister and with the permanent head of their department. If a senior official has been appointed as an additional Accounting Officer in more than one department, such understandings should be agreed with each of the ministers and permanent heads concerned. The permanent head, in addition to the responsibilities for the assigned RfRs, other parts of the Estimate and accounts, remains in general overall charge of the department and is responsible for ensuring that there is a high standard of financial management in the department as a whole (see paragraph 5 above). It is within that framework that any additional Accounting Officers, including those who are Chief Executives of executive agencies (see paragraphs 21-3 below), are responsible for the assigned RfRs or other Estimate parts and accounts, or parts of the accounts, assigned to them. The precise nature of the relationship between additional Accounting Officers and permanent heads of departments will vary according to the needs of each department. However, additional Accounting Officers will have immediate responsibility for ensuring that the requirements of paragraphs 6-18 above are met in respect of expenditure and receipts for which they are answerable, except in so far as these matters are reserved by the permanent head or, in the case of agency Chief Executives, assigned to the permanent head in the agency framework document. Their judgement as Accounting Officer should only be overridden by either the minister - in which case the permanent head should be informed so that he or she may give advice to the minister - or the permanent head, after consultation with the minister, and then only if a major issue of propriety, regularity or prudent and economical administration is involved and the permanent head judges that his or her responsibilities as Principal Accounting Officer require intervention.

20. The position of an Additional Accounting Officer when he or she appears before the PAC (see paragraphs 25-30 below) is thus different from that of a permanent head, who carries full responsibility under the minister for the organization and management of the department as a whole. An Additional Accounting Officer is able to answer questions from the PAC about the discharge of his or her own responsibilities. However, if PAC questioning is likely to be directed to issues relating to the organization or management of the department as a whole to broader aspects of the accounts or parts for which he or she retains full responsibility, to the management of the departmental net cash requirement (NCR), or to other matters determined by the permanent head, the PAC could be expected to accede to a suggestion that they call the permanent head to give evidence together with the Additional Accounting Officer.

Accounting Officers for executive agencies

21. Where an agency established under the Next Steps initiative is a separate department, or where it remains part of a department but has its own RfR or is a trading fund, the Treasury appoints the Chief Executive as Accounting Officer in the normal way. Where in these circumstances the agency is part of a department, the Chief Executive will be an Additional Accounting Officer, and the relationship with the minister and with the permanent head of department as Principal Accounting Officer will be as described in paragraphs 19 and 20 above and, in particular, it will stem from the allocation of responsibilities between the

agency and the department in the agency framework document. In certain cases, an agency which is a trading fund may be financed by loans associated with an RfR for which the responsibility is assigned to an Additional Accounting Officer. In these circumstances, too, there should be a clear and written understanding of the respective responsibilities of the agency Chief Executive, the Additional Accounting Officer for the Estimate, and the permanent head of department.

22. Where an agency remains part of a department and is financed from one or more subheads in a departmental Estimate, it is for the Principal Accounting Officer to designate the Chief Executive as agency Accounting Officer. When doing so, the Principal Accounting Officer should send the Chief Executive a letter, in a form approved by the Treasury, defining the relationship between the Chief Executive's responsibilities as agency Accounting Officer and those of the Principal Accounting Officer. This relationship, and in particular the extent to which any of the responsibilities listed in paragraphs 6-18 above are reserved to the Principal Accounting Officer, will again vary according to the circumstances and will be determined by the allocation of responsibilities between the agency and the department in the agency framework document.
23. In certain cases, an executive agency may be financed from one or more subheads in an RfR for which an Additional Accounting Officer is responsible. In such cases, it is for consideration whether the designation of the Chief Executive as agency Accounting Officer should be effected by the Principal Accounting Officer of the department or by the Additional Accounting Officer. In any event, the respective responsibilities of the Principal Accounting Officer, the Additional Accounting Officer and the agency Accounting Officer must be clearly defined and will follow from the allocation of responsibilities in the agency framework document.
24. The Chief Executive of an agency is liable to be summoned to give evidence to the PAC on the discharge of those responsibilities which have been allocated to him or her. Where the appointment is that of an agency Accounting Officer, the Committee will probably wish to take evidence from both the Chief Executive and the Principal Accounting Officer of the department (or Additional Accounting Officer, if appropriate). Where an agency remains part of a department, but the Chief Executive is appointed as an Additional Accounting Officer by the Treasury, the PAC will similarly have the opportunity, if they wish, to take evidence from the Principal Accounting Officer as well as the Chief Executive (see paragraph 20 above).

Appearance before the Public Accounts Committee (PAC)

25. Under the National Audit Act 1983, the Comptroller and Auditor General (C&AG) may carry out examinations into the economy, efficiency and effectiveness with which any department, or other authority or body of a kind specified in the Act, has used its resources in discharging its functions. An Accounting Officer may expect to be called upon to appear before the Committee from time to time to give evidence on the reports arising from these examinations;

and to answer the questions of the PAC concerning the resource accounts and other accounts, or parts of accounts, for which he or she is Accounting Officer and on related activities. An Accounting Officer may be supported by other officials who may, if necessary, join in giving evidence.

26. Treasury officials attend Committee hearings and may be asked to comment on the evidence. They then speak as representatives of the Executive and are subject to collective Ministerial authority, but are expected to comment from the standpoint of the department which has formal responsibility for approving Estimates and presenting formal requests for Supply to Parliament, for prescribing the form of accounts and the rules of *Government Accounting*, and for promoting good financial management in departments. This goes with the Treasury's central responsibility for the operation of public expenditure control - Parliament has traditionally regarded the Treasury as an ally in controlling expenditure.
27. An Accounting Officer will be expected to furnish the PAC with explanations of any indications of weakness in the matters covered by paragraphs 6-12 above to which their attention has been drawn by the Comptroller and Auditor General or about which they may wish to question the Accounting Officer.
28. In practice, an Accounting Officer will have delegated authority widely, but cannot on that account disclaim responsibility. Nor, by convention, does the incumbent Accounting Officer decline to answer questions where the events took place before taking up appointment; the Committee may be expected not to press the incumbent's personal responsibility in such circumstances.
29. The Committee has emphasized the importance it attaches to accuracy of evidence, and the responsibility of witnesses to ensure this. The Accounting Officer should ensure that he or she is adequately and accurately briefed on matters which are likely to arise at the hearing. The Accounting Officer may ask the Committee for leave to supply information not within his or her immediate knowledge by means of a later note. Should it be discovered subsequently that the evidence provided to the Committee has contained errors, these should be made known to the Committee at the earliest possible moment.
30. In general, the rules and conventions governing appearances of officials before parliamentary committees apply to the PAC, including the general convention that civil servants do not disclose the advice given to ministers. Nevertheless, in a case where the procedure described in paragraph 16 was used concerning a matter of propriety or regularity, the Accounting Officer's advice, and its overruling by the minister, would be disclosed to the PAC. In a case covered by paragraph 17, where the advice of an Accounting Officer has been overruled in a matter not of propriety or regularity, but of prudent and economical administration, efficiency or effectiveness, the Comptroller and Auditor General will have made clear in the report to the PAC that the Accounting Officer was overruled. The Accounting Officer should, however, avoid disclosure of the terms of the advice given to the minister, or dissociation

from the Ministerial decision. Subject where appropriate to the minister's agreement, the Accounting Officer should be ready to explain the reasons for such a decision and may be called on to satisfy the Committee that all relevant financial considerations were brought to the minister's attention before the decision was taken. It will then be for the Committee to pursue the matter further with the minister if they so wish.

Absence of Accounting Officer

31. An Accounting Officer should ensure that he or she is generally available for consultation, and that in any temporary period of unavailability, due to illness or other cause, or during the normal period of annual leave, there will be a senior officer in the department who can act on his or her behalf if required.
32. If it becomes clear to the department that an Accounting Officer is so incapacitated that he or she will not be able to discharge these responsibilities over a period of four weeks or more, the Treasury should be notified so that an acting Accounting Officer can be formally appointed, pending the Accounting Officer's return. The same applies if, exceptionally, the Accounting Officer plans an absence of more than four weeks during which he or she cannot be contacted. Analogous arrangements should be made when agency Accounting Officers are absent; if it is necessary for an acting agency Accounting Officer to be appointed, this should be done by the appropriate departmental Accounting Officer (see paragraphs 22 and 23 above).
33. The PAC may be expected to postpone a hearing if the relevant Accounting Officer is temporarily indisposed. Where the Accounting Officer is unable by reason of incapacity or absence to sign the resource account in time to submit it to the Comptroller and Auditor General, the department may submit unsigned copies pending his or her return. If the Accounting Officer is unable to sign the account in time for printing, the acting Accounting Officer should sign instead.

Accountability in non-departmental public bodies

34. In all cases where a department gives a grant or grant in aid to a non-departmental public body, there must be a clear understanding of the respective responsibilities of the departmental Accounting Officer (i.e. either the Principal Accounting Officer of the department or, where appropriate, an Additional Accounting Officer) and the senior official (the Chief Executive or equivalent) of the body concerned. In particular, the departmental Accounting Officer must be satisfied that:
 - a) the financial and other management controls applied by the department are appropriate and sufficient to safeguard public funds and, more generally, that those being applied by the non-departmental public body conform with the requirements both of propriety and of good financial management;

- b) there is an adequate statement of the financial relationship between the department and the non-departmental public body (in a management statement/financial memorandum or similar document) and that this statement is regularly reviewed; and
 - c) the conditions attached to grants conform with the terms of the Estimate and that the department monitors compliance with those conditions.
35. The senior official of the body carries similar responsibilities for the stewardship of public funds to those of a departmental Accounting Officer. This should be made clear in writing. For this purpose, departments should use the separate version of this memorandum which has been prepared on the responsibilities of the Accounting Officer of a non-departmental public body.
36. These responsibilities include advice to the board on matters of financial propriety and regularity, and of prudent and economical administration, efficiency and effectiveness; signing the Statement on Internal Control (which may be in conjunction with the board - this is a requirement if the NDPB is a charity); maintaining a sound system of internal control that supports the achievement of the body's policies, aims and objectives, and regularly reviewing the effectiveness of that system; and taking formal action, analogous to the procedures set out in paragraphs 15-18, if the board is contemplating a course which would infringe these requirements. The departmental Accounting Officer should be informed without undue delay of cases where the Accounting Officer of a non-departmental public body seeks formal instructions from the board to pursue a course of action which the Accounting Officer of the non-departmental public body has advised against on the above grounds. The departmental Accounting Officer will need to consider whether to intervene in such cases.
37. The senior official of the body will normally be expected to sign its accounts. The PAC attaches great importance to the responsibilities of the signatories of public accounts prepared by non-departmental public bodies and they are liable to be summoned to appear before the Committee either on their own or alongside the departmental Accounting Officer as appropriate. They should therefore be notified by the sponsor department of that liability. The degree of formality attached to such notification is a matter for the Accounting Officer of the sponsor department. In the case of a large grant or grant in aid, or where the accounts of the body are laid before Parliament, the senior official should be formally designated as Accounting Officer for the body in question. In the case of a small grant or grant in aid, this formal designation may be inappropriate. In any cases of doubt, however, it will be prudent to deal with the matter formally. Whenever the formal procedure is followed, it should include specific transmission of the separate memorandum on "The Responsibilities of the Accounting Officer for a Non-Departmental Public Body", and the letter of appointment should be copied to the Comptroller and Auditor General, the Clerk to the PAC and the Treasury Officer of Accounts.
38. In some cases, the need for public accountability may make it appropriate for departmental Accounting Officers to apply the arrangements in paragraph 34 above to non-departmental

public bodies not receiving grants or grants in aid or to other bodies not included in the definition “non-departmental public body”. In such cases, too, it may be desirable to designate the senior official of the body as Accounting Officer.

Source: online: Government Accounting 2000 - published by TSO
<http://www.government-accounting.gov.uk/current/content/ga_04_4.htm>.

Appendix 5.5.2:

Amendments to the Financial Administration Act concerning the position of accounting officer, contained in An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability [Federal Accountability Act], Statutes of Canada, 2006 Elizabeth 55, chapter 9, which received royal assent December 12, 2006

259. Section 3 of the *Financial Administration Act* is amended by adding the following after subsection (9):

Schedule VI (10) The Governor in Council may, by order,

(a) add to Part I of Schedule VI the name of any department named in Schedule I;

(b) add to Part II or III of Schedule VI the name of any department and a reference to the accounting officer for the department;

(c) amend Part II or III of Schedule VI by replacing a reference to the accounting officer for a department with a new reference;

(d) move from Part II to Part III of Schedule VI, or from Part III to Part II of that Schedule, the name of a department and the reference to its accounting officer;

(e) amend Part I, II or III of Schedule VI by replacing the former name of a department with the new name; and

(f) delete the name of a department and the reference to its accounting officer from Part I,

II or III of Schedule VI, where the department has ceased to exist or become part of another department.

260. Subsection 7(1) of the Act is amended by adding the following after paragraph (e.1):

(e.2) internal audit in the federal public administration;

261. The Act is amended by adding the following after section 16:

PART I.1

INTERNAL AUDIT AND ACCOUNTING OFFICERS

Audit capacity **16.1** The deputy head or chief executive officer of a department is responsible for ensuring an internal audit capacity appropriate to the needs of the department.

Audit committees **16.2** Subject to and except as otherwise provided in any directives issued by the Treasury Board under paragraph 7(1)(e.2), the deputy head or chief executive officer of a department shall establish an audit committee for the department.

Appointment **16.21** (1) A person who does not occupy a position in the federal public administration but who meets the qualifications established by directive of the Treasury Board may be appointed to an audit committee by the Treasury Board on the recommendation of the President of the Treasury Board.

Term of office	(2) A member of an audit committee so appointed holds office during pleasure for a term not exceeding four years, which may be renewed for a second term.
Remuneration	(3) A member of an audit committee so appointed shall be paid the remuneration and expenses fixed by the Treasury Board.
Definition of “accounting officer”	<p>16.3 In sections 16.4 and 16.5, “accounting officer”</p> <p>(a) with respect to a department named in Part I of Schedule VI, means its deputy minister; and</p> <p>(b) with respect to a department named in Part II or III of Schedule VI, means the person occupying the position set out opposite that name.</p>
Accountability of accounting officers within framework of ministerial accountability	<p>16.4 (1) Within the framework of the appropriate minister’s responsibilities and his or her accountability to Parliament, and subject to the appropriate minister’s management and direction of his or her department, the accounting officer of a department named in Part I of Schedule VI is accountable before the appropriate committees of the Senate and the House of Commons for</p> <p>(a) the measures taken to organize the resources of the department to deliver departmental programs in compliance with government policies and procedures;</p>

(b) the measures taken to maintain effective systems of internal control in the department;

(c) the signing of the accounts that are required to be kept for the preparation of the Public Accounts pursuant to section 64; and

(d) the performance of other specific duties assigned to him or her by or under this or any other Act in relation to the administration of the department.

Accountability of accounting officers within framework of ministerial accountability

(2) Within the framework of the appropriate minister's responsibilities under the Act or order constituting the department and his or her accountability to Parliament, the accounting officer of a department named in Part II or III of Schedule VI is accountable before the appropriate committees of the Senate and the House of Commons for

(a) the measures taken to organize the resources of the department to deliver departmental programs in compliance with government policies and procedures;

(b) the measures taken to maintain effective systems of internal control in the department;

(c) the signing of the accounts that are required to be kept for the preparation of the Public Accounts pursuant to section 64; and

(d) the performance of other specific duties assigned to him or her by or under this or any other Act in relation to the administration of the department.

Appearance before committee (3) The obligation of an accounting officer under this section is to appear before the appropriate committee of the Senate or the House of Commons and answer questions put to him or her by members of the committee in respect of the carrying out of the responsibilities and the performance of the duties referred to in subsection (1) or (2), as the case may be.

Written guidance from Secretary **16.5** (1) Where the appropriate minister and the accounting officer for a department named in Part I or II of Schedule VI are unable to agree on the interpretation or application of a policy, directive or standard issued by the Treasury Board, the accounting officer shall seek guidance in writing on the matter from the Secretary of the Treasury Board.

Referral to Treasury Board (2) Where guidance is provided under subsection (1) and the matter remains unresolved, the appropriate minister shall refer the matter to the Treasury Board for a decision.

Copy to Auditor General (3) A decision by the Treasury Board shall be in writing and a copy shall be provided to the Auditor General of Canada.

Cabinet confidence (4) The copy of a decision provided to the Auditor General of Canada is a confidence of the Queen's Privy Council for Canada for the purposes of any Act of Parliament.

Source: online : Government of Canada : Federal Accountability Act – Text of Bill C-2
http://www.faa-lfi.gc.ca/faq-lfi/faq-lfi14_e.asp



Appendix 5.6

Sample Whistleblower Policy

Appendix 5.6 – Sample Whistleblower Policy

General

The legislature's Code of Conduct ("Code") requires members, officers, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the legislature, they must practice honesty and integrity in fulfilling their responsibilities and complying with all applicable laws and regulations.

Reporting Responsibility

It is the responsibility of all members, officers and employees to comply with the Code and to report violations or suspected violations in accordance with this Whistle-blower Policy.

No Retaliation

No member, officer, or employee who in good faith reports a violation of the Code shall suffer harassment, retaliation, or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the legislature prior to seeking resolution outside the Entity.

Reporting Violations

The Code addresses the legislature's open-door policy and suggests that employees share their questions, concerns, suggestions or complaints with someone who can address them properly. In most cases, an employee's immediate supervisor is in the best position to address an area of concern. However, if an employee is not comfortable speaking with his or her supervisor, or is not satisfied with that supervisor's response, he or she is encouraged to speak with anyone in management that he or she would be comfortable approaching: the Clerk, a member of the audit committee, or the Citizens' Representative appointed under the *Citizens' Representative Act*. Members and management are required to report suspected violations of the Code of Conduct to the Citizens' Representative who has responsibility to investigate all reported violations.

Accounting and Auditing Matters

The Citizens' Representative shall address all reported concerns or complaints regarding legislative accounting practices, internal controls and auditing. The Citizens' Representative shall immediately investigate such complaints until the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of the Code must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Code. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offence.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Handling of Reported Violations

The Citizens' Representative shall notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.