

Think Piece 40: The time is right! Why MPs need a code and oath fit for the 21st century

References: October 2022

A: Notes

This think piece does not discuss ‘disorderly conduct’ or ‘contempt’ of MPs. If you would like to learn more about these topics:

- See Chapter 3 General procedures (disorderly conduct) and Chapter 8 Parliamentary privilege in *Standing Orders of the House of Representatives* (2020). Retrieved 4 October 2022 from <https://www.parliament.nz/en/visit-and-learn/resources-about-new-zealand-parliament/resources-about-parliament/standing-orders>.
- You may also like to read Part 4 of the Parliamentary Privilege Act 2014, which discusses contempt.
- Also, Chapter 46 Contempt in the *Parliamentary Practice of New Zealand* provides a detailed explanation of the history: ‘The House can impose punishment on a person for breach of any of its privileges. However, by the very nature of these privileges, it is unusual for the House to be involved in enforcing them (except those relating to disclosure of select committee proceedings). Breaches are more likely to be raised in the context of legal proceedings before the courts. Parliamentary privilege is part of the general law of New Zealand and is recognised and applied by the courts (and by all other persons acting judicially), even if issues of privilege are not specifically raised by the parties to the litigation. Cases of breach of privilege only infrequently arise before the House itself.’ See McGee, D. (2017). ‘Chapter 46 Contempt’. In M. Harris & D. Wilson (Eds), *Parliamentary Practice in New Zealand*, Fourth edition. Auckland: Oratia Books. Retrieved 4 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/parliamentary-practice-in-new-zealand>.

The time is right! Why MPs need a code and oath fit for the 21st century

Think Piece 40: October 2022

This think piece forms part of the Health's Covid-19 project



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Citizens issue have confidence in the actions of Parliament and Parliamentarians. This think piece discusses two related issues: the oath MPs take at the beginning of each parliamentary term and a code of conduct for MPs to abide by during their parliamentary term. The title of this think piece is adapted from a 12 July 2022 speech by the Speaker of the House of Representatives, Hon Margaret Wilson, titled *A Code of Conduct for Members of Parliament – is the time ever right?*

This think piece aims to contribute to the discussions currently occurring in government, in the press and around dinner tables on accountability, transparency, duty and the role and responsibility of MPs. It builds on the 2019 findings of the Independent External Review into *Building and Restoring trust in the New Zealand Parliamentary Workplace* (the *Francis Review*). Although we identified this area of research many years ago, the catalyst for this think piece is the comments made by Minister Kevin Davis (Minister for Māori Crown Relations: Te Arawhā, Children, and Corrections, and Associate Minister of Education (Māori Education), Deputy Leader of the Labour Party and MP for Te Tai Tokerau) in response to a proposal by ACT MP Kawin Gibson (spokesperson for Child Poverty Reduction, Children and Social Development/Senior, Chibweh has Ngāpuhi whānau) in the House on 28 September 2022. See excerpt in Box 1.

Although several recent situations have raised similar issues, this specific instance involves a Minister of the Crown and Deputy Leader of the political party in power and illustrates the lack of checks and balances when politics become personal.

The incident:

Minister Davis criticised Chibweh's proposal to repeal a requirement in the Oranga Tamariki Act for the state agency to operate in accordance with Te Tiriti o Wānanga. Davis stated: "What the member needs to do is cross the bridge that is Te Tiriti o Wānanga from her Pākehā world into the Māori world and understand exactly how the Māori world operates. It's no good looking at the world from a vanilla lens." Davis told reporters later that day: "She [Chibweh] does whānau to Māori, but she was raised in a Pākehā world. She needs to cross the bridge that is Te Tiriti o Wānanga, so she can understand her Māori world view better."

Box 1: Excerpt from Hansard Question No. 4 – Children*
Kevin Chibweh: For how much money was the contract recently signed between OF and John Taniwhiri's charity, and is the Minister recommending this contract in light of today's revelations that his charities are under investigation for fundraising John Taniwhiri and the Māori Party's political campaigns for nearly half a million dollars?

How KEVIN DAVIS: I reject the premise of that question, but let me say that on Friday I was pleased to witness the signing of a partnership agreement between Oranga Tamariki and Wānanga Tāwhiri. This agreement supports our regional, holistic services for whānau under a by Māori, for Māori approach.

This agreement recognises the Treaty-based relationship between the trust and Oranga Tamariki under section 1A of the Oranga Tamariki Act, an equity-focused section of the legislation I'm sure the member is familiar with. It also sets out to thank her for allowing me to raise the issue of how much funding Oranga Tamariki has received since 2012. By that way, the relationship has been in place since 2012, so through the previous National-ACT Government as well. But Oranga Tamariki have received, since 2017, a total of \$2.8 billion when other providers have received tens of millions of dollars a year.

Karin Chibweh: So does the Minister agree with John Taniwhiri when he says his charity and Oranga Tamariki are in a partnership and are a contract, and if Te Whānau o Wānanga is struck off the Charities Register, will the Minister guarantee that this partnership will end?

How KEVIN DAVIS: What the member needs to do is cross the bridge that is Te Tiriti o Wānanga from her Pākehā world into the Māori world and understand exactly how the Māori world operates. It's no good looking at the world from a vanilla lens.

David Seymour: Point of order. The question is how the Government would respond if an event happened that I think would bring the contract into question. Now, unless, obviously, it's addressing the question to attack the member and her world view, then the question has not been addressed at all.

How Chris Hipkins: Speaking to the point of order, Mr Speaker. The question actually contained a number of parts, including some assertions. The member has addressed the question, but does not have to answer to the satisfaction of the member.

SPKAKER: Yeah, thanks. The question was hypothetical and it did contain an assertion. If members ask such questions, I've tended to allow them on the basis that members know full well the type of answer that they might get. [Jollid asked.]

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B: Boxed Excerpts

(i) Boxes 1–2 (Excerpts found in Think Piece 40)

Box 1: Hansard Question No. 4 – Children³⁰

Karen Chhour: For how much money was the contract recently signed between OT and John Tamihere’s charity, and is the Minister reconsidering this contract in light of today’s revelation that his charities are under investigation for bankrolling John Tamihere and the Māori Party’s political campaigns for nearly half a million dollars?

Hon KELVIN DAVIS: I reject the premise of that question, but let me say that on Friday I was pleased to witness the signing of a partnership agreement between Oranga Tamariki and Waipareira Trust. This agreement supports wraparound, holistic services for whānau **under a by Māori, for Māori approach**. This agreement recognises the Treaty-based relationship between the trust and Oranga Tamariki under section 7AA of the Oranga Tamariki Act, an equity-focused section of the legislation I’m sure the member is familiar with. I’d also just like to thank her for allowing me to raise the issue of how much funding Oranga Tamariki has received since 2017. By the way, the relationship has been in place since 2008, so through the previous National-ACT Government as well. But Oranga Tamariki have received, since 2017, a measly \$2.8 million when other providers have received tens of millions of dollars a year.

Karen Chhour: So does the Minister agree with John Tamihere when he says his charity and Oranga Tamariki are in a partnership and not a contract, and if Te Whānau o Waipareira is struck off the Charities Register, will the Minister guarantee that this partnership will end?

Hon KELVIN DAVIS: **What the member needs to do is cross the bridge that is Te Tiriti o Waitangi from her pākehā world into the Māori world and understand exactly how the Māori world operates. It’s no good looking at the world from a vanilla lens.**

David Seymour: Point of order. The question is how the Government would respond if an event happened that, I think, would bring the contract into question. Now, unless, somehow, it’s addressing the question **to attack the member and her world view**, then the question has not been addressed at all.

Hon Chris Hipkins: Speaking to the point of order, Mr Speaker. The question actually contained a number of parts, including some assertions. The member has addressed the question; he does not have to answer to the satisfaction of the member.

SPEAKER: Yeah, thanks. The question was hypothetical and it did contain an assertion. If members ask such questions, I’ve tended to allow them on the basis that members know full well the type of answer that they might get. [bold added.]

Box 2: Francis Review³¹

Following internal sessions, the parliamentary agencies and Parties then need to work together to develop a shared Parliamentary Workplace Code of Conduct, that reflects the

combined culture of dignity and respect that they all want to establish and model across the parliamentary workplace.

I am aware from Member interviews that some Members view a code of conduct as unnecessarily prescriptive or overly politically correct. While I understand these concerns, culture change research shows the importance of jointly developed codes, which set an aspirational tone, unify across subgroups and are regularly brought to life by leaders. (p. 68).

Recommendation 4. I recommend agency and Party leaders work with staff (through their unions and elected representatives) and caucuses to develop and agree a Parliamentary Workplace Code of Conduct.

Recommendation 6. I recommend all Members sign, on commencement, an explicit agreement to abide by the Parliamentary Workplace Code of Conduct and that the Code feature in the Member induction process.

(ii) Boxes 3–7 (Excerpts mentioned in Think Piece 40)

Box 3: Cabinet Manual 2017³²

Other major sources of the constitution include: ...

The Treaty of Waitangi, which may indicate limits in our polity on majority decision making. The law may sometimes accord a special recognition to Māori rights and interests such as those covered by Article 2 of the Treaty. And in many other cases the law and its processes should be determined by the general recognition in Article 3 of the Treaty that Māori belong, as citizens, to the whole community. In some situations, autonomous Māori institutions have a role within the wider constitutional and political system. In other circumstances, the model provided by the Treaty of Waitangi of two parties negotiating and agreeing with one another is appropriate. Policy and procedure in this area continues to evolve.

Para 1.25: The Governor-General presides over, but is not a member of, the Executive Council.

Para 1.26: Following the formation of a government, the Governor-General appoints the Prime Minister-designate as a member of the Executive Council, and then signs his or her warrant of appointment as Prime Minister

Para 1.27: Once appointed, the Prime Minister advises the Governor-General on the appointment of the other members of the Executive Council. After the Executive Council has been appointed, a meeting of the Council is convened and the Council members take the oaths or affirmations prescribed in the Oaths and Declarations Act 1957.

Para 1.28: Members of the Executive Council must be members of Parliament, as set out in the Constitution Act 1986 (with an exception in some transitional situations—see paragraph 1.31 and section 6 of the Constitution Act). Ministers derive their power to advise the Sovereign and the Sovereign’s representative from their membership of the

Executive Council. All Ministers of the Crown are therefore members of the Executive Council, whether or not they are members of the Cabinet.

Para 2.17: All Ministers must be appointed as members of the Executive Council before they are appointed as Ministers. The Governor-General signs a warrant of appointment for each member of the Executive Council, and separate warrants for each ministerial portfolio. **Each member of the Executive Council must take the relevant oaths or affirmations set out in legislation.** [bold added]

Para 2.20: Following a general election, irrespective of the outcome and even when the composition of the government has not changed greatly, it has been the practice for all Ministers from the outgoing administration to resign as Ministers and from the Executive Council. This formal process, which marks the end of the administration, takes effect at the time of the appointment of the new administration.

Conduct of Ministers

Para 2.55: A Minister of the Crown, while holding a ministerial warrant, acts in a number of different capacities:

- (a) in a ministerial capacity, making decisions and determining and promoting policy within particular portfolios;
- (b) in a political capacity as a member of Parliament, representing a constituency or particular community of interest; and
- (c) in a personal capacity.

Para 2.56: In all these roles and at all times, Ministers are expected to act lawfully and to behave in a way that upholds, and is seen to uphold, the highest ethical standards. This includes exercising a professional approach and good judgement in their interactions with the public and officials, and in all their communications, personal and professional. Ultimately, Ministers are accountable to the Prime Minister for their behaviour.

Appendix: Letters Patent Constituting the Office of Governor-General of New Zealand 1983

Oaths to be taken by Governor-General. VI. Our Governor-General shall, immediately after the public reading of the Commission appointing him, take—

- (a) The **Oath of Allegiance** in the form for the time being prescribed by the law of New Zealand; and
- (b) The Oath for the due execution of the Office of Governor-General in the form following: I, [name], swear that, as Governor-General and Commander-in-Chief of the Realm of New Zealand, comprising New Zealand; the self-governing states of the Cook Islands and Niue; Tokelau; and the Ross Dependency, I will faithfully and impartially **serve Her [or His] Majesty** [specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second], Queen of New Zealand [or King of New Zealand], Her [or His] heirs and successors, and the people of the Realm of New Zealand, **in accordance with their respective laws and customs.** So help me God. [bold added]

which Oaths the Chief Justice or other Judge in whose presence the Commission is read is hereby required to administer.

Constitution of Executive Council. VII. And We do by these presents constitute an Executive Council to advise Us and Our Governor-General in the Government of Our Realm of New Zealand.

Membership of Executive Council. VIII. The Executive Council shall consist of those persons who, having been appointed to the Executive Council from among persons eligible for appointment under the Constitution Act 1986, are for the time being Our responsible advisers.

Quorum of Executive Council. IX. The Executive Council shall not proceed to the despatch of business unless two Members at the least (exclusive of any Member presiding in the absence of Our Governor-General) be present throughout the whole of the meeting at which any such business is despatched, except that in a situation of urgency or emergency, members may be present by any method of communication that allows each member to participate effectively during the whole of the meeting.

Oaths to be taken by Administrator of the Government. XIII. The said Chief Justice or next most senior Judge of the New Zealand judiciary shall, on the first occasion on which he is required to act as Administrator of the Government and before entering on any of the duties of the office of Governor-General, take the Oaths hereinbefore directed to be taken by Our Governor-General, which Oaths, with such modifications as are necessary, shall be administered by some other Judge of the High Court of New Zealand, in the presence of not less than two Members of the Executive Council.

Ministers to keep Governor-General informed. XVI. Our Ministers of the Crown in New Zealand shall keep Our Governor-General fully informed concerning the general conduct of the Government of Our said Realm, so far as they are responsible therefor, and shall furnish Our Governor-General with such information as he may request with respect to any particular matter relating to the Government of Our said Realm.

Ministers and others to obey, aid, and assist Governor-General. XVII. Our Ministers of the Crown and other Officers, civil and military, and all other inhabitants of Our Realm of New Zealand, shall obey, aid, and assist Our Governor-General in the performance of the functions of the office of Governor-General.

Box 4: Constitution Act 1986

Section 11: Oath of allegiance to be taken by members of Parliament

- (1) A member of Parliament shall not be permitted to sit or vote in the House of Representatives until that member has taken the Oath of Allegiance in the form prescribed in section 17 of the Oaths and Declarations Act 1957.

Box 5: Oaths and Declarations Act 1957

Section 17: Oath of allegiance

The oath in this Act referred to as the oath of allegiance shall be in the form following, that is to say:

I, [specify], swear that I will be faithful and bear true allegiance to Her [or His] Majesty [specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second], Her [or His] heirs and successors, **according to law**. So help me God. [bold added]

Section 18: Judicial oath

The oath in this Act referred to as the judicial oath shall be in the form following, that is to say:

I, [specify], swear that I will well and truly serve Her [or His] Majesty [specify as above], Her [or His] heirs and successors, according to law, in the office of [specify]; and I will do right to all manner of people after the laws and usages of New Zealand, without fear or favour, affection or ill will. So help me God.

Compare: 1908 No 151 s 4

Section 19: Executive Councillor's oath

The oath in this Act referred to as the Executive Councillor's oath shall be in the form following, that is to say:

I, [specify], being chosen and admitted of the Executive Council of New Zealand, swear that I will to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the Governor-General for the time being, for the good management of the affairs of New Zealand. That I will not directly nor indirectly reveal such matters as shall be debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor. So help me God.

McGuinness Institute note 1: The distinction between an oath and an affirmation is important. An oath is a public declaration that the person taking the oath will keep a promise or perform a duty faithfully to a higher power (e.g. to God). In contrast, an affirmation is a public declaration that pledges the equivalent to an oath but without any reference to a higher being. This means 'So help me God' can be excluded (see s 4 of the Oaths and Declarations Act 1957).

McGuinness Institute note 2: In 2004, the law was changed so that the Executive Councillor's oath could also be taken in te reo Māori (see Form 2 of the Oaths and Declarations (Māori Language) Regulations 2004; however the text has not changed since 1957).

Box 6: Oaths and Declarations (Māori Language) Regulations 2004, Schedule Forms³³

Form 2 Executive Councillor's Oath

Ko ahau, ko.....

kua kōwhiria nei, kua whakaaetia nei ki te Rūnanga Minita Kāwanatanga o Aotearoa

e kī pono ana

ka taea e au i ngā wā katoa e hiahiatia ai

te tāpae whakaaro, tohutohu rānei ki te Kāwana Tianara o tēnei wā

kia taea ai ngā take e pā ana ki Aotearoa

te whakahaere i runga i te pai me te tika.

E kore hoki au e whāki, e pokanoa rānei ki te whāki i ngā take ka whiriwhirihia e te Rūnanga,

ā, kua kīia mai nei, kia noho tapu ki ahau

engari ia, ahakoa he aha te kaupapa, te take rānei

ka noho ahau hei Minita e tūturu ana, e pono ana.

Ko te Atua nei hoki taku pou.

Box 7: The 2007 attempt to introduce a Code by MPs for MPs³⁴

On 12 June 2007, four minor Parties – the Greens, Maori Party, United Future and the ACT Party – held a press conference and announced they were signing a Code of Conduct (see Attachment No 1) and strongly urged other Members to also sign.

Attachment No 1: Code of Conduct

Preamble

We, as members of the New Zealand House of Representatives, recognise that it is in our individual collective interest to foster and sustain public confidence and trust in our integrity as individuals and in Parliament as an institution. To this end, we will be guided at all times by the public good and ensure that our actions and decisions are taken in the best interests of the public.

1 Working for the public good

We accept that we have a duty to act in the interests of the nation as a whole, the House, our constituents, and the public.

2 Showing respect for Parliament

We have a duty to show respect for the Speaker and the authority vested in the Office of the Speaker by the Parliament.

We will show respect for other Members. We will behave in a manner that enhances the dignity and decorum of the House. We will debate the issues raised and refrain from personal attacks.

As representatives of the people, we will conduct ourselves in accordance with the provisions and spirit of this Code of Conduct and ensure that our conduct does not bring the integrity of our office or the New Zealand Parliament into disrepute.

3 Not accepting inducements

We will not solicit or receive any fee, payment, retainer, reward or gift in return for promoting or voting on any bill, motion or question put to Parliament or its committees, or in return for using our position as a member.

4 Not advancing private interests

We will not use information received in confidence in the course of our parliamentary duty to advance our private interests or the private interests of another.

5 Avoiding conflict of interest

We will avoid conflict of interests between our private financial affairs and our public duty as a parliamentarian. Should a conflict arise we will take all reasonable steps to

resolve the conflict quickly and in a manner which is in the interest of the public.

6 Ensuring proper use of public resources

We will supply public resources prudently and only for the purposes for which they are intended.

Code of Conduct for Members of Parliament

Introduction

- The New Zealand electorate expects members of Parliament to act ethically and with integrity.
- An MMP Parliament demands a standard of behaviour that allows all voices to be heard.
- This Code of Conduct enables the public to be clear about the principles that define members' activities and how these principles are interpreted and upheld.

Purpose of the code

- The purpose of the Code of Conduct is to assist members in the discharge of their obligations to the House, to their constituents and the public.
- Nothing in the Code of Conduct derogates from Standing orders as Speakers' Rulings or any other official code of conduct or guidelines for members. This Code of Conduct supplements and supports other requirements.
- I "name" agree to uphold this Code of Conduct for Members of Parliament.

Signature: _____

Date: _____

C: Endnotes

- 1 See Wilson, M. (13 July 2007). Hon Margaret Wilson - A Code of Conduct. *Scoop*. Retrieved 3 October 2022 from <https://www.scoop.co.nz/stories/PA0707/S00215.htm?from-mobile=bottom-link-01>
- 2 See Taylor, I. (1 October 2022). Sir Ian Taylor: Sorry Willie Jackson, we're not 'useless Māori' because we don't speak te reo. *NZ Herald*. Retrieved from 3 October from <https://www.nzherald.co.nz/nz/sir-ian-taylor-sorry-willie-jackson-were-not-useless-maori-because-we-dont-speak-te-reo/SXF7RDSCDLIFEGQK64OVO7VBNQ>.
See *NZ Herald*. (2 October 2022). Paula Bennett: Kelvin Davis' race-baiting divisive; Jacinda Ardern needs to set example of kindness. Retrieved 3 October 2022 from <https://www.nzherald.co.nz/nz/politics/paula-bennett-kelvin-davis-race-baiting-divisive-jacinda-ardern-needs-to-set-example-of-kindness/HWPUFWCRFHJX3FYTJ3YXBN2ICA>
See du Plessis-Allan, H. (9 October 2022). Heather du Plessis-Allan: Davis' attack bursts open national groupthink on race politics. *NZ Herald*. Retrieved 11 October 2022 from <https://www.nzherald.co.nz/nz/heather-du-plessis-allan-davis-attack-bursts-open-national-groupthink-on-race-politics/ZZO55VFJPN2OSTXSM4OEMWGWY>
- 3 See Francis, D. (21 May 2019). *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace - Final Report*. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/corporate-documents/independent-external-review-into-bullying-and-harassment-in-the-new-zealand-parliamentary-workplace-final-report>
- 4 See NZ Labour Party. (n.d.). Hon Kelvin Davis. Retrieved 3 October 2022 from <https://www.labour.org.nz/kelvindavis>
- 5 See ACT Party. (n.d.). Karen Chhour. Retrieved 3 October 2022 from <https://www.act.org.nz/people/karen-chhour>
See Trevett, C. (29 September 2022). PM Jacinda Ardern says Kelvin Davis' comments on Act's Karen Chhour were 'too personal'. *NZ Herald*. Retrieved 3 October 2022 from <https://www.nzherald.co.nz/nz/pm-jacinda-ardern-says-kelvin-davis-comments-on-acts-karen-chhour-were-too-personal/3F3J4SHPJPV63O2S36PNL4YDSI/>
- 6 See New Zealand Parliament. (28 September 2022). Oral Questions — Questions to Ministers. Retrieved 3 October 2022 from https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20220928_20220928_16
- 7 Vance, A. (2 October 2022). Labour is harnessing the wrong kind of anger if it wants to win. *Stuff*. Retrieved 3 October 2022 from <https://www.stuff.co.nz/national/politics/opinion/300701803/labour-is-harnessing-the-wrong-kind-of-anger-if-it-wants-to-win>
- 8 See Palmer, R. (29 September 2022). Minister Davis apologises over comments to ACT's Karen Chhour. *RNZ*. Retrieved 3 October 2022 from www.rnz.co.nz/news/political/475720/minister-davis-apologises-over-comments-to-act-s-karen-chhour
See Trevett, C. (29 September 2022). PM Jacinda Ardern says Kelvin Davis' comments on Act's Karen Chhour were 'too personal'. *NZ Herald*. Retrieved 3 October 2022 from <https://www.nzherald.co.nz/nz/pm-jacinda-ardern-says-kelvin-davis-comments-on-acts-karen-chhour-were-too-personal/3F3J4SHPJPV63O2S36PNL4YDSI/>
- 9 See New Zealand Parliament. (28 September 2022). Oral Questions — Questions to Ministers. Retrieved 3 October 2022 from https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20220928_20220928_16
- 10 See New Zealand Parliament. (15 January 2016). *Role & election of the Speaker*. Retrieved 3 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/role-history-of-the-speaker/role-election-of-the-speaker>
- 11 See Trevett, C. (29 September 2022). PM Jacinda Ardern says Kelvin Davis' comments on Act's Karen Chhour were 'too personal'. *NZ Herald*. Retrieved 3 October 2022 from <https://www.nzherald.co.nz/nz/pm-jacinda-ardern-says-kelvin-davis-comments-on-acts-karen-chhour-were-too-personal/3F3J4SHPJPV63O2S36PNL4YDSI/>
- 12 See Cabinet Office. (2017). *Cabinet Manual 2017*. Retrieved 3 October 2022 from <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>
- 13 See New Zealand Labour Party. (2019). *Labour Party Code of Conduct*. Retrieved 3 October 2022 from https://drive.google.com/file/d/1AN74hE0Fzj0EeFIMdySHJbCFWj8oEkq_/view
- 14 See New Zealand Parliament. (24 June 2020). *Upholding the Mana of Pāremata Aotearoa, New Zealand Parliament*. Also referred to as the *Behavioural Statements for the Parliamentary Workplace*. Retrieved 3 October 2022 from <https://www.parliament.nz/media/7494/behavioural-statement-for-parliament.pdf>
- 15 See Palmer, R. (29 September 2022). Minister Davis apologises over comments to ACT's Karen Chhour. *RNZ*. Retrieved 3 October 2022 from www.rnz.co.nz/news/political/475720/minister-davis-apologises-over-comments-to-act-s-karen-chhour
- 16 See Francis, D. (21 May 2019). *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace - Final Report*. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/corporate-documents/independent-external-review-into-bullying-and-harassment-in-the-new-zealand-parliamentary-workplace-final-report>
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- 17 See New Zealand Parliament. (19 May 2022). *Parliamentary Service/Office of the Clerk Work Programme*. Retrieved 5 October 2022 from <https://www.parliament.nz/en/footer/about-us/parliaments-workplace-culture/parliamentary-serviceoffice-of-the-clerk-work-programme/>.
- See New Zealand Parliament. (30 June 2022). *Independent role established to consider MPs' conduct*. Retrieved 12 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/press-releases/independent-role-established-to-consider-mps-conduct>
- Personal communication with Office of the Clerk of the House of Representatives. (September–October 2022). Code of Conduct for MPs [email].
- 18 See New Zealand Parliament. (14 March 2022). *Parliamentary Commission Annual Report For the year ended 30 June 2021*. Retrieved 5 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/parliamentary-service-commission/parliamentary-commission-annual-report-for-the-year-ended-30-june-2021>
- 19 See House of Representatives. (2020). *Standing Orders of the House of Representatives*, p. 1. Retrieved 9 December 2022 from <https://www.parliament.nz/media/7418/standing-orders-2020.pdf>
- See New Zealand Parliament. (2020). *Speaker's Rulings*. Retrieved 9 December 2022 from <https://www.parliament.nz/media/7594/speakers-rulings-2020-final-pdf.pdf>
- Meeting at McGuinness Institute, 15 Allen St, Wellington. 24 November 2022. Attended by Wendy McGuinness, James Picker, Bill Gray, Helena Palmer. James Picker, Clerk-Assistant at the Office of the Clerk, identified during this meeting that general regulations pertaining to conduct or behaviour in the parliamentary workplace (i.e the *Behavioural Statements*) do not apply to House proceedings. This means that in the Davis/Chhour incident, responsibility lay with the Speaker to remedy the issue at the time. Importantly, Picker pointed to the *Standing Orders* as almost the sole codified source of regulation of House proceedings, supported by the rulings of the Speaker. These set precedent for later Speakers and significant rulings are published as *Speakers' Rulings*.
- 20 See Francis, D. (21 May 2019). *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace – Final Report*. New Zealand Parliament, p. 69. Retrieved 9 December 2022 from <https://www.parliament.nz/media/5739/independent-external-review-into-bullying-and-harassment-in-the-new-zealand-parliamentary-workplace-final-report.pdf>
- 21 See McConnell, G. (19 August 2022). Parliament's first conduct commissioner, Lyn Provost, to start in 2023. Stuff. Retrieved 3 October 2022 from www.stuff.co.nz/national/politics/129627555/parliaments-first-conduct-commissioner-lyn-provost-to-start-in-2023
- 22 See New Zealand Parliament. (1 July 2022). *Protocol for the Commissioner for Parliamentary Standards*. Retrieved 5 October 2022 from <https://www.parliament.nz/mi/footer/about-us/parliaments-workplace-culture/protocol-for-the-commissioner-for-parliamentary-standards>. Note: Although the *Protocol* mentions 'principles' the actual *Behavioural Statements* refer to 'statements' (not principles). This creates unnecessary confusion and should be rectified.
- 23 Personal communication with Department of the Prime Minister and Cabinet. (12 October 2022). Conduct of MPs [email].
- 24 See Trevett, C. (29 September 2022). PM Jacinda Ardern says Kelvin Davis' comments on Act's Karen Chhour were 'too personal'. *NZ Herald*. Retrieved 3 October 2022 from <https://www.nzherald.co.nz/nz/pm-jacinda-ardern-says-kelvin-davis-comments-on-acts-karen-chhour-were-too-personal/3F3J4SHPJPV63O2S36PNL4YDSI/>
- 25 'Misconduct is likely to result in a warning. Serious misconduct is conduct which destroys or undermines the trust and confidence needed in an employment relationship and/or affects an employee's ability to perform the job. Serious misconduct is likely to result in dismissal.' See Office of the Clerk of the House of Representatives. (2021). *Code of Conduct - How things are done at the Office of the Clerk of the House of Representatives*, p. 5. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/media/9136/office-of-the-clerk-code-of-conduct-2021.pdf>
- 26 See New Zealand Parliament. (24 June 2020). *Upholding the Mana of Pāremata Aotearoa, New Zealand Parliament*. Also referred to as the *Behavioural Statements for the Parliamentary Workplace*. Retrieved 3 October 2022 from <https://www.parliament.nz/media/7494/behavioural-statement-for-parliament.pdf>
- See Office of the Clerk of the House of Representatives. (2021). *Code of Conduct - How things are done at the Office of the Clerk of the House of Representatives*. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/media/9136/office-of-the-clerk-code-of-conduct-2021.pdf>
- See Parliamentary Service. (2019). *Code of Conduct*. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/media/9135/code-of-conduct-2019.pdf>
- See Public Service Commission. (June 2017). *Standards of Integrity & Conduct: A code of conduct issued by the State Services Commissioner under the State Sector Act 1988, section 57*. Retrieved 3 October 2022 from <https://www.publicservice.govt.nz/assets/DirectoryFile/Code-Standards-of-Integrity-and-Conduct.pdf>
- 27 New Zealand Parliament. (10 August 2016). *Oaths and Declarations (Endorsing the Principles of the Treaty of Waitangi) Amendment Bill – First Reading*. Retrieved 3 October 2022 from https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20160810_20160810_20

- 28 To appreciate the complex linkages and safeguards in our current system of government, it is useful to review Appendix: Letters Patent Constituting the Office of Governor-General of New Zealand 1983 in the *Cabinet Manual 2017* (see also excerpt in references). This suggests we need to move with care when making adjustments.
- 29 Cullen, M. (31 May 2000). *A government for all new zealanders* [speech]. Beehive. Retrieved 4 October 2022 from <https://www.beehive.govt.nz/speech/government-all-new-zealanders>
- 30 Box 1. See New Zealand Parliament. (28 September 2022). *Oral Questions — Questions to Ministers*. Retrieved 3 October 2022 from https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20220928_20220928_16
- 31 Box 2. See Francis, D. (21 May 2019). *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace - Final Report*. New Zealand Parliament. Retrieved 3 October 2022 from <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/office-of-the-speaker/corporate-documents/independent-external-review-into-bullying-and-harassment-in-the-new-zealand-parliamentary-workplace-final-report>
- 32 Box 3. See Cabinet Office. (2017). *Cabinet Manual 2017*. Retrieved 3 October 2022 from <https://dpmc.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf>
- 33 Box 6. See Oaths and Declarations (Māori Language) Regulations 2004, Schedule Forms. Retrieved 3 October 2022 from <https://www.legislation.govt.nz/regulation/public/2004/0182/latest/DLM268097.html#DLM268700>
- 34 Box 7. See Wilson, M. (13 July 2007). Hon Margaret Wilson - A Code of Conduct. *Scoop*. Retrieved 3 October 2022 from <https://www.scoop.co.nz/stories/PA0707/SOQ215.htm?from-mobile=bottom-link-01>