



9 September 2022

Dr Jane Thomson
Committee Secretary
Joint Select Committee on Parliamentary Standards
By email

Dear Dr Thomson

Introduction

Thank you for your invitation to submit to the Joint Select Committee on Parliamentary Standards. In our submission we will describe the process that led to the development of the Behavioural Statements for the parliamentary workplace and the independent position of the Commissioner for Parliamentary Standards.

Background

On 27 November 2018 the then Speaker of the New Zealand House of Representatives, Rt Hon Trevor Mallard, announced an independent review into the problem of bullying and sexual harassment in the New Zealand Parliament dating back to October 2014.¹ The review was conducted by Debbie Francis, an independent, external, reviewer, and reported back in 2019.

The [Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace](#) (known as the Francis review) made 85 recommendations, including three in favour of the creation of a Parliamentary Workplace Code of Conduct, to be embedded in employment agreements and signed by all Members of Parliament (MPs). The relevant recommendations are provided below:

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.
5. I recommend the Parliamentary Workplace Code of Conduct be embedded in the job descriptions, induction materials and employment agreements (individual or collective) of all parliamentary managers and staff.
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.²

Development of the Behavioural Statements for the parliamentary workplace

Following the release of the Francis review a committee, the Cross Parliament Code of Conduct Steering Group, was formed. The committee had two purposes: to create a code of conduct and to create a series of consequences for breaching the code of conduct.

¹ [“Francis Review launched to examine bullying and harassment at Parliament”](#), press release, 27 November 2018.

² [Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace](#) Debbie Francis (May 2019), p. 69.

The committee included representatives from each of the political parties in Parliament at that time, the press gallery, the Office of the Clerk, the Parliamentary Service, Ministerial Services, and PSA and E Tū (unions representing Parliamentary staff). It was chaired by then Deputy Speaker Hon Anne Tolley.³

The committee consulted widely with Parliamentary staff on what should be in the code of conduct. Consultation methods included hosting workshops and network meetings, as well as holding drop-in days for staff to discuss issues. The various parties and organisations also consulted their memberships separately. The intention was to give everyone a chance to comment.

Upholding the Mana⁴ of Pāremata Aotearoa, New Zealand Parliament

In late July 2020 the Speaker released [Upholding the Mana of Pāremata Aotearoa New Zealand Parliament](#) [attached], the Behavioural Statements for the parliamentary workplace. “These statements set Parliament’s expectations for how we behave towards each other, while still allowing for free speech in Parliament and freedom of the press”.

While not officially titled a code of conduct, these statements function as one.

There are seven behavioural statements:

- Show that bullying and harassment, including sexual harassment, are unacceptable
- Act respectfully and professionally
- Foster an environment where people feel safe and valued
- Encourage diverse perspectives, and the free and frank expressions of views
- Behave fairly and genuinely, treating others the way we would like to be treated
- Use our position of power or influence to help others, and avoid harm

The Behavioural Statements in practice

When the Behavioural Statements were released the Speaker stated that they were not compulsory and that Parliament would not vote on them. Several political parties confirmed at the time that they would sign up to the statements while others were considering whether to do so.⁵

In practice the triangular relationship agreement between the Parliamentary Service, a person employed or contracted as member support staff, and the member for whom that staff person has been employed, contains a statement that all parties will uphold the behavioural statements. The Parliamentary Service can only employ a person as member support staff if all three parties have signed the triangular relationship agreement.⁶

The behavioural statements do not apply to any proceedings in Parliament (sittings of the House, meetings of select committees and related activities) because there are already procedural rules in place to cover these settings (the Standing Orders).

The Commissioner for Parliamentary Standards (the Commissioner)

³ “[Bullying and harassment in Parliament - one year on](#)”, Newsroom, 7 July 2020.

⁴ [Mana](#) is a Māori word which is often translated as “status”. It can also mean prestige or authority.

⁵ “[Mallard releases Code of Conduct following bad behaviour in Parliament](#)” RNZ, 24 July 2020.

⁶ Section 36(2)-(3), [Speaker's Directions 2020](#).

The Francis review had also recommended the creation of an Independent Parliamentary Commissioner for Conduct with investigative powers for complaints of poor conduct on the part of elected Members (recommendation 77). It recommended that the Commissioner publish a report of matters investigated, patterns discerned, and changes recommended annually, while preserving the anonymity of accuser and accused (recommendation 78).

The cross-party committee considered a proposal, drafted by the Clerk and Chief Executive of the Parliamentary Service, for an independent commissioner to deal with members who breached the behavioural statements. Parties were not able to agree to the proposal before the parliament dissolved for the 2020 general election.

In March 2022 a draft protocol for an Independent Person (placeholder title) who would receive, investigate, and resolve complaints about members' conduct which do not align with the Behavioural Statements for the Parliamentary Workplace was released for comment.⁷ Consultation was open to Parliamentary staff and the public.

In June 2022, the Parliamentary Service Commission⁸ adopted the recommendation to establish the independent role and created the [Commissioner for Parliamentary Standards](#).

The Commissioner will receive, investigate, and resolve complaints about the conduct of Members' of Parliament which does not align with the Behavioural Statements for the Parliamentary Workplace. They will be appointed for a five-year term by the Speaker, on the recommendation of the Parliamentary Service Commission, and in consultation with party leaders.⁹

Former Auditor-General Lyn Provost was appointed to the role in August 2022. She will begin her term in January 2023.¹⁰

Yours sincerely

David Wilson
Clerk of the House of Representatives

Rafael Gonzalez-Montero
Chief Executive, Parliamentary Service

⁷ Have Your Say: Independent Person Protocol,

⁸ The Parliamentary Service Commission is made up of the Speaker, the Leader of the House, the Leader of the Opposition (or members nominated by these positions) and representatives of each of the political parties that are present in the House. Its purpose is to advise the Speaker on the nature of the services to be provided to the House of Representatives, members of Parliament, parties, and qualifying electoral candidates, as well as to advise the Speaker on proposed directions relating to the allocation and administration of funding appropriated in Appropriation Acts to support the parliamentary operations of members of Parliament, parties, and qualifying electoral candidates. See sections 14 and 15 of the [Parliamentary Service Act 2000](#). It does not deal with proceedings in parliament or matters for which the Clerk is responsible.

⁹ ["Independent role established to consider MPs' conduct"](#) press release, 30 June 2022.

¹⁰ ["Former Auditor-General appointed as Independent Commissioner for Parliamentary Standards appointed"](#) press release, 19 August 2022.