

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 Institute's CivicsNZ project.



First official Cabinet photo after being sworn in, Government House 6 Nov 2020. Photo: Mark Mitchell

Wendy McGuinness

References are provided [here](#).

Citizens must have confidence in the actions of Parliament and parliamentarians. This think piece discusses two related issues: the oaths 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 2007 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?*¹

This think piece aims to contribute to the discussions currently occurring in government, in the press² and around dinner tables on accountability, transparency, safety and the role and responsibility of MPs. It builds on the 2019 findings of the *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace* (the *Francis Review*)³ and proposes a new code of conduct for MPs by MPs, and a new MP oath to improve policy debate and law making in the House.

This think piece responds to the comments made by Minister Kelvin Davis (Minister for Māori Crown Relations: Te Arawhiti, Children, and Corrections, and Associate Minister of Education (Māori Education), Deputy Leader of the Labour Party and MP for Te Tai Tokerau)⁴ in response to a proposal by ACT MP Karen Chhour (spokesperson for Child Poverty Reduction, Children and Social Development/Seniors; Chhour has Ngāpuhi whakapapa)⁵ in the House on 28 September 2022. 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 Chhour's proposal to repeal a requirement in the Oranga Tamariki Act for the state agency to operate in accordance with Te Tiriti o Waitangi. Davis stated: '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'. See excerpt in Box 1.⁶ Davis told reporters later that day: 'She [Chhour] does whakapapa to Māori, but she was raised in a Pākehā world. She needs to cross the bridge that is Te Tiriti o Waitangi, so she can understand her Māori world view better.'⁷ Davis apologised the next day by phone and Chhour accepted his apology.⁸

Box 1: Excerpt from Hansard Question No. 4 – Children⁹

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.]

That would have been the end of the matter if it was not for three things:

1. The Speaker of the House has remained quiet on the matter. The Speaker, the Rt Hon Adrian Rurawhe, did not intervene on hearing the Minister's comments (see Box 1). Importantly, the Speaker is the highest officer elected by the House and must show no preference or disrespect to any political party, the Government, or the Opposition while chairing proceedings in the House.¹⁰ The Speaker's silence implies he considers Davis's comments were appropriate.
2. The Minister made a public statement in the house, but the apology was delivered in private by phone – so the apology is not recorded in Hansard.
3. Prime Minister Jacinda Ardern said Davis's response to Chhour was 'too personal': 'There is the cut and thrust of the House, but we do need to make sure we are debating the policy, not the personal.'¹¹ While this guidance seems highly appropriate, it is not mentioned in any code for MPs. For example, we reviewed key documents such as the *Cabinet Manual 2017*,¹² the *Labour Party Code of Conduct (2019)*,¹³ and the *Behavioural Statements for the Parliamentary Workplace (2020)*,¹⁴ and did not find any such suggestion.

Further, if the Minister had not apologised to Chhour of his own free will, we were interested to see whether there were there any checks and balances in the existing system that might have required an apology. Three questions become apparent:

Q1: Could the Minister's comments be a violation of the *Cabinet Manual*?

A: No, because the *Manual* lacks sufficient detail on what good or bad conduct looks like. It however clarifies that Ministers are accountable to the Prime Minister for their behaviour. See paras 2.55 and 2.56, Conduct of Ministers, *Cabinet Manual 2017* (excerpted in the references to this document).

Q2: Could the Minister's comments be a violation of the *Labour Party Code of Conduct*?

A: Arguably no; see for example 'Bullying' in 4.2.4, which mentions 'constant humiliation, ridicule and belittling remarks'. The Minister made the comments once in the House and once in the media within a 24-hour period. It would be hard to argue it was 'constant'. Notably the *Code* specifically mentions that it includes Members of Parliament.

Q3: Could the Minister's comments be a violation of the *Behavioural Statements for the Parliamentary Workplace*?

A: Arguably, no. The first principle is 'Show that bullying and harassment, including sexual harassment, are unacceptable.' On page 2 it states, 'Harassment is a pattern of behaviour directed at someone which makes that person feel distressed or unsafe.' Karen Chhour said: 'It wasn't just the hurt that it made me feel, it's the hurt that it made my children feel and it's the hurt that it made my foster mother feel.'¹⁵ Although the Minister's comments clearly caused distress for Chhour and her whānau, the *Behavioural Statements* define bullying as 'unreasonable and repeated behaviour towards

a person or group that can lead to physical or psychological harm'. Although Davis's two comments may be considered unreasonable and were largely repetitive in content, the fact he apologised the next day raises questions over whether they constitute bullying. Further the *Behavioural Statements* provide no clarity over when criteria has been met, what penalties exist and who will hold poor behaviour by MPs to account.

Previous attempts to establish a code

Two earlier attempts to create a code of conduct for MPs are mentioned in Hon Margaret Wilson's 2007 speech. Wilson notes that from 2001, Ross Robertson (Labour MP 1987–2014) argued for the adoption of a code of ethics for members of Parliament.

Wilson also describes a second attempt. On 12 June 2007, four minor parties – the Greens, Māori Party, United Future and ACT – held a press conference and announced they were signing a Code of Conduct. They strongly urged other MPs to also sign. The Code was to be voluntary but the intention was that if enough MPs signed, then the Code of Conduct could be adopted by Parliament and included in the Standing Orders. Importantly, the Code was intended to help ensure all MPs' voices were heard and to provide the public with the ability to judge the behaviour of MPs against a predetermined standard of behaviour. Wilson indicated no other MP (other than those from the small parties) signed the Code, but as Speaker, she agreed to be the repository of the Code for the minor parties, although she made clear she had no authority to enforce it.

Hon Margaret Wilson's 2007 speech concludes that '[s]hort of the issue becoming the subject of a coalition agreement, it is unlikely that the New Zealand Parliament will be subject to a formal code of conduct'.

In 2018 the Speaker, Trevor Mallard, launched an *Independent External Review into Bullying and Harassment in the New Zealand Parliamentary Workplace* (the *Francis Review*) largely due to a series of issues arising around Parliament.¹⁶ The 2019 report made 85 recommendations, including a recommendation to develop a code of conduct.

Box 2: Excerpt from the *Francis Review*

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.

Interestingly the resulting *Behavioural Statements* (the new title for the Parliamentary Workplace Code of Conduct) were drafted by the Parliamentary Culture Committee (a subcommittee of the Parliamentary Service Commission) with assistance from the Office of the Clerk and the Parliamentary Service.¹⁷ Chhour currently sits on the Parliamentary Culture Committee, which provides advice to the Commission on the outcomes of the *Francis Review*.¹⁸

The *Behavioural Statements* currently do not apply during proceedings in Parliament; instead conduct is the responsibility of the Speaker whose actions are guided by the *Standing Orders of the House of Representatives* (*Standing Orders*). The *Standing Orders* contain rules for the conduct of proceedings and for the exercise of powers possessed by the House.¹⁹

Recommendation 9 of the *Francis Review* suggested that the Standing Orders Committee or Privileges Committee consider whether the *Standing Orders* should recognise the *Behavioural Statements* during proceedings.²⁰

Notably, another *Francis Review* recommendation was recently implemented (recommendation 77). In August 2022, then Speaker Trevor Mallard announced the establishment of an Independent Commissioner for Parliamentary Standards (beginning in 2023).²¹ The *Protocol for the Commissioner for Parliamentary Standards* states that its role is ‘to receive and inquire into complaints from any person who works within the Parliamentary precinct or any Electorate and Community Office about members’ conduct that does not appear to be consistent with the principles set out in the *Behavioural Statements for the Parliamentary Workplace*’. [italics added]. Note: The *Behavioural Statements* are seven statements, not principles.²²

In our view there exists a clear power imbalance between Davis and Chhour. Especially as the Speaker did not comment on the incident, it is highly unlikely that a female MP in her early 40s from a small party would make a complaint against a male Minister of the Crown in his mid-50s, the deputy leader of the largest party in power. Even if the Independent Commissioner was in operation, the chance that they would have received a complaint from Chhour is very low, and if they did receive a complaint, it would be hard to argue the incident was harassment under the definition in the *Behavioural Statements*. (see Q3 above). In the end, the apology came down to a matter of conscience; another MP might not have realised their mistake.

This example illustrates that the *Behavioural Statements* lack sufficient ownership and detail to deliver the necessary culture change required to make Parliament a safe and healthy workplace, and in so doing to attract and retain the very people we need to debate and shape effective public policy.

Below we suggest two new ways to strengthen our democracy: firstly by MPs establishing their own unique code of conduct, and secondly by strengthening our oaths.

Proposal 1: Establish a Code of Conduct by MPs, for MPs

Keep the *Behavioural Statements* for parliamentary staff but ask MPs to jointly write their own code (MP Code) at the beginning of each parliamentary term for the Speaker to implement, and under which the Independent Commissioner for Parliamentary Standards can receive and inquire into complaints. This could easily be actioned by the existing Parliamentary Culture Committee (mentioned earlier), provided the Māori Party joined the committee (currently the Speaker and all other political parties are represented). Importantly, the Department of the Prime Minister and Cabinet (DPMC) does not²³ (and in our view should not) hold responsibility for the conduct of MPs. As with any professional body, that responsibility should fall on MPs alone.

Here are a few thoughts MPs might like to include in their Code:

1. Refer to the *Cabinet Manual 2017*, which requires Ministers ‘to act lawfully and to behave in a way that upholds, and is seen to uphold, the highest ethical standards’ (para 2.56).
2. The Independent Commissioner can receive and inquire into complaints about any MP’s conduct, from any MP, member

of staff who works within the Parliamentary precinct or any Electorate and Community Office. They can also receive complaints about any MP from any member of the public, and inquire into that complaint at their discretion (this option enables an incident to come before the Commissioner even when an MP decides not to register a complaint). Any report prepared by the Commissioner should then be tabled in the House. The Speaker can decide how to respond and action the suggestions in the report.

3. The Prime Minister’s observation that MPs should debate policy, not the personal,²⁴ should become common practice within the House.
4. Both the error of judgement and the apology should be documented in the same place. For example, when a statement in the House results in the need for an apology, then that apology is also made in the House and becomes part of the public record in Hansard. This did not happen in the Davis/Chhour incident.
5. There should be clarity over the distinction between misconduct and serious misconduct²⁵ and what is to happen if the Code is contravened (e.g. apology in the House, stood down for a short or long time, a fine etc). MPs need to know in advance the implications of poor behaviour.
6. Political parties should be required to have their own Code of Conduct and this should be tabled in the House at the beginning of Parliamentary term and made public on the party website and the Parliamentary website. This should explain how complaints can be made, that a register is kept and that the leader of the party is responsible for ensuring all complaints are inquired into (e.g. see the *Labour Party Code of Conduct*).
7. Political parties should be required to include in their own Code of Conduct a responsibility to adhere to the proposed MP Code and take into account the four existing codes that shape their working life: the *Behavioural Statements for the Parliamentary Workplace*, the *Code of Conduct – How things are done at the Office of the Clerk of the House of Representatives*, the *Parliamentary Service Code of Conduct*, and the *Standards of Integrity & Conduct* (a code of conduct for the public service issued by the Public Service Commissioner).²⁶

The Institute is currently preparing a working paper that will review national and international codes of conduct with a view to providing a more detailed list of topics for consideration by MPs who wish to develop a code of conduct for MPs.

Proposal 2: Strengthen our oath system

Democracy requires our ongoing care and consideration. Sixty-five years have passed since the Oaths and Declarations Act 1957 became law and the text of the oaths has not changed.

In 2022, New Zealanders are now discussing issues such as a ‘by Māori, for Māori’ approach (see for example Box 1) and a co-governance approach. For some, the discussion has raised concerns about how these approaches fit alongside our current democratic approach – ‘by New Zealanders, for New Zealanders’. Our proposal is that we modify the oaths to reaffirm MPs’ commitment to all New Zealanders.

Option (i) Oath of Allegiance to Her [or His] Majesty

The oath forms part of the swearing-in process; members take the oath before taking their seats in Parliament. This can happen after a general election or by-election. As noted in s 11 of the Constitutional Act 1986, it is not possible to become a Member of Parliament without taking the Oath (or Affirmation) of Allegiance.

Changes to the Oath of Allegiance (s 17) were attempted in 2016 under the Oaths and Declarations (Endorsing the Principles of the Treaty of Waitangi) Amendment Bill. On 10 August 2016, Marama Fox, co-leader of the Māori Party, introduced a Bill to change the wording to include a commitment to the principles of Te Tiriti. However, Hon Chris Finlayson opposed this, successfully arguing that as the Oath of Allegiance includes the term ‘according to law’, it automatically infers the principles of Te Tiriti.²⁷ The addition would simply complicate what is already complex (what he referred to as ‘piling Ossa on Pelion’). Finlayson’s argument helps illustrate why we need to keep the Oath simple and to work within the constraints of a complex ecosystem.

However, the current Oath does not specifically speak to the need to govern for all New Zealanders. This is understandable, given the Oath of Allegiance is used by other entities (not just MPs).

We consider that there are two options:

1. Maintain the status quo Oath of Allegiance to Her [or His] Majesty (but instead focus on the Executive Councillor’s oath, see option (ii) below).
2. Create a new and specific oath for all MPs that outlines a commitment to New Zealand and New Zealanders. Here is our suggestion, amending the current oath:

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 **and work hard to improve outcomes for all New Zealanders and New Zealand.** So help me God. [added text in bold]

Option (ii) Executive Councillor’s Oath of Allegiance

A Minister of the Crown is expected to behave to a higher standard than an ordinary MP. Para 5.24 of the *Cabinet Manual 2017* states: ‘The principle of collective responsibility underpins the system of Cabinet government. It reflects [the] democratic principle: the House expresses its confidence in the collective whole of government, rather than in individual Ministers.’ Put another way, any Minister holds a unique and privileged role in their ministerial capacity as steward for our democracy.

Before taking this oath an MP will have taken their Oath of Allegiance to Her (or His) Majesty (above), hence this additional public declaration is very special as it forms the basis of our relationship between the House of Representatives and the Governor-General – that together create Parliament.

While MPs debate policy in the House, those selected to be Ministers govern. They have direct responsibility for the direction of New Zealand and New Zealanders. The *Cabinet Manual 2017* emphasises in its introduction that the underlying principle is democracy: (i) the Sovereign reigns, (ii) the government rules, (iii) but the government rules only if it has the support of the House of Representatives (p. 3).

This Oath is made in front of the Governor-General, usually before the start of each new Parliament but sometimes during the parliamentary term when the Prime Minister decides to promote an MP to the role of Minister. See the official photo in the banner above of the newly appointed executive on 6 November 2020. Although Ministers are selected by the Prime Minister, it is the Oath that in effect creates the working relationship between the Governor-General, the Executive Council, and the House of Representatives; and by doing so, establishes our unique form of government.²⁸

Given the above discussion, we suggest that the current oath might be amended to echo Michael Cullen’s 2000 speech about being ‘a government for all New Zealanders’.²⁹ This also aligns well with Article 3 of the Treaty of Waitangi and the *Cabinet Manual 2017* (see p. 2 for a discussion of the Treaty of Waitangi). Here is our suggestion:

I, [specify], being chosen and admitted of the Executive Council of New Zealand, swear that I will **govern for all New Zealanders and** 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, and 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. [added text in bold]

It is a small change but one that would, in combination with the *Cabinet Manual 2017* (see Paras 1.25–1.28, 2.17, 2.20, also excerpted in the [references to this document](#)), add a further obligation on Cabinet to provide some care, consideration and safety for all New Zealanders. We would be surprised if an MP disagreed with this sentiment, but feel at a time of significant cultural change that it could provide a keel (rather than an anchor) for the journey our nation is currently embarking upon.

To conclude

We see these proposals as helping to future-proof democracy, as MPs navigate the country’s future during the difficult times ahead. Although they both relate to an MP’s role and behaviour over the Parliamentary term, they can be implemented separately. The two proposals aim to make our system of government more durable by helping ensure all New Zealanders have a shared sense of belonging (via an oath system for MPs and Ministers), as well as requiring MPs to behave to a high standard when under pressure (under a new MP code of conduct). Together they will help deliver a more stable and trusted platform to shape the discourse to 2040 and beyond.



The McGuinness Institute is a non-partisan think tank working towards a sustainable future, contributing strategic foresight through evidence-based research and policy analysis.

McGuinness Institute, Level 1A, 15 Allen Street, PO Box 24222, Wellington 6142

Phone: +64 4 499 8888 Email: enquiries@mcguinnessinstitute.org Website: www.mcguinnessinstitute.org

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 Institute's CivnetX project



Photo: Nick Mitchell

© McGuinness Institute. All rights reserved. No part of this publication may be reproduced without the prior written permission of the Institute.

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 Electoral Review into *Ballot and Government 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 Atahiri, 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 Kawoia Clarke (spokesperson for Child Poverty Reduction, Children and Social Development/Senior, Clarke has Ngāwhiri whakapapa) 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 Clarke'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 Pakeha 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 said represents later that day: "She [Clarke] does whakapapa to Māori, but she was raised in a Pakeha 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 Clarke: For how much money was the contract recently signed between OF and John Tamihere's charity, and is the Minister acknowledging this contract in light of today's revelation that his charities are under investigation for fundraising John Tamihere 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 Trust. This agreement supports wrap-around, 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. I also just like 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 2008, 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.

Kevin Clarke: So does the Minister agree with John Tamihere 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 Pakeha 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.

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. [Dial added.]

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>
See Moir, J. (27 November 2018). Parliament review to look into bullying, harassment of staff. *RNZ*. Retrieved 11 October 2022 from <https://www.rnz.co.nz/news/political/376902/parliament-review-to-look-into-bullying-harassment-of-staff>

- 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/S00215.htm?from-mobile=bottom-link-01>