

MAPPING THE WAY FORWARD FOR THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS

Background

When people talk about politics, they don't talk about "the art of governing." They talk about heroes and villains, who-did-what-to-whom, and the unresponsiveness of our political leaders. They may support their own elected representatives, but they don't believe that most elected officials are trustworthy. (Centre for Government Ethics website)

This perception of unresponsive and untrustworthy public representatives is further exacerbated by stories and headlines of "corrupt behaviour" of public "officials". These reports create the perception that the entire public sector is unethical or corrupt. The public does not distinguish between national, provincial or local government or even between elected officials and public servants; for them most of the public all of government is often painted as corrupt.

The barrage of negative reporting and in some instances the public's lived experience of unethical behaviour has eroded the level of public trust and confidence in public representatives. Perception of high levels of corruption causes disillusionment with the political system and reduces the goodwill of the community towards their political leadership. This also impacts the community's willingness to trust that their political leaders will deliver on the promises made.

This is borne out in recent months as service delivery protestors often allude to corruption by "officials". This indicates the decline in the levels of trust between communities and those elected to serve them.

It is important for Parliament to substantively address the matter of public trust. It is also important to understand what factors impede clean and transparent government. It is also important to gain an indication of exactly what influences public perception.

The lack of trust exists despite the fact that all levels of government have codes of ethical conduct. The Municipal Systems Act, the Codes of Conduct for provincial and national Members of Parliament, the Public Service regulations on disclosure are all part of the integrity systems which is intended to promote ethical conduct. However, these components of the integrity systems does not appear to be sufficient in assuring the public that there are measures to contain the unethical and improper behaviour by those in the public sector.

It is common cause that the public are not fully aware of the systems of accountability. In fact very little has been done to educate the broader public on the codes, its purposes and the procedure for lodging a complaint. The public are not able to utilize the existing mechanisms to prevent corruption.

In trying to determine what needs to be done to build public trust, we need to understand the public's expectation of their elected representatives and how they would

like to hold their representatives accountable. We also need to assess the extent to which the public experience corruption or unethical behaviour in their day to day existence.

Parliament, through the Joint Committee on Ethics and Members' Interests need to develop a comprehensive education campaign on the mechanisms in place to promote integrity; and they need to inform the public on what they can do to hold the public representatives accountable. It is important to educate on the existing systems of accountability which could allow the public to air their dissatisfaction in a peaceful manner.

One of the difficulties of the existing ethics regime is that it is rules based while it is often behaviour within the rules which raises the ire of communities. The motor vehicle allowances for Ministers is a good example, all the Ministers who purchased the vehicles did so in terms of the Ministerial guidelines but the public expectation requires that elected representatives behave with probity when using public funds. This shows that the public expectation is that elected representatives do not only model their behaviour on what is permitted but that they expect circumspect behaviour in the usage of public funds.

All of these factors make it difficult for elected representatives to ensure that they do what is right. It is therefore imperative that the Joint Committee on Ethics and Members' Interests provide the space for elected representatives, NGO's and the public to engage in a debate on the Standards and Ethics in public life. This debate should be a prelude to forging a national consensus on the standards of behaviour for those in public life.

The Committee also needs to assess the existing legal and institutional framework to promote ethical conduct and to prevent corruption. These measures must include a review of the existing codes, which should include an assessment of its efficacy, the shortcomings and identify the new issues. The Committee needs to improve transparency and promote citizens access to the disclosures. It would need to improve understanding of ethical conduct and also need to clearly differentiate for all, the difference between illegal unethical and inappropriate acts.

How should this be done? It is suggested that the Joint Committee on Ethics and Members' Interests play a leading role in facilitating the debate on ethics. It is important that Parliament lead this important national debate.

It is suggested that the Committee develop a programme which encompasses the following:

- make representations to the Joint Rules to revise the mandate of the Committee to enable it to play a leading role in facilitating a national debate on standards of Ethics in Public Life.
- call for submissions on the expected standards in public life, comment on existing integrity systems and the efficacy thereof from public, elected

representatives, political parties, experts, NGO's and community-based organisations.

- a comprehensive public education campaign on the roles and responsibilities of public representatives, the existing ethical requirements and the manner in how complaints should be made in event of unethical behaviour by those in the public sector. This must also be accompanied by a comprehensive media strategy. This will facilitate informed participation.
- develop a draft code which should allow for a second level of comment and debate. This will allow for further public education and comment.
- formal adoption of the revised rules and another round of education of the rules governing ethical conduct of all elected representatives.

Draft Implementation Plan

Outcome	Actions	Time frames
Obtain a mandate from the Joint Rules Committee for the Review of the Code of Conduct.	Get approval from the Joint Rules Committee for a revised mandate to conduct a comprehensive programme to promote high standards of ethical behaviour by public representatives. This mandate will allow the Committee to lead this crucial debate on behalf of Parliament. The existing rules limit the Committee to revising the rules on ethical conduct for Members of Parliament.	25 January 2010
	Meeting of Committee	29 January 2010
	Drafting and adoption of the revised rules – Draft proposal for budget	
	Get funding for the campaign [Draft Budget Proposal]	20 February 2010
Forging a national consensus on ethics in Public Life	Public Launch of the campaign. This campaign can be opened by President and Presiding Officers. It will give the indication of high levels of political support for the programme.	Develop a plan March – June 2010
	Public education on the rights and responsibilities of elected representatives. The legislation and rules governing ethical conduct. The public education campaign must have	July 2010

	<p>materials in all languages.</p> <p>A comprehensive media strategy which includes participation in debates on national standards of ethics in public life, these would be done by means of radio interviews, articles in media as well as a limited advertising campaign.</p> <p>Public Hearings in at least four provinces to engage communities on the issues. The hearings should be conducted in the languages of these provinces and should develop a questionnaire for focused submissions.</p> <p>Hearing in Parliament for all civil society structures including NGO's, CBO's and other stakeholders to make submissions on the existing project.</p> <p>Special hearing of elected representatives from all levels to discuss the strengths and weaknesses of the existing integrity systems. Also at this hearings should be the top leadership of political parties who would outline the standards they expect from their elected representatives.</p> <p>Commission a research study to audit the existing integrity framework at local, provincial and national level. Analyse the strengths and successes and weaknesses of the existing rules, legislation and all systems of integrity.</p>	<p>Aug- Oct 2010</p> <p>Aug- Oct 2010</p> <p>Aug – Oct 2010</p> <p>January 2010</p>
Adoption of revised Rules	<p>Identify experts in ethics in the public sector</p> <p>Call for expert input on the revision of the Code.</p> <p>Identify issues raised by ethics experts</p> <ul style="list-style-type: none"> • The appropriateness of a national standard for all elected representatives. • The extent to which business activity is permissible for those in the public sector. • Should there be standard disclosure requirements for all elected 	<p>November 2010</p> <p>1 day Workshop</p>

	<p>representatives at all levels of government</p> <ul style="list-style-type: none"> • Should elected representatives tender for government business? • Should spouses declare publicly? • Should there be an upper limit value in the receipt of gifts by elected representatives? • Development of ethical codes beyond disclosure. • Should there be expulsion of elected representatives who are found guilty of corruption? • Should there be a review of penalties? • Should liabilities be disclosed? • What criteria should be used in giving Members permission to hold outside employment? Permission is granted by parties; is this correct? • Should the procedure for the investigation of complaints be revised? • Should there be a penalty for refusing to submit to the authority of the ethics committees? • Should the Auditor General audit Members' disclosures? • Should the Registrar's role be reviewed? • Review the rules for the outside funding of committees. • Consideration of other issues emanating for the expert reports and report from the audit of existing rules. <p>Study tour to look at other models in other</p>	
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	countries.	
Adoption of the revised draft	<p>Revised draft should be published for comment.</p> <p>Call for comment from all stake holders.</p> <p>Public education campaign to inform of the mechanism to make complaints. This can include a newspaper insert. Also include lessons plans for high school students.</p> <p>Declarations of support for the revised draft from leadership of all political parties.</p> <p>Briefing and training of the revised codes.</p>	February 2011
Review of the Executive Members' Ethics Act	Review the Executive Members Ethics Act.	July 2010 – Feb. 2011

Launch of Revised Code

Formal Adoption in both Houses simultaneously – February 2011 after SONA