

Democracy in Australia – Ethics or Integrity Commissioners as statutory officers of the Parliament

The regulation by parliament of the conduct of members of parliament and senior public servants is not a political issue but rather one of public interest and honesty. Where a Parliamentary Ethics or Integrity Commissioner functions in parliament to oversee conduct, public interest can be assured. There is a strong argument for the appointment of a Parliamentary Integrity Commissioner to strengthen public confidence in the Australian political system.

In 2009, when a major daily newspaper in the UK published leaked documents, a deeply embarrassing parliamentary expenses scandal was exposed. It showed that members of Parliament were receiving large sums of money under a second home allowance, which they were using for home renovations and for payments made to rent the houses of their own family members. Even parliamentary leaders from the various parties were personally implicated. The leaked publication followed a series of attempts by newspapers to gain access to information about allowances through freedom of information requests, which were consistently opposed by the Parliament. The UK scandal damaged the confidence of Britons in their government.

In Australia, while there has been no single scandal of comparable significance, public confidence in the operation of the political system has long been declining. A survey conducted by the Australian National University in 2012 found that while satisfaction with Australia's democracy was high, public confidence in the political system was the lowest it had been since 1998. Low confidence was particularly evident for Federal political parties and individuals elected to parliamentary office.

International practice

The Canadian Government has a Conflict of Interest and Ethics Commissioner, responsible to the Parliament, with the power to fine members of parliament and public servants for violations of public trust. The Commissioner is

able to investigate complaints from members of the public, and regulates the disclosure of the financial interests of members of parliament, including those held in trust.

The Federal Government of the United States relies on the "Honest Leadership and Open Government Act, 2007", which regulates the activities of lobbyists, including those who were formerly holders of public office. It also restricts the travel spending of members of Congress and requires regular public reports from a range of other Government departments.

In all but nine US states there are also ethics commissions, whose members include citizens and public officials. The commissions oversee state employees' and legislators' compliance with ethics laws. There are also ethics committees in every state legislature.

UK reform

In the United Kingdom, the Parliamentary Standards Commissioner and an Independent Adviser on Ministers' Interests previously monitored compliance with the Parliament's Code of Conduct. However, the 2009 second home allowances scandal prompted a strengthening of these practices and the creation by the previous Brown Government of an Independent Parliamentary Standards Authority. These changes have been supported by the current Cameron Government.

The Independent Parliamentary Standards Authority (IPSA) was created to bring a fresh approach to the system of paying MPs' expenses. IPSA's rules mean a change from the old system of allowances; establishing clear guidelines setting out what MPs can and cannot claim for. The rules, which apply to all MPs, are fair, workable and transparent. IPSA publishes on its website every claim made by every MP. IPSA is entirely independent of parliament, government and all political parties. In all it does, IPSA states that its aim is to keep at the front of its mind its main duty – to serve the interests of the public.

The new authority has the power to:

- establish an allowances and expenses system without requiring parliamentary approval
- when necessary, direct those who have received allowances to which they were not entitled to repay the money
- recommend that Parliament withhold a salary for a specified period, suspend a Member from the House for a specified period or expel a Member from the House (if the instructions of the Commissioner are not followed)
- refer matters to the police for prosecution since the Act creates new criminal offences for not complying with the directions of the Authority.

Australia

The Gillard Government agreed with the Independents and Greens to establish, by statute, a Parliamentary Integrity Commissioner within 12 months of the new Parliament. Despite the parties' commitment to the agreement a Commissioner has not been appointed.

Bills introduced to the Senate and the House by the Greens in May 2012 (replicating the Brown Bill 2010) sought to establish a National Integrity Commission comprising a National Integrity Commissioner, Law Enforcement Integrity Commissioner and an Independent Parliamentary Advisor. In the House, the Bill was referred to the Standing Committee on Social Policy and Legal Affairs. Its report, tabled in September 2012, recommended that the Bill not proceed prior to the establishment of a parliamentary Joint Select Committee to investigate the feasibility and cost of establishing a National Integrity Commission. In February 2013, the National Integrity Commissioner Bill 2012 was removed from the Notice Papers, without having been debated when the 43rd Parliament was prorogued.

On 13 November 2013, the (then) Leader of the Australian Greens, Senator Christine Milne, introduced the National Integrity Commission Bill 2013 (NIC Bill). The NIC is very similar to the Bill introduced by Senator Bob Brown in June 2010 and reintroduced when Parliament reconvened after the August 2010 election, and to the National Integrity Commissioner Bill 2012 introduced by Adam Bandt.

The Bill is currently with the 44th Parliament, having progressed through its second reading debate in the Senate (15 May 2014).

Australia needs new independent bodies to monitor the ethical practices of parliamentarians and office holders. Both the Canadian system and the UK system exemplify independent arrangements for the regulation and enforcement of ethical standards. The adoption of one or other of these models or a hybrid based upon them would enhance Australians' confidence in the practice of their democracy.

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