

A CODE OF ETHICS OR CODE OF CONDUCT FOR POLITICAL PARTIES AS A POTENTIAL TOOL TO STRENGTHEN ELECTORAL DEMOCRACY IN CANADA

**A DISCUSSION PAPER ON THE ADVANTAGES
AND DISADVANTAGES OF A CODE**

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Political parties are institutions of central importance to electoral democracy in Canada. The actions of political parties, their leaders, elected representatives, candidates, constituency associations, paid staff and volunteer members make a significant contribution to the vibrancy and integrity of Canadian democracy, not only in the electoral arena but more broadly within the wider parliamentary and political processes.

Political parties were once seen principally as private associations of like-minded people dedicated to achieving particular political aims. For the initial five or six decades of the country's history, the assumption was that political parties would regulate their own behaviour, and, if they crossed ethical lines, the remedy resided in the electoral and wider political process.

Gradually during the 20th century, political parties also came to be seen as institutions serving public policy purposes related to democracy. The emergence of this second perception of political parties as public institutions resulted over time in the introduction of laws, regulations, guidelines and reporting and enforcement mechanisms intended to promote and enforce changing norms of responsible legal and ethical behaviour. The persistence of the earlier perception of parties as private bodies meant that the mechanisms designed to constrain and to shape certain of their activities, especially their campaign activities, were designed not to interfere unduly with their internal structures, decision-making and ongoing operations, particularly outside the campaign period. In summary, contemporary public policy strives to balance respect for the freedom and autonomy of parties as private associations with recognizing, supporting and directing to some extent their various roles in serving the democratic process.

Based on these considerations, the search for sound public policy frameworks to govern elections and the wider political process have relied upon a range of legal, quasi-legal, reporting, monitoring and compliance mechanisms. These regulatory measures reflect and reinforce important values, principles and ethical expectations, which provide the foundation for Canadian democracy.

Most of the time, most of the people involved with political parties are prepared to respect the legal rules and ethical norms within the political community. At the same time, partisan competition and the rewards of winning the political contest create incentives for parties and their supporters to seek political advantage by evading, bending or breaking the rules or engaging in activities that are troubling from an ethical standpoint.

The purpose of this discussion paper is to identify the advantages and disadvantages of adopting a code of conduct or code of ethics concerning the behaviour of political parties as collectivities and of the various types of people associated with them. Such a code would supplement and complement other existing rules, guidance and support for political parties.

The benefits of codes of conduct and ethics have long been recognized in such professions as medicine, law and accounting. With increasing frequency, codes have been adopted in the business field and in parts of government, such as the public service.

In the political domain, codes of conduct of various kinds, especially governing conflicts of interest, have been adopted to govern the behaviour of legislators across Canada and in many other countries. Some political parties in Canada and in other countries have on their own initiative adopted codes of conduct for their leaders, elected representatives, constituency associations, candidates, staff and volunteers. Manitoba is the only political system in Canada in which political parties have developed, with the support of Elections Manitoba, a consensus-based, self-regulating shared code of conduct.

Whether or not a code of conduct and ethics for political parties belongs in the field of campaign politics at the national level in Canada is open for discussion in this paper. There may be benefits from such a code, but there could also be unforeseen and unintended consequences and costs.

The question of whether or not there should be a code for national political parties can be debated in the abstract, but a final decision on the acceptability and the potential effectiveness of any code will also depend on answers to a host of questions about how it is adopted, what its contents will be and how it will be implemented and enforced. Rather than offering a model code, this paper sets forth some (but probably not all) of the issues related to the content and implementation of a code and offers some options for consideration.

The discussion proceeds as follows. Section 2 provides a brief background discussion of the social and political context in which the concept of a code is being debated. Codes in other political systems can be examined for possible directions, but care must be taken in drawing lessons about what will be acceptable and work best at the national level in Canada. Understanding the national, social and political context is critically important to deciding whether a code is needed, how it should be formulated, what provisions it should contain and how those provisions are best applied.

The political context is especially important to an assessment of the feasibility of achieving sufficient agreement to support the adoption and implementation of a code. All-party endorsement would add to the credibility of a code. Whether a code becomes a meaningful presence in national electoral politics will depend greatly on how political parties perceive its legitimacy, fairness and usefulness. Buy-in and commitment by parties, especially on the part of their leaders, will affect whether a code becomes more than words on paper.

Codes are increasingly used elsewhere in society, with some apparent success in shaping attitudes and behaviours, but it is not axiomatic that a code will work in the political world. Section 3 addresses the philosophical issues of whether a code of conduct and ethics is appropriate in the domain of organized political parties and competitive campaign activities conducted to win public office. The advantages and disadvantages, as well as benefits and costs, are identified in the abstract, with the recognition that the real-world impacts of a code will depend on how it is formulated and adopted, what provisions it contains and the procedures established for translating those provisions into practice.

Public awareness, understanding and confidence in the aims and means of a code are also important to its success because a vigilant public can exert pressure on political parties to exhibit the norms of responsible behaviour that they expect political actors to promote and respect.

Sections 4 through 8 examine a series of issues related to the formulation, content and enforcement of the code. It is these kinds of details that give expression to foundational principles of democracy like fair and free elections, appropriate legal and ethical standards of political behaviour, a subjective sense of responsibility on the part of all political actors and methods of accountability for political parties and their supporters who cross legal and ethical lines by their actions or inactions. Again, these sections identify options rather than offering detailed prescriptions.

Section 9 offers conclusions in the form of some brief general observations about the conditions required for the successful formulation and implementation of a code.

2. THE CONTEXT AND BACKGROUND TO THE DISCUSSION

Political parties have always been under pressure to change their organizational design and operational practices in response to changes on a number of levels:

- within society, including shifts in public opinion
- within the economy, including new technologies
- within the political system, including new dynamics and modes of competition for electoral success

Early in the 21st century, the forces driving change appear to be more intense and deeper in their impacts on how political parties conduct their activities. This means that the formal regulatory framework and the informal ethical expectations related to parties are likely to be tested and need updating on a more continuous basis. In the interest of space, four brief examples will have to suffice to support these points.

The first example is a shift in public attitudes toward political parties. Today, the public image and reputation of political parties and politicians are not as positive as we might hope. A 2011 opinion survey found that, of all the institutions involved in elections, political parties were the least trusted, with 56 percent of the respondents saying they had “not very much” or “no” confidence in the federal political parties. In contrast, Elections Canada was the most trusted institution, with 80 percent of respondents saying they had “quite a lot” or “a great deal” of confidence in the agency.¹ These findings are important to the later discussion of how adoption of a code might strengthen public trust in political parties and confidence in the integrity of the election and the wider political process.

The second example is the fundamental and ongoing changes in computer-based technologies and how these new technologies have driven and enabled new methods of campaigning for public office on both the national and the local levels. Computer technologies have been used increasingly by Elections Canada to deliver election services and by political parties to inform and persuade voters. However, these constantly changing technologies create opportunities to bend or break the rules governing elections or to undertake actions that are problematic on ethical grounds. The recent controversy over the use of computer-assisted misleading messages to voters is an example of the impact of new technologies, which are likely to change faster than the legal framework of the *Canada Elections Act* can be adapted. Further to this controversy, Bill C-23, the *Fair Elections Act*, passed by Parliament in 2014, added a series of provisions regulating the operation of voter contact services.

The third example is the continuously changing nature of the campaign process. From the early decades of the country up to the mid-20th century, elections were fought mainly at the local level. Volunteers provided the workforce for campaigns. Gradually, political campaigns became more national in their focus, were centralized in terms of direction and content, relied increasingly on paid professionals, used a changing array of techniques to map the contours of public opinion and, based on such data, developed increasingly sophisticated communications strategies to target their political messages at particular segments of the electorate. All parties began to conduct “opposition research” intended to identify the vulnerabilities of their competitors.

A fourth example involves political financing of campaigns. During the 20th century, campaigns became more expensive, and fundraising became a major form of competition among the parties. In response to this trend, the laws respecting the raising and spending of funds were strengthened to curb undue influence by wealthy donors and to encourage the development of more broad-based financial support for parties and candidates from all citizens. Major changes to campaign finance rules took place in 1974 and 2004 (Mowrey and Pelletier 2002; Spano 2006). The changes made in 2004 extended the coverage of the financing rules beyond parties and candidates to include leadership contests and local party associations. The same changes limited the contribution levels for corporations and trade unions to \$1,000, and in 2007, organizational contributions were banned completely and a system of quarterly allowances came into effect, to be paid from the public treasury to registered political parties based on the number of votes they had received in the previous election. In June 2011, as part of the budget document, the government announced that the quarterly allowances paid to political parties would be gradually eliminated, a process that will be completed in 2015 (Jansen and Young 2011).

¹ Institutions included Elections Canada, the legal system, local candidates and federal political parties. See www.elections.ca/content.aspx?section=res&dir=cons/sece&document=p8&lang=e.

Under the *Canada Elections Act*, Elections Canada exists as an independent, impartial agency with a mandate to manage the conduct of the national election process. In addition to election administration, the agency provides education, information and support services to parties, candidates and voters (see Thomas and Gibson 2014).

Since 1920, when it was created, the Office of the Chief Electoral Officer has been responsible for the administrative and support functions involved with elections, together with administering the regulatory and compliance provisions contained in the various sections of the Act.

In 1974, the Office of the Commissioner of Canada Elections was created, with responsibility for enforcing the political finance provisions in the Act. In 1977, the compliance and enforcement authority of the Commissioner was extended to all regulatory provisions of the Act.

While this Office was located within Elections Canada, it operated on an autonomous basis, with its own budget and staff as well as the freedom to decide whether investigations would be conducted and whether prosecutions through the courts would take place. With the passage of the *Federal Accountability Act* in 2006, the Commissioner's authority has been limited to a recommendation to the Director of Public Prosecutions in the Department of Justice that a prosecution take place.

These arrangements changed as a result of amendments to the Act passed by Parliament in 2014 in the form of the controversial *Fair Elections Act*. Currently being implemented, the new Act relocated the Office of the Commissioner of Canada Elections to the Office of the Director of Public Prosecutions, which in turn is located within the Department of Justice. As noted later in this paper, the end to a unified, single-agency model for all related election management functions complicates the possible introduction of a code of conduct or ethics.

Another issue arising in the debate over the *Fair Elections Act* was whether Elections Canada should be granted a broader range of tools to promote and to ensure free and fair elections under the changed circumstances described above. Historically, Elections Canada has relied on the detailed, prescriptive rules contained in the *Canada Elections Act*, which prohibited certain actions. Ensuring compliance with the rules involved negotiation with parties and candidates, and, failing agreement on voluntary compliance, offences under the Act could be brought before the courts.

The *Fair Elections Act* added some new powers for the agency. For example, it provided Elections Canada with the authority to issue interpretations and opinions on new campaign techniques. However, the predominant approach contained in the revised *Canada Elections Act* remains legalistic, prescriptive and rigid in terms of limiting innovative approaches by Elections Canada to ensuring electoral integrity in a more complicated, dynamic environment.

A code of conduct or code of ethics for political parties is another policy instrument that might be used to promote integrity in the electoral process. International bodies, like the Organisation for Economic Co-operation and Development and the World Bank, have promoted codes as a mechanism to curb political corruption and to achieve good governance. The International Institute for Democracy and Electoral Assistance, an international think tank, has proposed a model *Code of Conduct for Political Parties Campaigning in Democratic Elections*. The code is described as “a set of rules of behavior for political parties and their supporters relating to their participation in an electoral process, to which the parties ideally will voluntarily agree; and which may subsequent to that agreement be incorporated in law.”²

A number of newer democracies have legislated codes of conduct (examples of countries with a code and links to online versions are available in Appendix A). In established democracies, where there is limited corruption of a serious nature as well as generally higher standards of integrity in the election process, there has been less pressure to adopt various types of codes governing political behaviour. Instead, it was assumed that political

² International IDEA, *Code of Conduct for Political Parties Campaigning in Democratic Elections*, 1999, 7.

parties would be self-regulated and the political process would take care of misconduct by denying the offending parties and candidates access to public office. In some instances, political parties have acted without prompting from an electoral authority to adopt a code of conduct for their members. The Green Party of Canada, the Quebec Liberal Party and the Progressive Conservative Association of Alberta are examples of this type of initiative in the Canadian context. There may well be others, but they did not appear from online searches.

Most Western democracies have sought to prevent, detect and correct conflict-of-interest situations in which public office-holders, politicians and public servants act on the basis of private interest, particularly financial interests, rather than serving the public interest. In Canada, both the House of Commons and the Senate, along with all provincial and territorial legislatures, have adopted either a conflict-of-interest statute or a conflict-of-interest code, which is often part of the standing orders of the legislature. Conflict-of-interest commissioners are appointed to oversee the application of such codes and to respond to complaints.

It is worth noting that the commissioner for the House of Commons and the Cabinet has the title of Conflict of Interest and Ethics Commissioner, which implies a mandate that goes beyond legal issues related to conflict of interest to include broader issues of political ethics of office-holders.

Ontario was the first among the provinces to enact a conflict-of-interest statute back in 1989. In 1994, that statute was replaced with the *Members' Integrity Act*, and in 2010, the Act was amended to widen the range of activities it covered and to grant the commissioner greater authority.

Depending upon the jurisdiction, commissioners may either impose legal sanctions or make recommendations to legislatures or the prime minister in response to proven cases of conflict of interest. In an era of suspicion toward politicians, the reliance upon political remedies to deal with misconduct may not inspire as much public confidence as consequences determined by an impartial officer of the legislature or the courts.

For purposes of this discussion, it is important to note that conflict-of-interest rules seek to regulate the activities of legislators and ministers in order to prevent inappropriate private gain for them, their family or their friends arising from the performance of the duties of public office. This is a different focus from a code that seeks to deal with inappropriate conduct by parties, candidates and their supporters.

In Canada, the concept of a code of conduct for political parties and their supporters during an election period has received limited discussion, and Manitoba is the only jurisdiction that has actually adopted such a code, which is discussed below.

At the national level, back in 1991, as part of a wide-ranging report, the Royal Commission on Electoral Reform and Party Financing (the Lortie Commission) recommended that political parties adopt codes of ethics as a remedy to the concern that “where incidents of misbehaviour arise, parties have been reluctant to assume responsibility for reviewing and revising the practices that gave rise to the allegations.”³ The commission recommended that each registered party be required to adopt a code and to set up an ethics committee to help promote and ensure adherence to the code. The recommended code would apply only to the official campaign period. In six pages of analysis, the report set out the arguments in favour of such a code. Those arguments reflected a background research paper prepared by Janet Hiebert and the discussions arising out of a symposium on political ethics.⁴ The recommendations for a code were not accepted by government or acted on by Parliament.

³ Canada, Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy*, vol. 1 of *Reforming Electoral Democracy: Final Report* (Ottawa: Communications Group, 1991), 285.

⁴ Janet Hiebert, ed., *Political Ethics: A Canadian Perspective*, vol. 12 of Research Studies: Royal Commission on Electoral Reform and Party Financing (Toronto: Dundurn Press, 1991).

The concept of such a code was also considered in British Columbia in April 2004 within the Elections Advisory Committee of party representatives convened by Elections British Columbia. The Chief Electoral Officer of the election agency raised the possibility of a code as a response to ethical concerns raised by the public. It was agreed that before the 2005 general election, the party leaders would provide the name of a contact person who would be responsible for resolving ethical concerns. It was also agreed that the possibility of developing a code of conduct would be revisited following the 2005 general election. However, the idea was never adopted in the province.

To date, Manitoba is the only Canadian jurisdiction with an actual code. A Shared Code of Ethical Conduct was adopted on a voluntary, all-party basis following the recommendation of a judicial inquiry into a vote-rigging scandal in the 1995 provincial election. Elections Manitoba played a key role in developing the code and securing the commitment of all parties. A draft code was prepared by Elections Manitoba and was reviewed by the parties. Based on their comments, the proposed code was revised. Once one or two parties had agreed to the draft, there was pressure on the others to agree. The code came into effect on a staggered basis, as each political party opted in to its provisions. By consenting to adhere to the code, all parties and a wide range of other actors in the electoral and wider political processes are committed to act in such a manner as to maintain and to enhance “public confidence in the integrity of the political process.”⁵

Several passages in the Manitoba code (see Appendix B) imply that its application goes beyond the campaign process to include the more general political process. Such wording might be read to imply that the drafters of the code believed it was artificial in an era of permanent campaigning to draw a line between a campaign and a non-campaign time period. The adoption of fixed-date elections in Manitoba (Canadian jurisdictions, with the exception of Nova Scotia, Nunavut and Yukon, have gone to fixed-date elections) has created an incentive to begin campaigning before the official campaign period begins in order to avoid certain restrictions under elections law that apply during the official campaign periods.

The Manitoba code is administered and enforced by the parties, and there is no public reporting of how they educate members about its provisions, receive complaints or deal with violations. There does not appear to have been any evaluation conducted on the impacts, either positive or detrimental, of the code within the Manitoba political system.

More recently, the concept of a code has been raised again at the national level. In his report to Parliament on the administration of elections, the Chief Electoral Officer of Canada considers not just compliance with legislation but also broader principles of electoral integrity. After the controversy and investigation into the use of robocalls during the 2011 general election, the Chief Electoral Officer raised the possibility of a code in his report titled *Preventing Deceptive Communications with Electors*, released in March 2013. The concept had been recommended by a panel of experts consulted during the preparation of that report (Elections Canada 2013, 7).

The Chief Electoral Officer’s recommendation to Parliament read as follows: “Consideration should be given to the development of codes of conduct applicable to political parties, their officials, candidates, other affiliated entities such as electoral district associations, and active supporters. These codes would be developed by the parties, with Elections Canada’s assistance if required (Elections Canada 2013, 30).

This brief, comparative survey of debates over a code of conduct for political parties suggests that adoption represents a controversial development to which there is likely to be some resistance, particularly from the political parties, their leaders and their supporters. Controversy reflects the fact that such a code has advantages and benefits but also has disadvantages and costs. The next section discusses these issues in the abstract, and later sections discuss operational features of a code that will influence acceptance or rejection of the idea.

⁵ Elections Manitoba, “Shared Code of Ethical Conduct,” 1999.

3. THE ADVANTAGES AND DISADVANTAGES OF A CODE

As mentioned above, codes of conduct and/or codes of ethics are now widely used in various parts of society. Their emergence in the political domain is more recent and controversial. This is not the place to review at length or in depth the debates over codes in the political world. Instead, for purposes of providing a foundation for the subsequent discussion of the issues related to development, content, application and implementation, the advantages and disadvantages of a code will be enumerated in point form without much elaboration.

Advantages of a Code

- A code would most likely, but not necessarily, take the form of what is called “soft law” as opposed to the more familiar “hard law” of binding legislation and regulations. Soft law is not easily defined, comes in many forms and is widely debated in legal circles. The most distinguishing characteristic of soft laws is that they are not legally binding and do not carry legal penalties for violations. Whether they can provide a basis for court rulings is a matter of debate.⁶ Despite this limitation, studies in a number of policy fields have shown soft laws to be effective in shaping attitudes and guiding the behaviour of organizations and individuals who are the targets of such codes of conduct or ethics.
- A code would supplement and complement the more detailed, prescriptive rules contained in the *Canada Elections Act* that rely on quasi-criminal offences, punitive sanctions and the prospect of facing court proceedings to deter violations and to achieve compliance with the rules.
- A code could fill gaps in the scope of the Act and provide for a wider range of remedies for actions or inactions that do not rise to the level of criminality but involve bending the rules and/or violating the spirit of the law.
- A code would rely to a significant extent on potential reputational costs for parties, leaders and supporters who engage in unethical behaviour.
- A code could provide the Chief Electoral Officer and the Commissioner of Canada Elections with more influence based on persuasion and negotiation to ensure adherence to high standards of conduct in the electoral process.
- Adoption of a code might forestall demands for more regulation of party affairs.
- A code could mitigate the relatively low levels of public trust and confidence in political parties and fulfill the heightened legal and ethical standards to which voters hold parties and candidates accountable.
- A code could be another positive inducement to parties to be aware of their legal and ethical obligations and to behave appropriately. A code would remind parties of the duty of public trust that they owe to Canadians.
- If developed by the parties themselves, perhaps with the support of Elections Canada, adoption of a code would demonstrate self-awareness of the image and reputation challenges that parties face with many members of the public.
- A code would give coherence and consistency to the democratic principles and values that parties espouse. It would provide justification for party members who raise ethical concerns about party practices and push for corrective actions.
- A code would make it easier for party leaders to handle cases of ethical violations that could potentially undermine trust in the party.

⁶ See Lorne Sossin and Charles W. Smith, “Hard Choices and Soft Law: Ethical Codes, Policy Guidelines and the Role of the Courts in Regulating Government,” *Alberta Law Review* 40, 4 (2003), 867–93 for a review of some of these arguments.

- Codes are widely used in other parts of society, including government, so political parties would have models and experience to draw upon.
- A code is not a panacea to any disillusionment with the electoral and wider political process, but it could add marginally to the legal and ethical framework and climate of democratic life in Canada.

On each of these points, there are counter-arguments – often appearing as claimed disadvantages of codes – and evidence is required to sustain the claimed advantages.

Disadvantages of a Code

- The proposal to adopt a code of conduct or a code of ethics would be seen by elected representatives and other persons involved with politics to impugn their ethical judgment and integrity.
- Ethics should not be thought of as apart from or above the political process, which outsiders must enforce.
- Politics is not a profession like the other fields where codes have been successfully adopted. In politics, there is far more contention over the principles and values that should guide decisions and behaviours.
- In political life, elected representatives, candidates, constituency associations, paid staff and volunteers face to varying degrees competing obligations and loyalties to their parties, their constituencies, their province or region, the nation, democratic principles and practices, and their personal judgments. A code of conduct and/or ethics will be of little use in resolving the ethical dilemmas involved with performing multiple roles.
- Unlike other fields where codes work in a relatively objective manner, in politics complaints about ethical violations will become a political weapon used to gain short-term political advantage over opponents.
- A code would intrude unduly into the decision-making of political parties and limit the amount of room for the exercise of political judgment. Universal rules that seek to apply consistent standards of judgment remove discretion and potentially violate the privacy of political actors.
- When it comes to ethics, politicians tend to think and act pragmatically, not attempting to identify, analyze or balance multiple, vague principles and values, but instead acting intuitively, based to a significant extent on how their actions will be perceived by the public and interpreted in Parliament or by the media.
- A code implies ethical education and training, but ethics cannot be taught; it must be acquired on the basis of experiential learning.
- There are enough rules, guidelines, monitoring bodies and penalties and only a small number of instances of serious wrongdoing.
- Skepticism and resistance to a code will result in a document that is either legalistic and covers offences already identified in the *Canada Elections Act* or consists of a series of vague value statements that offer little or no practical guidance.
- Politics has actually become cleaner in terms of legality and ethics, but the public has the opposite impression because disclosures of alleged wrongdoing are amplified by an adversarial parliamentary culture and repeated by the media. In these circumstances, reforms should focus on changing the perceptions rather than adding more rules, whether of the hard or soft variety.
- Rather than improving public trust, a code that involves regular monitoring and reporting could have the opposite and unintended effect of decreasing trust in politics and politicians because there would be regular accusations of violations.
- Adoption of a code will reinforce the existing exaggerated negative stereotype of politicians and political parties, and this outcome will in turn discourage talented people from entering public life.
- There are more gains to be made from trusting politicians to take greater responsibility (not total responsibility) for integrity in political life than in adopting a code of conduct or ethics and putting an oversight body in charge of ensuring compliance.

There are, of course, objections to these arguments against adoption of a code, and the validity of some of the objections would again require evidence to sustain them – evidence that may not be readily available.

Some readers might already be convinced of the desirability of a code, others might be convinced that it will do more harm than good, and probably a majority of readers will want to know more about the aims and means of implementing a code before passing judgment.

The discussion now turns to the concrete issues involved with adoption of a code. The issues are discussed in a logical sequence, not necessarily in the order of their importance to a successful adoption and implementation.

4. FORMULATING AND ADOPTING A CODE

Experience in other types of organizations indicates that there should be meaningful involvement of those people most directly affected by a code to ensure positive identification with it and successful implementation. Such involvement leads to a sense of ownership of the document and a commitment to ensuring that it is adhered to. It takes time to inculcate and embed the values of a code into the culture of an organization. Leadership plays a key role in championing a code and embodying its principles and values in the fabric of the organization and the behaviour of its members. Principles and values may clash in particular situations, and the interpretation of them can change over time. In the life of all organizations, there will be defining moments when the espoused principles and values are tested by circumstances, pressures and incentives. Values-based leadership is crucial in those situations.

Applying these lessons to the political domain suggests that the engagement and support of party leaders, elected representatives, paid staff, constituency associations, candidates and volunteers in the development, application and refinement of a code would be crucial to successful adoption. Advice might be sought from politicians and election officials in other jurisdictions where codes or other types of guidance exist (like “The 7 Principles of Public Life in the United Kingdom”).⁷

It might be advisable to consult experts in the ethics field, including academics from several disciplines, think tanks, advocacy groups, the media and interested members of the public.

Based on these considerations, the following questions on the process of code development might be asked:

- Should code development and implementation be left to political parties, with or without the support of Elections Canada?
- Should Elections Canada develop a model code and invite political parties to endorse it?
- Should Elections Canada lead a consultation exercise (similar to a recently completed exercise led by the Commissioner of Lobbying on the Lobbyists’ Code of Conduct) involving both in-person and online interactions with a range of stakeholders?
- As part of a consultation exercise, should the Chief Electoral Officer meet with leaders of all registered political parties, the executive directors of the parties and other representatives designated by the parties?
- Should the consultation exercise strive for cross-party agreement on conduct and ethical standards?

⁷ The Committee on Standards in Public Life was created as an advisory non-departmental body in 1994, and in 1995, it published “The 7 Principles of Public Life”; see www.gov.uk/government/publications/the-7-principles-of-public-life.

- Should there be all-party discussions in a forum like the Advisory Committee of Political Parties (which, as a result of the changes introduced by the *Fair Elections Act*, consists of two representatives from each of Canada’s registered political parties)?
- Should the code have a basis in law, which would require approval by Parliament? Or should the code be a guidance document issued by Elections Canada, perhaps developed in consultation with Parliament through the House of Commons Standing Committee on Procedure and House Affairs and the Standing Senate Committee on Legal and Constitutional Affairs, to which the agency reports?

5. A CODE OF CONDUCT, A CODE OF ETHICS OR SOME OTHER TITLE?

The phrases “code of conduct” and “code of ethics” are often used loosely and interchangeably, leading to confusion about their aims and methods and how their success should be measured. For purposes of clarity and consistency, the phrase “code of conduct” is used here to describe a document with a basis in law that seeks to proscribe, deter and detect certain types of behaviour.

Codes of conduct can be either long, detailed prohibitions against certain actions, or they can be shorter, less prescriptive documents that set forth general principles. Usually, such documents establish procedures for lodging complaints and provide for either legal or political remedies for proven cases of violations.

Examples of codes of conduct are the conflict-of-interest rules that are used in many jurisdictions to regulate the behaviour of legislators, Cabinet ministers and other public office-holders to ensure that there are neither real nor perceived conflicts of interest that arise in the performance of their official duties caused by the placement of private interest, particularly those of a financial nature, ahead of their obligation to serve the public interest.

There is considerable variety in the types of provisions and methods of enforcement found in such codes. In contrast to codes of conduct, codes of ethics tend to be less legalistic, prescriptive and punitive. They go beyond legal requirements to invoke a sense of responsibility and commitment to doing the right thing. They have become popular in many organizational settings as inspirational and aspirational statements meant to unify, guide and improve the ethical standards of decision-making in complicated factual and ethical circumstances. The broad, more philosophical content of codes of ethics is meant to cover the grey areas of behaviour not captured by the more detailed, legalistic prohibitions contained in codes of conduct.

In the context of creating the conditions for “free and fair” elections, it might be argued that a code of conduct would deal more with the “free” dimension and a code of ethics would deal more with the “fair” dimension. In practice, of course, this dichotomy is not so simple or straightforward.

A code of ethics for parties and other political participants would focus on the values, principles and norms that should guide the behaviour of parties, leaders, elected representatives, candidates, staff and volunteers in the performance of their roles and duties while in office and during their election campaigns to gain such office.

A code of ethics would face the difficult challenge of distinguishing the ethical expectations and obligations that arise when people seek or hold public office from the morality and ethics followed in their private lives. Explaining and maintaining this distinction between the ethics of office-seeking and office-holding and personal ethics is difficult in the rough and tumble world of politics, where there are often competing values, interests, viewpoints, uncertain evidence and contradictory claims in play.

Studies of the adoption of ethics codes in non-political contexts suggest that three cultural conditions must exist: 1) shared attitudes and values, 2) agreement on the nature of the ethical problems that exist and 3) agreement on what needs to be done to eliminate or mitigate those problems. In political life, these cultural conditions are difficult to implant and to cultivate in a deliberate manner in a national political culture, which is fragmented and partisan.

These difficulties explain in part why there are far fewer working codes of ethics than codes of conduct in the political domain. Most codes of ethics have been adopted in newer democracies, where corruption is more endemic in the political culture than in more mature democracies like Canada.

The above discussion leads to the following questions:

- Should the framework for responsible political conduct be set through a code of conduct with a legal basis and restricted to the most obvious violations of legal norms?
- Should the document be a code of ethics that focuses less on wrongdoing and more on the promotion of ethical awareness, the competency to reason ethically and the promotion of right-doing?
- Should the document be a combined code of conduct, setting forth the legal rules in plain language, along with a more aspirational statement of the foundational values and principles upon which those laws rest?

6. WHAT SHOULD THE COVERAGE OF THE CODE BE?

The discussion of the type of document that might be adopted leads into issues related to the coverage of a potential code. By coverage, we mean which sorts of organizations and individuals should be subject to a code, which of their activities should be covered and during what time period the code should be in effect. More concretely, the following questions might be asked:

- Should the code be focused only on the election and campaign process or on certain other aspects of the wider political process?
- There already exists a Conflict of Interest Code for Members of the House of Commons, and there is a Conflict of Interest and Ethics Commissioner of Canada, who oversees compliance with its provisions. How would the content and compliance provisions of a code of conduct for political parties complement and be harmonized in practice with the existing conflict of interest code for members of Parliament?
- At a time when all parties are said to engage in permanent campaigning, is it artificial to focus only on the official campaign period?
- Should the code limit its coverage to party organizations, leaders, elected representatives, candidates, persons seeking nomination to be candidates and constituency associations?
- Should the code cover all actors associated with the campaign and related political processes, such as paid staff, provincial political representatives of the party, contractors who supply various services and volunteers?

7. WHAT PROVISIONS SHOULD BE IN THE CODE?

The provisions of any code should reflect the national context and the needs of the political system where they apply. For example, the codes in newer democracies often contain long lists of prohibited activities that reflect the fact of widespread corruption and the aspiration to create cleaner campaign and governing processes.

As mentioned earlier, Manitoba is currently the only Canadian jurisdiction with a code of ethical conduct for political parties. The code is general in its wording and relatively comprehensive in its coverage. The code states, “All political participants accept the responsibility to act in such a manner as to maintain and enhance public confidence in the integrity of the political process.”⁸ This wording implies that the code covers more than campaign activities.

In developing the provisions of a national code in Canada, there are numerous potential issues to be addressed. As a general comment, in order to be credible and to command support, the provisions will have to balance idealism and realism. The code should contain positive commitments to uphold democratic principles and values along with undertakings to avoid actions that are inappropriate on legal and ethical grounds.

This is not the place to present detailed provisions. Instead, it is more helpful at this stage to list without much elaboration questions about some potential topics to be included in such a code.

- Should the code have a clear focus on the election process or the wider political process?
- Should the code contain a short inspirational and aspirational statement of purposes in light of which its more detailed provisions would be interpreted?
- Should the code contain positive commitments by parties to:
 - Uphold both the letter and the spirit of election laws and rules?
 - Promote public understanding, confidence and trust in the electoral system?
 - Respect and promote the democratic requirement for fair electoral competition?
 - Co-operate with poll workers and election officers to ensure free, fair, orderly and “voter-friendly” elections?
 - Focus public comments and criticisms of other parties and their candidates on issues, policies and past record, not on their private lives unrelated to their public roles?
 - Respect the privacy rights of Canadians?
 - In general, act in a manner consistent with the principles and ethos of democratic life?
- Should the code contain commitments by the parties to avoid such actions as:
 - Any attempt to prevent or discourage eligible voters from casting their votes?
 - Attempts to frustrate the campaign efforts of other parties and candidates?
 - Seeking to prevent any person from attending public events or rallies of other parties?
 - Interfering in any way with the duties of election officials?
 - Using inflammatory or defamatory language in all their communications?
 - Applying inappropriate coercion or pressure or making promises linked to contributions as part of their fundraising?

⁸ Elections Manitoba, “Shared Code of Ethical Conduct,” 1999, 5, at www.electionsmanitoba.ca/en/Political_Participation/Ethical_Conduct.

- Using public funds designated for parliamentary and other public policy purposes for partisan campaign purposes?
- Should there be a provision that states that nothing in the code alters the responsibility of parties and candidates to report illegal activities to the appropriate authorities, such as the Commissioner of Canada Elections, for violations of the *Canada Elections Act*?

In the process of drafting the provisions of the code, there will need to be discussion of whether it is necessary and desirable to cover conduct that is already prohibited under the Act.

8. IMPLEMENTATION AND ENFORCEMENT OF A CODE

Translating a code into practice is not a simple, straightforward matter. Without an effective plan for implementation and enforcement, a code could be a symbolic document that might reassure the public that party politics were legal and ethical, but it would probably have little impact on the actual behaviour of political actors.

There are many practical issues to be considered in developing an effective code. How it is developed will affect the level of awareness, understanding and support by political parties, by actors on different levels in each party, by the media and by citizens at large.

A code dealing with political ethics could be more a cultural than a legal instrument. Evidence from other contexts suggests that endorsement, promotion, support and embodiment of exemplary behaviour by party leaders can be critical to making such a code more than simply words on paper.

The clarity and consistency of the aims of the code will affect the degree of understanding and acceptance as well as the capacity to measure its effectiveness.

The resources committed to communicating the aims and content of the code will affect awareness, understanding and acceptance among political actors on various levels, leading hopefully to voluntary compliance with its provisions.

The creation of reporting and appeal mechanisms to deal with complaints about illegal or unethical behaviour would seem to be essential to assuring the public that the code is working in a meaningful manner.

The code would have to provide for the establishment of “safe” channels of communication for lodging complaints and for protection against reprisals of individuals who “in good faith” make complaints about wrongdoing in a party.

While the strongest emphasis might be placed on the promotion of “right-doing,” the code would also have to make provision for sanctions to deter wrongdoing. Deciding on the appropriate types of penalties for different kinds of violations of ethical rules presents a serious challenge. For some actions, reporting and loss of reputation might be sufficient, whereas for more serious violations, suspensions from party activities or fines might be more appropriate.

There is not a lot of practical experience to draw on to provide lessons on how to meet the implementation and enforcement challenge.

In Manitoba, responsibility for translating the code of conduct into practice is left to the individual parties. All registered parties accepted the obligation to educate their members about the code and to develop procedures for handling complaints. They are required to report to Elections Manitoba that they have fulfilled these commitments, but they are not required to describe their activities in this regard. In other words, the Manitoba

code involves self-regulation. There is no requirement that parties report publicly on whether complaints about wrongdoing have been raised internally and how they were resolved. The underlying assumption of the Manitoba approach seems to be that the existence of the code and the acceptance of responsibility by registered political parties to promote its provisions will work effectively in combination with partisan competition, media attention and vigilant members of the attentive public to deter misdeeds.

In the case of the Quebec Liberal Party, its Code of Ethics and Conduct explicitly provides for the establishment of an Ethics Committee as well as for a complaint process and sanctions for misdeeds. The experience with these arrangements deserves more in-depth analysis than can be provided here.

Arising out of this discussion, there are a number of options for how a code could be implemented and enforced. Decisions on these matters will depend in part on the aims of the code and judgments on a number of other operational issues identified earlier in this paper. A number of options identified below could be combined.

Option 1 – Separate codes could be developed, adopted and enforced by each political party

There are arguments for and against this option, which will be listed briefly.

In terms of advantages, this option would respect the autonomy of parties. It would allow parties to customize a code for their own use, perhaps by including not only democratic rules and values but also distinctive public policy values that they espouse. With this approach, the parties would have a greater commitment to promoting awareness of the code throughout their ranks. The code could be used internally to promote cohesion and to deal with actions that violate party commitments. There would likely be less resistance to the concept of individual self-regulating codes than to a uniform code that applied to all parties.

A disadvantage of individual codes would be a potential lack of consistency among the parties in terms of upholding the rules and values of electoral democracy. Internal administration, including dealing with complaints of violations, would not inspire as much public confidence that the codes were being respected by the parties, especially if such matters were dealt with privately. Critics might dismiss voluntary, self-enforcing codes as symbolic window dressing. This concern might be somewhat alleviated if the parties agreed to establish a designated position within the party to receive complaints of unethical actions and provided safe channels for party members to raise their concerns.

Option 2 – A shared code could be developed with the support of Elections Canada

This is the process that was followed in Manitoba in the context of responding to a scandal and judicial inquiry, which created pressure on the parties to find agreement. Adoption of the Manitoba code is voluntary, and enforcement is left to the parties. There is no public record of a code violation being raised and resolved by a party. There are advantages and disadvantages to this option.

This option would have the advantage of a uniform set of values and norms of behaviour, which all participating parties would accept. Parties would have an incentive to monitor and report on violations by their competitors, creating pressure for parties to promote awareness and adherence to the code. Interpretation and enforcement of the code would remain with the parties and not involve oversight or sanctions imposed by an external body such as Elections Canada. Participation by Elections Canada in the formulation of the code might add to public confidence that the code would serve as a meaningful guide to responsible behaviour. Existence of the code might be useful as a source of persuasion and influence for the Chief Electoral Officer and/or the Commissioner of Canada Elections when seeking to deal with problematic behaviour that does not rise to the level of

criminality for purposes of prosecution under the *Canada Elections Act*. There might be less political resistance to acceptance of the idea of a shared code that is uniform, voluntary and self-enforcing.

A disadvantage of this option is that it might not inspire public confidence because there is no provision for an external body to monitor and enforce its provisions. In the current intense partisan environment, it may be naive to expect political parties to discuss frankly in an all-party forum the legal and ethical issues arising from changing campaign practices. The risk of being challenged by political opponents might discourage parties from accepting a uniform code. Instead, negotiation among the parties might lead to a weak code that does not offer meaningful guidance in terms of legal and ethical behaviour.

Participation by Elections Canada in the development of the code, and the general visibility of the agency as a guardian of the integrity of the election process, might lead to complaints being filed with the agency. If the complaints did not involve violations of the Act, the agency could only refer them to the parties, not investigate or resolve them. Over time, publicity concerning the inability of Elections Canada to act on complaints might detract from its strong reputation as an impartial regulator of the election process.

Option 3 – Elections Canada could develop a model code that could be adopted by Parliament in a statute

Under the *Canada Elections Act*, Elections Canada has the statutory responsibility to report to Parliament on the administration of each election and has the authority to recommend amendments to the Act to improve the management and integrity of the election process. The Act is primarily a regulatory statute that, historically, has dealt with violations of its provisions through criminal proceedings in the courts. The amendments to the Act passed by Parliament in 2014 under the name of the *Fair Elections Act* provided some additional flexibility for the agency in ensuring compliance with its provisions, such as new authority to issue advance interpretations and opinions upon request from parties and candidates. However, there is still no provision in the Act for a general grant of delegated legislative authority or rule-making power that could be used by Elections Canada to adapt the rules in limited ways in response to changes in technologies and campaign practices that were not anticipated by existing statutory provisions.

As mentioned earlier, the passage in 2014 of the *Fair Elections Act* has resulted in the relocation of the Commissioner of Canada Elections to the Office of the Director of Public Prosecutions. This relocation leads to the question of whether Elections Canada or the Commissioner should oversee a code. If a code of conduct were limited to legal issues, the Office of the Commissioner might be the logical location to place the enforcement function. If a broader code of ethics were adopted, then Elections Canada might be the more appropriate location.

There are a number of potential advantages of a legislated code. A code could be crafted carefully to enshrine foundational principles and values of democratic life that all parties would want to embrace. A statutory code could flow from the regulatory authority granted to Elections Canada and/or the Commissioner of Canada Elections and could serve as a source of greater flexibility in applying the provisions of the *Canada Elections Act*. The code could be incorporated into the text of the Act or be referenced in the Act and attached as an addendum.

Incorporation of a code in a statute might offer greater assurance to the public that the provisions of the code will be respected. Provision could be made for mandatory reporting by political parties of violations, something that is not necessarily required under self-enforcing codes adopted by parties. Such a requirement could encourage parties to take code provisions more seriously in terms of promotion and compliance. A legislated code could also allow for members of the public to file complaints if they believe in good faith that illegal or unethical acts have taken place.

A process in which a model code was prepared by Elections Canada and presented to Parliament for adoption could involve a number of risks and disadvantages. Unless there was advance consultation and agreement among party representatives, such an initiative could be seen as Elections Canada pushing the limits of its mandate, especially by those critics who believe the agency should follow a minimalist, strictly legal interpretation of its role consisting of protection of the election process against the most obvious types of violations of the letter of the law.

Seeking all-party agreement within Parliament for a statutory code enforced by an external body might result in a highly vague, weak code. Another risk is that the code could become the subject of intense, irreconcilable disagreements among the political parties. If a governing party used its majority in Parliament to impose a contentious version of a code, the other parties might claim it lacked legitimacy and refuse to abide by its provisions. As the sponsor of the proposed code, Elections Canada could be dragged into partisan controversy. Coming in the wake of the parliamentary fights over key provisions of the *Fair Elections Act* affecting the role of Elections Canada, another round of controversy could damage the image of the agency as operating above the political fray and could lead to reduced public confidence in the impartiality of the agency.

With two bodies – Elections Canada and the Commissioner of Canada Elections – now responsible for overseeing the integrity of the election process, the public may be confused about where to direct any complaints about perceived wrongdoing. Given the longer history and greater visibility of Elections Canada compared to the Commissioner, the majority of public complaints would likely come in the first instance to Elections Canada. Under the previous arrangements, Elections Canada referred complaints to the Commissioner. With a new mechanism, there would need to be protocols for handling complaints, channels of communication between the two bodies and policies for communicating with the public.

Regardless of which body was given authority to oversee a statutory code, its decisions regarding interpretation and application of the code, especially one containing broad and vague ethical principles and values, would involve difficult judgments, often in complicated factual circumstances and with contending claims.

The above three options do not exhaust the possible ways to achieve adoption and implementation of a code. There are at least two variants on the options discussed above.

First, in debates over political ethics, it is usually assumed that a universal approach, in which all parties endorse a shared, uniform set of principles and values, is best. Another approach would be to require by law that every political party develop its own code, provide information to party members to make them aware of its provisions and designate an ethics officer to handle questions and concerns from members. Information on these ethics regimes inside each party would be filed with Elections Canada and published online. Rather than uniformity, there would be some amount of diversity in how the parties approached the ethical dimensions of their operations. Because information would be available online, other parties, the media and interested members of the public could compare how seriously each party took its legal and ethical responsibilities.

A second variant would be for Elections Canada to develop through consultation a statutory code and have that code include an opt-in provision. Once passed by Parliament, the code would be enforceable by Elections Canada, but political parties would be free to decide whether to accept the principles and values of a code that went beyond the legal requirements of various laws. In adhering publicly to the code, the parties would commit leaders, elected members, candidates, staff and volunteers to respect its provisions. Elections Canada would provide oversight, offering greater assurance that opted-in parties took the code seriously. An opt-in model could create a “race to the top” in which parties compete with one another in terms of their commitment to high standards in order to impress voters.

9. CONCLUSIONS

The purpose of this paper was to identify issues, questions and options related to the possible adoption of a code of conduct or ethics to be applied to the activities of political parties. As a document intended to support a consultation and discussion process, the paper did not offer specific recommendations that might preclude consideration of a full range of issues and options.

By way of conclusion, the paper will offer some general observations related more to the process of adopting a code than to the issues of content and enforcement. These observations are based on the review of the secondary literature, which often employs case studies.

The process of code development is at least as important, if not more important, than the product in terms of realizing the potential benefits and avoiding unforeseen consequences of adopting a code.

The process for formulation and adoption of a code should not be based or appear to be based on anti-politics thinking, which reflects and reinforces negative stereotypes of politicians and political parties that are false or at least exaggerated. Imposing legal rules and ethical norms that inappropriately restrict the scope of political judgment should not be the outcome of a code. It could be argued that there would be greater gains for electoral democracy in Canada by trusting political parties to take more (but not total) responsibility for developing, promoting and regulating their own ethics than from having a code developed, implemented and enforced by an outside body.

Experience with the formulation of codes in different contexts suggests that, without consultation, dialogue, frankness, a search for consensus and the achievement of a genuine commitment to the value of a code, there is the risk that the impacts of a code will be minimal. Achieving these conditions for success in the political realm of competitive political parties is obviously more difficult than in other settings.

If a statute or code is adopted during or in the immediate aftermath of a scandal, there is a greater risk that documents will reflect an anti-politics motivation. In such a context, partisanship is likely to be more intense as competing parties engage in “purity duels,” in which they claim to be more committed than their opponents to cleaning up the political process. Under these conditions, there is the risk that the resulting law or code will not be well designed and will focus narrowly on the problematic activities that gave rise to the scandal.

Forecasting the impacts of a code in the context of national politics in Canada is uncertain. Codes have benefits but also can have unintended and detrimental consequences. Working models of codes governing political ethics are few in number, are found mostly in less mature democracies and are relatively recent in their origins. Manitoba is the only jurisdiction in Canada to adopt a shared code of conduct for political parties, and its impacts have not been examined in any systematic manner. The fact that there are no references to the code in political debates or in the media might suggest that the code with its inspirational commitments has faded into the political background.

Even without evidence about such impacts, there is no denying the fact that discussion and adoption of a code would cause political parties and their followers to be more aware of, sensitive to and capable of reasoning about ethically challenging situations in ways that they otherwise might not have in the past.

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APPENDIX A: SELECTED COUNTRIES WITH CODES OF CONDUCT FOR POLITICAL PARTIES

Ghana – Passed in 1992 and updated in 2012, available at
<http://eisa.org.za/WEP/ghaparties3.htm>

India – Adopted in 2007, available at
http://eci.nic.in/eci_main/faq/faq_mcc.pdf

Kenya – Passed in 2011, available at
www.parliament.go.ke/plone/statutory-documents/political-parties-act-no-11-of-2011

Pakistan – Passed in 2007 and revised in 2013, available at
www.ecp.gov.pk/misc/draft.pdf

South Africa – Revised in 2014, available at
www.elections.org.za/content/About-Us/News/Signing-of-the-Code-of-Conduct/

Tanzania – Adopted in 2012, available at
http://nec.go.tz/?modules=eprocess&sub&op=code_of_conduct

Zimbabwe – Amended in 2007, available at
www.zec.gov.zw/code-of-conduct

APPENDIX B: THE SHARED CODE OF ETHICAL CONDUCT IN MANITOBA

Following the 1995 general election, a Commission of Inquiry was held into alleged infractions of *The Elections Act* and *The Election Financing Act*. In his March 29, 1999, report, Commissioner Alfred M. Monnin recommended that all parties voluntarily prepare and implement a code of ethics.

Elections Manitoba discussed this recommendation with all of Manitoba's registered political parties, and it was agreed that, apart from the parties' own codes of ethics, a common code of ethical conduct could be developed that would foster confidence in the integrity and fairness of the electoral process.

The following code was developed through consensus with the political parties.

Purpose

The Shared Code of Ethical Conduct sets out guiding principles and specific practices that establish the framework for ethical conduct expected of participants in the political process.

The Shared Code of Ethical Conduct is founded on a deep and enduring respect for the democratic process and compliance with election laws that codify the rules for elections and campaigning. Ethical conduct in the political process embraces fundamental democratic principles including the right to vote, the secret ballot, accessibility to voting, the right to be a candidate, organization of political parties, the independent administration of elections, freedom from intimidation in the exercise of democratic rights, honesty and truthfulness in political campaigning, and transparent and accurate public disclosure of political finances.

All political participants accept the responsibility to act in such a manner as to maintain and enhance public confidence in the integrity of the political process. This Code will assist the public in assessing the ethical conduct of political participants.

Application

This Code applies to all political parties and independent candidates that have declared an intention to adhere to its guiding principles and rules of conduct. The Code applies to all elected representatives, candidates, persons seeking to become candidates, constituency associations, office-holders, staff, party members, volunteers associated with the political party, and principal vendors and suppliers (hereinafter referred to as "Members") whenever they are acting as participants in the electoral process.

Party leaders and candidates undertake to actively promote compliance with this Code and, to the extent that it is reasonable and practicable, party leaders and candidates are expected to exercise authority over other Members to ensure the spirit and letter of the Code are applied.

This Code is not intended in any way to replace or limit the ethical standards of conduct expected of Members by their own political parties, personal ethical standards held by individual members, or otherwise applicable legal or professional standards which are not specifically referred to in this document.

This Code may be modified by consensus of the political parties that have declared an intention to adhere to the Code.

Nothing in this document alters the responsibility of all political parties and Members to promptly report any illegal activities to the appropriate authority. Suspected violations of *The Elections Act* or *The Election Financing Act* are to be reported to the Chief Electoral Officer.

Guiding Principles

All Members subscribe to the principles of free and fair elections, will respect electoral laws, strive to maintain public confidence in the electoral process, and will uphold the democratic rights of Manitobans.

Step 1 – Knowledge and adherence

Political parties shall make the Code available to their Members.

Members shall respect and adhere to the principles and rules of conduct set out in this Code and actively promote adherence to the Code on the part of other Members.

Step 2 – Respect for the law

Members shall maintain and promote respect for Manitoba's election laws. This involves complying with both the letter and spirit of the provisions of all election laws and regulations, including the administrative, regulatory and offence provisions of *The Elections Act* and *The Election Financing Act*.

Members shall maintain and assist in maintaining the fair and proper administration of the vote, and the secrecy of the vote.

Step 3 – Integrity

Members shall conduct themselves in a way that upholds the integrity of, and the public's respect for, the electoral system.

Members shall make every effort to ensure that their conduct is above reproach. This means that they should not engage in conduct which could be regarded as unfair or unacceptable by reasonable, fair-minded and informed persons.

Step 4 – Co-operation

Members shall co-operate with election officials who are charged with the responsibility to conduct elections and administer campaign finance laws, and shall not interfere with election officials in the performance of their duties.

Members shall co-operate in responding completely and accurately to any inquiries or investigations undertaken by Elections Manitoba pursuant to Manitoba's electoral legislation.

Step 5 – Diligence

Members shall apply the Code with diligence, skill, and reasonable promptness.

Rules of Conduct

Members shall conduct themselves in a manner that respects the rights and legitimate democratic interests of all citizens, voters, political parties and Members, including Members of other political parties, and shall avoid behaviour that is likely to bring the electoral system into disrepute.

Step 6 – Public statements

Members shall strive at all times to make public statements that are accurate and shall not make public statements that are defamatory with respect to another Member, leader, or any candidate of another political party, or another political party generally.

Members shall not make statements that they know to be untrue in their criticism of the platform, policy statements, positions, or otherwise of other political parties or the candidates of other political parties.

Members shall not knowingly make false statements about poll results, nor authorize interpretations of poll results that are inconsistent with the data available.

Step 7 – Advertising and campaigning

Political parties and Members, in their advertising, campaigns and promotional material, shall strive at all times to make statements that are accurate and to avoid statements that are misleading or deceptive.

Members shall not sponsor advertising nor issue other promotional materials, such as pamphlets, brochures, handbills, newsletters, electronic messages, signs or posters, that make defamatory references to another Member, leader, or any candidate of another political party, or another political party generally.

Members shall not sponsor advertising or other promotional material containing language or other visual representation that promotes hatred toward any individual or group.

Members shall not obstruct campaigning nor deface, destroy, prevent or obstruct the distribution of advertising or other promotional material of other political parties and rival candidates, nor shall such conduct on the part of other Members be encouraged, condoned or permitted.

Step 8 – Fundraising practices

Members shall not improperly pressure or corruptly induce prospective contributors to make contributions to any political party, candidate or constituency association by any direct or indirect threat or promise.

Step 9 – Public disclosure

Registered parties, candidates, constituency associations and Members required to publicly disclose political contributions and election spending shall do so according to *The Election Financing Act* and in a manner which fairly, honestly and transparently discloses all financial activities.

Political parties, candidates, constituency associations and Members shall not enter into transactions or engage in accounting practices whose purpose is to alter the actual amount of election expenses incurred, avoid disclosure of actual or original contributors, or to improperly obtain the benefits of publicly funded tax credits or election expense reimbursement for themselves or for other Members.

Step 10 – Improper influence of the vote

Members of one political party shall not offer or give anything of value, including but not limited to financial, organizational or administrative assistance, to another political party or candidate for a corrupt purpose.

Members shall not, directly or indirectly through another person, offer or give anything of value to a voter for the purpose of corruptly procuring the voter's support.

Implementing the Code

This Code of Conduct contains a set of expectations and commitments freely entered into by political parties. Political parties commit to the importance of designating a specific authority for receiving complaints and an internal process, including sanctions, for implementing the Code. The Code will be self-regulated with good common sense and in good faith.

Step 11 – Party review process

Each political party shall designate an authority to receive and review complaints made against the political party and its Members.

Each political party shall create and make known a process by which complaints may be brought before the designated authority and a process by which matters will be reviewed and decided.

Step 12 – Responsibility to report

All political parties and Members subscribe to the necessity and importance of reporting breaches of this Code and will do so in a prompt and diligent manner.

If the conduct of a political party or a Member would be likely to bring into question the integrity of the political party, or any of its Members, or the electoral process generally, it shall be reported to the designated authority within the political party.

Members will not make false, frivolous or vexatious complaints.

Step 13 – Sanctions

If it is determined by the designated authority within the political party that a complaint is well-founded, and the conduct in question is such that it would be likely to bring into disrepute the integrity of the political party, its Members or the electoral system in general, the political party shall repudiate the unethical conduct and may take any other action it feels is necessary.

If it is suspected by the designated authority that a breach of the law may have occurred, the matter shall be referred to the appropriate authority for investigation.

www.electionsmanitoba.ca/en/Political_Participation/Ethical_Conduct