
A Code of Conduct: A Lobbyist's Perspective

by Susan A. Murray

During its hearings, the Special Joint Committee on the Code of Conduct heard suggestions for a written code of ethics for parliamentarians from academics, ethics commissioners and other witnesses. In November 1995, the Committee heard from a lobbyist who explained her company's experience with a code of conduct and suggested parliamentarians could also benefit from a written code.

A code of conduct is just a piece of paper. It is how you live with it in a fluid way and as issues arise that make it real. Certainly, we are in a period in which all public institutions are undergoing a process of renovation and reinvention. Parliamentarians face major challenges and have significant opportunities to be leaders in this process; however, I do not think we can reinvent our institutions without first admitting their imperfections and failings.

I also feel that we should acknowledge at the outset the limits of what we are attempting. Anyone searching for a perfect standard or set of rules will be disappointed. I was struck by a comment the Hon. Mitchell Sharp last year: "You can't regulate honesty". Whatever you decide to include in a code of conduct, if you create one, I think the results ultimately will depend on the determination of parliamentarians to act honourably and to fundamentally understand right from wrong.

Does that mean this is unimportant or just rhetoric? I do not believe so. The public has a fundamental right to feel that those it elects carry out their responsibilities honestly and impartially. A code of conduct can assist both members of the public and parliamentarians to understand and deal with all the complexities of public life and significantly get on with the job. If I can use the word "neutrally" in this political setting, it helps strike a common-sense balance between the free flow of information and the public's right to accountability. That

is positive, and that's an important accomplishment.

Integrity and impartiality are the foundation of public sector ethics. People expect that the treatment they receive from public agencies will be without regard for any individual or personal characteristics and that they will be treated like everyone else. They also expect that those who hold public office, whether private members of Parliament, senators, public servants, or judges, will be honest at all times and not derive improper personal benefit from their position.

Since 1983, before the issue became fashionable, before there was legislation affecting our industry, and before there was an industry association, our company adopted a code of conduct and ethics and we are as committed to its principles and spirit now as we were when it was created.

Extreme cases are straightforward. Bribery is a serious criminal offence. But what about less straightforward cases? A code of conduct for parliamentarians will help to guide behaviour both to avoid circumstances that may threaten one's integrity and to deal with harmless events and circumstances that might be interpreted as threats or violations to the integrity of MPs and senators.

I want to illustrate with a couple of examples. Say a newly elected MP has a pharmaceutical company head

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in her riding. She gets a luncheon invitation from the vice-president of corporate affairs who says she wants to introduce the company and offer any assistance the MP may need in dealing with related health care issues. They have a pleasant lunch, and agree to split the bill.

A couple of months later, the vice-president offers the MP two tickets to a Stanley Cup play-off game, remarking that the company has a box at its arena and makes tickets available to MPs, as well as to customers and other guests. Is there a problem here?

Example two. A government industrial assistance program is up for renewal. The industry association hires a lobby firm and several industry representatives, and a senior government relations consultant arranges meetings with senior public servants and ministerial staff. They also meet with MPs whose ridings include the companies affected.

In each meeting, they present an analysis that shows government support levers so much additional private funding that the government gets back more in taxes than it pays out under the program, and they ask for favourable consideration when program renewal is considered. Is this activity proper?

In my view, both situations are proper if certain precautions are taken. I start from the position that it is part of an MP's job to represent all of his or her constituents and that getting to know them and their concerns is basic to doing the job. That does not mean there is never going to be an issue. Lunch with a representative of a business or an interest group in any MP's riding is no problem, especially since the MP and the company official, in my example, split the bill. Stanley Cup tickets could be seen as different. First of all, they're much more valuable – or they used to be.

Secondly, the obvious question, what's in it for the company handing them out? The easiest way, of course, to avoid a problem is to say no and suggest there must be many other people with whom the official would rather spend an evening. Another option would be to accept the tickets but only on the condition that the MP will pay for them.

You may also want to consider rules such as those that exist in Ontario, whereby a member of the Legislative Assembly can accept a gift or personal benefit "as an incident of the protocol customs or social obligations that normally accompany the responsibilities of office", but if the gift is worth more than \$200 or if the total value of gifts from one source exceeds \$200 in one year, the member must file a disclosure statement with the provincial integrity commissioner. The logic of the *Ontario Members' Integrity Act* is that disclosure of a benefit makes it difficult for there to be any untoward effect on legislators' behaviour.

The second case is probably the most common. Here an organization meets with officials and parliamentarians to advocate funding under an established program. Unlike the first example, a paid lobbyist is in the picture, but that person's role is to advise and facilitate. The discussion is conducted by the association representatives.

Aside from having paid assistants, this is a straightforward case of constituents communicating with their elected representatives. As long as all other groups have equal access to the representatives, the lobbyist should be no more than a convenience performing tasks the association could have done itself. I hope these examples highlight several things about conflict of interest that you will want to reflect on.

First, many situations are less than textbook clear. Accepting a couple of hockey tickets may be fine, even if it results in envy from friends, relatives and colleagues, but what if you are offered a pair of play-off tickets to an out-of-town game, and that offer includes a weekend at a hotel, and airfare? That benefit is pretty hard to fit into the category of protocol, customs or social obligation.

Second, different situations suggest different responses. Sometimes the most sensible thing is avoidance – just say "No thanks" – while other circumstances may best be dealt with through disclosure. There are circumstances where a parliamentarian's personal financial interests may be affected by a matter before them. In these cases, the MP or senator would be expected not to participate in the debate or the decision. There will always be people who are suspicious or adept at finding fault. The test of a code of conduct is not whether its existence silences those who grumble about politicians. The fundamental issue at all times is the public's right to impartial treatment and personal integrity in its elected representatives.

Third, regulating the conduct of parliamentarians will always be an ongoing process of attempting to balance the free flow of information with the integrity of elected representatives. No rule book can ever settle all the possible cases in advance. I do think we are at a crossroads in Canada's public life, and I'm not referring to anything in the Constitution. Government and politics in our country no longer connect with many people's priorities or even expectations. Things are out of sync and people are increasingly disenchanted and alienated by the distance between what they want – or think they want – and what they think they're getting. This gap between government agendas and the expectations of citizens is not healthy, and results in wasteful and inefficient government.

Canadian citizens are years ahead of their politicians. They want less from government, but they still believe in

government and that it can do good. They want services from government, but are prepared to accept far fewer than politicians believe. Their willingness to accept less is not because they think government-provided services are bad, that public servants are unproductive drones, or that poor and vulnerable people are undeserving. They are tired of paying for the notion of government as all-providing, as a one-stop shop for everything every Canadian needs in order to be protected, sheltered, educated, nurtured, guided, socialized, tutored and so on.

They want government to be more responsive, and for customer service to be job one. I think they see government's role as creating the appropriate conditions for individuals, businesses and associations of all kinds to flourish and grow. To a much greater extent government would be a standard setter, context definer and an enabler, but less and less a direct provider.

It is time to pull government into the future. Government in Canada is reinventing itself; it has to. We have outgrown the organization, assumptions and business practices of our governments. The old paradigms are obsolete and we have to begin to reinvent them.

I think the opportunity facing you as parliamentarians parallels the situation I experienced when I began my business as a government relations consultant in the early 1980s. I started with the insight that the public and private sectors often existed as two solitudes in conflict because of mistrust and misinformation about each other. I saw that both could benefit from a service that attempted to bring those two solitudes together; in other words, a business whose business would be helping business and other organizations take a leadership role in creating solutions for their own issues with their government.

Lobbyists need to reject cronyism, back-door influence and the exchange of political favours. I think a parallel opportunity exists for parliamentarians today.

At one time the practice of government relations was very different. It once was sufficient to rely on political contacts - on who you knew, not what you knew - and cronies to get results, and the business of lobbying government involved trading political favours for electoral fund-raising or other monetary benefits.

Those days are gone. There is no room within government decision-making today for responses and

solutions that are not justifiable in terms of good public policy. Voters have clearly indicated that they will punish bad decisions.

Today, any lobbying firm that relied solely on political connections would not last long. A few words in the ear of a friendly politician over a dinner or golf simply will not solve the complex issues. Lobbyists need more than a fat rolodex and a silver tongue.

Partisanship matters less to Canadian citizens than integrity, good faith and the political will to do what is right, even if it is occasionally unpopular. I am not saying that partisanship is a bad thing or that party discipline and party loyalty are obsolete, only that they can no longer provide the only baseline for the politics of the 1990s and the next millennium.

A fundamental aspect of the reinvention of government is the centrality of ethical principles. That is what drives the public's demand for ever greater accountability. It is not that most people think their representatives and officials are dishonest. Rather, they want to see an explicit commitment of public office-holders to standards of honesty, responsibility and integrity. I think this presents clear opportunity for parliamentary leadership.

We were the first government relations firm in Canada to adopt a written code of conduct. I believe we have established a standard for the practice of ethical government relations. For many years it was not easy. There were years where we probably paid a price, but ultimately it does make good sense. My experience is that making ethical standards central to the conduct of one's business ultimately has enormous positive results.

It clarifies expectations on both sides of the relationship and eliminates a lot of possible misinterpretation and misunderstanding. Our clients know we are not peddling political or bureaucratic influence. They know before they ever engage us that we will not knowingly provide misleading or inaccurate information to officials, and that we will not play both sides of the street. Each client contract we sign states our commitment to not accept work that would involve direct conflicts of interests with existing client commitments.

Our commitment to transparent advocacy means our dealings with officials and politicians are fair, reasonable and open. This is something that has earned us respect from civil servants and MPs across Canada, and it has served us well professionally.

It sensitizes us to issues that may arise where there are no established rules. For example, in the early 1990s I hired two senior consultants with connections to the NDP government in Ontario. One had been a political

advisor and at the time was a civil servant, but her spouse continued to be a minister's chief of staff. The other was a senior advisor in the premier's office.

As you may know, there are no post-employment rules for the Ontario government's political staff. In each case we sought the advice of the conflict of interest commissioner, and we agreed on a detailed set of constraints on the work these people would do. And that was in a context where former deputy ministers were going out and selling their services in the field they had been in the day before.

Again, there were no rules but we felt we should show some leadership. This not only underscored our commitment to ethical government relations, but it also permitted these individuals and those they dealt with subsequently in the Ontario government to do business without any apprehension, impropriety or conflict.

Finally, our code lets us focus on what we do best, to try to provide our clients with professional advice about their issues. Again, I think this is a particularly salient point for parliamentarians. The demands on government are so many and varied that anything that simplifies your job of representing the interests of Canadians while increasing public confidence in your commitment to the highest standards of integrity is worth embracing.

Across North America fiscal and other pressures have given rise to a host of efforts to reinvent government, to make it smarter and able to do more with less. The work you are doing to develop a code of conduct for parliamentarians is an important opportunity for our parliamentary democracy to embrace ethical principles in day-to-day operations.