



Office of the Leader
of the Opposition
Cayman Islands Government

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September 27, 2022

Hon. Wayne Panton, JP, MP
Premier of the Cayman Islands
Government Administrative Building, Grand Cayman

Via Email

Wayne.Panton@Gov.ky

Dear Premier Panton;

Re: Parliamentary Code of Conduct

I acknowledge receipt of your email sent on December 31st, 2022, at 9:30 pm. I also acknowledge receipt of what you have referred to as "a further developed version" of a proposed Parliamentary Code of Conduct (or "Code"). Members of the Government signed this document, and you invited members of the Opposition do the same.

Your proposed Code falls short in two important respects. First, there are significant failures in process that violate the principles of good governance that you yourself have claimed would characterise your government. Secondly, and more significantly in the long run, there are significant failures of substance which mean that the Code would be ineffective and inappropriate. It fails the basic test that such a Code should ensure that Parliamentarians are properly held to account for their conduct and also guarantee a fair, independent and impartial process through which that accountability should be achieved. Therefore, I regret that neither I nor any of my colleagues in the Opposition will sign the Code as currently drafted.

You are well aware of the concerns that we in the Opposition have about the proposed Code as we have raised them with you directly in the past. Despite your promises to do so, you have failed to work with us to overcome the significant issues that we and others, including the Constitutional Commission, have raised and to ensure that a workable Code can be brought



forward and agreed by all Members of Parliament. Let me remind you of some events leading up to this point.

The Clerk of Parliament had sent an earlier version of the Code to all members of Parliament on March 18th of last year. This earlier draft would have been the first time the broader parliamentary group would have seen a proposed Code. Thus their input and comments were being sought.

As you know, the Council of the Parliament Management Commission (*hereafter, referred to as the Council or PMC*) discussed the March draft Code at a meeting on March 17th, 2022. You will recall that at that meeting, my Opposition colleagues and I advised the PMC of our concerns with the proposed Code, including the need for a truly independent body to investigate and determine any potential breaches of the Code.

Your proposed Disciplinary Committee of three persons, comprising two members selected by the Government (the Speaker and the Premier), and one by the Leader of the Opposition, does not ensure that the Committee is sufficiently independent.

The Commission for Standards in Public Life strikes me as a better option. This Commission has a proven track record, its independence and role is grounded in the Constitution, and it has the expertise to investigate breaches regarding the conduct of public persons.

We also pointed out at the March meeting that the Constitution Commission had written separately to both of us and made many valuable suggestions. If considered seriously, the recommendations by the Constitution Commission could allow us to have a Code that can stand up to scrutiny, is effective, and includes a fair, transparent and clearly understood process. Including, I would add, the need for an Independent Investigator.

Again, these concerns and comments were discussed at the Council meeting in March. As such, they are known to you and all members of the Council. You indicated that you would meet further with the Opposition members to address these concerns. However, you have yet to arrange for any such meetings. You also indicated that you would look at the Constitution Commission's recommendations and circulate them to your colleagues for consideration at a future meeting of the Commission. Indeed the copies were emailed to Council members the following day.



Notably, there has also been no meeting of the Council since March 17th of last year- almost ten months ago. As such, I need clarification on how you are providing me with a signed Code that has yet to be agreed to by the Council, whose job is to decide and put forward an appropriate Code for consideration by Parliament. The answer must be that what you have provided is an unauthorised and improper Parliamentary Code - regardless of whether it is signed.

In your New Year's Day Message, you indicated that you had written to me to ask that the Opposition members sign the proposed Parliamentary Code. A Code that you knew has yet to address our concerns and to receive official sanction by the Council. It is also telling that you wrote to me late evening on New Year's Eve to, seemingly, tick a political box prior to the broadcast of your message the following day.

Premier, providing the Country and Parliament with a solid and effective Code for Parliamentarians is more important than a mere political tick-box exercise. Your proposed Code does not even bind a future Parliament and is, in many respects, almost useless.

I did note that the signed document usefully had the dates when members signed it. You and a few others signed it on November 11th 2022, with other members signing it between November 22nd, 2022 and December 5th, 2022. At no point in November or December last year did you advise the Opposition members of the Council, including myself, that this was occurring. Remember, too, that we were in Parliament on December 7th, and you could have readily asked the Speaker to convene a meeting of the Council to discuss a draft Code. You did not do so because you knew we would not agree to this version.

I remind you that our concern was made public in a published statement to the media in September last that stated:

"The Opposition is concerned that the Parliamentary Code of Conduct has not progressed, but any delay is not on the part of the Opposition. The Opposition certainly does support a code of conduct that is fit for purpose. However, we have told the Government that we will not support a Parliamentary Code of Conduct that does not stand up to serious scrutiny, is ineffective and does not include an independent body to investigate and make a determination of any potential breaches of the Code of Conduct.



Commitments by the Premier to meet with the Opposition to discuss our concerns have not occurred. But we have made suggestions, and I am aware that the Constitution Commission has also provided the Government with useful input. These could help speed this process along, should the Government see fit to consider them and if the Premier can get agreement in his Caucus and with the Honourable Speaker."

I also wrote to the Constitution Commission in July 2022 and commented similarly. I told the Commission that whilst I would have wanted the Government to progress more quickly, it was preferred that Government take the time to get the Code right rather than rush it and get it really wrong.

Sadly Premier, it is the view of the Opposition that despite taking this long to propose a suitable code, you have not only ignored the valid concerns of the Opposition and the thoughtful advice of the Constitution Commission, but you have indeed gotten your proposed Code very wrong. Wrong in substance as well as in process. Therefore, your proposed Code needs to be significantly revised. It should be approved by the Council and then brought to the Parliament.

A Code of Conduct must be a permanent part of the architecture which governs the conduct of the House and Parliamentarians. It should formally be adopted by a Resolution of Parliament and bind future members of the House. Of course, like the Standing Orders, it could be amended by further Resolutions of Parliament.

As I said before, your proposed Code is ineffective and inappropriate given its significant lack of substance. It fails the basic test that such a Code should not only ensure that Parliamentarians are held to account for their conduct but to also guarantee a fair and transparent process through which that accountability should be achieved.

Putting in place a fair and effective Code for Parliamentarians is not a tick-box exercise for us in the Opposition. It is a crucial step in ensuring Parliamentarians understand the conduct expected of them and, when breached, that there is a transparent, even-handed, independent process to investigate any allegations, determine whether a breach has occurred, and provide suitable sanctions if necessary.

I urge you to utilise the Constitution Commission's guidance on what a Code of Conduct for Parliament should contain and consider using a body such as the Commission for Standards in



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Public Life as the independent investigator. Also, consider the UK House of Commons Code of Conduct as a good guide. Lastly, work with The Hon Speaker to arrange for the Council to meet and fully consider appropriate options for a genuinely effective Code that can be debated and approved by Parliament. We in the Opposition stand ready to work with you and the Commission to get this Code right.

In closing I take this opportunity to wish you and your family a happy and prosperous new year.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Roy McTaggart", with a long horizontal flourish extending to the right.

Hon Roy McTaggart, JP, MP
Leader Of The Opposition