

31 March 2026

TO: The Joint Committee on Ethics and Members' Interests
PER: (Email) registrar@parliament.gov.za

Dear Registrar

OUTA'S SUBMISSION ON THE PROPOSED AMENDMENTS TO THE CODE OF ETHICAL CONDUCT AND DISCLOSURE OF MEMBERS' INTERESTS FOR ASSEMBLY AND PERMANENT COUNCIL MEMBERS

EXECUTIVE SUMMARY

1. The Organisation Undoing Tax Abuse (OUTA) welcomes the opportunity to submit written comments on the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members (Parliament of the Republic of South Africa, 2024).
2. OUTA supports the objectives of the Code, particularly its emphasis on transparency, public trust and ethical leadership. However, certain structural provisions may limit the effectiveness, enforceability and deterrent value of the framework.
3. This submission identifies specific areas where amendments may:
 - 3.1. strengthen the certainty of the consequences;
 - 3.2. enhance transparency; and
 - 3.3. close jurisdictional gaps that risk undermining public confidence in Parliament.
4. OUTA provides recommendations aimed at reinforcing institutional accountability while respecting constitutional principles.

INTRODUCTION

5. The Joint Committee on Ethics and Members' Interests has invited submissions for possible amendments to the Code of Ethical Conduct and Disclosure of Members' Interests (Parliament of the Republic of South Africa, 2024).
6. The Code establishes standards of conduct, disclosure obligations, complaint procedures and penalties for breaches. It operates within the broader constitutional framework of accountability and transparency as set out in the Constitution of the Republic of South Africa, 1996.
7. OUTA's submission is limited to assessing the adequacy, enforceability and transparency of the Code and to proposing reform(s) that may strengthen public trust and institutional integrity.

LEGISLATIVE AND CONSTITUTIONAL CONTEXT

8. Section 1 of the Constitution establishes accountability, responsiveness and openness as foundational values of the Republic of South Africa (Constitution of the Republic of South Africa, 1996).
9. Members of Parliament, as public representatives, occupy positions of public trust. Ethics frameworks are therefore not merely internal governance tools but mechanisms through which constitutional principles are operationalised.
10. The Code must also be read alongside:
 - 10.1. The Prevention and Combating of Corrupt Activities Act 12 of 2004;
 - 10.2. The Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004; and
 - 10.3. The Financial Management of Parliament Act 10 of 2009.
11. An effective ethics regime must ensure:
 - 11.1. Clear disclosure requirements;
 - 11.2. Independent and fair investigation processes;

- 11.3. Meaningful and proportionate consequences; and
- 11.4. Continuity of accountability.

ASSESSMENT OF THE CURRENT CODE

Strengths

- 12. OUTA acknowledges the following strengths within the current framework:
 - 12.1. Detailed disclosure requirements for registrable interests (Items 12–14);
 - 12.2. Provision for lifestyle audits (Item 22);
 - 12.3. Formalised complaint procedures allowing public participation (Item 17);
 - 12.4. Graduated penalty provisions (Item 20);
 - 12.5. Clear articulation of ethical principles (Item 3).

- 13. These provisions contribute positively to institutional integrity.

Areas requiring strengthening

Jurisdiction Upon Resignation

- 14. Item 4(3)–(6), provides that the Committee loses jurisdiction once a Member resigns and complaints must be closed.

- 15. This creates a potential accountability gap where a Member facing investigation may avoid formal findings by resigning prior to conclusion of proceedings.

- 16. **Recommendation:** The Code should be amended to permit the continuation and finalisation of investigations and findings even after resignation, particularly where alleged misconduct occurred during the Member's term of office.

Lapsing of complaints at the end of parliamentary term

- 17. Item 4(7), provides that complaints lapse at the end of a parliamentary term unless revived by the committee.

18. This may undermine continuity of accountability in instances where investigations are ongoing at the time of dissolution.
19. **Recommendation:** Complaints should automatically carry over into the next parliamentary term without requiring discretionary revival.

Proportionality and deterrent effect of penalties

20. Item 20, prescribes fixed monetary fines for certain breaches.
21. While graduated penalties exist, fixed fines may not sufficiently reflect the seriousness of misconduct or serve as an effective deterrent, particularly in cases involving substantial financial interests.
22. **Recommendation:** Consideration should be given to linking monetary penalties to a percentage of a Member's annual remuneration, subject to statutory limits, in order to enhance proportionality and deterrence.

Transparency of financial values

23. Items 13 and 15, distinguish between public and confidential sections of the register. The values of shares, income, pensions and certain financial interests are confined to the confidential section.
24. While confidentiality safeguards privacy, the absence of publicly available value ranges may limit meaningful public scrutiny of potential conflicts of interest.
25. **Recommendation:** Introduce publicly disclosed value bands (for example, categorised ranges) to enhance transparency while maintaining proportional privacy protections.

Oversight of remunerated employment outside parliament

26. Item 8, requires Members to obtain permission from the Chief Whip of their political party before undertaking remunerated work outside Parliament.

27. As this mechanism is internal to political parties, there may be perceived limitations in independent oversight.
28. **Recommendation:** Consider requiring additional notification to, or oversight by, the Ethics Committee or Registrar to strengthen institutional impartiality.

Lifestyle Audits

29. Item 22, establishes risk-based lifestyle audits.
30. While risk-based systems are efficient, they may benefit from enhanced transparency and periodic review.
31. **Recommendation:** Provide for periodic reporting on the number of audits conducted, categories of Members reviewed, and aggregate outcomes (without breaching confidentiality), to reinforce public confidence in the system.

BROADER ACCOUNTABILITY CONSIDERATIONS

32. Ethics frameworks are most effective where consequence certainty is clear, enforcement continuity is guaranteed and transparency is meaningful.
33. Closing jurisdictional gaps and strengthening deterrent measures would align the Code more closely with constitutional values of accountability and openness.
34. Reform in these areas would not alter the fundamental structure of the Code but would enhance its operational credibility.

CONCLUSION

35. OUTA supports the continued development of a robust and credible ethics framework for Parliament.
36. The proposed amendments set out in this submission are intended to strengthen enforceability, close structural accountability gaps, and reinforce public trust in Parliament as a representative institution.

37. OUTA recommends the implementation of regular ethics training for Members of Parliament.
38. OUTA remains available to engage further with the Joint Committee on Ethics and Members' Interests should clarification or elaboration of these proposals be required.



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