

# **STATES OF JERSEY**



## **CODE OF CONDUCT FOR MINISTERS**

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**Presented to the States on 10th February 2006  
by the Council of Ministers**

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**STATES GREFFE**

## **CODE OF CONDUCT FOR MINISTERS**

### **Introduction:**

The Council of Ministers has agreed on a Code of Conduct for Ministers, and has decided that this should be published for the information of States members and the public. The Code is based on the 'Code of Conduct for Elected Members' that was adopted by the States on 1st November 2005 (P.225/2005), and offers additional guidance to Ministers on matters which relate to their responsibilities as Ministers and as members of the Council of Ministers.

Those parts of the text which relate to Ministers, rather than to elected members, are highlighted in bold. The additional sections include guidance on financial interests, working collectively, and membership of public bodies.

The Council of Ministers does not envisage that it will be necessary to make changes to the Code of Conduct during its term of office, but the Code will be kept under review and any changes will be notified to the States.

## CODE OF CONDUCT FOR MINISTERS

### **1 Purpose of the code**

The purpose of the code of conduct is to assist **Ministers** in the discharge of their obligations to the States, **the Council of Ministers**, and the public of Jersey. All **Ministers** are required to comply with this code.

**The ministerial code of conduct builds upon the Code of Conduct for Elected Members that was adopted by the States on 1st November 2005. Those parts of the code which relate to Ministers and are therefore additional to the Code for Elected Members are highlighted in bold in the text.**

### **2 Public duty**

The primary duty of elected members is to act in the interests of the people of Jersey and of the States. In doing so, members have a duty to uphold the law in accordance with their oath of office and to act on all occasions in accordance with the public trust placed in them.

Elected members have a general duty to act in what they believe to be the best interests of Jersey as a whole, and a special duty to be accessible to the people of the constituency for which they have been elected to serve and to represent their interests conscientiously.

Elected members must give due priority to attendance at meetings of the States in accordance with the terms of their oath of office and should be present in the Chamber when the States are meeting unless they have very compelling reasons not to do so.

### **3 Personal conduct**

Elected members should observe the following general principles of conduct for holders of public office –

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family and friends, their business colleagues or any voluntary or charitable organization they are involved with.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest, or rules on freedom of information, data protection or confidentiality clearly demand.

## **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **Leadership**

Holders of public office should promote and support these principles by leadership and example to maintain and strengthen the public's trust and confidence in the integrity of the States and its members in conducting public business.

**Additionally, Ministers will be expected to comply with the following principles of ministerial conduct –**

- i. Ministers have a duty to the States to account, and be held to account, for the policies, decisions and actions of their department and any agencies for which their department has responsibility.**
- ii. It is of paramount importance that Ministers give accurate and truthful information to the States, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the States will be expected to offer their resignation to the Chief Minister.**
- iii. Ministers should be as open as possible with the States, scrutiny committees and the public, refusing to provide information only when disclosure would not be in the public interest which should be decided in accordance with the relevant statutes and codes of access to information.**
- iv. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests. In deciding on the public interest, Ministers should be sensitive to the interpretation of their actions.**
- v. Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation.**

## **4. Conflicts of interest**

Elected members should base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.

**Ministers are reminded of the obligation placed upon all States' members to declare their interests in the Register of Members' Interests. These may not necessarily be financial interests.**

**Ministers remain free to have paid employment unrelated to their role as Ministers in their own ministerial areas.**

**Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise.**

**Ministers will receive executive and administrative support from States departments in the conduct of their work, and they must ensure that this support is not used at any time in relation to their private interests, financial or otherwise.**

**It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict, or the perception of a conflict, and to defend that decision, if necessary by accounting for it in the States. Upon appointment, Ministers are advised to consult the Chief Minister or the Attorney General if in doubt. The Minister may also wish on occasion to consult the Chief Executive or the director of the department concerned, because in some cases the officer might be better placed to know the detailed background to the issue at hand, and therefore to advise on whether there could be a conflict of interest.**

Where it is proper for a Minister to retain a private interest it is the rule that he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it, and that the Minister should remain entirely detached from the consideration of that business. Similar steps may be necessary if a matter under consideration in the Department relates in some way to a Minister's previous or existing private interests such that there is, or may be thought to be, a conflict of interest. Particular care needs to be taken where financial interests are involved.

### Financial interests

Ministers must scrupulously avoid any danger of an actual or apparent conflict of interest between their ministerial position and their private financial interests. In order to avoid such a danger, they should have regard to the provisions in Schedule 2 of the Standing Orders of the States of Jersey regarding the registration of interests of elected members.

In respect of shareholdings, a Minister is regarded as having an interest in a company if he or she, either separately or jointly with his or her spouse, owns 1% or more of the issued share capital, or owns shares that exceed £25,000 in value.

Two particular ways in which a conflict of financial interest, or the perception of it, can arise are as follows –

- i. from the exercise of powers or other influence in a way that does, or could be considered to, affect the value of interests held; or
- ii. from using special knowledge acquired in the course of ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to a Minister's private financial interests.

Any exercise or non-exercise by a Minister of a legal power or discretion or other influence on a matter in which the Minister has a pecuniary interest could be challenged in the courts and, if the challenge is upheld, could be declared invalid.

If, for any reason, a Minister is unable or unwilling to dispose of a relevant interest, he or she should consider, in consultation with the Chief Minister, what alternative measures would sufficiently remove the risk of conflict. In such cases, the advice of the Attorney General and the Chief Executive should be sought to ensure that the relevant powers can be exercised in this way.

### Public bodies, trade and business associations

When they take up office, Ministers should consider whether any public, trade or business appointments that they may hold will bring them into conflict with their roles as Ministers. If so, they should resolve any conflict between the two, at once, and in favour of the public interest.

### Assistant Ministers

Assistant Ministers will be able to serve more than one department. However, care must be taken to avoid conflicts of interest involving different departments, and in the event of such a conflict, the Assistant Minister would be required to inform the Ministers concerned and take no further part in the matter.

## 5. Working collectively

The Council of Ministers will work together on the basis of consensual and collective decision-making. The Council will therefore be able to discuss matters in confidence, without such discussions being publicly reported until such time that agreement has been reached on the course of action to be taken.

The Council of Ministers will be a forum for frank and open discussion, with the aim of reaching a consensus before taking a decision. There will, however, be occasions on which a Minister may wish to dissent from a decision, and in these circumstances the dissenting member should make this clear to the Council and should indicate how she or he intends to proceed, e.g. to bring a proposition to the States. Other members would be expected to support the Council's decisions, and in the event that new evidence or thinking should lead them to change their views, they would be expected to discuss the matter with their colleagues before publicly changing their stance.

If a Minister, acting in her or his capacity as a Minister, should wish to make a decision or bring a proposition to the Assembly on a matter that affects another Minister or Ministers, she or he should first discuss the matter with the Minister(s) concerned. If they are in agreement, the matter can then go forward. If there is disagreement, the matter should be forwarded to the Council of Ministers for discussion.

In their capacity as private members, Ministers are free to bring a proposition to the Assembly on any matter. If such a proposition should concern another Minister's area of responsibility, she or he should inform the Minister concerned prior to lodging the proposition.

#### **6. Legal proceedings involving Ministers**

Ministers occasionally become engaged in legal proceedings in their personal capacities but in circumstances which may have implications for them in their official positions. Defamation is an example of an area where proceedings will invariably raise issues for the Minister's official position. In all such cases they should inform the Chief Minister and consult the Attorney General so that he may express a view on the handling of the case so far as the public interest is concerned.

#### **7. Policy pronouncements**

Ministers must take care not to infringe the rules of the States Assembly when publicity is being arranged for new policies or consultation papers.

When making speeches or being interviewed by the media, Ministers need to make it clear whether they are expressing a personal view or speaking on behalf of the Council of Ministers as a whole. They should ensure that their statements are consistent with the policies of the Council of Ministers and should not anticipate decisions not yet made public.

Ministers should exercise special care when referring to subjects which are the responsibility of other Ministers. Any Ministers who intends to make a speech which deals with, or makes observations which bear upon, matters which fall within another Minister's responsibilities should consult that Minister.

#### **8 Maintaining the integrity of the States**

Elected members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey and shall endeavour, in the course of their public and private conduct, not to act in a manner which would bring the States, or its Members generally, into disrepute.

Elected members should at all times treat other members of the States, officers, and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

#### **8A Public comments etc. regarding a States' employee or officer**

Elected members who have a complaint about the conduct, or concerns about the capability, of a States' employee or officer should raise the matter, without undue delay, with the employee's or officer's line manager (or, if he or she has none, the person who has the power to suspend the employee or officer), in order that the disciplinary or

capability procedures applicable to the employee or officer are commenced, rather than raising the matter in public.

Elected members should observe the confidentiality of any disciplinary or capability procedure regarding a States' employee or officer and its outcome. If an elected member is nevertheless of the opinion that it is in the wider public interest that he or she makes a public disclosure of or comment upon the outcome of any such procedure, he or she should inform the parties to the procedure before so doing and, when so doing, refer to the individual by the title of his or her employment or office rather than by his or her name.

In this paragraph, "States' employee or officer" means a States' employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005, a member of the States of Jersey Police Force and any officer mentioned in the Schedule to that Law who is not a member of the States.

## **9. Gifts and hospitality**

**Ministers** should not accept gifts, hospitality or services that might appear to place the recipient under any form of obligation to the giver. In receiving any gift or hospitality, **Ministers** should consider whether they would be prepared to justify acceptance to the public. **The principle applies also in respect of gifts, etc, offered to a member of a Minister's family.**

**In the event of any doubt regarding the receipt of a gift, a Minister may seek guidance from the Chief Minister.**

**A gift may be offered to the Department or to a Minister. A gift to a department may be more easily accepted, particularly if it is an object which can be placed on display within the Department.**

**A gift to a Minister to be retained personally should only be accepted where to refuse would be discourteous. Where a gift is accepted, the following rules apply –**

- i. Gifts with an apparent monetary value up to 1% of the current remuneration figure for elected members (disregarding any expense allowance) may be retained by the recipient;**
- ii. Gifts of a higher value should be passed to the Department.**

**There may be occasions on which a Minister/Department wishes to retain an object which is being offered (i.e. with a value in excess of 1% of the current remuneration figure for elected members, disregarding any expense allowance) but does not wish to accept it as a gift. In these circumstances, one option might be to offer to pay for the object.**

**Travel within the Island and hospitality provided within normal bounds, which is infrequent or reciprocated, cause no difficulty (e.g. attendance as a guest at a formal dinner).**

**Travel and hospitality, including accommodation, provided outside the Island cause no difficulty if the Minister is fulfilling an engagement at the request of the donor, which is of promotional or other sufficient value to the Island.**

## **10. Travel arrangements**

**When travelling on official business, Ministers should travel by economy class for short-haul flights (i.e. within the U.K. and Europe), although they may travel by Business Class if they pay the difference between the economy and business fares.**

**For long-haul flights (i.e. outside Europe), Ministers are able to travel by Business Class.**

## **11. Access to confidential information**

**Ministers** must bear in mind that confidential information which they receive in the course of their duties should only be used in connection with those duties, and that such information must never be used for the purpose of financial gain nor should it be used in their own personal interest or that of their families or friends. In addition, members should not disclose publicly, or to any third party, personal information about named individuals which they receive in the course of their duties unless it is clearly in the wider public interest to do so. **Ministers** must at all times have regard to all relevant data protection, human rights and privacy legislation when dealing with confidential information and be aware of the consequences of breaching confidentiality.

**When leaving office, Ministers should be required to return all remaining confidential official papers.**

## **12 Co-operation with committees and panels**

**Ministers** shall co-operate when requested to appear and give evidence before or produce documents to –

- (a) a scrutiny panel, for the purpose of the review, consideration or scrutiny of a matter by the panel pursuant to its terms of reference and the topics assigned to it, or to a sub-panel or any person appointed by the scrutiny panel to review, consider, scrutinize or liaise upon any particular matter;
- (b) the PAC, for the purpose of the preparation of a report upon or assessment of any matter pursuant to the PAC's terms of reference;
- (c) a committee of inquiry, for the purpose of the inquiry which the committee is appointed to conduct; and
- (d) the PPC, for the purpose of an investigation of a suspected breach of this code, or to any person appointed by the PPC to investigate a suspected breach.”.

## **13. Chief Minister**

**These procedural guidelines apply to the Chief Minister in the same way as to other Ministers.**

## **14. Assistant Ministers**

**Assistant Ministers are expected to follow the same principles as those set out above, and should adopt the same approach to any conflict of interests as set out in sections 4, 6, and 9 above.**

## **15. Compliance**

**Any infringements of the ‘Code of Conduct for Ministers’ must be reported to the Council of Ministers, and the Council will determine an appropriate penalty. In extreme cases of non-compliance, this penalty may consist of bringing a proposition to the States calling for the dismissal of the Minister concerned.**

## **16. Monitoring and review**

**The Council of Ministers considers that the ‘Guidance and Procedure for Ministers’ will provide a comprehensive framework for Ministers and Assistant Ministers in carrying out their work. The Council may, nonetheless, wish to review the ‘Guidance and Procedure’ in the light of changing circumstances, and any changes to the document would be fully publicised.**

**26th January 2006**