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# STATES OF JERSEY



## GUIDANCE ON GOVERNMENT ACTIVITY DURING THE ELECTION PERIOD

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Presented to the States on 4th April 2022  
by the Chief Minister

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STATES GREFFE

## REPORT

### Guidance on Government activity during the election period

1. During an election period, government should conduct itself differently for the sake of an impartial election.
2. In Jersey, this period refers to the time between the nominations and the election of the last Minister into office, which is when the new Council of Ministers is formally established. **From Wednesday, 11 May 2022 (nominations opening) to 12 July 2022 (election of Council of Ministers) inclusive.**

### Ministerial Responsibilities

3. The [Codes of Conduct and Practice for Ministers and Assistant Ministers \(gov.je\)](https://www.gov.je) (“Ministerial Code”) provides guidance for the responsibilities retained by Ministers and Assistant Ministers during the election period:

*During an election period (normally being between the nomination meetings and the election of the last Minister into office), Ministers retain executive responsibilities, and the essential business of government must be carried on. However, they should observe discretion in initiating any new action of a continuing or long-term character; and decisions on matters of policy on which a new Council or Minister might be expected to want the opportunity to take a different view should be postponed where possible, provided that such postponement would not be detrimental to the Island’s best interests or wasteful of resources. Furthermore, Ministers should apply sensible restrictions on the publicity they issue in connection with their role as a Minister during this period. This all applies to Assistant Ministers in so far as the areas for which their Minister is responsible.*

4. This allows for government business to continue and recognises that the Council of Ministers and Ministers retain executive responsibilities, and the essential business of government must be carried on during this period.
5. In this context, consideration should be given to the impact of any delays to decisions or actions relating to government business, including whether it is detrimental to the Island’s interests or wasteful of public money.
6. In addition, consideration should be given to existing decisions of the Assembly where an outgoing government may be expected to seek to implement those decisions, where doing so during the election period is necessary.
7. At the same time, the accountability of Ministers to the Assembly, and the normal democratic mechanisms of checks and balances, are largely in abeyance during an election period; and the actions and decisions of government can influence elections. As such, notwithstanding the need to maintain services and in accordance with this guidance, decisions where democratic accountability would normally be expected to apply, including organisational changes, usually with reference to whether a Ministerial Decision would be required, or which

are likely to be a political issue during the general election campaign, should be avoided. This is the case unless points 5 and/ or 6 above apply.

8. Similarly, Ministers, Assistant Ministers, and civil servants should take care to ensure that government resources are not, or even appear to an observer to be, used for political ends in this period of heightened political sensitivity. This applies to all Ministers and Assistant Ministers whether or not they are seeking re-election.

### **Communications**

9. The general principle governing communication activities during a General Election is to do everything possible to avoid competition with candidates for the attention of the public.
10. Special care must be taken during an election since material produced with complete impartiality, which would be accepted as objective in ordinary times, may generate criticism during an election period.
11. Government officials may provide factual explanations of current government policy, statements, and decisions to the media during the election period, but they must be particularly careful not to become involved in election issues in a way that could be considered partisan.
12. Civil servants must not assist Ministers and Assistant Ministers in the use of their personal or political social media profiles or of any candidate page or party website and must not provide advice or guidance in the use, development, or enhancement of these platforms.
13. Ministerial quotes in press releases or statements should typically be avoided and press releases and other material normally sent to States Members should cease during the election period.
14. Publicity should not deal with controversial issues or report views, proposals, or recommendations in a way that identifies them with individual Ministers. Official exhibitions on a contentious policy or proposal should be closed during the election period.
15. Advertising campaigns should be postponed or closed. This allows for the media cycle to focus on the election and stops the Government artificially increasing the price of advertising space.
16. Officer communications shouldn't replace ministerial communications during this period, but it may be appropriate for officers who would normally be expected to speak publicly to do so, as necessary.
17. Statistical publication schedules will continue, and the Chief Statistician may still choose to release and comment upon official statistics during this period. In addition, the existing daily and weekly releases related to the pandemic will continue.

18. The Freedom of Information (2011) Law continues to apply, and responses will be provided as normal during the election period.
19. Ministers seeking re-election are not permitted to use government platforms or resources for personal or party-political gains, and in any case, every effort should be taken to avoid, media interviews or press conferences.
20. In considering the above, in the cases of an emergency, or where there is a genuine need for a Minister-level response to an important event outside the department's control, it may nevertheless be necessary for Members holding key Ministerial positions to comment. For example, in urgent response to the continuing management of the pandemic, a threat to public safety or our economic interests, or international attention. Such events should be dealt with cautiously and, on a case-by-case basis.

### **Use of Public Resource**

21. Article 22 of the [Code of Practice for Engagement between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive' \(gov.je\)](#) is always applicable during the life of a government, but is of particular significance during an election period:

*'Ministers and Assistant Ministers must only use information obtained in the course of their ministerial responsibilities, and the resources available to them from Departments, including staff, for the purposes of discharging their ministerial responsibilities, and in accordance with relevant statutes, and not for any other reason, including other public offices, and in so far as practical and appropriate seek to return all information and devices obtained in the course of their ministerial office on ceasing to hold that office'.*

22. This prohibits Ministers from using civil service time, including Departmental staff, communications staff, or the Ministerial office, or any Departmental resources, materials, or information, obtained in the course of their Ministerial duties, for personal or political gain, including re-election.
23. In addition, public assets and facilities should not be used for political campaigning, whether by the candidate or their campaign, or other related use that could reasonably be supporting a candidate or candidates, whether paid or otherwise. Exceptions may be made in the interests of promoting voter participation in an even-handed manner, for example, use of a meeting room or Parish Hall to host a hustings for all candidates.

### **Discussion with election candidates**

24. Civil Servants should provide information to a reasonable extent to any candidate or prospective candidate, who approaches them, on the same basis as they would provide information to a member of the public, to help the candidate or prospective candidate adopt an informed position. This extends to individuals acting on behalf of candidates.

25. It is important that this provision of information, when requested, should be undertaken in a timely and courteous manner without political bias. Answers provided to an inquiry from any one candidate should also be provided, if requested, to other candidates.
26. The above applies to equally to incumbent Ministers and Members, and prospective candidates; and for the whole of the election period, i.e., from nominations opening to the election of the final Minister. The civil service will seek during this period to be particularly mindful to avoid providing political advantage.
27. Where a candidate's request is a Freedom of Information (FoI) request it should be handled in accordance with the Freedom of Information Law 2011. The Law requires public authorities to respond to requests promptly and in any event not later than 20 working days following the day on which it received the request.

#### **Activities in advance of the election period**

28. The [Code of Practice for Engagement between 'Scrutiny Panels and the Public Accounts Committee' and 'the Executive' \(gov.je\)](#) ("Engagement Code") contains provisions that limit activity in the last 6 months of a Council of Ministers term of office, as follows:

*"The Chief Minister, Ministers and the Council of Ministers will use best endeavours to try to ensure that all Propositions on major policies and legislation are lodged 'au Greffe' at least 6 months before the date of the next elections so that sufficient time is factored in for Scrutiny purposes"*

29. As the election period gets closer, government should be mindful that its term of office is close to expiry, so while Ministers should aim to complete their programme of work before the election period, they should also place an extra onus on the use of communications resource and decisions as elections come closer, as inevitably, actions closer to the election will be perceived as more political. In this sense, Ministers should seek to deliver and explain their work in the usual way, without doing so in a manner that suggests communications resource is being used to provide undue electoral advantage.
30. Civil Servants should be permitted by the outgoing government to prepare for an incoming government, including preparing an induction programme, in the run up and during the election period, doing so impartially and avoiding any impact on the political process.
31. Care should also be taken in initiating significant constitutional changes, which would, by convention, not normally be undertaken by an outgoing government.

**Employees conduct during an election period**

32. The Employment of the States of Jersey Employees (Law) 2005 sets out the responsibilities and conduct required of employees of the States Employment Board and their conduct and engagement in political activities.
33. Politically eligible employees may participate in political matters. However, they may not do so if the manner in which they conduct their engagement is:
- Commenting on existing States policies in an immoderate manner
  - Engaging in personal attacks on members of the States; or
  - Used for political purposes information that the person was only able to obtain because they are a States employee.

**States Employment Board**

34. The States Employment Board continues to be the employer throughout the election period. However, they are bound by the rules that relate to elections in the same way as the Council of Ministers and individual Ministers.

**Arms-Length Bodies**

35. Arms-length Bodies are established for several reasons, as investments, promotional bodies, regulators, delivery-arms, and otherwise as appropriate and permitted. While these bodies are not bound by this guidance in the same way as government, they are part of the wider delivery of public policy and good governance in Jersey and should be mindful of the principles in this guidance and seek to avoid a perception that they are engaged in the election on behalf of government.

**Advice and Compliance**

36. Any advice on this guidance should be sought from the Ministerial Office, who will liaise with the States Greffe as appropriate.
37. While this guidance is *not* part of the Ministerial Code, it provides additional guidance on the application of the Ministerial Code as outlined in paragraph 3 above, and in that sense, code compliance procedures may be applicable, including reference to the Commissioner for Standards.

## Appendices

**Appendix 1 – key dates during the election period**

<b>Date</b>	<b>Event</b>
Wednesday 11 May – Friday 13 May	Nominations open for candidates <b>Period of sensitivity begins</b>
Wednesday 18 May	Nominations announced
Wednesday 22 June	Election Day
Monday 27 June	Successful candidates are sworn in
Thursday 30 June	Nominations close for Chief Minister
Tuesday 5 July	States Assembly election for the Chief Minister take place
Monday 11 - Tuesday 12 July	Ministerial nominations tabled by the Chief Minister designate and elections for Ministers and Scrutiny Chairs <b>Period of sensitivity ends</b>
Tuesday 19 – Thursday 21 July	States Assembly election for Members of Scrutiny Panels and Committees take place