

# **The Codes of Conduct & Practice for Ministers and Assistant Ministers**

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# Introduction

Under the States of Jersey Law 2005, the Chief Minister and Ministers shall, within three months of being appointed to office, agree and present to the States Assembly a code of conduct and a code practice (collectively referred to as “the Ministerial Code”) for Ministers and Assistant Ministers (“Executive Members”).<sup>1</sup>

## Code of Conduct

### 1. Accounting to the States Assembly

Executive Members have a duty to the States Assembly to account for matters for which they are responsible, including for the policies, decisions, and actions of the departments and agencies which discharge their responsibilities. This also includes correcting any errors at the earliest opportunity.

### 2. Prioritising Assembly Business

In addition to requirements set out in the Members’ Code, Executive Members must place the highest priority possible on participating in the business of the States Assembly generally. This includes, but is not limited to, attending meetings and hearings of their respective Scrutiny Panel and any other requirements place upon them as outlined in the ‘Code of Practice for Engagement Between ‘Scrutiny Panels & the Public Accounts Committee’ and ‘the Executive’’.<sup>2</sup>

### 3. Code of Conduct for Elected Members

Executive Members must always uphold the highest standards of propriety in compliance with the ‘Code of Conduct for Elected Members’ (“the Members’ Code”) as outlined in the Standing Orders of the States Assembly.<sup>3</sup>

### 4. Values of the Public Service

Executive Members must promote and observe the values of the public service as adopted by the States Employment Board in consultation with the Council of Ministers, so as to demonstrate that all those in public service share the same core values and behaviours.<sup>4</sup>

### 5. Working Relationships

Executive Members must:

- act professionally at all times when working in an official capacity;
- promote an environment that excludes bullying and discrimination and supports the open expression of views by everyone they work with;
- treat all those with whom they come into contact with consideration, courtesy, and respect, ensuring that their working relationships are proper and appropriate; and
- maintain an appropriate division between their working relationships and their private and personal business, other public business, or roles.

### 6. Conflict of Interest

In addition to the requirements outlined in the Members’ Code, Executive Members must identify and actively manage any conflict of interest between their ministerial responsibilities and their private interests, not limited to financial interests, and any other public role, which includes, but is not limited to, their responsibilities as a representative of their constituents, party, personal affiliations, associations, charitable (non-profit), and family interests.<sup>5</sup>

Executive Members must ensure that any conflict does not compromise their judgement, the conduct of government, or place them under an improper obligation.

Where a conflict of interest relates to an Executive Member's portfolio, they must be guided by the general principle that they either dispose of the interest giving rise to the conflict, or take alternative steps to manage it, which can include transferring a ministerial responsibility to another Minister or delegating to an Assistant Minister so long as that does not substantially impinge on their ability to discharge the role to which they were elected. In some cases, it may not be possible to devise a mechanism to avoid such a conflict of interest, for example, due to the significance and nature of the conflict, and in any such case, the Chief Minister must be consulted, and it may be necessary for the Executive Member to cease to hold that particular ministerial office.

Where a conflict of interest relates to a matter outside of an Executive Member's areas of responsibility, but the Minister is part of a wider discussion, they should declare this at the earliest opportunity in each instance it arises, and as appropriate, recuse themselves.

In considering the above, the extent of the conflict, whether it is a conflict generally held by many people, and how direct or substantial it is to the interests of the Executive Member, should be taken into consideration. A perceived conflict of interest should also be treated as seriously as an actual conflict. Executive Members are expected to err on the side of caution in the wider interests of the Government of Jersey and maintaining public confidence.

## **7. Gifts and Hospitality**

In addition to the guidance regarding gifts and hospitality within the Members' Code, Executive Members must consider the following:

- gifts should generally not be accepted other than in so far as undue offence may be caused if refused, or where it may be appropriately displayed by a department or in a public space; and
- receipt of hospitality, including events, travel, or any other perceived benefits, which may result in the creation, or perception of, an obligation, which in turn may be seen to impinge on the impartiality of decision-making.

Executive Members must ensure that their gifts and hospitality received in a ministerial capacity are recorded and declared on the Government of Jersey's register.

## **8. Travel and Expenses**

Executive Members have a duty to use scarce public resources with care and due attention, and to be satisfied that the costs they incur on travel and expenses can reasonably be justified in public as being efficient and cost effective and are required for and related to their ministerial office. In achieving this, they should seek to incur costs as part of an advance booking, using corporate arrangements wherever appropriate or practical in the circumstances. They must also be satisfied with the arrangements made on their behalf and the expenses they look to claim afterwards.

If an expense being claimed could be considered inappropriate, they may be asked to either repay the expense personally or issue a formal internal note that the Public should pay the expense and the reasons why (a copy of which shall be provided to the Chief Minister and Chief Executive Officer).

Executive Members must be mindful of any personal benefits associated with travelling and declare any such matters.

Travel and expenses will be published as soon as practical, delivering transparency, and enabling costs to be independently scrutinised.

## **9. Consultation with Law Officers and Legal Advice**

The Law Officers Department (“LOD”) should be consulted in good time on significant decisions involving legal or constitutional considerations.

The existence and content of the advice of the LOD must not be confirmed or denied, even in meetings of the States Assembly, in accordance with the Attorney General’s privilege which is attached to any advice.

## **10. Ministerial Responsibilities and Other Public and Private Roles**

Executive Members should keep any executive responsibilities separate from any other role they hold.

Executive Members are free to make their views about matters known to the responsible Executive Member, provided they make clear that they are not acting in an executive capacity.

Executive Members should be mindful of the policy positions of their ministerial colleagues and the wider Council of Ministers, acting professionally and proportionately, and seeking to avoid undermining the positions of the responsible Executive Member.

Executive Members must not seek the support of public servants based in ministerial departments with any business not related to executive matters.

## **11. Departmental Matters**

Any concerns with regard to a department, such as its performance, should be raised with the responsible Executive Member(s) in the first instance, or if it is the Executive Member’s own department, with the Chief Officer or Chief Executive Officer. If required, the responsible Executive Member may arrange a meeting with the concerned party and the relevant Chief Officer and/or Chief Executive Officer.

Any changes to the structure of the Government of Jersey, individual departments, or offices, etc., must be agreed with affected Executive Member(s); in consultation with the Council of Ministers; and, if and where appropriate, the States Employment Board.

## **12. Employment Matters**

While an Executive Member is ultimately accountable for the policy and the delivery of services in their areas of responsibility, employment matters (as distinct from the organisation of government which is a matter for Executive Members), and associated functions are reserved for the States Employment Board and its delegates.<sup>6</sup>

Executive Members should avoid personal involvement in the appointment of public servants, save as required by Jersey Appointment Commission Guidelines or where they are consulted on roles that directly support them.

Where an Executive Member is concerned about the performance or conduct of an individual employee, they should refer the matter to either:

- the relevant Chief Officer;
- the Chief Executive Officer; or
- the Chair of the States Employment Board.

Executive Members may also report any concerns via the Government of Jersey's whistleblowing service.<sup>7</sup>

### **13. Election Periods**

During election periods, which includes events described in the States of Jersey Law 2005 and the vacancy of a ministerial office under similar circumstances,<sup>8</sup> Executive Members retain executive responsibilities as the essential business of government must continue.

Executive Members should, however, observe discretion during these periods and where possible postpone activity - except for where any postponement would be detrimental to the Island's best interests or wasteful of resources - particularly with regard to:

- initiating any new action of a continuing or long-term character; and
- decisions on matters of policy on which a new Council of Ministers or Minister could be expected to take a different view.

Furthermore, Executive Members should apply sensible restrictions on any publicity in their executive role during this period.

### **14. Individual Investigations**

Executive Members must avoid providing direction in any individual or specific enforcement, compliance, or policing investigation undertaken by their departments, dealing only with matters of general policy, except where required to do so by virtue of their statutory obligations or other obligations imposed on them by their ministerial office.

### **15. Private Legal Proceedings**

Executive Members must be mindful of commencing private legal proceedings, having regard to the implications on their executive role, including whether the action may have a negative impact on public confidence in the bearing and conduct of government. Similar consideration should be given to the consequences of any actions taken against them in a private capacity.

In such scenarios, the Chief Minister must be consulted, and consideration must be given as to whether they need to cease to hold a ministerial office.

### **16. Safeguarding and Vetting**

Executive Members, by virtue of their position and duties, routinely meet Islanders, including vulnerable members of the community. They must be accompanied by public servants wherever possible when on official business, and where practical, meet in a formal environment or facility to manage any safeguarding risks.

As an appropriate additional safeguarding measure, and to provide public assurance, Executive Members should undergo a criminal record check upon appointment, which shall be conducted through the process established by the States Greffe.

### **17. Use of Information and Resources for Official Purposes**

Executive Members must only use information and resources obtained in the course of their ministerial responsibilities, and the resources available to them from ministerial departments, for the purposes of discharging their ministerial responsibilities, and not for any other responsibilities they hold.

Executive Members must return all information and devices obtained in the course of their ministerial office on ceasing to hold that office.

# Code of Practice

## 18. Ministerial Portfolios

The Chief Minister is responsible for the allocation of responsibilities between Ministers, and the Chief Minister's consent must be sought to any changes proposed which affect the allocation of responsibilities, save for minor matters.

Where the Chief Minister seeks to exercise their responsibilities around the overall organisation of the executive, the Executive Members affected must be notified, provided with the rationale, and be given an opportunity to be heard by the Chief Minister.

Following this, the Chief Minister must ensure that the Council of Ministers and the States Assembly are informed of any such decisions, including complying with the requirements of the States of Jersey Law 2005 to publish a full list of ministerial responsibilities.<sup>9</sup>

## 19. Council of Ministers' Responsibilities

As outlined in the States of Jersey Law 2005,<sup>10</sup> the Council of Ministers has responsibility for, among others, the development and presentation of a Common Strategic Policy,<sup>11</sup> a Government Plan,<sup>12</sup> the prioritisation and legislative proposals, and common policies regarding external relations and population. The Council of Ministers should keep these matters under review.

## 20. Developing Policy

It is the responsibility of the proposing Executive Member to discuss a matter they are bringing to the Council of Ministers with other relevant Executive Members in advance of a meeting. In doing this, they should attempt to resolve any policy differences before the matter is considered by the Council of Ministers. This should be done within an overall context of working collaboratively, inclusively, and transparently.

## 21. Advice from Public Servants

Executive Members have a duty to give fair consideration and weight to the advice of public servants, upholding the political impartiality of public servants, and not asking them to act in a way which would conflict with their responsibilities or obligations, such as their professional obligations or those outlined in the 'States of Jersey Codes of Practice'.<sup>13</sup>

In turn, public servants have a duty to show the same consideration to Executive Members, recognising the authority of their ministerial office.

## 22. Bringing Matters to the Council of Ministers

As a guide, the Council of Ministers should consider major issues of policy or matters that are of critical importance to the public, and the more important a matter, the stronger the rationale for bringing it to the Council of Ministers. Matters that affect two or more ministerial offices shall also be agreed and discussed by the Council of Ministers,<sup>14</sup> and it is the responsibility of the proposing Executive Member that such a matter is brought, and that they are content with the proposals being tabled.<sup>15</sup> The Council of Ministers is primarily a decision-making forum, and the onus is on the responsible Executive Member to be content with the item being presented, and to lead the discussion.

A Minister may also request to bring any matter to the Council of Ministers for guidance and should do so in relation to matters of high importance, and the Chief Minister can request that a matter be considered by the Council of Ministers.<sup>16</sup>



### **23. Consensus Decision-making**

Executive Members are expected to work together as a cohesive and effective team, supporting their ministerial colleagues.

The Council of Ministers will seek to reach decisions by consensus based on robust debate and constructive challenge, which will be recorded in the minutes, following which Executive Members should coalesce around a coherent public position. This approach supports professional government and the clear communication and delivery of policy.

As deemed necessary and appropriate, the Chief Minister may depart from this approach and indicate that individual Executive Members may adopt alternative positions to those agreed by the Council of Ministers so as to, for example, respect matters of conscience, or issues where an Executive Member has made a published manifesto commitment.

### **24. Council of Ministers' Directions**

The Council of Ministers may give direction to an Executive Member as to how their functions should be discharged, having consulted with them first, as provided for in the States of Jersey Law 2005.<sup>17</sup> This direction cannot relate to individual determinations under statute or another instrument.<sup>18</sup> However, directions can relate to policies which may in due course affect the overall framework within which determinations are made.

### **25. Membership of the Council of Ministers**

The Council of Ministers comprises the Chief Minister and Ministers, and is chaired by the Chief Minister, and in their absence, by the Deputy Chief Minister. Seven Ministers, or their Assistant Minister when acting for their Minister in their absence, shall comprise a quorum of the Council of Ministers.

In the absence of a Minister, and where one exists, an Assistant Minister shall attend in their place and, in any event, Assistant Ministers will be included in invitations and agenda circulations and should attend for agenda items where they have delegated responsibilities.

The Chair may invite other persons to attend meetings to inform and support the conduct of business. This includes inviting officers in relation to relevant agenda items, and as a matter of normal practice, standing invites exist for the Chair of the Comité des Connétables, the Chief Executive Officer, H.M. Attorney General, and the Greffier of the States.

### **26. Administrative Arrangements for the Council of Ministers**

The meetings of the Council of Ministers will be supported by staff of the Ministerial Office, recorded by the States Greffe, and papers maintained, shared, and retained in accordance with prevailing practises, including retention schedules.

The agenda and papers will be distributed at least 48 hours before the meeting, unless otherwise agreed by the Chair. Agendas will also be circulated to the media, and confidentially to the Scrutiny Panels, who will also confidentially receive papers, presentations considered, and any requested minutes.

While discussions at the Council of Ministers are generally confidential to support frank and effective debate, the Chief Minister will ensure that wherever practical a record is maintained in the publicly available "A" agenda minutes to increase the volume of publicly available information.

Meetings will generally be no longer than half a day, and where they are, appropriate breaks will be included.

The overall aim is to provide an environment where business can be conducted in a professional and expeditious manner consistent with the principles of good governance, delivering high-quality discussion, and debate focused on the scheduled business.

## **27. Preparing for Council of Ministers**

It is the responsibility of Executive Members to ensure that they are suitably prepared for a meeting of the Council of Ministers, including affording time to consider papers, and seeking points of clarification in advance to help expedite discussions at a meeting. The aim of this is to ensure that the meetings themselves spend less time on briefing and explaining and more time on determining how to proceed.

If an Executive Member considers that they are inadequately briefed on any matters due for consideration, they should raise the matter with an appropriate senior official or their Ministerial Office within a reasonable time prior to a meeting.

## **28. Announcements**

Regardless of whatever media or means, Executive Members shall adopt a 'no surprises' approach regarding announcements, ensuring that ministerial colleagues and then the States Members are notified in advance of the media.<sup>19</sup>

Before making an announcement, consideration must be given to:

- whether a particular announcement should be made in the first instance to the States Assembly, for example, via a statement or in writing, recognising the primacy of the States Assembly and that the most important announcements should be made in the States Assembly when it is in session;
- any impact on the image and reputation of the executive, other than on minor matters; and
- whether an announcement may raise issues which could then fall under the functions of the Council of Ministers and, if so, bring the matter to the Council of Ministers prior to any publication.

All announcements, including social media posts, must be approved personally by the responsible Executive Member, or via their Ministerial Office. For technical and/or operational matters, Executive Members may provide consent to officers to comment on these without needing to seek their approval. Announcements should always be attributed to a named individual.

The Chief Minister must be notified of the intention to make significant announcements for the purposes of co-ordinating the publication of government business.

## **29. Appointments**

Appointments should be made in line with relevant guidance, including the Jersey Appointment Commission guidelines,<sup>20</sup> any codes of practice issued by the States Employment Board,<sup>21</sup> and the decisions of the States Assembly.

## **30. Assistant Ministers**

Ministers may, with the consent of the Chief Minister,<sup>22</sup> appoint one or more Assistant Ministers, to assist them in discharging their responsibilities. This includes being able to delegate to an Assistant Minister a substantial portfolio of responsibilities and present items or answer questions in relations to these in the States Assembly. Assistant

Ministers are expected to confer with, and account to, their Minister, ensuring alignment on policy and delivery.<sup>23</sup>

Ministers should endeavour to regularly meet with their Assistant Minister(s) to discuss matters within the portfolio, ensuring that Assistant Ministers are able to play a constructive role in the development of policy, particularly where those matters are due to be referred to the Council of Ministers. The same approach applies to the Deputy Chief Minister.

In all circumstances, the Minister remains both legally responsible and ultimately accountable for the decisions of their Assistant Minister(s). This supports government in delivering a wide programme of work, while maintaining proper lines of accountability from elected Ministers to the States Assembly.

### **31. Ministerial Decisions**

Ministerial Decisions should be properly and accurately recorded in line with relevant guidance and, unless qualified or absolutely exempt,<sup>24</sup> published on the relevant Government of Jersey webpage.<sup>25</sup>

### **32. Private Members' Propositions**

Executive Members may bring propositions to the States Assembly in their capacity as private members but should provide an opportunity for the responsible Executive Member and the Council of Ministers to consider the matter first, so they can consider whether they wish to adopt the policy themselves.

In any case, Executive Members should provide due notification to their ministerial colleagues as part of a 'no surprises' approach.

### **33. Private Members' Questions**

In line with the ruling of the Presiding Officer,<sup>26</sup> Ministers may not ask questions (written, oral, or without notice) of other Ministers in the States Assembly, and Assistant Ministers may not ask their own Minister questions. For similar reasons, Assistant Ministers should seek to obtain information from other Ministers by direct interaction in the first instance, without prejudicing their ability to ask questions when acting for their constituents or to place a matter on the public record.

## Common Provisions

### 34. Adherence

Executive Members are personally responsible for their own adherence to the Ministerial Code. Executive Members should always consider whether any decision they make or are requested to take is in accordance with the Ministerial Code and be able to justify their actions and conduct to the Chief Minister, States Assembly, and the Public.

Executive Members should inform the Chief Minister immediately of any possible breach of the Ministerial Code and consider the appropriateness of referencing themselves to the Commissioner for Standards.

### 35. Commissioner for Standards

In addition to considering any breach of the Members' Code, the Commissioner for Standards ("the Commissioner") can also investigate a breach of the Ministerial Code.<sup>27</sup>

Recommendations made by the Commissioner in any investigation will be reviewed and consideration will be given as to whether any updates to the Ministerial Code or supplementary guidance are required. Additionally, the Commissioner may on their own initiative, or if requested by PPC or the Chief Minister, give advice on any matter relating to standards, including proposed changes to the Ministerial Code.<sup>28</sup>

For avoidance of doubt, a breach of the Ministerial Code is not designed so as to be an additional mechanism to appeal or review administrative decisions taken by an Executive Member.

### 36. Informal Resolution

In the interest of maintaining positive working relationships, and as an intermediate and initial step without prejudicing the ability to refer a matter to the Commissioner for Standards, Executive Members can raise concerns with the Chief Minister who will initiate an internal review, usually requesting another Executive Member to consider the matter with the support of the Ministerial Office.

### 37. Supplementary Guidance

The Chief Minister, in consultation with the Council of Ministers, may produce supplemental guidance to support interpretation of the Ministerial Code. This supplemental guidance must be published and be available alongside the Ministerial Code.

## Endnotes

- <sup>1</sup> See Article 18(3A)(b) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>2</sup> See 'Code of Practice for Engagement Between 'Scrutiny Panels & the Public Accounts Committee' and 'the Executive'', States Assembly ([link](#)).
- <sup>3</sup> See 'States Assembly Rules', States Assembly ([link](#)).
- <sup>4</sup> See 'States of Jersey Codes of Practice', Government of Jersey ([link](#)).
- <sup>5</sup> 'Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service', the Organisation for Economic Co-operation and Development (OECD), OECD ([link](#)).
- <sup>6</sup> See Article 8 of the 'Employment of States of Jersey Employees (Jersey) Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>7</sup> See 'Whistleblowing Policy for Public Servants', Government of Jersey ([link](#)).
- <sup>8</sup> See Article 19(2) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>9</sup> See Article 30A of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>10</sup> See Article 18(2) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>11</sup> See Article 18(2A) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>12</sup> See Article 9 of the 'Public Finances (Jersey) Law 2019', Jersey Legal Information Board ([link](#)).
- <sup>13</sup> See 'States of Jersey Codes of Practice', Government of Jersey ([link](#)).
- <sup>14</sup> See Article 18 of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>15</sup> See Article 18(2)(b) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>16</sup> See Article 18(2)(f) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>17</sup> See Article 18(3B) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>18</sup> See Article 18(3C) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>19</sup> It should be noted that there is a distinction between notifying the States Assembly via a statement made under 'Standing Orders of the States of Jersey' and notifying States Members via other means, such as correspondence or government communications.
- <sup>20</sup> 'Guidelines for the recruitment of senior States employees, appointees and independent bodies', Jersey Appointment Commission ([link](#)).
- <sup>21</sup> See Article 8(2)(b) of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>22</sup> See Article 25 of the 'States of Jersey Law 2005', Jersey Legal Information Board ([link](#)).
- <sup>23</sup> See Article 9(3) of 'Standing Orders', States Assembly ([link](#)).
- <sup>24</sup> See Parts 4 and 5 of the 'Freedom of Information (Jersey) Law 2011', Jersey Legal Information Board ([link](#)).
- <sup>25</sup> See 'Ministerial Decisions' page, Government of Jersey ([link](#)).
- <sup>26</sup> See 'Questions submitted by Ministers and Assistant Ministers – ruling by the Bailiff', States Assembly ([link](#)).
- <sup>27</sup> See 'Complaints about States Members or States Greffe employees', States Assembly ([link](#)).
- <sup>28</sup> See Article 9(1)(d) and (e) of the 'Commissioner for Standards (Jersey) Law 2017', Jersey Legal Information Board ([link](#)).