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# STATES OF JERSEY



## COMMISSIONER FOR STANDARDS – REVISED STATEMENT

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Presented to the States on 2nd June 2023  
by the Privileges and Procedures Committee

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STATES GREFFE

## REPORT

In accordance with the provisions of the [Commissioner for Standards \(Jersey\) Law 2017](#), the Privileges and Procedures Committee is required to present the Commissioner for Standards' statement to the States Assembly. The statement sets out the manner in which the Commissioner proposes to discharge her functions under the Law. The statement can be found in appendix 1.

This is a revised statement produced by the Commissioner for Standards which supersedes the version published as R.49/2023 on 4th April 2023. The Commissioner for Standards decided that it was sensible for both the States Members Code and Ministerial Code to be provided for in the same document.

### Commissioner for Standards Statement

1. The "Code" in this statement refers to the Code of Conduct for Elected Members (Appendix 1) and the Code of Conduct and Practice for Ministers and Assistant Ministers (Appendix 2). The Commissioner for Standards investigates complaints of alleged breaches of the Code. The Commissioner considers complaints made by third parties and can also initiate her own investigation if she believes that, at a relevant time, a breach the Code may have occurred. A Member, Minister or Assistant Minister can also request that their own behaviour is investigated by the Commissioner to establish whether there has been a breach the Code.

### Complaints

2. Whether the complainant is a member of the public or a Member of the States, they may wish to consider whether it might first be useful, if appropriate, to try to resolve their complaint informally.
3. Any complaint alleging that a Member of the States, a Minister or Assistant Minister has breached their relevant Code must be made in writing to the Commissioner via one of the following means:

Email: [commissionerforstandards@gov.je](mailto:commissionerforstandards@gov.je)

Website: TBC

Postal Address:

**Pan-Island Commissioner for Standards, Channel Islands c/o States Greffe  
Morier House  
Halkett Place  
St Helier  
Jersey  
JE1 1DD**

4. In order for a complaint to be considered it should:
  - a. be made in writing;
  - b. state the name of the complainant;

- c. state the email, telephone and postal address of the complainant (unless the complainant is a current Member, Minister or Assistant Minister);
  - d. name the person who is the subject of the complaint;
  - e. state the acts or omissions of the Member, Minister or Assistant Minister complained of which are alleged to have breached the Code;
  - f. state the relevant provision or provisions of the Code which each act or omission is alleged to have breached;
  - g. in relation to each act or omission complained of, be substantiated by sufficient evidence to satisfy the Commissioner that there is a prima facie case that a breach of the Code has occurred and that the complaint is not frivolous or vexatious or otherwise an abuse of the complaints process;
  - h. refer to an alleged breach of the Code which occurred on or after 24 July 2016 in accordance with Section 9(2) of the Commissioner for Standards (Jersey) Law 2017; and
  - i. relate to alleged conduct which falls within the scope of the relevant Code
5. The Commissioner has the discretion to consider a complaint even where one or more of the above criteria haven't been met.

#### **Preliminary Assessment**

6. The Commissioner will conduct a preliminary assessment of all complaints. The Commissioner cannot consider complaints that fall outside the scope of the Code(s) or complaints which she deems frivolous or vexatious. She will not consider complaints that substantially repeat allegations which have already been the subject of consideration (unless there is fresh evidence in their support).
7. The Commissioner will not, without good reason, consider either anonymous complaints or complaints where the complainant is not prepared to have their name and complaint disclosed to the Member, Minister or Assistant Minister complained about. The complainant's details will be included in all correspondence including any report submitted to the Privileges and Procedures Committee ("the PPC") with the exception of complaints that relate to unacceptable behaviours (see para 10).
8. Matters falling within the Commissioner's remit include:
- a. failure to adhere to the requirements of the Code(s);
  - b. failure to register relevant interests (see Appendix 3);
  - c. failure to declare relevant interests in the course of parliamentary business including committee and scrutiny panel proceedings; and
  - d. unacceptable behaviour including bullying, harassment, sexual harassment and victimisation

9. Matters not falling within the Commissioner's remit include:
  - a. policy matters or a member's political views or opinions;
  - b. service or performance standards or outcomes received;
  - c. a complaint from a person who is not a Member of the States, Minister or Assistant Minister regarding words spoken by, or actions of, an elected Member, Minister or Assistant Minister during a meeting of the States;
  - d. a complaint about a former Member of the States, Minister or Assistant Minister.

### **Complaints Relating to Unacceptable Behaviour**

10. The Commissioner will consider complaints relating to unacceptable behaviour including bullying, harassment, sexual harassment, intimidation and victimisation. Complaints relating to unacceptable behaviour fall within the scope of paragraph 5 of the Code of Conduct for Elected Members (Appendix 1) and paragraphs 1 to 3 of the Code of Conduct and Practice for Ministers and Assistant Ministers (Appendix 2)
11. Unacceptable behaviour can be defined as "Any form of unwanted, unreasonable and offensive conduct that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment. Conduct shall be regarded as having this effect only if, having regard to all circumstances and in particular the complainant's perception, it should reasonably be considered as having that effect.
12. Complaints relating to bullying, harassment, sexual harassment, intimidation and victimisation are intended to address such behaviour or conduct whether it occurs in person or remotely, for example by email, phone, text or through social media. Such behaviour or conduct may occur in a single and isolated serious incident or in multiple incidents occurring over a period of time.
13. Members, Ministers and Assistant Ministers have a right to freedom of expression and this includes disagreements on issues and policy which are a normal part of the political process.
14. Due to the sensitive nature of complaints relating to unacceptable behaviour, the Commissioner will not normally disclose the complainant's name and details in the final report relating to any such investigation.
15. The Commissioner encourages anyone who feels they are being or have been subject to unacceptable behaviour to consider the use of the informal approach to resolve their complaint in the first instance. However, this is not a requirement prior to submitting a formal complaint.

### **Discontinuation of a Complaint**

16. The Commissioner may discontinue consideration of a complaint if at any time she is satisfied that:

- a. the complaint is frivolous or vexatious or otherwise an abuse of the complaints process;
- b. the complainant has, without reasonable excuse, failed to co-operate with the Commissioner;
- c. the alleged conduct is not sufficiently serious to justify further consideration;
- d. the complainant no longer wishes to bring the complaint;
- e. the complaint would more appropriately be investigated by the police or other public body;
- f. it is not in the public interest to proceed with the consideration of the complaint; or
- g. any Member, Minister or Assistant Minister in respect of whom she is considering a complaint, no longer holds office as a Member of the States.

**Investigation: Procedural Safeguards**

- 17. The Commissioner determines the procedure and timing of any investigation.
- 18. The Commissioner will make arrangements to facilitate any complainant who is not able to submit their complaint in writing, for example due to disability or language difficulties.
- 19. Confidentiality is vital for all of those involved in a complaints process. In addition to the person raising a complaint, this is equally important for the person against whom an allegation of any sort has been made. Elected Members, Ministers and Assistant Ministers as public figures, are likely to be concerned that an allegation might be repeated in public and attributed to them, when the matter remains under investigation and has not been upheld. Therefore, in the interests of fairness for all involved, any complaint submitted to the Commissioner must remain private and confidential from the point of submission until the complaint has been finally determined, unless disclosure is authorised (for example if a Member is the complainant and needs to declare an interest such as the fact of a complaint submitted to the Commissioner).
- 20. Information collated in relation to complaints will be held and managed in accordance with the Data Protection Act 2018 and Data Protection principles.
- 21. The police and other agencies investigate allegations of criminal misconduct and the Commissioner will not investigate any related allegation of a breach of the
- 22. Code while the agency is conducting its own investigation. The same suspension of investigation applies while related proceedings (for instance any action for defamation) are before a court of law.
- 23. Where during an investigation the Commissioner decides that the conduct of a Member of the States, Minister or Assistant Minister should be investigated by

the police or other public body or agency, the Commissioner may liaise with the police or such other public body or agency as they deem appropriate.

24. In investigating and adjudicating allegations of non-compliance with the Code, the Commissioner shall act in accordance with the principles of natural justice and fairness.
25. Proceedings are not adversarial, but inquisitorial in nature. The Commissioner is an independent and impartial investigator appointed by the States, whose task is to establish the facts of a case. She reports these, along with her conclusions as to whether or not there has been a breach of the Code and her recommendations, to the PPC.
26. The Commissioner's conclusions and recommendations are not binding on the PPC.
27. The Member, Minister or Assistant Minister has no statutory right of appeal from the Commissioner. The complainant has no statutory right of appeal.
28. Members, Ministers and Assistant Ministers are expected to co-operate with any investigation into their conduct; requested written evidence must be in their own name and letters sent on their behalf by legal advisers or others will be disregarded. Members, Ministers and Assistant Ministers may be accompanied to any meeting or interview by a colleague, friend or legal adviser. However, every effort is made to keep proceedings informal and there is no expectation that they should be so accompanied. If a Member, Minister or Assistant Minister chooses to bring a colleague, friend or adviser, they are free to consult him or her off the record but will be expected to answer for themselves (and not through the friend or adviser) any questions put to them.
29. The complainant has no formal locus once an investigation is under way and has no right to be called as a witness. The complainant is expected to co-operate with any investigation and to answer any questions and supply all evidence in his or her possession when asked to do so.

Members, Ministers and Assistant Ministers accused of misconduct have no entitlement to cross-examine complainants, though they are given an opportunity to review and, if they so wish, challenge the factual basis of any evidence supplied by complainants or others.

The civil standard of proof is adopted at all stages in the investigation process by both the Commissioner and the PPC. Therefore, in order to find against a Member, Minister or Assistant Minister, the Commissioner needs to be satisfied that the allegation is proven on the balance of probabilities.

### **Confidentiality**

30. From the point that the Commissioner receives a complaint, all evidence and correspondence relating directly to the inquiry must remain confidential unless and until it is published by the PPC.

**Investigations: General Procedure**

31. On receipt of a complaint, the Commissioner will write to the complainant at the earliest opportunity to acknowledge receipt of their complaint. The Commissioner will inform the Member, Minister or Assistant Minister concerned of the complaint and provide a copy of the complaint and any evidence offered in support of it. She will set out the particular provisions of the Code that appear, either on the basis of the complaint or her preliminary assessment of the facts, to have been breached, and at the same time will invite the Member, Minister or Assistant Minister to respond in writing with a full and accurate account of the matters in question.
32. Following her preliminary assessment, the Commissioner will inform both the complainant and the Member, Minister or Assistant Minister concerned whether or not she will investigate the complaint. If she has decided that the complaint does not merit investigation, she will provide the complainant and the Member, Minister or Assistant Minister concerned with a brief explanation of her reason(s) for dismissing the complaint.
33. Alternatively, the Commissioner may decide to agree remedial action with the Member, Minister or Assistant Minister. Remedial action may be agreed if the complaint, though justified, is minor and is acknowledged by the Member, Minister or Assistant Minister concerned. Remedial action involves “putting the record straight”, for instance by making an amendment to the Register of Interests of Elected Members. The Member, Minister or Assistant Minister will normally be expected to make a formal apology, either in writing or by means of a formal statement to the States. If the Commissioner and Member, Minister or Assistant Minister agree remedial action, the Commissioner will report the matter and remedial action direct to the PPC. The Commissioner will inform the complainant of the action taken in response to the complaint.
34. If remedial action is not considered appropriate by the Commissioner in the circumstances, and the Member’s, Minister’s or Assistant Minister’s written response is not sufficient to enable the Commissioner either to dismiss the complaint or agree remedial action, the Commissioner may pursue an investigation. This can include seeking further information, either from the Member, Minister or Assistant Minister concerned or others, including the original complainant, third parties, or public or private bodies. Such information may be sought in writing or the Commissioner may decide to interview witnesses either informally or by means of formal oral evidence. The Commissioner holds her meetings with witnesses in private. In the case of informal interviews, a note will be made of the meeting and all parties will subsequently be asked to confirm its accuracy. In the case of formal oral evidence, a recording and full transcript will normally be made. The PPC decides to what extent the evidence is published.
35. The Commissioner has the power as per Part 4 Paragraph 13 of the Commissioner for Standards (Jersey) Law 2017 to summons people to appear and to provide records.

36. Part 4, Paragraphs 14, 15, and 16 of the Commissioner for Standards (Jersey) Law 2017 set out the criminal offences and related penalties arising from any failure to assist the Commissioner in the discharge of her functions. In particular, it should be noted that any person who, without reasonable excuse, refuses to comply with a requirement of the Commissioner, or gives false or misleading information to the Commissioner or otherwise interferes with witnesses, or obstructs the Commissioner or destroys documents, is liable to prosecution.
37. Section 17 sets out the relevant personal and professional privilege protections which apply.

#### **Assessing the evidence**

38. If the Commissioner's investigation has uncovered material evidence that is at variance with the Member's, Minister's or Assistant Minister's version of events, she will put this to the Member, Minister or Assistant Minister, who will have the chance to challenge it. Before finalising her report, the Commissioner will share with the Member, Minister or Assistant Minister a draft of her findings of fact and provide the member an opportunity to comment. The Commissioner may also share with the complainant a draft of her findings of fact on a confidential basis, where the Commissioner considers it is appropriate in the circumstances to do so.
39. If, having considered the Member's, Minister's or Assistant Minister's comments, the Commissioner considers that there remain significant contested issues of fact, she will prepare her own account of the facts of the case, while drawing the attention of the PPC to those points which are contested.
40. The Commissioner reports her findings to the PPC in the following form:
  - a. summary of the initial complaint and of the relevant elements of the Code;
  - b. brief account of the key facts in the case, with reference to evidence as appropriate, and with any contested points of fact highlighted;
  - c. her findings with reasons as to whether or not the Code has been breached and any relevant evidence, written and oral;
  - d. a recommendation as to what action, if any, should be taken

18th May 2023

Dr Melissa McCullough  
Pan-Island Commissioner for Standards



## Appendix 1: Code of Conduct for Elected Members

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SCHEDULE 3

Standing Orders of the States of Jersey

### SCHEDULE 3<sup>296</sup>

(Standing Order 155)

#### CODE OF CONDUCT FOR ELECTED MEMBERS

##### 1 Purpose of the code

The purpose of the code of conduct is to assist elected members in the discharge of their obligations to the States, their constituents and the public of Jersey. All elected members are required, in accordance with standing orders, to comply with this code.

##### 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 act solely in terms of the public interest.

###### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty**

Holders of public office should be truthful.

**Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

*The principles in practice***4 Conflict between public and private 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 2, at once, and in favour of the public interest.

**5 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.

**6 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.

**7 Gifts and hospitality**

The giving or acceptance of gifts, hospitality and services can give rise to a perception of corruption. In giving or receiving any gift, hospitality or service, members should consider whether they could justify acceptance to the public. In the event of doubt, members should seek advice from the Greffier of the States or the Commissioner for Standards.

Elected members should not accept gifts, hospitality or services which might appear to a reasonable person to compromise their personal judgement or integrity or place the recipient under any form of obligation to the giver, in order to guard against corruption or the perception of corruption. The same principle applies to gifts, hospitality or services offered or received to a family member or cohabitee.

The giving, receipt or offer of a gift, hospitality or service which a reasonable person might consider to be connected to membership of the States must, if it is of sufficient value, be registered in accordance with the rules on the registration of interests.

**8 Access to confidential information**

Elected members 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. Elected members 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. Elected members

must not disclose publicly, or to any third party, things said, or information produced, in a meeting of the States that is conducted in camera, unless the States have permitted such disclosure.

**9 Co-operation with committees and panels**

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

- (a) a scrutiny or review 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 and the PPC, for the purpose of the preparation of a report upon or assessment of any matter pursuant to the PAC's and the PPC's terms of reference; and
- (c) a committee of inquiry, for the purpose of the inquiry which the committee is appointed to conduct.

**Appendix 2: Code of Conduct and Practice for Ministers and Assistant Ministers  
(R.140/2022)**

# **STATES OF JERSEY**



## **CODE OF CONDUCT AND PRACTICE FOR MINISTERS AND ASSISTANT MINISTERS**

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**Presented to the States on 12th October 2022  
by the Council of Ministers**

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**STATES GREFFE**

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R.140/2022

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R.93/2023

## **INTRODUCTION**

On 11th October 2022, the Council of Ministers adopted the following Codes of Conduct and Practice, in accordance with Article 18(3A)(b) of the States of Jersey Law 2005.

## **CODE OF CONDUCT**

### **1. The Seven Principles of Public Life**

Ministers and Assistant Ministers must always uphold the highest standards of propriety through compliance with the Code of Conduct for Elected Members and through observance of the “Seven Principles of Public Life” (selflessness, integrity, objectivity, accountability, openness, honesty, leadership) as outlined at section 3 of the Code of Conduct for Elected Members.<sup>1</sup>

### **2. Values of the Public Service**

Ministers and Assistant Ministers will promote and observe the values of the public service, as adopted by the States Employment Board, in consultation with the Council of Ministers, demonstrating that all those in public service share the same core values and behaviours.<sup>2</sup>

### **3. Working relationships**

Ministers and Assistant Ministers should act professionally at all times when working in an official capacity. They should treat all those with whom they come into contact with consideration, courtesy, and respect, ensuring that their working relationships are proper and appropriate. They should promote an environment that excludes bullying and discrimination and supports the open expression of views by everyone they work with.

Ministers and Assistant Ministers have a duty to give fair consideration and weight to the advice of officers, upholding their political impartiality and not asking them to act in a way which would conflict with their responsibilities or obligations<sup>3</sup>. In turn, officers have a duty to show the same consideration to Ministers and Assistant Ministers, recognising the authority of the ministerial office. The Chief Minister, with the support of the Chief Executive, will put in place arrangements to support Ministers and Assistant Ministers in the promotion of positive working relationships on an ongoing basis.

### **4. Avoiding Conflict of Interest**

Ministers and Assistant Ministers must identify and actively address any actual or perceived conflict of interest between their ministerial responsibilities and their private interests, or any other public role they hold, including their role as a constituency representative, ensuring that any conflict does not compromise their judgement, the conduct of government, or place themselves under an improper obligation.

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<sup>1</sup> [Members code of conduct.pdf \(gov.je\)](#)

<sup>2</sup> <https://www.gov.je/Working/WorkingForTheStates/pages/codeofconduct.aspx>. As of September 2022: The Public Sector values are: “We are respectful; We are better together; We are always improving; We are customer focused; We deliver”

<sup>3</sup> See above.

Where a conflict or perceived conflict relates to the Minister's portfolio, the Minister or Assistant Ministers should be guided by the general principle that they should either dispose of the interest giving rise to the conflict, or take alternative steps to manage the conflict, which can include transferring a ministerial responsibility to another Minister, or in relation to a more minor matter, a delegation to an Assistant Minister. In some cases, it may not be possible to devise a mechanism to avoid such an actual or perceived 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 Minister to cease to hold ministerial office.

Where the conflict relates to a matter outside of a Minister's area of responsibility, but the Minister or Assistant Minister is part of a wider discussion at the Council of Ministers, or in other ministerial meetings, they should declare this at the earliest opportunity, the declaration should be recorded, and the Minister or Assistant Minister would generally be asked to recuse themselves from any discussions.

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 Minister or Assistant Minister, should be considered.

A perceived conflict of interest should generally be treated as seriously as an actual conflict, and Ministers are expected to err on the side of caution in the wider interests of the government and maintaining public confidence.

#### **5. Ministerial Responsibilities and Constituency Matters**

Ministers should ensure that the decisions they take as Ministers are separate from activities they undertake as elected representatives of an individual district or parish on behalf of parishioners and constituents. Ministers are free to make their views known about constituency matters to the responsible Minister, by correspondence or by personal interview, provided they make clear that they are acting as their constituents' representative and not as a Minister. In acting for constituents, Ministers should also be mindful of the policy positions of their ministerial colleagues and the Council, acting professionally and proportionately. Ministers must take particular care to avoid any conflict of interest if they have to take decisions which impact principally on the district or parish they represent, and should seek to arrange their responsibilities so as to avoid perceived conflicts of interest, for example by delegating those decisions where possible. Where a function has been delegated to an Assistant Minister, the same principles apply.

#### **6. Individual investigations**

Ministers and Assistant Ministers should 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 office.

A similar approach should be adopted in relation to staffing and employment concerns and investigations. While the Minister is ultimately accountable for policy and the delivery of services in their areas of responsibility, employment matters are reserved for

the States Employment Board and its delegates. Accordingly, where a Minister is concerned about the performance or conduct of an individual employee, they should refer the matter to the relevant Director General, or otherwise the Chief Executive Officer, or the Chair of the States Employment Board, as they feel most appropriate.

### **7. Gifts and Hospitality**

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 hospitality, travel or any other perceived benefits that result in the creation or perception of an obligation, or that otherwise impinge on the impartiality of decision-making, should be refused.

Ministers and Assistant Ministers must register with the States Greffe the acceptance, offer or giving of gifts, hospitality, and other benefits connected with ministerial office in accordance the Standing Orders of the States of Jersey, erring on the side of caution if in doubt.<sup>4</sup>

### **8. Private Legal Proceedings**

Ministers and Assistant Ministers should be mindful of commencing private legal proceedings, and the consequences of any actions taken against them, considering the implications for their ministerial role, including whether the action may have a negative impact on public confidence in the bearing and conduct of government, consulting with the Chief Minister and considering whether they need to cease to hold ministerial office.

### **9. Safeguarding and vetting**

Ministers and Assistant Ministers, by virtue of their position and duties, routinely meet Islanders, including vulnerable members of the community. They should be accompanied by officers 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, Ministers and Assistant Ministers should also undergo a criminal record check upon appointment (further to the declaration of past convictions made prior to their nomination for election) to a level consistent with professional guidelines.<sup>5</sup>

## **CODE OF PRACTICE**

### **10. Accounting to the Assembly**

Whether in person or through their Assistant Ministers, Ministers 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.

### **11. Prioritising Assembly business**

Ministers should place the highest priority possible on participating in the business of the States Assembly generally.

### **12. Council of Ministers' responsibilities**

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<sup>4</sup> [Standing Orders of the States of Jersey \(gov.je\)](https://www.gov.je/standing-orders)

<sup>5</sup> Guidance from the Disclosure and Barring Service: [Disclosure and Barring \(proceduresonline.com\)](https://www.proceduresonline.com/disclosure-and-barring-service)



The Council has responsibility for the development and presentation of a Common Strategic Policy, Government Plan, and the prioritisation of legislative proposals across the ministerial portfolios. The Council is also responsible for discussing and agreeing their common policies regarding external relations and population. The Council should keep these matters under review by considering reports on progress, including prioritising initiatives within any single calendar year.

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

The Council comprises the Chief Minister and Ministers, and is chaired by the Chief Minister, and in their absence, by the Deputy Chief Minister. In the absence of a Minister, and where one exists, an Assistant Minister shall attend in their place and, in any event, Assistant Ministers should attend for agenda items where they have delegated responsibilities. Six Ministers, including their Assistant Minister in their absence, shall comprise a quorum of the Council of Ministers. The Chair may invite other persons to attend Council 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 Assistant Ministers to the Chief Minister; the Chairman of the Comité des Connétables; the Chief Executive; H.M. Attorney General; and the Greffier of the States.

### **14. Bringing matters to the Council of Ministers**

Matters wholly within the responsibility of a single Minister and which do not fall under the functions of the Council need not be brought to the Council. However, matters that affect more than one Minister should be brought to the Council. A Minister may also ask to bring a matter of sole responsibility to the Council for guidance, and should do so in relation to matters of higher importance, and the Chief Minister may request that a matter be considered by the Council.

As a guide, the Council should consider matters of importance, and the more important a matter, the stronger the rationale for bringing it to the Council. It is the responsibility of the proposing Minister to ensure that a matter is brought before the Council.

### **15. Developing policy**

It is the responsibility of the proposing Minister to discuss a matter they are bringing to Council with other relevant Ministers in advance of the Council meeting. In doing this, they should attempt to resolve any policy differences before the matter is considered by the Council. This should be done within an overall context of working collaboratively, inclusively, and transparently, and where appropriate, within sub-groups of the Council of Ministers established by the Council or the Chief Minister to provide an in-depth forum for joined-up policy development and political oversight and coordination.

### **16. Consensus decision-making**

Ministers 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 Ministers should coalesce around a coherent public position.

This supports professional government and the clear communication and delivery of policy. This also applies to the Assistant Ministers of the Minister who has responsibility for a policy, or a significant element of that policy.

As deemed necessary and appropriate, the Chief Minister may depart from this approach and indicate that individual ministers may adopt alternative positions to those agreed by the Council of Ministers. This includes respecting matters of conscience, or issues where a Minister has made a published manifesto commitment.

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

The Council may give direction to a Minister or Assistant Minister as to how their functions should be discharged, having consulted with the Minister or Assistant Minister first, in accordance with Article 18(3B) of the States of Jersey Law 2005. This direction cannot relate to individual determinations under statute or other instrument. However, directions can relate to policies which may in due course affect the overall framework within which determinations are made.

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

It is the responsibility of all Ministers to ensure that they are suitably prepared for a meeting of the Council of Ministers, reading papers, and seeking points of clarification in advance to help expedite discussions at the Council of Minister's meeting. If a Minister considers that they are inadequately briefed on any matters due for consideration, they should raise the matter with an appropriate senior official or their Private Secretary.

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

The meetings of the Council 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. Agendas will also be circulated to the media, and confidentially provided to Scrutiny Panels, along with papers and presentations considered and any minutes requested.

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 not be 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.

#### **20. Assistant Ministers**

Ministers may, with the consent of the Chief Minister, appoint one or more Assistant Ministers, to assist them in discharging their responsibilities.<sup>6</sup> This includes being able to delegate to Assistant Ministers a substantial portfolio of responsibilities.

The Assistant Minister may also be asked to present items in the Assembly and be asked questions in the Assembly. As they do this, Assistant Ministers are expected to confer with, and account to, their Minister - ensuring alignment on policy and delivery.

Equally, Ministers should endeavour to regularly meet with their Assistant Minister to discuss matters within their 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. In all circumstances, the Minister remains both legally responsible and ultimately accountable for the decisions of their Assistant Minister.

This supports government in delivering a wide programme of work, while maintaining proper lines of accountability to elected Ministers and the Assembly.

## **21. Ministerial Decisions**

Ministerial Decisions should be properly and accurately recorded in compliance with the “Ministerial Decisions Guidelines” issued by the Chief Minister. In doing this, Ministers and Assistant Ministers should only sign a decision once they are satisfied as to its content, having been briefed, and being clear on the powers they are exercising. Ministers and Assistant Ministers have a responsibility to answer for and explain their decisions.

## **22. Announcements**

Before making an announcement with a consequence for the image and reputation of the executive, other than on minor matters, and however so made and by whatever media or means, Ministers and Assistant Ministers shall adopt a ‘no surprises’ approach for colleagues, and consider whether it raises issues which fall under the functions of the Council and, if so, wherever practical bring the matter to the Council prior to any publication. In any event, all Ministerial announcements, including social media posts, should be approved, via their Private Secretaries, by the responsible Minister or Assistant Minister, save where they have provided consent to an officer(s) to comment on technical matters, and the Chief Minister shall be notified of the intention to make an announcement for the purposes of co-ordinating the publication of government business, save for minor matters. Announcements should always be attributed to a named individual.

When the States Assembly is in Session, the most important announcements should be made in the first instance in the Assembly, and in any event, Ministers should seek to ensure that States Members are notified in advance of the media.

## **23. Engaging with Scrutiny**

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<sup>6</sup> The future role and naming of Assistant Ministers is being considered by the Chief Minister with the intention of discussing with the Privileges and Procedures Committee.

Ministers and Assistant Ministers should engage with the Scrutiny Panels in the manner outlined in the Code of Practice for Engagement between Scrutiny and Ministers and Assistant Ministers.

#### **24. Ministerial Portfolios**

The Chief Minister is responsible for the allocation of responsibilities between Ministers, and the Chief Minister's approval must be sought to any changes proposed which affect the allocation of responsibilities, save for minor matters. Where the Chief Minister seeks to exercise her responsibilities around the overall organisation of the Executive, the Ministers affected should be notified, provided with the rationale, and be given an opportunity to be heard by the Chief Minister, who in turn should ensure that the Council 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.

#### **25. Private Members' Propositions**

Ministers may bring propositions to the Assembly in their capacity as private Members, but should provide opportunity for the responsible Minister or the Council to consider the matter first, so they can consider whether they wish to adopt the policy themselves, and in any case, they should provide due notification to ministerial colleagues.

#### **26. Election periods**

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.

#### **27. Use of information for official purposes**

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 constituency functions. They must also return all information and devices obtained in the course of their ministerial office on ceasing to hold that office.

#### **28. Consultation with Law Officers**

The Law Officers' Department should be consulted in good time on significant decisions involving legal or constitutional considerations, and the existence and content of the advice of Law Officers will not be confirmed or denied in accordance with the Attorney General's privilege which is attached to any advice.

**29. Exclusion of administrative decisions**

The Code is not designed as a mechanism to appeal or review administrative decisions, including those taken by a Minister or an Assistant Minister. If it is alleged that in making a decision a Minister or an Assistant Minister has breached this Code, then that alleged breach may be investigated in accordance with this Code.

**30. Exclusion of administrative decisions**

The Code is not designed as a means of appealing administrative decisions, including those taken by a Minister or an Assistant Minister, other than in so far as the Minister's or Assistant Minister's personal conduct in undertaking those decisions is such that a breach of the Code is likely to have occurred. Instead, appealing administrative decisions is a matter for internal departmental appeals or statutory processes, any other mechanisms of administrative appeal or redress, and ultimately the courts.

**31. Travel and Expenses**

Ministers and Assistant Ministers have a duty to use scarce public resources with care and due attention, and must be satisfied that the arrangements they make for travel, and the expenses they claim, can reasonably be justified in public as being efficient and cost-effective, and required for and relating to their ministerial office. Ministers and Assistant Ministers should also be mindful of any personal benefits associated with travelling, and declare any such matters in accordance with section 6 above or refund the equivalent value. They may also be asked to repay an expense personally, or to issue an internal note that the Public should pay the expense if they believe that is appropriate (a copy of which shall be provided to the Chief Minister and Chief Executive). Ministers and Assistant Ministers should also seek to incur costs as part of an advance booking wherever possible and practical in the circumstances, using corporate arrangements. Expenses will also be published periodically, delivering transparency and enabling costs to be independently scrutinised.

## **COMMON PROVISIONS APPLICABLE TO BOTH THE CODE OF CONDUCT AND PRACTICE**

### **32. Advice on compliance**

If there is doubt on the part of a Minister or Assistant Minister about the application of the Codes, or difficulty in applying the Codes, then they should approach their Private Secretary or the Chief Executive, who will provide or facilitate the provision of advice, or as they may wish, approach the Chief Minister.

### **33. Personal responsibility for compliance**

Ministers and Assistant Ministers are personally responsible for deciding how to conduct themselves in the light of the Codes and for justifying their actions and conduct to the Chief Minister, the States Assembly and the Public, and should inform the Chief Minister and Commissioner for Standards immediately of any possible breach of the Codes.

### **34. Code Compliance Procedures**

The Commissioner for Standards is responsible for investigating complaints of alleged breaches and reporting the outcomes to the Privileges and Procedures Committee. The Committee and the Chief Minister will then each determine any action to be taken in respect of breaches of the codes.

As part of delivering a constructive and professional working environment, and as an intermediate and initial step without prejudicing the ability to refer a matter to the Commissioner for Standards, concerns may also be raised with the Chief Minister, and the Chief Minister shall ask another Minister or Assistant Minister, supported by an officer from the Ministerial Office, to review the matter and make recommendations to the Chief Minister.

### **35. Support and further guidance**

The Chief Minister, with the support of the Chief Executive and the Ministerial Office, shall establish any required internal procedures and processes to support compliance with the Code.

From time to time, the Chief Minister, in consultation with the Council of Ministers, may also issue supplementary guidance to support the interpretation and implementation of the above provisions, including in advance of an election.

## Appendix 3: Register of Interests of Elected Members

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SCHEDULE 2

Standing Orders of the States of Jersey

### SCHEDULE 2<sup>295</sup>

(Standing Order 152)

#### REGISTER OF INTERESTS OF ELECTED MEMBERS

##### 1 Employment, offices, directorships and partnerships

- (1) An elected member must register the name and address of any person, company, trust, professional association, union, political party or other organization from whom he or she receives any remuneration or benefit by virtue of being –
  - (a) employed;
  - (b) the holder of any office;
  - (c) a director of any company; or
  - (d) a partner in a partnership or firm.
- (2) If the elected member is a director of a company by which he or she is not remunerated, but receives remuneration through another company in the same group, the directorship must be registered.
- (3) When registering the name and address of a person, the elected member must also provide a brief description of the person's business or work.
- (4) If an elected member's total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.
- (5) An elected member is not required to register –
  - (a) remuneration he or she receives out of the consolidated fund, by virtue of being an elected member; or
  - (b) remuneration he or she receives out of the funds of a parish, by virtue of being its Connétable.

##### 2 Self-employment, etc.

- (1) An elected member must register any consultancy, trade, profession, vocation or other work for which he or she receives any payment or benefit and which does not fall within paragraph 1.
- (2) An elected member must register the name and address of a person from whom he or she receives any payment or benefit in return for the work if the payment or benefit received from that person forms at least 5% of the member's total income or at least 10% of the member's total income from that work.
- (3) When registering the name and address of a person the elected member must also provide a description of the person's business or work.

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- (4) If an elected member's total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.

### 3 Shareholdings

- (1) An elected member must register his or her interest in the shares of any company that are held by the elected member or held, whether jointly or separately, by a relevant person where –
- (a) the nominal value of the shares are greater than 1% of the total value of the issued share capital of the company; or
  - (b) the market value of the shares exceed half of the amount that the member is entitled to receive, in his or her capacity as a member of the States of Jersey, by way of remuneration (including any allowance).
- (2) For the purpose of sub-paragraph (1), a person owns shares if he or she owns them in his or her own name or if the shares are held, on his or her behalf, or for his or her benefit, by any other person.
- (3) When registering an interest in the shares of a company the elected member must register –
- (a) the name of the company in which the shares are held;
  - (b) the registered address of the company;
  - (c) the nature of the business undertaken by the company;
  - (d) the type of share owned; and
  - (e) in the case where the company is a subsidiary or a holding company of another company, the nature of the business undertaken by that other company.
- (4) For the purposes of this paragraph –
- (a) a company is a subsidiary of another company if –
    - (i) the second company holds a majority of the voting rights in the first company,
    - (ii) the second company is a member of the first company and has the right to appoint or remove a majority of the board of directors of the first company,
    - (iii) the second company is a member of the first company and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the first company, or
    - (iv) the first company is a subsidiary of a company which is itself a subsidiary of the second company; and
  - (b) a company is the holding body of another company if the second company is a subsidiary of the first company.



**4 Sponsorship**

- (1) An elected member must register the name and address of any person who provides him or her with sponsorship for the purpose of enabling the member to carry out his or her duties as an elected member.
- (2) Sponsorship may take the form of the donation of money or of any benefit.
- (3) When registering the name and address of the sponsor, the elected member must provide a brief description of the sponsorship including the amount of sponsorship received within the previous 12 month period.

**5 Gifts, hospitality and other benefits**

- (1) An elected member must register the name and address of any person who gives or offers the elected member, or his or her spouse, civil partner or cohabitee or other relevant person, any gift, hospitality or other benefit which has a monetary value greater than £40 (or a cumulative value of more than £100 if more than one gift is given or offered by a person over a 12 month period) if the giving or offer of the gift, hospitality or benefit is, or could reasonably be considered to be, in any way, related to membership of the States.
- (2) An elected member must register the name and address of any person to whom he or she gives or offers any gift, hospitality, or other benefit which has a monetary value greater than £40 (or a cumulative value of more than £100 if more than one gift is given or offered by a person over a 12 month period) if the giving or offer of the gift, hospitality or benefit is, or could reasonably be considered to be, in any way, related to membership of the States.
- (3) When registering the name and address under paragraphs (1) or (2) the elected member must also provide a brief description of the gift, hospitality or other benefit given or offered.
- (4) A Connétable is not required to register an interest in relation to a gift, hospitality or benefit if the giving or offer of the gift, hospitality or benefit entirely relates to his or her parochial duties and confers no personal benefit on the Connétable or a relevant person.

**6 Overseas visits**

An elected member must register the name and address of any person (apart from the States or any administration of the States) who pays all or part of the costs of a visit made outside Jersey by the elected member or his or her spouse, civil partner or cohabitee or other relevant person if the visit is, in any way, related to his or her membership of the States.

**7 Land**

- (1) An elected member must register a description of any land in Jersey sufficient to identify it, which is wholly owned, or jointly owned with another person (including land wholly or jointly owned by a company or holding company in relation to which the elected member has registered a

shareholding under paragraph 3) – (a) by or on behalf of the elected member or his or her spouse, civil partner or cohabitee or other relevant person; or (b) by or on behalf of the elected member and his or her spouse, civil partner or cohabitee or other relevant person jointly.

- (2) No declaration is required in respect of land so owned which is the principal place of residence of the elected member or of his or her spouse, civil partner or cohabitee or other relevant person.
- (3) An elected member must register a brief description of any land (whether in Jersey or elsewhere) from which the elected member or his or her spouse, civil partner or cohabitee or other relevant person derives an income.
- (4) If an elected member's total income from any interest declared under this paragraph exceeds 25%, 50% or 75% of their total annual income in the previous 12 months, he or she must register which of these thresholds has been surpassed.

#### **8 Miscellaneous**

An elected member must register details of any other interest or benefit which the elected member or his or her spouse, civil partner or cohabitee or other relevant person receives which, although not required to be registered under the foregoing paragraphs of this Schedule, the elected member believes might reasonably be thought by other persons to influence his or her actions as an elected member.