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# 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

## REPORT

### 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>

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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.dbs.gov.uk/disclosure-and-barring)

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## **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**

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.

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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.

**23. Engaging with Scrutiny**

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.