

Code of Conduct for Ministers

March 2018



Tasmanian
Government

CODE OF CONDUCT FOR MINISTERS

PREMIER'S FOREWORD

The Code of Conduct for Ministers is a commitment by my Government to act with integrity and propriety for the people of Tasmania.

As a Government, we commit to uphold the highest standards of public office and to act honestly, professionally and with accountability in the performance of our duties.

In accepting office, Ministers agree to comply with the Code and to serve the people of Tasmania as we work to build their future and implement our long term plan for our State.

This Code applies between myself as Premier and each Minister. The responsibility for their observance and the consequences of failing to meet them is a matter between me and the Minister concerned, and will depend on the merits of each case.

This Code sits alongside the obligations of Ministers as Members of Parliament to adhere to the high ethical standards set by the Parliament of Tasmania.

This Code is available on the website of the Department of Premier and Cabinet. Alternatively, printed copies can be obtained from the Department (GPO Box 1238, Hobart, 7001, or phone 03 6232 7230).

Will Hodgman MP

Premier

21 March 2018

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PREAMBLE

Ministers are expected to behave according to the highest ethical standards in the performance of their duties as they hold a position of trust, and have a great deal of discretionary power which can have a significant impact on citizens of Tasmania. Therefore Ministers must commit themselves to the highest ethical standards to maintain and strengthen the democratic traditions of our State and its institutions.

Merely avoiding breaking the law will not always be enough to guarantee an acceptable standard of conduct. Ministers must not only act lawfully but also in a manner which withstands the closest public scrutiny. Neither the law nor this Code is designed to be exhaustive, and there will be occasions on which Ministers will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust. In making choices about conduct, Ministers should have regard to prevailing community values and standards. They should also, where possible, avoid giving unnecessary offence to groups in the community whose beliefs and views differ from the mainstream.

Recognising the convention of collective responsibility for Government decisions, Ministers are obliged to report any Code non-compliance by themselves or by another Minister to the Premier, or in the case of the Premier to Cabinet.

Ministers may seek confidential advice from the Parliamentary Standards Commissioner as to any matter arising under this Code.

Review

This Code was adopted by the Government on 22 March 2018 and is operational from this date. It will be reviewed when required but at least every four years.

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Conflicts of Interest

Any material conflict between a Member's private interest and his or her official duties which arises must be resolved promptly in favour of the public interest.

So as to protect and uphold the public interest, Ministers must take reasonable steps to avoid, resolve or disclose any material conflict of interest, financial or non-financial, that arises or is likely to arise, between their personal interests and their official duties.

Ministers must declare any such conflict of interest in writing to the Premier as soon possible after becoming aware of the conflict.

Ministers are individually responsible for preventing conflicts of interest.

A conflict of interest does not exist where the Minister or a close relative is affected only as a member of the public or of a broad class of persons.

Declaration and Divestment of Personal Interests

Ministers are personally responsible for making adequate disclosure to the Premier of all financial and other interests that they are obliged to disclose under the *Parliamentary (Disclosure of Interests) Act 1996*.

A Minister, upon assuming office as a Minister, must take steps to deal with the financial and other interests of him or herself, their partner or dependent persons, which could create the impression of a material conflict with the Minister's official duties.

Shareholdings

Ministers, upon assuming office, must relinquish control of all shareholdings and other interests in partnerships and trusts, public and private, where a material conflict of interest with their portfolio responsibilities exists, or could be reasonably be expected to exist.

It is not an acceptable form of divestment to transfer interests to a partner, family member or to a nominee or private trust.

Directorships and other forms of Employment

Except with the written approval of the Premier, Ministers will on taking up office as a Minister resign or decline directorships of public or private companies and businesses. Approval to retain a directorship of a private company or business will be granted only if the Premier is satisfied that no conflict of interest exists or is likely to arise.

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Ministers will resign from all positions held in business (or professional) associations or trade unions on taking up office as a Minister. Individual membership of such business or professional association and of a trade union does not constitute a 'position'.

Ministers shall not act as a consultant or adviser to any company, business, or other interest, whether paid or unpaid, or provide assistance to any such body, except as may be appropriate in their official capacity as Minister.

A Minister may hold a directorship in a private company operating a family farm, business or investment with the written approval of the Premier.

Gifts and Benefits

Ministers must not solicit, encourage or accept gifts, benefits or favours either for themselves or for another person in connection with performing or not performing their official duties as a Minister.

The offering of any such gifts, benefits or favours, made directly or indirectly, must be reported to the Premier as soon as practicable.

Ministers may accept all customary official gifts, hospitality, tokens of appreciation, and similar formal gestures in accordance with the relevant guidelines.

Ministers may, in a purely personal capacity, accept gifts from a relative, friend or acquaintance which do not give rise to or create the appearance of a conflict of interest.

Improper Advantage

Ministers are not to use their position improperly to gain a direct or indirect personal advantage for themselves or any other person or entity not enjoyed by the general public.

Ministers must maintain appropriate confidentiality of the information they receive in the official course of their duties, in Cabinet or otherwise, during their appointment and also after their resignation, retirement or dismissal from office.

Ministers are not to use any information obtained in the course of their official duties so as to gain a direct or indirect personal advantage for themselves or improperly for any other person or entity not enjoyed by the general public.

A close relative of a Minister is not to be appointed to a position in the Ministerial or electorate office of that Minister.

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Improper Use of Public Resources

Ministers must not use public resources, or allow such resources to be used by others, for personal advantage or benefit.

Ministers must use and manage public resources in accordance with any rules and guidelines regarding the use of those resources.

Ministers must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any Ministerial, parliamentary or other allowance.

Ministers must regard the skills and abilities of public servants as a public resource to be utilised appropriately.

Misleading Statements

Ministers must not mislead Parliament or the public in statements they make and are obliged to correct the Parliamentary or the public record in a manner that is appropriate to the circumstances as soon as possible after any incorrect statement is made.

Fairness of decision making

Ministers must take all reasonable steps to observe relevant standards of procedural fairness in decisions made by them. Such decisions are to be unaffected by bias or irrelevant considerations.

Respect for Persons

Ministers are to treat everyone with respect, courtesy and in a fair and equitable manner without harassment, victimisation or discrimination.

Public Officials

Ministers must not by their decisions, directions or conduct in office encourage or induce public officials to break the law, or to fail to comply with a code of ethical conduct applicable to such public officials.

Ministers are to respect the apolitical role of the public servants.

Lobbyists

Ministers must handle any dealings with lobbyists in accordance with the Tasmanian Lobbyist Code of Conduct to avoid giving rise to a conflict of interest between their public duty and personal interests.

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Post-Ministerial Employment

Ministers must undertake that upon leaving office and for a period of two years thereafter, they will exercise care in considering offers of employment directorships, or to act as a consultant to any company, business or organisation with which they have had official dealings as a Minister in their last 12 months in office.

Ministers must undertake that upon leaving office they will not use official information which is not in the public domain, or information obtained in confidence in the course of their official duties, for the private advantage or benefit of themselves or another person or persons.

Breaches

Any allegation that a Minister has breached this Code of Conduct is to be referred to the Premier. Recognising the convention of collective responsibility for Government decisions, Ministers are obliged to report any Code non-compliance by themselves or by another Minister to the Premier, or in the case of the Premier to Cabinet.

If a complaint is made to the Premier about an alleged breach of the Code, it is up to the Premier to determine if, or how, the complaint is to be investigated. There is no single way of investigating a complaint. The principles of natural justice and procedural fairness are to apply.

If a Minister engages in conduct which is found to constitute a breach of the Code, the Premier shall decide, in his or her discretion, upon an appropriate course of action. The appropriate sanction will depend on the nature and seriousness of the breach.

If a Minister is found to have breached the Code, the Minister may, among other things, be

- asked to apologise;
- required to take remedial action;
- counselled;
- reprimanded;
- required to stand aside from any or all ministerial responsibilities for a period of time;
- asked to resign as a Minister; or
- recommended to the Governor for dismissal from his or her ministerial appointments.