

Andrew Barr MLA

Chief Minister



Member for Kurrajong

Treasurer

Minister for Economic Development

Minister for Tourism and Major Events

Yvette Berry MLA

Deputy Chief Minister

Meegan Fitzharris MLA

Mick Gentleman MLA

Gordon Ramsay MLA

Shane Rattenbury MLA

Rachel Stephen-Smith MLA

Dear Ministers

I am writing to provide you with the *Conflict of Interest Declaration and Disclosure* guidelines (the Guidelines) for use by Ministers ([Attachment 1](#)).

The *Ministerial Code of Conduct 2012* (the Code) is very clear about your responsibilities to disclose all personal and pecuniary interests before accepting appointment. This requirement is in addition to the declaration of private interests that all Members of the ACT Legislative Assembly are required to provide. Requirements also apply in respect of reporting a change in circumstances during the ministerial term.

The Code also reinforces that you are individually responsible for preventing personal conflicts of interest or the perception of a conflict of interest. The Guidelines clarify the process for you to report a conflict of interest, should one arise, during your Ministerial term.

I ask that you complete the *declaration of personal financial and other interests* form ([Attachment A](#) to the guidelines) and *disclosure of a potential conflict of interest* form ([Attachment B](#)) by no later than **Friday 16 December 2016**. Your declaration of private financial and other interests should be returned to my Executive Chief of Staff, Mr Michael Cook.

I am sure you will agree that the Guidelines will assist us all to be alert to the possibility of such conflicts and to proactively manage any associated risk through the term of this Government.

In seeking to raise our levels of transparency and accountability, I propose the Guidelines as they relate to the disclosure of any identified conflicts only (i.e. not the declaration of personal financial and other interests) will also apply to your Ministerial staff ([Attachment C](#)). This arrangement will support disclosure requirements set out in the *Legislative Assembly (Members' Staff) Code of*

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Conduct for Ministerial Staff and Staff of Other Office-holders Determination 2015. You are responsible for managing any conflicts identified by your Ministerial staff and maintaining records of their disclosure.

Please familiarise yourself with the Guidelines and advise your staff of them. Any queries can be directed in the first instance to Mr Cook.

In addition to the above requirements, now is an opportune time to advise you of a separate but related process in regard to Related Party Disclosure requirements. All Ministers will be requested to complete a form for the purpose of financial statement disclosures. Information collected is for the purpose of compliance with the requirements of the Australian Accounting Standard AASB124 *Related Party Disclosures*.

The disclosure is to help users of financial statements understand the impacts of significant related party transactions on an ACT Government controlled entity's financial results. The information collected forms the basis of an entity's disclosures in relation to related party transactions in its financial statements.

Further guidance material will be issued at the time of information collection – this occurs twice in a financial year - in October and April. Collection also occurs following administrative restructures.

Yours sincerely



Andrew Barr MLA
Chief Minister

8 December 2016



ACT
Government

Chief Minister, Treasury and
Economic Development

Conflict of Interest Declaration and Disclosure

For use by Ministers in the Legislative Assembly for the
Australian Capital Territory
and their staff

November 2016

Contents

Introduction	3
Disclosure of pecuniary interests.....	3
Ministerial Code of Conduct	3
Ministerial Staff.....	3
Conflicts of interest.....	4
Avoiding conflicts of interest	4
Managing conflicts of interest for Ministers and their staff.....	4
Ethics and Integrity Advisor	5
Steps to be taken	5
Prior to accepting a Ministry.....	5
When a real or apparent conflict of interest occurs.....	5
Future employment and conflicts.....	6
What type of interests needs to be disclosed?	6
Forms	6
DECLARATION OF PERSONAL FINANCIAL AND OTHER INTERESTS (MINISTER).....	7
CONFLICT OF INTEREST – DISCLOSURE FORM (MINISTER).....	9
CONFLICT OF INTEREST – DISCLOSURE FORM (STAFF).....	11

Introduction

The *Code of Conduct for all Members of the Legislative Assembly for the Australian Capital Territory* (ACT) (the Code) states that all Members have an obligation to use the influence conferred upon them in the public's interest and not for personal gain.

Notwithstanding the provisions set out in section 15 of the *Australian Capital Territory (Self-Government) Act 1998* and standing order 156 of the Legislative Assembly (the Assembly), Members are individually responsible for preventing personal conflicts of interest or the perception of a conflict of interest, and must endeavour to arrange their private affairs to prevent such conflicts arising or take all reasonable steps to resolve a conflict that arises.

Disclosure of pecuniary interests

Members are required to disclose their pecuniary interests pursuant to the resolution of the Assembly "Declaration of Private Interests of Members" agreed to on 7 April 1992 (as amended 27 August 1998 and 17 March 2005).

Members must provide to the Clerk a declaration of private interests within 28 days of making and subscribing an oath or affirmation. Members are also required to notify any alteration of those interests to the Clerk within 28 days of the alteration occurring. The Clerk has written to all Members of the Ninth Assembly notifying them of these requirements.

Ministerial Code of Conduct

Ministers in the Assembly must adhere to the provisions contained in the *Ministerial Code of Conduct 2012* (the Ministerial Code). Section 4 of the Ministerial Code reiterates the need for Ministers to disclose all personal and pecuniary interests before accepting appointment as a minister including the interests of their immediate family, both personal and financial. Requirements also apply in respect of reporting a change in circumstances during the ministerial term, post-ministerial employment and future employment and conflicts.

These disclosure requirements are in addition to those required of all Members.

Ministerial Staff

The Employment Agreement setting out the terms for which staff are employed by Members pursuant to subsection 5(1) of the *Legislative Assembly (Members' Staff) Act 1989* states that if a conflict, or risk of conflict, of interest arises this must be disclosed to the employing Member in order to discuss arrangements for eliminating or dealing with the conflict.

The *Code of Conduct for Ministerial Staff* reinforces these obligations and states that any potential conflict must be reported to the employing Minister or supervisor as soon as possible after the relevant facts come to their notice.

The procedures relating to a disclosure of potential conflicts of interest in these Guidelines apply to all staff employed in Ministerial Offices. The requirements to declare personal financial and other interests only apply to Ministers and not their staff.

Conflicts of interest

A conflict of interest exists when it appears likely that a Minister or their staff could be influenced, or where it could be perceived that they are influenced, by a personal interest in carrying out their duty. Conflict of interests may be real, apparent or potential:

- Real: where a Minister or their staff participates in a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private interest or will improperly and dishonestly further the private interest of another person.
- Apparent: where it appears or could be perceived that private interests are improperly influencing the performance of official duties whether or not that is actually the case.
- Potential: where private interests are not but could come into direct conflict with official duties.

Avoiding conflicts of interest

In addition to preventing any real or potential conflict of interest arising and declaring their pecuniary interests and ensuring their declaration is kept up to date, Ministers must disclose any other financial or non-financial interest they may hold, or which they may be reasonably perceived to hold which a reasonable observer, informed of that interest, might perceive as giving rise to a conflict of interest with the performance of the Minister's duty.

Managing conflicts of interest for Ministers and their staff

Where a Minister believes on reasonable grounds that a conflict exists, they should immediately report this to the Chief Minister. This also includes where the Minister considers that a colleague may be compromised.

If a Minister is in any doubt about whether there is a real or apparent conflict of interest then they should err in favour of reporting it to the Chief Minister. The Chief Minister's Office will consult with the Cabinet Secretary as necessary to ensure that all obligations in relation to the Codes and these guidelines are met.

Where a staff member of a Ministerial Office believes on reasonable grounds that a conflict exists, they should immediately report this to their supervisor or their Minister as soon as possible after the relevant facts comes to their notice.

Ethics and Integrity Advisor

The role of the Ethics and Integrity Advisor is to advise when asked to do so by any Member, on ethical issues concerning the exercise of his or her role as a Member (including the use of entitlements and potential conflicts of interest). The Ethics and Integrity Advisor is required to protect the confidentiality of matters raised with him by Members and of the advice provided, however, the nature of matters is provided in their annual report.

Steps to be taken

Prior to accepting a Ministry

In line with the Ministerial Code, prior to accepting a ministry, ministers must disclose all interests (including memberships and directorships held) to the Chief Minister before accepting appointment as a minister.

Ministers are required to disclose all pecuniary interests. This includes the known interests of their immediate family, both personal and financial.

They must make a declaration by completing a *Declaration of Personal Financial and Other Interests* (**Attachment A**) and submitting it to the Chief Minister.

During the Ministerial Term

Ministers must inform the Chief Minister of any changes in their personal circumstances as they arise, in particular, the loss or gain of any interests relevant to issues before Cabinet, or being a party to legal proceedings or other investigations. Any changes which may have (or reasonably be construed as having) an impact on the general responsibilities and duties discharged by the Minister must also be informed.

To avoid doubt, this responsibility also applies to Ministers during acting Ministerial arrangements.

Notice of change should be provided on the pro-forma at **Annex A** of the above Declaration and submitted to the Chief Minister as soon as possible.

When a real or apparent conflict of interest occurs

Where a real or apparent conflict of interest arises, the Minister (or staff member) should have no further dealings in relation to the matter.

- **For Ministers**, the *Conflict of Interest – Disclosure Form* (**Attachment B**) should be completed and a time arranged to discuss with the Chief Minister as soon as possible.
- **For Ministerial staff**, the *Conflict of Interest – Disclosure Form (Staff)* (**Attachment C**) should be completed and a time arranged to discuss with their Minister or direct supervisor.

Future employment and conflicts

Upon leaving office, Ministers should be conscious of the potential for allegations of conflict of interest or controversy to arise in the event they take up other employment in an area over which they have held significant responsibility. In particular, Ministers should consider the likelihood of there being an appearance of their gaining personal financial or other benefit from knowledge gained while they were a Minister, or opportunities for criticism of their misusing contacts made in that role for their personal gain.

What type of interests needs to be disclosed?

When completing the Declaration of Personal Financial and Other Interests form, Ministers only need to provide information about private, financial and other interests that **could, or could be seen to, influence** the decisions or actions they take or the advice they provide in the course of their official duties.

Ministers **must** also declare any private, financial or other interests of their immediate family (including spouses/partners and children) that they are aware of that **could, or could be seen to, influence** the decisions or actions they take or the advice they provide in the course of their official duties.

The types of interests that may need to be disclosed include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, relationships with lobbyists, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social or personal relationships, but **only** those that could, or could be seen to, affect official responsibilities.

Forms

Attachment A: Declaration of Personal Financial and Other Interests (Minister)

Attachment B: Conflict of Interest – Disclosure Form (Minister)

Attachment C: Conflict of Interest – Disclosure Form (Staff)

IN-CONFIDENCE
(when completed)

DECLARATION OF PERSONAL FINANCIAL AND OTHER INTERESTS (MINISTER)

This declaration is in addition to that required of all Members and is to be completed prior to accepting a Ministry in the ACT Legislative Assembly.

This declaration is to be forwarded on completion to the Chief Minister.

I, _____ declare as follows:
(Given name(s)) (Surname)

- I have read and understood the *Ministerial Code of Conduct 2012* (the Code) and I will at all times act in accordance with the terms set out in the Code;
- In line with the above Code and relevant guidelines that require me to declare any private interests or relationships which could or could be seen to influence the decisions I am taking or the advice I am giving;
 - the attached list at **Annex A** of my private interests and relationships (if applicable) has been prepared on the basis of my particular roles and responsibilities as Minister.
- I undertake to immediately inform the Chief Minister of any changes to my responsibilities or to the issue or subjects on which I am required to make decisions or give advice; and my personal circumstances that could affect the contents of this declaration and to provide an amended declaration/s using the pro forma at Annex A.
- I undertake to declare any private interests or relationships of my immediate family that I am aware of, should circumstances arise in which I consider that they could or could be seen to influence the decisions I am taking or the advice I am giving.

☐ I have declared the relevant financial and other interests of me and that of my immediate family (if applicable) at Annex A;

OR

☐ I have no financial and other interests to declare.

Signature: _____

Name: _____

Date: ____/____/20XX

IN-CONFIDENCE
(when completed)

Declaration of Financial and Other Interests

Please list any private interests or relationships which could or could be seen to influence the decisions you are taking or the advice you are giving. Also list relevant private interests or relationships of immediate family members that you are aware of.

The types of interests and relationships that may need to be disclosed include real estate investments, shareholdings, trusts or nominee companies, company directorships or partnerships, other significant sources of income, significant liabilities, gifts, private business, employment, voluntary, social or personal relationships that could or could be seen to impact upon your responsibilities.

Signature: _____

Name: _____

Date: ____/____/20

IN-CONFIDENCE
(when completed)**CONFLICT OF INTEREST – DISCLOSURE FORM (MINISTER)**

Surname:	
Given Name/s:	
Portfolio(s) held:	
Government:	

Describe the private interests that have the potential to impact on your ability to carry out, or be seen to carry out, your official duties impartially and in the public interest.

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Describe which elements of your official duties are specifically impacted by the above private interests.

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The conflict of interest has been identified as (please select):

A real conflict of interest	
An apparent/perceived conflict of interest	
A potential conflict of interest	
Pecuniary interest	
Non-pecuniary interest	

Declaration

I declare that the above details of my private interests are correct to the best of my knowledge and are aware of my responsibilities to take reasonable steps to avoid any real or apparent conflict of interest in connection with my official employment and to advise the Chief Minister of any relevant changes in my personal circumstances.

Signature:

Date:

____/____/20

Action taken

(describe the action proposed to mitigate the real or perceived conflict which has been disclosed and the reasons for the decisions)

The above action has been discussed with the Declarant and is appropriate to resolve the real or apparent conflict of interest disclosed above.

Declarant signature:		Date:	____/____/20
Signature of the Chief Minister:		Date:	____/____/20

IN-CONFIDENCE
(when completed)**CONFLICT OF INTEREST – DISCLOSURE FORM (STAFF)**

Surname:	
Given Name/s:	
Employing Minister:	
Position held:	

Describe the private interests that have the potential to impact on your ability to carry out, or be seen to carry out, your official duties impartially and in the public interest.

--

Describe which elements of your official duties are specifically impacted by the above private interests.

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The conflict of interest has been identified as (please select):

A real conflict of interest	
An apparent/perceived conflict of interest	
A potential conflict of interest	
Pecuniary interest	
Non-pecuniary interest	

Declaration

I declare that the above details of my private interests are correct to the best of my knowledge and are aware of my responsibilities to take reasonable steps to avoid any real or apparent conflict of interest in connection with my official employment and to advise my immediate supervisor of any relevant changes in my personal circumstances.

Signature:

Date:

____/____/20

Action taken

(describe the action proposed to mitigate the real or perceived conflict which has been disclosed and the reasons for the decisions)

The above action has been discussed with the Declarant and is appropriate to resolve the real or apparent conflict of interest disclosed above.

Declarant signature:

Date:

____/____/20

Supervisor:

Date:

____/____/20