



# ***Ministerial Code of Conduct***

**2020**

***Précis***

Ministers in the ACT Government are rightly expected to uphold and demonstrate the highest standards of personal and professional conduct.

Ministers must apply the powers and privileges of their office solely in pursuit of the best interests of the people of the ACT.

Ministers must act lawfully and with integrity, probity and respect for others.

## 1. Responsibilities under legislation

Ministers must be familiar with key Commonwealth and ACT Legislation including, but not limited to the:

*Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*  
*Criminal Code 2002*  
*Electoral Act 1992*  
*Human Rights Act 2004*  
*Information Privacy Act 2014*  
*Integrity Commission Act 2018*  
*Freedom of Information Act 2016*  
*Public Interest Disclosure Act 2012*  
*Territory Records Act 2002.*

They must familiarise themselves with powers and obligations given to them under Territory laws for which they are responsible under the Administrative Arrangements.

Ministers also need to be familiar with the Standing Orders and Continuing Resolutions of the Legislative Assembly for the ACT. *Continuing Resolution No.5* embodies the Code of Conduct for Members of the Legislative Assembly, which applies to Ministers in addition to the obligations set out in this code.

Continuing Resolution 8A (the *Latimer House Principles*) articulates generally accepted standards of conduct in Westminster Parliaments. Part 2(f) of the *Latimer House Principles* explicitly obliges Ministers to develop and review their own specific guidelines on ethical conduct to address conflicts of interest and enhance transparency, accountability and public confidence in their role.

Ministers should familiarise themselves, and adhere to, the relevant determination of the Remuneration Tribunal establishing their remuneration, entitlements (including in relation to official travel) and other allowances. Under section 14 of the *Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*, Ministers must only accept remuneration for their duties as determined by the Remuneration Tribunal (eg a Member of the Legislative Assembly must not take, directly or indirectly, any remuneration, allowance, honorarium or reward for services rendered in the Legislative Assembly).

## 2. Westminster Conventions

Ministers are answerable to the Assembly (and through the parliament to the people of the ACT) for the administration of their portfolio (including in relation to the expenditure of

public money) in keeping with accepted conventions of Westminster system parliaments.

Ministers have individual and collective responsibilities. Individual responsibilities relate to their personal decisions and conduct and the management of their portfolio. Collective responsibilities relate to the decisions of the Cabinet.

### **3. Ethical Principles for Ministers**

a. Integrity

Ministers must act according to the highest standards of personal integrity and probity, and uphold the ACT's system of responsible government.

Ministers must not use their position or information gained in the performance of their duties to gain a direct or indirect advantage for themselves or their families or acquaintances that that would not be available to the general public.

b. Honesty

Ministers must act honestly at all times and be truthful in their statements.

c. Diligence

Ministers must be diligent in the performance of their duties and fulfil their obligations to the highest standards.

d. Transparency

Ministers must make their decisions and actions as open to scrutiny as is possible consistent with the conventions of responsible government.

e. Accountability

Ministers are accountable for their own behaviour and the decisions and actions of their staff. They are accountable, within accepted Westminster conventions, for their portfolio and directorates/agencies.

f. Fairness

Ministers must act fairly and apply the principles of natural justice in their decision making.

g. Respect

Ministers must display respect for all people in their conduct. Ministers must treat others fairly, with sensitivity to their rights, entitlements, duties and obligations.

Ministers must not dishonestly or recklessly attack the reputation of any other person, including under parliamentary privilege.

h. Responsibility

Ministers must use the powers of office responsibly and in the interests of the people of the ACT.

i. Respect for the law and the administration of justice

Ministers must respect and uphold the laws of the Territory and the Commonwealth as they relate to the ACT.

#### **4. Prior to accepting a Ministry**

a. Other positions

Under section 103A of the Electoral Act, a person is not eligible to be a Member of the Legislative Assembly where the person holds a public office or other statutory appointment, or is otherwise employed by the Commonwealth, the Territory, or another State or Territory.

Ministers may retain memberships of organisations only where it is not an official or paid position.

Ministers must not solicit nor accept payments or gifts for services as a Minister except as lawfully provided for (see sections 14 and 73 of the Self Government Act). The *Code of Practice for Official Hospitality, Gifts and Protocol* sets out procedures for the acceptance, surrender or retention of official gifts.

#### **5. During Term**

a. Personal and pecuniary interests

Ministers must disclose all interests (including memberships and directorships held) to the Chief Minister within 28 days of being appointed as a Minister or within 28 days of the Minister triggering the requirement for a further interest disclosure. This

includes the interests of their immediate family, both personal and financial.

Where a Minister's interest does or is likely to give rise to a conflict between personal and public duties, appropriate action should be taken to resolve that conflict transparently and in favour of the public interest.

In addition to disposing of interests, Ministers may avoid conflicts of interest through divestment of investments to a trust which is conducted at arm's length from the Minister and their immediate family. The existence of any such trust is to be disclosed to the Chief Minister.

Decisions about investment by Ministers in publicly listed companies must be considered on a case by case basis, in light of an assessment of the potential for conflict given the legislative and regulatory responsibilities of the ACT Government and the Minister. The nature of any investment (e.g. directly or indirectly held) will be a relevant consideration in any assessment of the potential for conflict.

b. Change in circumstances

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.

c. Cabinet conventions

To permit the free exchange of ideas and frank discussion to occur, decisions, documents and the deliberations of Cabinet must remain confidential (subject to agreed processes for publication of Cabinet outcomes). The ACT *Cabinet Handbook* sets out procedures for managing real or potential conflicts of interests by Ministers in relation to matters being considered by the Cabinet.

d. Respect for parliament

Ministers must not wilfully mislead parliament. If an error is identified, a Minister must correct the public record at the earliest opportunity.

Ministers must ensure that their personal conduct does not bring the Legislative Assembly, the Government, or their position into disrepute, or adversely affect

public confidence in the integrity of the ACT's system of government.

e. Administrative resources

Ministers must use administrative resources appropriately. Ministers must not permit public resources to be wasted or used in an improper manner.

f. ACT Public Service

Ministers must respect the impartiality of the public service and recognise and respect the role and functions of the ACT Public Service set out in the *Public Sector Management Act 1994*.

g. Staff

Ministers must abide by their moral and legal obligations as an employer in dealing with their staff. Ministers should be familiar with the *Ministerial Staff Code of Conduct* and ensure that their staff comply with it.

h. Lobbying

Ministers must handle lobbying by business and other parties carefully and ensure their personal interests do not conflict with or override their public duties.

Ministers should familiarise themselves with the ACT Lobbying Code of Conduct.

Ministers should ensure that lobbyists that they deal with are properly registered and report any breaches to the Clerk of the Legislative Assembly.

i. Caretaker conventions

By convention, the Government assumes a 'caretaker' role in the period immediately before an ACT Election. Caretaker conventions aim to ensure that the government does not bind an incoming government and limit its freedom of action.

Ministers must adhere to guidelines issued in relation to the caretaker period.

j. Mandatory corruption notifications

Ministers should be aware of their legislative obligations to make mandatory corruption notifications under the Integrity Commission Act 2018 and the

penalties that apply if the obligation is not met.

Ministers should ensure that their Chief of Staff are also aware of these obligations.

## **6. Post-ministerial employment**

### **a. Return of public property/papers**

On leaving office, Ministers must return all government documents and resources that were provided to assist in fulfilling their duties as a Minister.

### **b. Information obtained in the course of official duties**

Ministers must not disclose information obtained in the course of their official duties on leaving office. Any information that is not in the public domain must not be used to their own or another's advantage. Ministers must also be mindful of obligations created under privacy legislation in relation to personal information.

### **c. Future employment and conflicts**

Ministers in the ACT Government hold multiple portfolios covering a very broad range of what would, elsewhere in Australia, be state and municipal responsibilities. Over the life of a government, they may hold a number of different portfolios covering a number of sectors of the Canberra economy.

On leaving office, Ministers should be conscious of the potential for allegations of conflict of interest or controversy to arise in the event that they take up other employment in an area over which they have held ministerial 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. The extent to which the proposed employer has a contractual or other financial relationship with the ACT Government will be a relevant consideration in former Ministers reaching a decision on an appropriate course of action.

In deciding to accept a particular offer of post ministerial employment, former Ministers should be mindful of their standing in the community, and continuing

responsibility to uphold public confidence in the ACT's system of government.

**7. Breaching the Code**

Any allegations that a Minister has breached this Code of Conduct are to be referred to the Chief Minister.

**8. Further information**

Ministers requiring more information about their obligations under this Code should in the first instance seek the counsel of the Chief Minister.