



**GOVERNMENT OF BERMUDA**

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# Ministerial Code of Conduct

**OCTOBER 2017**

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## MINISTERIAL CODE OF CONDUCT

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Bermuda's Cabinet system operates in accordance with the Constitution of Bermuda within the framework of the conventions which have been observed by successive Governments over several years. From time to time there is a need to update this framework to take into account legislative changes and changed circumstances.

The Bermudian Cabinet system is patterned on the British Parliamentary system, and, as far as possible, Bermuda adheres to the conventions which apply in the United Kingdom. The following are the rules, or code of ethics, which govern Ministerial conduct in Bermuda.

This Code should be read against the background of the duty of Ministers to comply with the law, and to uphold the administration of justice, within the context of protecting the integrity of public life. It will be for individual Ministers to judge how best to uphold the highest standards and they shall be responsible for justifying their conduct in Parliament.

The set of rules outlining the responsibilities and proper practices for Ministers was last updated and issued in 2002. While the principles of this Code are abiding and timeless, the detail has been amended to reflect, in particular, evolving best practice. This revised Code also reflects a worldwide trend on the part of citizens to demand greater accountability and transparency from their Governments. The Premier is responsible for upholding the requirements of the Code of Conduct.

## SECTION A

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### General Principles which apply to Cabinet Ministers

1. Ministers are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. In particular, they must observe the following general principles of Ministerial conduct:
  - i. Ministers must uphold the principle of Collective Responsibility.
  - ii. The policy of Ministers must be consistent with the policy of Government as a whole. Every Minister is expected to support the Government's policy, and should resign if he finds himself unable to do so.
  - iii. As the political head of a Ministry, the Minister is responsible for all of its acts and omissions, and must bear the consequences of any defect of administration or any aspect of policy which may be criticised in the Legislature (hereinafter "Parliament"), whether personally responsible or not.
  - iv. Ministers have a duty to Parliament to account for, and to be held accountable, for the policies, decisions and actions of their Ministries.
  - v. It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent errors at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignations to the Premier.
  - vi. Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would be contrary to law or against the public interest. A determination of whether or not disclosure is in the public interest will be made in accordance with the relevant legislation and any applicable codes of practice. Ministers must ensure that no conflict arises, or appears to arise, between their duties and their private interests.
  - vii. Ministers should avoid accepting any gifts or offers of hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation.
  - viii. Ministers in the House of Assembly must maintain a separation between their roles as a Member of the House of Assembly and their roles as representatives of the constituencies which elected them to serve in Parliament.
  - ix. Ministers must not use Ministerial resources for party political purposes. They must uphold the political impartiality of the Civil Service, and should refrain from asking Civil Servants to act in any way which would bring them into conflict with the Civil Service Conditions of Employment and Code of Conduct.
  - x. All directorships held by Ministers must be resigned, except directorships in connection

with philanthropic undertakings and directorships in private companies which deal wholly with family affairs or interests or such other directorships that may be authorised by the Premier through the exercise of his sole discretion.

- xi. Ministers will be expected to disclose to the Premier, in strictest confidence, and in the Official Register of Members' Interests, their holdings in stocks or shares in local companies or businesses.
- xii. Ministers must vacate all official trade union posts. This recognition that the same person should not hold trade union office and Ministerial office simultaneously conforms to the general principle that it is improper for a Minister to retain any personal responsibility or interest in the control or direction of sectional activities which may conflict with his wider responsibilities to the community at large.
- xiii. No Minister is justified, under any circumstances, in using official information which comes to him in his capacity as a Minister for his own private profit or for that of his friends and associates.
- xiv. No Minister should place himself, or allow himself to be placed, in a position which will tempt him to use his official influence to support any scheme or to advance any contract in which he has personal interest.
- xv. Ministers should not accept any kind of favour from individuals who are in negotiation with, or seeking to enter into contractual, proprietary or pecuniary relations with the Government.
- xvi. Ministers should scrupulously avoid investments in securities, where by virtue of their official positions as Cabinet Ministers and their ability to obtain early, or confidential access to, information, they have, or may appear to have, an advantage over other people in anticipating market changes.
- xvii. Ministers shall be bound by the provisions of the Public Treasury (Administration and Payments) Act 1969 and in particular shall not attempt to influence the awarding of a Government contract whether or not the Minister has an interest in the contract being considered.

## **SECTION B**

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### **Detailed Guidelines which apply to Cabinet Ministers**

#### **1 Cabinet and Ministerial Committee Business**

**1.1** Cabinet and Ministerial business consists, in the main, of questions which significantly engage the Collective Responsibility of Government. Collective Responsibility is attached to Cabinet decisions relating to major issues of policy, cross-Ministry initiatives and items of critical importance to the general public.

**1.2** Those matters which lie wholly within the responsibility of a single Minister and which do not significantly engage Collective Responsibility, as defined in paragraph 1.1, are normally brought to Cabinet or to a Cabinet Committee for information purposes. There may be occasions, however, when such matters are discussed at Cabinet, or Cabinet Committee level to enable the Minister to hear the views of his colleagues. In borderline cases, a Minister is advised to seek collective consideration. Questions involving more than one Ministry may be examined interdepartmentally and by the Central Policy Unit before their submission to Cabinet or a Cabinet Committee so that the decisions required may be clearly stated.

#### **2 Cabinet Committees**

**2.1** The Cabinet is supported by Cabinet Committees (both standing and ad hoc), which serve the purposes of relieving the pressure on Cabinet itself by settling as much business as may be delegated to it. Cabinet Committees are established by the Premier and its members may serve for as long as they retain the Premier's confidence or as long as it may be required to satisfy an established objective.

**2.2** Ministers should normally attend those meetings of Cabinet Committees of which they are members or to which they have been invited. Unless they make it possible for their colleagues to engage in direct discussions with them on issues which they consider to be important, Ministers cannot (except where their absences are attributable to factors which are beyond their control) expect the Premier to automatically allow the reversal of a Cabinet decision taken in their absence.

**2.3** In the event that a Cabinet Committee, which has been established by the Premier, is unable to have its decision ratified by the Cabinet, the Premier may ratify such decision through the sole exercise of his discretion and such decision shall be binding on all Ministers in a manner pursuant to section 4.1 of the Code of Conduct.

#### **3 The Priority of Cabinet Meetings**

**3.1** Cabinet meetings take precedence over any other business, although it is understood that Ministers may have to be absent occasionally to attend to urgent matters relating directly to their Ministries. Requests by Ministers for permission to be absent should be made only in

the most exceptional circumstances, and such requests should be made at the earliest opportunity, and in writing, to the Premier. An entry in the minutes is not necessary when the reason for absence from Cabinet is an overseas visit for which the Premier's approval has already been obtained. The relevant letter requesting the Premier's approval for an overseas visit, or absence for any other reason, should be sent to the Secretary to the Cabinet.

**3.2** In order not to disturb the deliberations of Cabinet or Cabinet Committee meetings, Ministers should take necessary steps to ensure that no messages are sent to them during those meetings, except in circumstances of absolute necessity.

#### **4 Collective Responsibility**

**4.1** The internal process through which a decision has been made should not be disclosed. Decisions reached by Cabinet are binding on all Ministers. Any decision which engages Collective Responsibility is, however, announced and explained publicly as an initiative emanating directly from the Minister concerned. On occasions, it may be desirable to emphasise the importance of a particular decision by stating specifically that it is a decision which has been taken by the Bermuda Government. Such action, however, is the exception, rather than the rule.

**4.2** Collective Responsibility requires that Ministers should be able to express their views frankly in the expectation that they can debate freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy and confidentiality of opinions expressed in Cabinet and Cabinet Committees should be maintained. Moreover, Cabinet and Cabinet Committee documents will often contain information which needs to be protected in the public interest. It is therefore essential that, subject to the guidelines on the disclosure of information, as set out in any relevant legislation and applicable codes of practice, Ministers take the necessary steps to ensure that they and their staff preserve the privacy of Cabinet business and protect the security of Government documents.

**4.3** The principle of Collective Responsibility and the need to safeguard national security, relations with other countries, and the confidential nature of discussions between Ministers and Civil Servants impose certain obligations on former Ministers who are contemplating the publication of material based on their recollections of the conduct of Government business in which they took part. If former Ministers contemplate such publications, they are required, in the first instance, to submit copies of their manuscripts to the Secretary to the Cabinet, which shall be made subject to the provisions detailed in section 33.1 of this Code.

#### **4A Good Governance Act 2012**

**4A.1** The Good Governance Act 2012, section 2, requires interest disclosure on the part of a Minister who has a duty to consider an application or hear an appeal under any enactment.

**4A.2** Section 2 of the Good Governance Act 2012 states as follows:

Interest disclosure regarding applications and appeals



- 2 (1) This section applies where a Minister has a duty to consider an application or hear an appeal under any enactment.
- (2) If the Minister is aware that he has an interest (whether legal, beneficial, fiduciary, family or otherwise) in any of the persons making or opposing any such application or appeal, he shall notify the Premier accordingly.
- (3) Where—
  - (a) the Minister has notified the Premier under subsection (2);  
or
  - (b) in any other case where the Premier considers that there may be such an interest so that the Minister should not consider the application or hear the appeal,

the Premier shall arrange for the appointment of another Minister for the purpose of considering the application or hearing the appeal in place of the substantive Minister.

**4A.3** Ministers should be aware that section section 33 of the Public Treasury (Administration and Payments) Act 1969 (inserted by section 3 of the Good Governance Act 2011) contemplates that Regulations will be made incorporating both Financial Instructions and the Code of Practice for Project Management and Procurement. Section 33A of the Public Treasury (Administration and Payments) Act 1969 created offences of collusion relating to government contracts with respect to an appointed or elected official. Failure to abide by those Regulations would constitute a criminal offence that is subject to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment. Proceedings in respect of such an offence against may be commenced within three years after the date of the commission of the offence.

## **5 Cabinet Documents**

**5.1** Ministers relinquishing office without a change of Government should hand over to their successors all those Cabinet documents required for the current administration, and should ensure that all other Cabinet documentation in their possession is destroyed.

**5.2** In the event of a change of Government, the Secretary to the Cabinet issues special instructions about the processing of the Cabinet Papers of the outgoing administration.

**5.3** Some Ministers have thought it wise to make provision in their wills against the improper processing of any official or Government documents which they might have retained in their possession by oversight.

## **6 The Attorney-General**

**6.1** The Attorney-General is the principal legal adviser to the Government per the Bermuda

Constitution. Therefore, Ministers must consult with the Attorney-General regarding any proposal to retain any private counsel for Government related legal work.

**6.2** By convention, written opinions of the Attorney-General, unlike other Ministerial papers, are generally made available to succeeding administrations.

**6.3** When advice from the Attorney-General is included in correspondence between Ministers, or in Cabinet Papers, or Cabinet Committee meetings, the conclusions may, if necessary, be summarised but, if this is done, the complete text of the advice should be attached.

**6.4** The fact and content of opinions or advice given by the Attorney-General, either individually or collectively, must not be disclosed outside Government without the authorisation of the Attorney-General.

**6.5** Ministers occasionally become engaged in legal proceedings which relate primarily to their personal capacities, but also, in some instances, to circumstances which may have implications for them in their official capacities as Government Ministers. Defamation is an example of such an area where the proceedings will invariably raise issues relating to a Minister's official as well as his private status. In all such cases, the Ministers concerned should consult with the Attorney-General before consulting their own lawyers. This course of action will allow the Attorney-General to express a view on whether the proposed or defended legal proceedings are matters that are for the Government to initiate or to defend.

## **7 Parliamentary Statements and other Government Announcements**

**7.1** When Parliament is in session, Ministers will want to bear in mind the desire of Parliament that the most important announcements of Government policy should, in the first instance, be made in Parliament. Even when Government announcements are not of major importance, their timing may require careful thought in order to avoid clashes with other Government publications, statements or announcements or with planned Parliamentary business. Ministers are required, wherever possible, to give their Cabinet colleagues the opportunity to comment on the content and timing of all important Government announcements, whether expressed in the form of a written answer or as an oral statement in Parliament, in a White Paper or through the medium of a press conference. Whenever possible, Ministerial colleagues should be shown the draft announcement in advance of its being released.

**7.2** Careful consideration should be given, in the case of important or extremely sensitive issues, to the desirability of making qualifying Ministerial statements in response to issues raised in written Parliamentary questions. Ministerial answers to written Parliamentary questions should be accompanied by background notes which identify likely focus points and/or points of attack in supplementary questions and which suggest how these points can be addressed.

**7.3** In the case of answers to Parliamentary questions, particular care must be taken to avoid making a press announcement before the relevant answer has been delivered to the Member of Parliament who tabled the question.

**7.4** Ministers should not give any undertakings, either inside or outside of the Parliament, that an oral statement will be made in Parliament on any subject at a specific time or within a certain period of time without a decision first being made on the proposed timing and the terms of such statements and without that information subsequently being sent to the House Leader and the Government Whip by the Secretary to the Cabinet.

**7.5** Ministers will be conscious of the pressures of other Parliamentary business when making decisions on the timing of Ministerial statements.

**7.6** Copies of the final versions of Ministerial statements should be sent to the Secretary to the Cabinet, the House Leader, the Government Whip and the Department of Communication and Information.

**7.7** A copy of the final text of a Ministerial statement should in all cases be sent in advance to the Speaker of the House of Assembly or, where applicable, to the President of the Senate.

**7.8** The Government Leader in the Senate should be informed of a forthcoming Ministerial statement in the House of Assembly and should also be consulted about the desirability of repeating it in the Senate.

**7.9** Every effort should be made to avoid leaving the reading of important Ministerial statements until the last day of meeting before Parliament goes into recess.

## **8 Junior Ministers**

**8.1** Junior Ministers are not members of Cabinet, and should be careful to avoid being spoken of as such. They are, first and foremost, members of the Legislature, and, from that perspective, should therefore be afforded as much liberty of action as is possible. However, their close and confidential association with Ministers imposes certain obligations on them. Official information given to them should generally be limited to what is necessary in the discharge of their Parliamentary and political duties. This need not preclude their being brought into Ministerial discussions or conferences where appropriate, but they should not have access to secret establishments, or information graded secret or above, except on the personal authority of the Premier. While, as members of the Legislature, they need not adhere to the rules on private interests which apply to Ministers, they should, as a general rule, seek to avoid a real or perceived conflict of interest between their roles as Junior Ministers and their private interests

**8.2** Like other Government members of the Legislature, Junior Ministers are expected to support the Government in all important decisions; however, their special position in relation to Government imposes an additional obligation, which means that no Junior Minister who votes against the Government may retain his position. Junior Ministers should not make statements or put Parliamentary questions on matters affecting the Ministry with which they are connected. They are not precluded from serving on committees of the Legislature, but they should not do so in the case of inquiries being made into their own Ministers' Ministry and they should avoid associating themselves with recommendations which are embarrassing to, or critical of, the Government. They should also exercise discretion in any speeches or media broadcasts which

they may make outside the Legislature, taking care not to make statements which appear to be presented in an official or semi-official capacity. They should also bear in mind at the same time that, however careful they may be to make it clear that they are only speaking as private members of the Legislature, they are nevertheless liable to be regarded as speaking with the authority which is attached to a member of Government. Generally, they must act with a sense of responsibility and with discretion, and they must not associate themselves with particular groups who are advocating specific policies and/or courses of action.

**8.3** Junior Ministers making official visits may receive the normal Civil Service travelling and subsistence allowances in respect of travel on official Government business, as would be the case with other members of Parliament undertaking work on behalf of Government Ministries. It is for the Minister concerned to decide whether or not the Junior Minister, when accompanying the Minister, is engaged on business relating to his Ministry. Occasionally, it may be useful for a Junior Minister to accompany a Minister on an official visit abroad, but no such arrangements should be made without the prior written approval of the Premier.

## **9 Advisers and Consultants**

**9.1** On the one hand, the employment of advisers and consultants adds a political dimension to the advice available to Ministers, and, on the other hand, it provides Ministers with the direct advice of distinguished experts in their professional field, while reinforcing the political impartiality of the Civil Service by distinguishing the source of political advice and support. Cabinet Ministers may, subject to budgetary approval, each appoint up to two Advisers and/or Consultants (political or expert). In appointing a paid adviser, the Minister must ensure that there is no conflict of interest between the matters on which the adviser will be providing assistance and his private concerns. All such appointments require the prior written approval of the Premier, and no commitments to make such appointments should be entered into in the absence of such approval.

## **10 Unpaid Advisers**

**10.1** The appointment of an unpaid Adviser is a personal appointment by the Minister concerned, and there is no contractual relationship between such an Adviser and the relevant Ministry. Such appointments carry no remuneration or reimbursement from public funds. In appointing an unpaid Adviser, the Minister must ensure that there is no conflict of interest between the matters on which the Adviser will be providing assistance and his private concerns. The customary rules of confidentiality also apply, and the prior written permission of the Premier should be sought for all such appointments before commitments are entered into.

## **11 Royal Commissions, Commissions of Inquiry**

**11.1** Under Section 1, Subsection (1) of the Commission of Inquiry Act 1935: the Governor may, whenever he considers it advisable, issue a commission appointing one or more commissioners and authorising them, or any quorum of those therein mentioned, to inquire into the conduct of a Civil Servant, the conduct or management of any department of the

public service or into any matter in which an inquiry would, in the opinion of the Governor, be for the public welfare.

**11.2** Under Section 1A, The Premier shall, in addition to the Governor, have the authority to issue Commissions of Inquiry Act 1935

**11.3** The Premier should be consulted if any Minister is invited to address Royal Commissions or Commissions of Inquiry.

## **12 Ministers and Civil Servants**

**12.1** Ministers have a duty to give fair consideration and due weight to informed and impartial advice from Civil Servants in reaching policy decisions. They also have a duty to uphold the impartiality of the Civil Service, and should refrain from asking Civil Servants to act in any way which would bring them into conflict with the Civil Service Conditions of Employment and Code of Conduct.

**12.2** Heads of Departments serve as the Accounting Officers for their Departments. The essence of that role is a personal responsibility for the propriety and regularity of the public finances for which he is responsible; for maintaining proper accounts; for the avoidance of waste and extravagance and for the efficient and effective use of resources. Accounting Officers answer personally to the Public Accounts Committee, a Standing Committee of the Legislature, within the framework of Ministerial accountability to Parliament for the policies, actions and conduct of their Departments.

**12.3** Accounting Officers have a particular responsibility to see that appropriate advice is given to Ministers on all matters of financial propriety and regularity. If a Minister in charge of a Department is contemplating a course of action which involves a transaction which the Accounting Officer considers would breach the requirements of propriety and regularity, he will record in writing his objection to the proposal and the reasons for that objection. If the advice is overruled, the matter should be brought to the attention of the Auditor-General. If the Minister decides nonetheless to proceed, the Accounting Officer will request a written instruction to take the action in question and will send the relevant documentation to the Auditor-General. A similar procedure will apply with respect to the Public Accounts Committee if the Accounting Officer wants to ensure that the Committee will not hold him personally accountable for the action being taken.

## **13 Civil Servants and Party Conferences**

**13.1** It is an established principle in the Public Service that, in their official capacity, Civil Servants should not accept invitations to conferences convened by, or under the aegis of, party political organisations. This situation is, of course, different when Ministers require officials to be in attendance at party political events in order to enable the Minister to carry out Departmental business.

**13.2** If a Minister wishes to have a brief for a party political occasion to explain Departmental policies or actions, there is no reason why this should not be provided by the Department concerned.

## **14 Ministers' Constituency and Party Interests**

**14.1** It is wrong in principle for Ministers to use for party or constituency work any facilities which are provided at Government expense to enable them to carry out their official duties. Ministers should therefore have their constituency work discharged at their own expense.

**14.2** Where Ministers have to take decisions within their Ministries which might have an impact on their own constituencies, they should, of course, take particular care to avoid any possible conflict of interest.

## **15 Deputations**

**15.1** Ministers are free to make their views about constituency matters known to the responsible Minister by correspondence, leading deputations or by personal interview, provided that they make it clear that they are acting as their constituents' representatives and not as Ministers. Particular problems sometimes arise over views expressed on planning applications and in certain other cases involving the exercise of discretion by Ministers (e.g. on school or hospital closures, highway or power station inquiries). In these instances, representations intended to be taken into account in reaching decisions may have to be made available to other parties and thus may receive publicity. Ministers are advised to take particular care in such cases that they represent the views of their constituents, rather than express their personal views. However, when they find it unavoidable to express a personal view, they should ensure that their comments are made available to the other parties, that they avoid criticism of Government policies, confine themselves to comments which could reasonably be made by those who are not Ministers, and make it clear that the views that they are putting forward are ones which are being presented in their capacity as constituency members of Parliament, not as Cabinet Ministers. Once a Government decision has been announced, it should be accepted without question or criticism. It is important, in expressing their views that Ministers do so in a way that does not create difficulties for the Minister who has to make the decision and that they bear in mind Government's Collective Responsibility for the outcome of that decision. Ministers should also take into account any potential implications which their comments could have on their own Ministerial responsibilities.

## **16 Ministers' Visits Overseas**

**16.1** Except where there are compelling reasons involving the discharge of Government business, Ministers should arrange overseas visits to occur when Parliament is in recess or, where appropriate, on weekends. In particular, overseas visits which are primarily of a fact-finding nature should be reserved exclusively for Parliamentary recesses. Ministers should take note of the principle that Cabinet meetings take precedence over any other business. As sufficient Ministers must be available throughout the year to ensure the effective discharge of



Government business, it may become necessary at times to place restrictions on their overseas travel during Parliamentary recesses.

**16.2** Any Minister who wishes to be absent from Bermuda for any reason should seek the Premier's prior written approval. This must be done before any commitment, even of an informal nature, is made. Copies of the letter requesting official leave of absence should be sent to the Secretary to the Cabinet, the House Leader, and the Government Whip, whose views will be taken into account before a decision is reached.

**16.3** Ministers should make it their personal responsibility to approve the size and composition of any Ministerial delegations for which their Ministries are responsible. Each Minister in charge of a Ministry should ensure that his Ministry prepares and maintains a comprehensive and central record of his travels overseas, such record to contain details of the numbers and costs of all Ministerial delegations whose travel has been at public expense. This record should be maintained in such a way that an up-to-date list of visits and the costs of those visits can be made available by Ministries at short notice in the event of their Ministers being asked to account for any travel undertaken by their Ministries. Ministers should take the lead in paring down the size of groups travelling overseas on official business by keeping their own Ministerial delegations as small as possible.

**16.4** When a Minister travels overseas to attend an official function at the invitation of a Foreign Government, and where the invitation has also been extended to the spouse of the Minister, that spouse may travel at public expense at the discretion of the Premier.

## **17 Expenses on Travel and Hospitality**

**17.1** In using official cars and when travelling by rail, air or sea, Ministers must always make efficient and cost-effective travel arrangements. When Ministers travel on official business, their travel expenses should normally be borne by their Departmental vote. When any expenses are not met in this way, Ministers will wish to ensure that no undue obligation is involved.

**17.2** Accepting offers of free travel can be misinterpreted. However an offer to a Minister on official business to accompany a representative of a host foreign country may be acceptable, provided it creates no undue obligation, and if it offers a saving of official time or provides an opportunity to conduct official business. Offers of travel from other organisations should not normally be accepted, except where this is provided as an integral part of a tour of inspection. In exceptional cases, such an offer may be accepted if this would represent a saving of official time and if there is no risk of an undue obligation being created. In these cases, if the journey is of any significant distance, the organisation concerned should be reimbursed from the public purse to the value of a scheduled business class ticket. In any cases of doubt, the Premier should be consulted.

**17.3** In the event of a Minister accepting hospitality on a scale, or from a source, which might reasonably be thought to influence Ministerial action, it should be declared in the Register of

Members' Interests. Further, a Minister must disclose (exceeding \$250), such hospitality to the Permanent Secretary who will maintain a record in the Ministry.

## **18 Acceptance of Gifts and Services**

**18.1** It is a well-established and recognised rule that no Minister or public servant should accept gifts or services from anyone which would, or might appear to, place him under any obligation.

**18.2** The decisions whether to accept gifts or services are primarily matters which must be left to the good sense of Ministers. However, any Minister in doubt or experiencing difficulty over this issue should seek the Premier's guidance. The rules which apply to the acceptance of gifts from donors with whom the Minister has official dealings locally also apply to gifts from overseas donors. These rules are as follows:

- a) Receipt of gifts or services should, in all cases, be reported to the Secretary to the Cabinet;
- b) Gifts of a higher value should be handed over to the Cabinet Office for safekeeping, except that:
  - (i) if the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained;
  - (ii) the recipient may purchase the gift at its cash value (reduced by \$250);
  - (iii) otherwise, if the Ministry judges that it would be of interest, the gift may be displayed or used in that Ministry;
  - (iv) if the disposal of the gift would cause offence or if it might be inappropriate for the recipient to use or display the gift on some future occasion as a mark of politeness, then the gift should be retained in the Ministry for this purpose for a period of up to five years and then forwarded to the Secretary to the Cabinet;

Gifts received while overseas and valued in excess of the normal travellers' duty exemption allowances should be declared at importation to Customs, who will advise on any duty or tax liability. In general, if a Minister wishes to retain a gift, he or she will be liable for any tax or duty it may incur.

## **19 Relations with other Governments**

**19.1** Ministers should be mindful of the importance of sending to the Premier written details of the salient points of any discussions which they may have with representatives of foreign or Commonwealth countries. This requirement applies to informal discussions, as well as those held in the course of carrying out official business.

## **20 Visits by Commonwealth and Foreign Visitors**

**20.1** Ministers should inform the Premier when extending invitations to Ministers of



other Governments to pay official visits to Bermuda. In the event of any doubts or difficulties related to these official visits, they should consult the Premier. Ministers should ensure that their Permanent Secretary inform the Premier about all visits, of which they become aware, whether private or official, by Ministers of other Governments or by any other person enjoying an equivalent status.

**20.2** Ministers should not overlook the possible foreign policy implications of such day-to-day matters as offering hospitality to prominent political figures visiting Bermuda, of accepting social commitments of a similar kind and of giving public support for petitions, open letters, etc., i.e. those actions which may be construed as being significant by foreign observers. In any case of doubt, the Minister should consult the Premier before making firm commitments. The Premier should also be consulted whenever a Minister intends to make a speech touching on matters affecting foreign affairs.

## **21 Entertainment Overseas**

**21.1** If it is thought that a Minister may need to provide entertainment while overseas, the advice of the Secretary to the Cabinet should be sought both on the desirability and the content of such entertainment. Additionally, Ministers should be in compliance with the provisions of Financial Instructions when considering such entertainment.

## **22 Ministers' Visits within Bermuda**

**22.1** It is customary for a Minister, when preparing to make an official visit within Bermuda, to inform the members of Parliament representing the constituencies included in his itinerary. Special care should be taken not to overlook this courtesy. Ministers cannot, of course, invite members of Parliament to accompany them to functions organised by a third party, but adequate notice to the relevant constituency members of Parliament will assist them in ensuring that they have an opportunity to request invitations from local organisers to attend functions of an official nature, should they wish to attend. It will also enable them to make suggestions to the Minister about the inclusion in the itinerary of places which it would be helpful to visit.

## **23 Ministers and the Presentation of Policy**

**23.1** Official facilities financed out of public funds can be used for Government publicity and advertising, but may not be used for the dissemination of material which is essentially Party political, the conventions governing the work of the Department of Communication and Information are set out in a guidance note issued simultaneously with this Code and placed in the Library of the House of Assembly.

## **24 Co-ordination of Government Policy**

**24.1** In order to ensure the efficient presentation of Government policy, all major interviews and media appearances, both print and broadcast, should be made available to the Department of Communication and Information. The policy content of all major speeches, press releases

and new policy initiatives should be cleared in good time with the Secretary to the Cabinet. The timing and the form of all announcements should receive the same clearance, and each Ministry should keep an ongoing record of media contacts by Ministers and other Government officials.

## **25 Press Conferences**

**25.1** In order to explain policies or to announce new policies, a Minister may decide to hold a press conference. This will be convened by the Department of Communication and Information. All press conferences are on the record and are consequently openly accessible to any representative of the local and overseas media. At the conclusion of press conferences, it is often the practice of Ministers to give separate radio and TV interviews in order to secure the most effective presentation of their views to the public.

## **26 Speeches**

**26.1** Ministers cannot speak on public affairs for themselves alone. In all cases, other than those described in paragraph 15.1, they speak as Ministers, and the principle of Collective Responsibility applies. They should make sure that their statements are consistent with Government policy and should not anticipate decisions which have not yet been made public. Ministers are required to exercise extreme care when referring to subjects which are the responsibility of other Ministers. Any Minister who intends to make a speech which deals with, or makes observations which bear upon, matters which fall within another Minister's portfolio should consult with that Minister before delivering his speech.

**26.2** Ministers should always be consulted before any mention is made of matters which either affect the conduct of the Government as a whole or are of a constitutional character. The Secretary to the Cabinet should always be consulted before any mention is made of matters affecting foreign and Commonwealth Affairs, relations with foreign and Commonwealth countries and the political aspects of the affairs of Overseas Territories. Ministers wishing to refer in speeches or any other public statements to economic policy or to proposals involving additional Government expenditure or revenue costs should in all cases consult with the Minister of Finance.

**26.3** Ministers should use official machinery for distributing texts of Ministerial statements only when such statements are made on official occasions and deal with Government matters, as distinct from Party policies. Speeches made within a Party political context should be distributed through the Party machinery.

**26.4** Ministers should not accept payments for speeches of an official nature or which directly draw on their responsibilities and experience as Ministers, either on their own or their Ministry's account, or with a view to donating the fee to charity.

**26.5** A Minister who is invited to appear on radio and television in a private, as opposed to a Ministerial capacity, will wish to consider if such an appearance will have a bearing on another Ministry's responsibility, in which case he should clear the matter with the Ministerial colleague

concerned before accepting the invitation. Ministers invited to take part in programmes to be broadcast outside Bermuda should consult with the Premier and any other Minister who may be concerned with the subject of the broadcast. Ministers should seek the approval of the Premier before accepting any such invitations at home or abroad.

## **27 Contributions to Press Articles, Books, Journals, Newspapers**

**27.1** Ministers may occasionally contribute to books, journals, newspapers or other publications (including local publications within their constituencies) for the purpose of supplementing other means of informing the public about the work of their Ministries, provided that such publications will not be at variance with their obligations to Parliament and their duty to observe the principle of Collective Responsibility. Any Minister wishing to practise regular journalism, including the contribution of weekly or fortnightly articles to local newspapers, must secure the prior approval of the Premier. In cases of doubt, and in all cases where a Minister is contemplating the contribution of an article which reaches beyond the strict confines of his areas of responsibility, the Premier should be consulted before work has started on the article, and, in any case, before any commitment to publish is entered into. In all cases where an article contains material which falls within the Ministerial responsibility of another Minister, that Minister must be consulted.

## **28 Party and other Publications**

**28.1** Ministers are sometimes asked to give interviews to historians or to other individuals engaged in academic research or in market opinion surveys, or to fill in questionnaires at the request of such people or organisations. Ministers should bear in mind that their views may be reported in a manner incompatible with their responsibilities and duties as members of the Government. Careful consideration should therefore be given to such invitations before they are accepted. In cases of doubt, the Premier should be consulted.

## **29 Public Appointments**

**29.1** When they assume office, Ministers should relinquish any other public appointments which they may hold, pursuant to any relevant laws, regulations or codes. Subject to laws that disqualify Members of Parliament from holding certain public offices, where it is proposed that such an appointment should be retained, the Premier must be consulted.

## **30 Non-Public Bodies**

**30.1** Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree be at variance with Government policy and thus give rise to conflicts of interest.

## **31 Trade Unions**

**31.1** There is, of course, no objection to a Minister holding trade union membership, but care must be taken to avoid any actual or perceived conflict of interest. Accordingly, Ministers

should arrange their affairs so as to avoid any suggestion that a union of which they are a member has any undue influence. They should take no active part in the conduct of union affairs, should relinquish any office they may hold in a union and should receive no remuneration from a union (a nominal payment purely for the purpose of protecting a Minister's future pension rights, satisfying union dues, or the receipt of pension benefits, are acceptable).

## **32 Nominations for International Awards, etc.**

**32.1** From time to time, the personal support of Ministers is requested for nominations being put forward for international prizes and awards (e.g. the Annual Nobel Awards). Ministers should not, under any circumstances, sponsor individual nominations for any awards, since it would be inevitable that some people would assume that the Government was thereby giving its sponsorship to the individual being nominated for the award.

## **33 Access by Former Ministers and Premiers to Official Papers**

**33.1** By convention, former Ministers and Premiers are allowed reasonable access to the official papers of the period when they were in office, although such access is at the Government's ultimate discretion, and in addition the recommendations as adopted from the UK Radcliffe Committee on Ministerial Memoirs, shall apply. In this regard, and if approved by the Government, the former Minister should be free to use his Ministerial experiences for the purpose of giving an account of his own work, provided; (i) he must not reveal anything that contravenes the requirements of national security operatives at the time of his proposed publication; (ii) he must not make disclosures injurious to Bermuda's relations with global entities or nations; and (iii) he must refrain from publishing information destructive of the confidential relationships of Ministers with each other and of Ministers with officials.

**33.2** Subject to paragraph 33.1 and any laws to the contrary, it is a firm rule that access to official papers must be limited to former Premiers and Ministers personally. The only exception has been, in the case of former Premiers, to extend access to former members of the Premier's staff who had access to the material when in office. To allow such access, for example, to other researchers would breach the conventions about the confidentiality of exchanges between Ministers and of Civil Servants' advice to Ministers. It would also give exceptional privileges to those concerned.

**33.3** Ministries may provide the former Minister, if he wishes, with help subject to available resources and the Secretary to the Cabinet and Permanent Secretary's approval, but their assistance should not extend to drafting anything intended for publication. They should, if in any doubt about propriety, consult the office of the Secretary to the Cabinet.



## ANNEXE I

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### RECOMMENDATIONS AS ADOPTED FROM THE UK RADCLIFFE COMMITTEE ON MINISTERIAL MEMOIRS

The principles, which should apply, are outlined in subsequent paragraphs to this guidance note.

1. The author should be free to use his Ministerial experience for the purpose of giving an account of his own work, subject to restrictions on three separate categories of information:
  - i) He must not reveal anything that contravenes the requirements of national security operatives at the time of his proposed publication;
  - ii) He must not make disclosures injurious to this country's relations with other nations;
  - iii) He must refrain from publishing information destructive of the confidential relationships of Ministers with each other and of Ministers with officials. In particular, references to individuals and their view of particular circumstances may be permitted provided that their disclosure would not damage either Ministers or officials — particularly those *still* in office — in their work. In general he should not reveal the advice given to him by individuals whose duty it has been to advise him in confidence. If it is necessary to describe the advice he received, he should consider whether it is possible to mention the advice given without attributing individual attitudes to identifiable persons. He is, however, free to give an account of his own stewardship. Under this heading he should also treat with discretion communications received by him in confidence from outside members of the public.

He should not make criticisms of those who have served under him or those whose competence or suitability for particular posts he has had to measure as part of his official duties.

He may, however, regard the obligations concerned with confidential relationships (but not those concerned with national security and international relations) as lifted after the expiry of 15 years from the relevant events, though even beyond that point he should not reveal the advice tendered by individuals who are still members of the public services nor make public assessments or criticisms of them.

2. These restrictions leave him a wide latitude for the writing of an account of his stewardship..
3. The established principles of law do not provide a system, which can protect and enforce those rules of reticence that the Committee regard as called for when ex-Ministers compose their memoirs of Ministerial life.
4. Nor does legislation offer the right solution.
5. There can be no guarantee that, if the burden of compliance is left to rest on the free acceptance of an obligation of honour, there will never be an occasional rebel or an occasional

breach, but so long as there remains a general recognition of the practical necessity of some rules and the importance of observing them, the Committee do not think that such transgressions, even though made the subject of sensational publicity, should be taken as having shattered the fabric of a sensible system.

6. A Minister on taking and leaving office should have his attention drawn explicitly to his obligations in relation to memoirs. He may have access to the Departmental and Cabinet papers he saw while in office for the purpose of writing his memoirs, but any request for access will only be granted on the understanding that the Radcliffe conventions and procedures, as set out in this note, are followed.

7. A former Minister proposing to publish a work relating to his Ministerial experience should submit the manuscript to the Secretary to the Cabinet.

8. The Secretary to the Cabinet, acting at the request and on behalf of the Premier should have duties of two kinds in relation to such a manuscript.

- i) To have it examined in respect of national security and the preservation of international relations and to transmit any objections to the author. The author should have a right of reference to the Premier but should accept the latter's decision as final.
- ii) To offer views on the treatment of confidential relationships in the manuscript, bearing in mind the guidance given in paragraph 1.iii above. The author should pay careful attention to this advice but must take upon his own shoulders the responsibility for deciding what he is going to say. If he decides to publish material in spite of advice from the Secretary to the Cabinet, he should let the Secretary know what he proposes to do so that before publication there may be time for the Premier's own direct influence to be brought to bear upon the dispute, if the Premier so wishes.

9. A former Minister who has kept a diary of his Ministerial experience should give testamentary instructions to ensure that its publication does not flout the current understandings that his own ex-colleagues are likely to be observing.

10. Former members of the public services should be under the same obligation as former Ministers to submit their manuscripts for scrutiny with regard to national security and international relations, and to defer to the judgment of those carrying the immediate responsibilities in these fields. In the matter of confidential relationships, the principles concerning publications by ex-Ministers, the obligations that rest upon them, and the periods for which those obligations should be maintained, should all be reflected also in the rules governing the publication of memoirs and other works relating to their official experience by former members of the public services.