



GOVERNMENT OF WESTERN AUSTRALIA

MINISTERIAL CODE OF CONDUCT

APRIL 2013

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1. Introduction

Ministers have significant discretionary power and make decisions that can greatly affect individuals and the community. Consequently, it is necessary to set higher standards of conduct for them than for other categories of elected office holders.

Being a Minister of the Crown demands the highest standards of probity, accountability, honesty, integrity and diligence in the exercise of their public duties and functions. They must ensure that their conduct does not bring discredit upon the Government or the State.

This code of conduct has been developed in response to widespread public concern about the conduct and accountability of public officials. The need for the development of such a code was highlighted in the 1992 Royal Commission into Commercial Activities of Government which stated that:

Criminal Law provides no more than the base level below which officials must not fall. It does not address the standards to which they should aspire, even if these, to some degree, always remain an ideal or counsel of perfection (*Royal Commission 1992 4.6.2, cited in Commission on Government Report No. 3 p. 136*).

In the spirit of the findings of the Royal Commission, the primary intention of this code is to provide some direction to Ministers about the conduct the public expects of them and to which they should aspire.

2. Administration of the Code

The Cabinet Secretary is responsible to the Premier for the record-keeping and administration associated with this Code.

All Ministers are to cooperate fully with the Cabinet Secretary in respect to their responsibilities under this Code.

3. Conformity with the Westminster principles of accountability and collective and individual responsibility

Under the Westminster system of government, Ministers have both collective and individual responsibilities.

A Minister's responsibility to act as a trustee of the public interest should always be paramount in the performance of their functions.

The Westminster system requires that Ministers are answerable to Parliament, and through Parliament to the people.

In addition, Ministers are accountable to both the community and Parliament for the administration of their departments, authorities and statutes. Ministers should be as open as possible and give reasons for their decisions and actions to ensure they are working in the public interest.

Ministerial responsibility requires the collective responsibility of Cabinet to Parliament for the whole conduct of government administration.

All Ministers will acknowledge that the collective decisions of Cabinet are binding on them individually. They are obligated to publicly support those decisions.

4. Official Conduct

Ministers have a high standing in the community and they should provide leadership by striving to perform their duties to the highest ethical standards.

The inclusion of Ministers in the definition of “public officer” in section 1 of the *Criminal Code* ensures there is an overarching framework for scrutiny of ministerial conduct.

They are to act with integrity in the performance of official duties and are to be scrupulous in the use of official information, equipment and facilities.

5. Conflicts of Interest

Public duties must be carried out objectively and without consideration of personal or financial gain. Circumstances which could give rise to a serious conflict of interest are not necessarily restricted to those where an immediate advantage will be gained. They may instead take the form of a promise of future benefit, such as a promise of post-parliamentary employment. Any conflict between a Minister’s private interest and their public duty which arises must be resolved promptly in favour of the public interest. The same is as true for a perceived conflict of interest as an actual conflict.

6. Disclosure of Pecuniary and Other Interests

To assist in the avoidance of any conflict of interest arising, a Minister shall disclose to the Cabinet Secretary all pecuniary and other interests.

Ministers shall provide the Cabinet Secretary with:

- a copy of each return that they lodge under the *Members of Parliament (Financial Interests) Act 1992* when lodging that return; and
- at the same time, a statement disclosing all the pecuniary and other interests of the Minister not already disclosed in their return, as well as the pecuniary and other interests of the Minister's spouse, de facto partner and all dependent members of the Minister's family.

Significant changes in the declared interests of the Minister or those of their spouse, de facto or dependent family members shall be disclosed to the Cabinet Secretary in a supplementary statement within four weeks of the Minister becoming aware of those changes.

Some pecuniary interests may be sufficiently indirect so as to minimise the disclosure requirements expected from a Minister. Appendix F contains guidelines to assist Ministers in providing an appropriate level of detail in completing their disclosure statements. The responsibility of making adequate disclosure of all pecuniary and other interests of the Minister and the Minister's spouse, de facto partner and dependent family members, lies solely with the Minister.

Ministers shall disclose all pecuniary or other interests held under a private company or other entity or arrangement that operates a family farm, family business or family investments or trust.

All disclosed information is to be recorded and retained by the Cabinet Secretary. In the event of real or perceived conflicts of interests for a Minister in relation to a matter before Cabinet arising out of the disclosed information, whether in relation to a Minister or a Minister's spouse, de facto partner or dependent family members, the Minister is to draw that conflict of interest to the attention of the Premier in Cabinet.

7. Divestment of Conflicting Positions

Immediately after appointment and within 60 days, Ministers shall take action to divest themselves of shareholdings in any company and interests in partnerships and trusts, by virtue of which a conflict exists, or could reasonably be expected to exist, with their portfolio responsibilities. Ministers should not trade in shares other than to dispose of interests they might currently hold and then only after consultation with the Cabinet Secretary. The transfer of interests to a spouse, de facto partner or dependent family member or to a nominee or trust is not an acceptable form of divestment.

Ministers shall resign from all positions held in business or professional associations and trade unions, as identified by the Member in their primary or annual return under section 12 of the *Members of Parliament (Financial Interests) Act 1992*. Individual membership of an organisation does not constitute a "position" in that organisation.

Upon appointment, Ministers shall resign from all directorships in public and/or private companies. An exception is where a Minister holds a directorship in a private company that operates a family farm, family business or family investments, provided that the directorship is not likely to conflict with the official duty of the Minister.

Ministers are also required to resign from other positions that may present real or perceived conflicts of interest. If in doubt, Ministers should consult the Cabinet Secretary.

8. Declaration of Conflict of Interest

Ministers shall advise the Premier in Cabinet should they find themselves in a situation of conflict of interest, or where there is a potential for conflict, in respect to any item before Cabinet. In case of doubt, the final determination as to whether there is a conflict (or a potential conflict) will be made by the Premier. Where it is determined that there is a conflict of interest or potential conflict, the Minister shall withdraw from the Cabinet room while the relevant item is under discussion. The Cabinet Secretary shall record in the Cabinet minutes that the Minister so declared his or her pecuniary interest, conflict of interest, or potential conflict, and withdrew from the Cabinet room.

A Minister must disclose to the Premier in Cabinet any pecuniary or other interests of the Minister's spouse, de facto partner or dependent family members of which the Minister is aware, if those interests potentially are relevant to a matter before Cabinet. Such disclosures will be recorded in the Cabinet minutes.

The Premier may require that the Minister be absent from all Cabinet discussions about an issue on the basis of the disclosed pecuniary and other interests of a Minister's spouse, de facto partner or dependent family members.

The Cabinet Secretary may independently raise in Cabinet any conflict of interest or potential conflict of a Minister or his or her spouse, de facto partner or dependent family members. The Cabinet Secretary's role in this regard does not derogate from the Minister's responsibility under this Part.

The reasons for the Minister's absence and the details of the disclosed interests will be recorded in the Cabinet minutes.

9. Use of Confidential Information

Ministers will maintain the confidentiality of information committed to their secrecy in the Executive Council, in Cabinet or otherwise in accordance with their duties.

Ministers shall undertake not to use information obtained in the course of official duties to gain for themselves or any other person a direct or indirect financial advantage. They will not solicit or accept any benefit in respect of the exercise of their discretion, whether for themselves or any other person.

In particular, a Minister shall scrupulously avoid investments and transactions about which he or she has confidential information as a Minister which may result in an advantage which is unreasonable or improper.

On resignation, retirement or dismissal, a Minister shall maintain the confidentiality of information acquired in office.

10. Ministerial Expenses and Use of Public Resources

Ministers shall make economical use of the public resources which are made available to them as office holders and will make every endeavour to prevent misuse by other persons. Those resources must only be used in connection with official duties and not for personal benefit.

Ministers are reminded of their responsibility under section 52 of the *Financial Management Act 2006* for the financial management of the services under the control of their portfolio agencies, and for monitoring the functions of the accountable authorities of those agencies.

See Appendix A for guidelines on Ministerial expenditure and use of public resources, and Appendix B for guidelines for expenditure on official hospitality.

11. Gifts

Under section 10 of the *Members of Parliament (Financial Interests) Act 1992*, Ministers, as Members of Parliament are required to disclose in an annual return, the details of any person who made financial or other contributions to their travel.

Details of the correct procedures to be followed in respect to Ministerial travel are contained in Appendix C.

Under section 9 of the *Members of Parliament (Financial Interests) Act 1992*, Ministers, as Members of Parliament, are required to disclose in an annual return the details of any gift received by the Minister. However, the potential for conflict of interest issues to arise in the process of gift-giving necessitates further guidance than simple adherence to the reporting requirements of that Act.

Ministers, their spouses, de facto partners and dependent families shall avoid circumstances in which the acceptance of an offer by way of a gift or any other consideration could result in a conflict of interest with public duty, or in circumstances in which an offer is made with the objective of securing, or in return for, favour or preferment.

When there is any doubt about conflict arising, Ministers should refer the matter to the Premier who may refer it to Cabinet. In no circumstances will Ministers be able to accept money or gifts in kind by way of free accommodation or free air travel. Where accommodation or travel is offered on a 'guest of government' basis, or by private organisations, prior endorsement by the Premier will be required. Ministers may:

- a) accept on behalf of the Government gifts from representatives of governments either overseas or in Australia;
- b) accept on behalf of the Government gifts from private organisations or individuals in those overseas countries where it is customary to do so;

- c) accept personal gifts from organisations or individuals only if the gift is in the nature of a souvenir, a memento, or a symbolic item of low material value. These would include such items as cuff links, brooches, plaques and books. Such gifts may be retained by the Minister.

Additional guidelines for the acceptance and giving of gifts by Ministers are contained in Appendix D.

12. Relations with the Public Service

Ministers' obligations in relation to the establishment of proper relations between Ministerial officers and departments and agencies are set out in section 74 of the *Public Sector Management Act 1994*.

13. Recordkeeping Responsibilities

The *State Records Act 2000* came into effect in March 2001. The Act governs how government records are created, maintained, destroyed or permanently preserved as State archives. A Minister of the Crown is defined as a government organisation under the Act and therefore Ministers are required to keep records that properly and adequately record the performance of the Ministers' functions, in compliance with the provisions of the Act.

Additional information relating to Ministers' recordkeeping responsibilities is provided in Appendix E.

14. Conduct during the caretaker period

By convention, the Government assumes a 'caretaker' role in the period immediately before a State General Election. This role commences from the date of the issue of the writs for the election and continues until the election result is clear, or in the event of a change of government, until the new government is formally sworn-in. In this period, efforts are made to ensure that decisions are not taken which would bind an incoming government and limit its freedom of action.

The arrangements adopted apply generally in terms of the operations of government and public sector agencies and are intended, wherever possible to ensure that:

- significant appointments are not made;
- major policy decisions are not taken which would be likely to commit an incoming government (including the implementation of new policies or approval of major projects within government programs);
- no commitments are made to major contracts or undertakings;
- Members of Parliament do not undertake air travel at public expense for electioneering purposes;

- electioneering is not undertaken through government advertising, publications or electronic communications;
- public sector officers do not use public resources or their positions to support party political activities.

Ministers shall adhere to guidelines issued by the Premier during the caretaker period.

15. Staff responsibilities

A Minister will also be responsible for ensuring that members of his or her Ministerial staff are made aware of their ethical responsibilities and will require of staff such disclosure, divestment of personal interests or other action as seems appropriate to the Minister and the Premier.

16. Post separation employment

Ministers leaving government should exercise care in taking up employment or business activities in the period immediately after leaving government. In particular, they should take care in accepting offers of employment from bodies:

- which are in a contractual relationship with the State Government;
- which are in receipt of subsidies or benefits from the Government not received by a section of the community or the community at large;
- in which the Government is a shareholder;
- which are in receipt of government loans, guarantees or other forms of capital assistance; or
- with which the departments or branches of government are, as a matter of course, in a special relationship.

In all areas, confidential information gained during office must not be used and care should be taken to ensure that preferential treatment for the new employer or the business is not obtained by the use of contacts and personal influence by the former Minister.

17. Corruption and Crime Commission

The Corruption and Crime Commission was established in January 2004 to replace the Anti-Corruption Commission. The Commission's role includes the investigation of misconduct, corruption and criminal conduct by a Western Australian public officer. Under the *Corruption and Crime Commission Act 2003* a "public officer" has the meaning given by section 1 of *The Criminal Code*, which includes "a Minister of the Crown".

Detailed guidelines on identifying and dealing with misconduct in the Public Sector can be accessed via the Corruption and Crime Commission of Western Australia website (www.ccc.wa.gov.au).

18. Contact with Lobbyists

Legislation will be introduced to regulate the conduct of lobbyists in Western Australia. In the meantime, Ministers and Parliamentary Secretaries must comply with the Contact with Lobbyists Code which came into effect on 16 April 2007. Under the Code, Ministers and Parliamentary Secretaries are not to permit lobbying by a lobbyist who is not listed on the Government's Register of Lobbyists. The Contact with Lobbyists Code applies to Ministers and Parliamentary Secretaries acting in an official capacity or undertaking official duties.

Details of the obligations of Ministers and Parliamentary Secretaries are provided in the Contact with Lobbyists Code. A copy of the Code is provided in appendix H.

The Register of Lobbyists is available on the Public Sector Commission website (www.lobbyists.wa.gov.au).

APPENDIX A: GUIDELINES FOR MINISTERIAL EXPENSES AND USE OF PUBLIC RESOURCES

Purchasing Cards

- All purchasing card bank statements are to be certified by the cardholder as follows: “This expenditure was incurred on official government business and has not been subject to a claim on funds from any other source.”
- The bank statement must also be signed and dated by the cardholder.
- All purchasing card bank statements must be supported with purchasing card sales vouchers and receipts at the time of processing for payment.
- Monthly bank statements for purchasing card charges must be referred to the ministerial office for certification and attachment of support documents before payment is made by the agency.
- Cardholders must not certify payments as “Incurring Officer”, for expenditure on purchasing cards issued to themselves, unless approved for payment by the Minister.
- Ministerial offices, in incurring expenditure in the area of hospitality, should abide by the guidelines for expenditure on official hospitality and should certify such expenditure accordingly.
- All expenditure in relation to purchasing cards must be noted and appropriate records must be retained by the Incurring Officer of each ministerial office.
- Ministerial office staff should be reminded that if they are travelling, or purchasing, on government business at government expense, they should not claim gifts, free travel or other benefits for personal use.
- No personal expenditure is to be incurred on purchasing cards.
- Tips are not to be permitted by purchasing cardholders in ministerial offices unless it is customary to do so when travelling overseas.
- Purchasing cards must not be used for cash advances unless approved by the Chief Financial Officer, Financial Services Branch, Department of the Premier and Cabinet.
- Cardholders making purchases over the Internet should ensure that the supplier web site displays the ‘locked padlock’ icon in their web browser. Cardholders should consider the following when making purchases over the Internet:
 - how well do you know the supplier?
 - how much information is provided by the supplier on the security of the transaction, for example, is information provided on the encryption?
 - are other options for procurement available? If so, do the benefits of using the Internet outweigh any potential risks?

Taxis

Purchasing cards are the preferred method of payment of taxi fares.

Use of taxis should be kept to a minimum and in the following circumstances:

- where it is impractical to use either public transport or a pool vehicle while on official business;
- in the case of an officer being required to work late or required to be in the office or at a business appointment before normal start time and where no pool vehicle is available;
- an emergency circumstance (e.g. an officer is sick and requires transport to home or a doctor);
- where a voucher is issued to a non-departmental employee for travel related to official business;
- other circumstances approved by the Director General.

Guidelines for use of official vehicles

Ministers and certain Parliamentary Office Holders are provided with a government vehicle to assist in carrying out the functions of their offices.

The following guidelines should be observed in the use of these vehicles:

- the primary reason for the provision of the vehicle is for the use of the person to whom it has been allocated. The car should always be available for official purposes.
- at other times, the vehicle may be used in the same manner as those vehicles allocated to Senior Officers covered by the Salaries and Allowances Determination. This provides for private usage by the Minister/Office Holder and others authorised by him or her.
- it is the responsibility of the Minister/Office Holder to ensure that any private usage of the vehicle is appropriate.
- the Minister/Office Holder to whom the vehicle is allocated is responsible for ensuring that any person, who is not a public sector employee, permitted to drive the vehicle holds a valid driver's licence.
- the Minister/Office Holder is responsible for the proper care of the vehicle.
- it is expected that the vehicles will not be taken outside the State, other than in exceptional circumstances, and only with the prior approval of the Premier.

APPENDIX B: GUIDELINES FOR EXPENDITURE ON OFFICIAL HOSPITALITY

As a general guide, expenditure on official hospitality can be incurred in the following circumstances:

- to facilitate the conduct of government business through persons who can contribute either by advice or service or because of their vocational or business interests.
- to reciprocate hospitality, provided it serves the same general purposes.
- to extend hospitality to overseas visitors when the Minister has an interest in, or obligation towards, facilitating the visit.
- to extend hospitality to the diplomatic and consular corps.
- to extend hospitality to representatives of the media on those occasions when media attendance is considered appropriate.
- to meet the cost of “working meals” where:
 - a full day’s meeting has been scheduled and there are cost advantages in continuing the meeting through the meal break; or
 - the meal is attended by a person or persons from an organisation other than the host department or agency and is for the purpose of transacting business with that person or persons.

Working meals should not be a regular occurrence. They should be held at the work/meeting location and be of a simple standard involving low charges per head e.g. sandwiches, fruit and tea/coffee; salad and tea/coffee; light luncheon. Working meals would not normally involve alcohol.

- to purchase minor gifts of a protocol or public relations nature where presentation of such gifts is in conformity with a Minister’s functions.

General Principles

- The over-riding principle is that the level of entertainment or hospitality provided should be appropriate to the role of the Minister and to the purpose of the occasion. Any concerns or queries in this regard should be referred to the Department of the Premier and Cabinet.
- Except in special circumstances, expenditure must not be incurred on hospitality associated with functions of an interdepartmental or intra-organisational nature.
- As a general rule, and unless significant cost advantages can be demonstrated, Ministers should not operate accounts at restaurants, hotels or other such premises for the purpose of entertaining or providing hospitality. Any such accounts must be authorised by the Director General, Department of the Premier and Cabinet.

Appendix B

- Officers should not claim reimbursement from their employer or allowances under the Public Service Award and other agreements in respect of meals charged against official hospitality.
- Where officers are travelling as a team or delegation, the leader of the team should be responsible for any expenditure charged to hospitality funds.
- Hospitality accounts submitted for payment must:
 - State the purpose of the hospitality provided and the names of those who were entertained or on whose behalf the expenditure was incurred (for FBT purposes).

However, on occasions where it is not considered appropriate to identify individuals due to the sensitive or confidential nature of the discussions, the types and numbers of people should be provided.
 - Be incurred by a senior officer other than the officer responsible for providing the hospitality.
 - Be certified by the officer responsible for providing the hospitality to the effect that: "This expenditure was incurred for official hospitality purposes in accordance with the approved guidelines".
- Tips or gratuities should only be paid where it is customary to do so when travelling overseas or where deemed appropriate by the Minister.
- The purchase of excessive quantities of alcohol is not considered an acceptable use of hospitality funds.
- Hospitality funds should not be used as a general rule for functions to farewell officers on the occasion of their retirement or transfer or to celebrate other personal events such as promotions, weddings, births etc.

APPENDIX C: GUIDELINES FOR MINISTERIAL TRAVEL

Class of Travel

Ministers are entitled to “Business” class travel.

One staff member of a Minister’s office who is accompanying the Minister on official business may also travel “Business” class. Other personnel accompanying the Minister are to travel according to the class of travel appropriate to their category.

Approval Procedures

All overseas travel by Ministers requires the Premier’s prior approval.

Requests for approval should be submitted a minimum of two weeks, but preferably a month, prior to the proposed travel using the travel proposal form.

Ministers may undertake domestic air travel under their own authority. “Domestic air travel” includes travel within the state (intrastate) and travel between states (interstate).

“Best Fare of the Day” means the lowest fare that exists in the marketplace at the time of booking and for which a seat is available, that meets the business requirements of the traveller. (Refer to Travel Reservations and Associated Services Common Use Arrangement Buyers Guide at www.contracts.wa.finance.wa.gov.au).

Approval Guidelines

Travel is not to be undertaken unless it is demonstrated that it is the most cost effective and efficient method of performing the function or obtaining the required information and all other methods have been considered.

No overseas travel is to be undertaken unless it is demonstrated that such a function could not be undertaken by existing Western Australian Government overseas offices.

If officers or other persons are accompanying a Minister whilst travelling on official business, the number of such people is to be kept to a minimum.

Ministers will only be given approval to be accompanied on overseas travel by their spouse or partner with the written approval of the Premier.

Acting Arrangements

The need to seek the appointment of an acting Minister during absences overseas or while on leave is at the discretion of Ministers. However, it is recommended that such appointments should be considered on every occasion

to ensure that should an emergency arise there is no disruption to the executive government process. In any event, where an absence of three days or more is planned, the Director General, Department of the Premier and Cabinet, must be provided with the name of a Minister who has agreed to act in the relevant portfolios during that time.

To ensure that the formal processes can be properly undertaken, the details of the acting arrangement must be forwarded to the Department of the Premier and Cabinet no later than one week prior to the Minister's departure.

If travel plans are cancelled or amended after approval of the acting arrangements is received, the Department of the Premier and Cabinet must be notified in writing immediately.

Reporting

Ministers are required to submit detailed reports on any overseas travel. The report must be submitted to the Director General of the Department of the Premier and Cabinet within two months of the completion of each overseas trip.

The following information should be included:

- Dates of travel
- Destinations
- Details of all members of the official party
- Costs incurred and the source of funding
- Statement on the purpose and benefits derived from the trip

Frequent Flyer Points

Ministers and Public Sector officers are obliged to comply with the provisions of Premier's Circular 2012/03 which, among other things, provides that frequent flyer points or benefits under any other incentive or loyalty schemes, accumulated in the course of official travel, must not be used for private purposes.

The value of travel incentives can be converted for the benefit of an individual or agency as a whole, provided that the benefit or ticket upgrade is in accord with the Minister's or officer's entitlement.

APPENDIX D: GUIDELINES FOR THE ACCEPTING AND GIVING OF GIFTS BY MINISTERS

These guidelines apply to all Ministers (and their immediate families) who receive gifts in the course of their official duties.

Definition of Gift

For the purposes of these guidelines, the term “gift” includes items of commercial, historical, cultural or religious value, property (real estate or otherwise), transfers of money, loans of money or property, free air travel and/or accommodation, and sales at valuations significantly below proper valuations.

The definition does not include items which can be regarded as souvenirs or mementos such as craft items, cuff links, brooches, ties, scarves, books, stationery and the like, the manufacturer’s recommended retail value of which does not exceed \$A300 at the time and place of purchase.

The definition also does not include gifts given to Ministers or their immediate families by family members or personal friends in a genuinely personal capacity.

Gifts Received

Ministers and members of their immediate families should not under any circumstances accept gifts:

- which could give the appearance of a conflict of interest with a Minister’s duties (past, present or future);
- which are given with the object of securing, or returning, favour or preferment;
- which involve the transfer of moneys, regardless of value, e.g. cash or loans.
- which involve free accommodation or free air travel.

If there is any doubt in this regard, Ministers should refer the matter to the Premier who may refer it to Cabinet.

Declaration of Gifts Received

Gifts received in the course of official duty are to be declared:

- when received overseas, to Australian Customs, at the point of entry if the gift falls outside the normal duty free passenger concession, or if the gift is subject to quarantine inspection. These concessions/products are shown on the Customs, Quarantine and Wildlife Statement that must be completed on arrival in Australia.

If an overseas gift does not qualify for duty free entry under the normal passenger concession, customs duty and GST are payable at the appropriate rates.

- whether received overseas or within Australia, to the Chief of Protocol, Department of the Premier and Cabinet, within 30 days of receipt or on return to Australia (if received overseas), where the value of the gift is believed to exceed the stated valuation limit or where there is likely to be some particular sensitivity associated with the gift.

Valuation of Gifts

Should the Minister wish to retain a gift, a formal valuation should be obtained if the value of a gift exceeds the stated valuation limit or if there is any doubt about its value. The valuation should be obtained by the Minister's office and the valuation certificate submitted, together with the Minister's declaration, to the Chief of Protocol, Department of the Premier and Cabinet.

Valuations are to be obtained from valuers competent to value in the field. Any costs incurred in obtaining the valuation are to be borne by the Minister's office.

Should the Minister wish to surrender the gift, a formal valuation is not required, but an approximate valuation should be provided if possible.

Retention or Surrender of Gifts

Gifts in excess of the stated valuation limit may be retained by the Minister if the Minister elects to pay the difference between the stated valuation limit and the value of the gift.

Where a payment is required to meet this difference, the payment should be made payable to the Department of the Premier and Cabinet and forwarded with the valuation certificate and completed declaration form to the Chief of Protocol, Department of the Premier and Cabinet.

Where the value of the gift exceeds the stated valuation limit and the Minister elects not to pay the difference, the gift is to be surrendered by the Minister to the Chief of Protocol, Department of the Premier and Cabinet. The recommendation for the future use of surrendered official gifts (which all Ministers are requested to provide) should be accompanied by a formal acknowledgment relinquishing the Minister's claim to ownership to allow the appropriate disposal action to be taken.

Gifts surrendered to the Department of the Premier and Cabinet may be:

- transferred on loan to Ministers' Offices, State Government Agencies, the Museum, Art Gallery, libraries, archives and special interest collections, educational or community institutions.
- donated to a nominated non-profit organisation or charity at the discretion of the recipient and/or the Department of the Premier and Cabinet; or

- disposed of in an appropriate manner by the Department of the Premier and Cabinet.

The Chief of Protocol, the Department of the Premier and Cabinet, maintains a “Register of Gifts Received” and is responsible for maintaining it on a permanent basis. The register records the following details:

- a full description of the gift received;
- estimated or assessed value;
- identity of the person or body making the gift; and
- the method of disposal (purchase by Minister, public display, retention by Minister’s office etc).

Giving of Gifts

Within 30 days of a gift, the value of which exceeds \$A150, being given by a Minister, or within 30 days of return to Australia if the gift is given overseas, the following details must be provided (in writing) by the Minister’s Office to the Chief of Protocol, Department of the Premier and Cabinet:

- a full description of the gift
- its retail or assessed value
- the date the gift was given; and
- the identity of the person, group or body to whom or which the gift was given.

The Chief of Protocol, Department of the Premier and Cabinet will record the details in the “Register of Gifts Presented”.

Advice in respect of the nature and type of gifts to be given by Ministers and/or their staff is available from the Protocol Branch and should be sought prior to presentations being made, to avoid any duplication of gifts by Ministers.

Breaches of the Policy

Where the Internal Auditor of the Department of the Premier and Cabinet becomes aware of any breach of this policy by a Minister, the Officer shall report the breach to the Director General.

APPENDIX E: RECORDKEEPING RESPONSIBILITIES UNDER THE *STATE RECORDS ACT 2000*

The Department of the Premier and Cabinet is the agency designated with recordkeeping responsibility for Ministers and Parliamentary Secretaries. Ministers, their Parliamentary Secretaries and employees and contractors providing services to or on behalf of Ministers, are required to comply with the Department's recordkeeping plan.

The Department's plan establishes recordkeeping policy and programs for ministerial records and provides a framework for systematic and consistent recordkeeping. The ministerial recordkeeping program, prepared in accordance with the recordkeeping plan, establishes the minimum recordkeeping requirements for the government records of Ministers and Parliamentary Secretaries.

Ministers, their Parliamentary Secretaries and staff should:

- understand their recordkeeping responsibilities.
- have knowledge of records management procedures.
- be familiar with and follow the Ministerial recordkeeping principles and practices.
- be aware of and follow the electronic recordkeeping advice.
- understand that records may only be disposed of in accordance with approved disposal authorities, and may not be removed from records systems or altered without authority.

The authority to destroy government records is subject to State Records Commission authorisation and the Director General of the Department of the Premier and Cabinet is required to certify the destruction of records under the approved authority.

Under section 78 of the Act it is an offence:

- not to keep a record in accordance with the recordkeeping plan;
- to transfer government records to unauthorised persons;
- to destroy government records unless authorised by the recordkeeping plan; and
- to have unauthorised possession of government records.

Electorate Office and Party Political Business

Recordkeeping practices must clearly distinguish Minister's constituency, party political and personal documents as these are not subject to the *State Records Act 2000* or the *Freedom of Information Act 1992*.

For the purposes of the Act, party political records are limited to records relating to the Minister's political party business only. Any records of a political nature created or received as part of the Minister's functions are government records. Records received or created by the Minister's electorate office relating to the Minister's constituency business are not government records.

Electorate and party political records held in a Minister's Office must be retained separately from government records or the records could be considered government records.

Records of parliamentary business are covered under the Legislative Assembly and Legislative Council (Parliamentary) Recordkeeping Plans. Parliamentary records are considered "state records" and are subject to the *State Records Act 2000*. Refer to Parliamentary Recordkeeping Plans when dealing with these records.

Information regarding the Department's recordkeeping plan, as well as general recordkeeping advice and assistance, is available from the Corporate Information Branch of the Department of the Premier and Cabinet.

For further information please contact:

Manager, Corporate Information Branch
Tel: (08) 6552 5316.

APPENDIX F: INDIRECT PECUNIARY INTERESTS (REMOTE AND DERIVATIVE)

Remote Interests

Ministers may have pecuniary interests that are sufficiently remote from their influence and control that they do not pose a realistic risk of conflict. Examples would include:

- membership of a large superannuation scheme with numerous members and widely diversified investments; or
- an interest in a managed fund, where a Minister has no control over investment decisions, and where the investment profile of the fund is broadly spread.

Where a Minister has a remote interest of this type, it may be declared in summary form. That is, the Minister should declare membership or investment in the relevant superannuation fund, managed fund or other entity. Details of the investments of that entity are not required.

Once a remote interest has been declared in summary form no further declaration or disclosure is required unless a Minister becomes aware of special circumstances that might give rise to a real or perceived conflict of interest.

For the purpose of determining whether an interest should be treated as a remote interest, the following factors are relevant:

- the extent to which the Minister can influence investment decisions of the entity;
- the extent to which the Minister is involved in the management of the entity;
- the extent to which a Minister reasonably may be expected to have a detailed knowledge of the investments of the entity; and
- the extent to which an entity's investments are sufficiently diversified that the value of a Minister's interest would be unlikely to be significantly affected by decisions of Cabinet.

Ministers must seek the advice of the Cabinet Secretary before disclosing an interest as a remote interest. In case of doubt, interests should be disclosed in the usual fashion, rather than making the disclosure in summary form. Categorisation of an interest as a remote interest is the sole responsibility of the Minister concerned.

The remote interest classification and the less onerous reporting requirements apply to the interests of the spouse, de facto partner and dependent family members of a Minister as well.

Derivative Interests

Ministers may have pecuniary interests several steps removed from themselves that are sufficiently indirect so as not to pose a realistic risk of conflict.

The most common instance of a derivative interest is where a Minister holds shares in a company which is not itself affected by a Cabinet or other government decision, but where that company in turn holds shares in another company that will be affected by such a decision. These situations may arise at multiple removes so that the company affected by the relevant decision may be several steps distant from the company in which the Minister has an interest.

While a derivative interest may give rise to a conflict of interest in some circumstances, the derivative interests of the Minister will often be so distant and insignificant so as to pose no realistic perception of a conflict of interest. In many cases such interests will be unknown to a Minister, especially when the interest resides with a Minister's spouse or de facto partner. Whether it is reasonable for a Minister to have been unaware of a derivative interest when involved in a related Cabinet decision will depend on all the circumstances, including the size and value of the interest concerned, its degree of remoteness from the Minister and the nature of the decision being made.

APPENDIX G: DISCLOSURE STATEMENT

1. PERSONAL DETAILS

Ministers are to list all people whose interests they are required to disclose under the Code of Conduct and indicate in the box to the right the relationship they have with that person as follows: **S** – Spouse; **D** – De Facto Partner; **F** – Dependent Family Member.

Party	Full Name	
Minister:	_____	
Person A	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person B	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person C	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person D	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person E	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person F	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>
Person G	_____	<input style="width: 40px; height: 20px;" type="checkbox"/>

B. Sources of Income

(i) Income from trade, profession or vocation

Description of trade, profession of vocation (with partnership name, if applicable)	Name and address of employer or description of the office held	Holding Party

(ii) Income from trusts

Name and address of settlor	Name and address of trustee	Holding Parties

(iii) Other sources of income

Details	Holding Parties

C. Interests in trusts

Name and address of settlor	Name and address of trustee	Holding Parties

G. Debts for which liable

Name of lender	Address of lender	Holding Parties

H. Dispositions of Property where benefit or interest retained

Details	Holding Parties

CONTACT WITH LOBBYISTS CODE

1. Preamble

Free and open access to the institutions of government is a vital element of our democracy.

Lobbyists can enhance the strength of our democracy by assisting individuals and organisations with advice on public policy processes and facilitating contact with relevant Government Representatives.

In performing this role, there is a public expectation that Lobbyists will be individuals of strong moral calibre who operate according to the highest standards of professional conduct.

The Government has established the Contact with Lobbyists Code to ensure that contact between Lobbyists and Government Representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

2. Application

2.1 The Contact with Lobbyists Code has application through the Codes of Conduct of public sector bodies.

2.2 The Contact with Lobbyists Code creates no obligation for a Government Representative to have contact with a particular Lobbyist or Lobbyists in general.

2.3 The Contact with Lobbyists Code does not serve to restrict contact in situations where the law requires a Government Representative to take account of the views advanced by a person who may be a Lobbyist.

3. Definitions

"Lobbyist" means a person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third party to a Government Representative.

"Lobbyist" does not include:

- (a) an association or organisation constituted to represent the interests of its members;
- (b) a religious or charitable organisation; or
- (c) an entity or person whose business is a recognised technical or professional occupation which, as part of the services provided to third parties in the course of that occupation, represents the views of the third party who has engaged it to provide their technical or professional services.

“Lobbyist’s Details” means the information described under clause 5.1.

“Government Representative” means a Minister, Parliamentary Secretary, Ministerial Staff Member or person employed, contracted or engaged by a public sector agency.

“Ministerial Staff Member” means a person employed under section 68 of the *Public Sector Management Act 1994*; a person seconded to a Ministerial office under section 66 of the *Public Sector Management Act 1994*; or a person otherwise placed, contracted or engaged in a Ministerial office.

4. Contact between Lobbyists and Government Representatives

4.1 A Government Representative shall not at any time permit lobbying by:

- (a) a Lobbyist who is not on the Register of Lobbyists;
- (b) any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist’s Details noted on the Register of Lobbyists in connection with the Lobbyist;
- (c) any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government Representative, has failed to observe any of the requirements of clause 4.3.

4.2 Contact with a Government Representative for the purposes of lobbying activities by a Lobbyist includes:

- (a) telephone contact;
- (b) electronic mail contact;
- (c) written mail contact; and
- (d) face to face meetings.

4.3 When making an initial contact with a Government Representative about a particular issue on behalf of a third party for whom the Lobbyist has provided paid or unpaid services, the Lobbyist must inform the Government Representative:

- (a) that they are a Lobbyist or employee, contractor or person otherwise engaged by the Lobbyist who is currently listed on the Register of Lobbyists;
- (b) that they are making the contact on behalf of a third party;
- (c) the name of the third party; and
- (d) the nature of that third party's issue.

5. Register of Lobbyists

5.1 There shall be a Register of Lobbyists which shall contain the following information:

- (a) the business registration details of the Lobbyist, including names of owners, partners or major shareholders as applicable;
- (b) the names and positions of persons employed, contracted or otherwise engaged by the Lobbyist to carry out lobbying activities;
- (c) the names of third parties for whom the Lobbyist is currently retained to provide paid or unpaid services as a Lobbyist; and
- (d) the names of persons for whom the Lobbyist has provided paid or unpaid services as a Lobbyist during the previous three months.

5.2 A Lobbyist wishing to have contact with a Government Representative for the purposes of lobbying activities may apply to the Public Sector Commissioner to have their Lobbyist's Details recorded in the Register of Lobbyists.

5.3 The Lobbyist shall submit updated Lobbyist's Details to the Public Sector Commissioner in the event of any change to the Lobbyist's Details.

5.4 The Lobbyist shall provide to the Public Sector Commissioner within 10 business days of each of 30 March, 30 June, 30 September and 30 December each year a confirmation that their Lobbyists Details are up to date.

5.5 The registration of a Lobbyist shall lapse if a confirmation is not provided to the Public Sector Commissioner by the dates referred to under clause 5.4.

6. Access to the Register of Lobbyists

6.1 The Register of Lobbyists shall be a public document.

6.2 The Public Sector Commissioner shall ensure that the Register of Lobbyists is readily accessible to members of the public.

7. Principles of Engagement with Government Representatives

7.1 Lobbyists shall observe the following principles when engaging with Government Representatives:

- (a) Lobbyists shall not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment;
- (b) Lobbyists shall use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to

parties whom they represent, the wider public, governments and agencies;

- (c) Lobbyists shall not make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to institutions of government or to political parties or to persons in those institutions; and
- (d) Lobbyists shall keep strictly separate from their duties and activities as Lobbyists any personal activity or involvement on behalf of a political party.

8. Registration

The Public Sector Commissioner may at his or her discretion:

- 1) refuse to accept an application to be placed on the Register of Lobbyists; and
- 2) remove from the Register of Lobbyists the details of a Lobbyist if, in the opinion of the Public Sector Commissioner,
 - (a) any prior or current conduct of the Lobbyist or his employee, contractor or person otherwise engaged to provide lobbying services for the Lobbyist has contravened any of the terms of this Code; or
 - (b) any prior or current conduct of the Lobbyist or association of the Lobbyist with another person or organisation is considered to be inconsistent with general standards of ethical conduct; or
 - (c) the registration details of the Lobbyist are inaccurate; or
 - (d) not confirmed in accordance with the requirements of clause 5.4; or
 - (e) there are other reasonable grounds for doing so.

(Lobbyists Code last amended 28 November 2008)