

MINISTERIAL CODE

A code of conduct and guidance on procedures for Ministers

National Assembly for Wales

MINISTERIAL CODE

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Civil Service Code

1. National Assembly for Wales Ministers

1.1 Ministers in the Assembly Cabinet (hereinafter “Ministers”) are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties.

1.2 This Code provides guidance to Ministers on how they should act and arrange their affairs in order to uphold these standards. It lists the principles which may apply in particular situations drawing on past precedent. It applies to all Ministers.

1.3 Ministers are personally responsible for deciding how to act and conduct themselves in the light of the Code and for justifying their actions and conduct in the Assembly and it is the particular responsibility of the First Minister to seek to ensure that each Minister complies with it. The Code is not a rulebook, and it is not the role of the Permanent Secretary or other officials to enforce it or to investigate Ministers although they may provide Ministers with private advice on matters which it covers.

1.4 Ministers only remain in office for so long as they retain the confidence of the First Minister. He is the ultimate judge of the standards of behaviour expected of a Minister and the appropriate consequences of a breach of those standards, although he will not expect to comment on every allegation that is brought to his attention.

1.5 The Code should be read against the background of the overarching duty on Ministers to comply with the law and to protect the integrity of public life. They are expected to observe the Seven Principles of Public Life set out in the first report of the Committee on Standards in Public Life, repeated in annex A, and the following principles of Assembly Ministerial conduct:

- i. Ministers must uphold the principle of collective responsibility
- ii. Ministers have a duty to the Assembly to account, and be held to account, for their policies, decisions and actions;
- iii. It is of paramount importance that Ministers give accurate and truthful information to the Assembly, correcting any inadvertent error

at the earliest opportunity. Ministers who knowingly mislead the Assembly will be expected to offer their resignation to the First Minister;

iv. Ministers should be as open as possible with the Assembly and the public, refusing to provide information only when disclosure would not be in the public interest. Decisions to disclose should be taken in accordance with the relevant statute, Standing Orders, the Code of Practice on Public Access to Information and the Code of Practice on the Provision of Information to Assembly Members;

v. Ministers should similarly require civil servants who give evidence before Committees of the Assembly on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information in accordance with the duties and responsibilities of civil servants as set out in the Civil Service Code;

vi. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;

vii. Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation;

viii. Ministers must keep separate their roles as Minister and constituency or regional Member;

ix. Ministers must not use the Assembly's resources for party-political purposes. They must uphold the political impartiality of the Civil Service and not ask civil servants to act in any way which would conflict with the Civil Service Code.

1.6 Ministers, in common with all other Members of the Assembly, are bound by its Standing Orders, in particular Standing Order 4 and the Annex to the Standing Orders on declaration of interests. A copy of these is attached for information but does not form part of the code. They must therefore adhere at all times to the requirements the Assembly has itself laid down and must be prepared to justify their conduct to the Assembly and the public.

1.7 This Code also applies to Deputy Ministers when acting on behalf of a Minister unless otherwise stated.

2. Ministers and the Cabinet

Responsibilities of a Minister

2.1 The First Minister is responsible for the appointment and overall conduct, co-ordination and organisation of the Assembly Cabinet and the allocation of functions to and between Ministers.

2.2 The corporate nature of the Assembly means that all decisions are taken on behalf of the Assembly. Ministers only have the powers and functions that have been delegated to the First Minister by the Assembly and which he or she has delegated to each Minister.

2.3 The First Minister is accountable to the Assembly as a body for policy co-ordination and the leadership of the Assembly Cabinet, and for any function which he or she has not delegated to another Minister. Each Minister is accountable to the Assembly as a body for the discharge of the function and responsibilities allocated to him or her by the First Minister.

2.4 Sections 62 and 63 of the Government of Wales Act 1998 provide the statutory basis for the Assembly's functions to be delegated to the First Minister and then on to Ministers, committees or sub-committees of the Assembly and to Assembly staff. Where functions are delegated to Assembly staff it is the responsibility of the Permanent Secretary to make arrangements as to which members of staff are to exercise the functions.

2.5 Ministers have no power to exercise functions which have not been formally delegated to them by the First Minister. The Assembly Intranet holds a comprehensive database of delegated functions by Ministerial portfolio. The Assembly Delegations Manual sets out the framework and procedures necessary to ensure that Ministers and officials discharge their responsibilities with appropriate authority.

Working with other Administrations

2.6 Ministers should bear in mind the need to maintain good working relationships with UK, Scottish and Northern Ireland Ministers. They should make every effort to act in accordance with the relevant concordats, and must maintain the confidentiality of information or correspondence provided in confidence by these and other bodies in accordance with Standing Order 17 and the Assembly's Code of Practice on Public Access to Information.

Cabinet and Cabinet Sub-Committees

2.7 The business of the Cabinet consists in the main of questions which significantly engage the collective responsibility of the Ministers because they raise major issues of policy, or because they are of critical importance to the public or matters where there is an unresolved issue between Ministers.

2.8 Matters wholly within the responsibility of a single Minister and which do not significantly engage collective responsibility as defined above need not be brought to the Cabinet or to a Sub-Committee unless the Minister wishes to inform his or her colleagues or have their advice. A precise definition of such matters cannot be given: in borderline cases a Minister is advised to seek collective consideration.

Cabinet Sub-committees

2.9 The Cabinet is supported by Cabinet sub-committees and working groups. These exist primarily to discuss and develop long-term policy in the areas with which they are concerned: they do not normally take short-term decisions or concern themselves with short-term issues. On occasion, though, it may be appropriate for them to do so, particularly if no suitable meeting of the full Cabinet is available.

2.10 Meetings of sub-committees are arranged to conform with Ministers' diary commitments as far as possible, normally before or after the full Cabinet. Ministers should thus normally attend in person meetings of Cabinet sub-committees of which they are members or to which they are invited. If they are unable to do so, they should inform the Chair of the sub-committee in person and as far in advance as possible. With the Chair's agreement, a Deputy Minister may attend instead in such circumstances.

Cabinet meetings

a. Cabinet meetings take precedence over all other business, although it is understood that Ministers may occasionally have to be absent for reasons of Assembly business. Requests by Ministers for permission to be absent should be made only in the most exceptional circumstances, and should be made at the earliest opportunity and in writing to the First Minister, copied to the Business Minister. A minute is not necessary when the reason for absence from Cabinet is an overseas visit for which the First Minister's approval has already been obtained.

2.12 Guidelines on the conduct of Cabinet and Assembly Ministerial Committee business are set out in the Protocol for Partnership Government in the Assembly,

and in further guidance on the Assembly Intranet. Cabinet agendas are planned in advance as far as possible, to enable them best to meet the strategic development of Ministers' policy commitments. However, there will also be occasions when short-term and/or urgent issues need to be brought to Cabinet. In either case, Ministers' private secretaries should alert the Secretariat to the Cabinet at the earliest possible opportunity when Cabinet discussion is likely to be needed.

2.13 Other than in cases of exceptional urgency, all discussions in Cabinet should take place on the basis of a paper which has been circulated to all Ministers in advance. This allows informed discussion by all present and also ensures that the issues are properly placed on the record. Papers may appear in a Minister's name or (with a Minister's consent) that of officials, but the latter approach should only be adopted for technical papers which do not directly raise political issues. All Cabinet papers should be available for circulation by the Secretariat no later than the Friday morning preceding each meeting.

2.14 Where the urgency of an issue precludes the circulation of a paper, Ministers may raise it as an oral item. However, discussion of such issues is necessarily more constrained than if supported by a paper, and it is not generally appropriate if an informed decision is needed. Private secretaries should alert the Secretariat to oral items their Minister intends to raise as far in advance of the meeting as possible.

a. All Cabinet papers are circulated to all Cabinet members. However, prior to that it is essential that they are seen and, if necessary, discussed in draft by those Ministers whose portfolios are directly affected. This includes in particular the Minister for Finance and the Minister for Assembly Business. They must also be based on full legal advice from the Office of the Counsel General, and include a proper appraisal of any financial implications. e.g. The Secretariat will, with the First Minister's agreement, decline to circulate papers which do not meet these requirements, with the result that discussion of that item will be deferred. Ministers are strongly encouraged to bear these points in mind when clearing papers for circulation.

2.16 Cabinet papers should be as clear and as brief as possible. They should not normally exceed four pages at most, and the Secretariat may not accept an over-long paper for circulation. Issues which cannot be covered in such a paper will probably not have justice done to them in the limited time available in Cabinet in any event: in such cases, Ministers may wish to deal with the issue in

correspondence instead. Ministers should ensure that these principles are followed and that, where necessary, papers submitted to them are revised accordingly: the Secretariat can provide detailed help to officials in each case.

2.17 The same principles apply to papers for Cabinet sub-committees, although agendas for such committees should be more strategic and long-term in nature. There should not normally be any need for issues to be raised orally in a sub-committee.

Cabinet Conclusions and Assembly Ministerial Committee minutes

2.18 The Secretariat takes the minutes of every Cabinet and sub-committee meeting, and these are presented for approval at the next meeting. Ministers should propose amendments to the minutes at that stage: after that, they form the official record of Cabinet business and cannot be amended without full Cabinet agreement. Minutes do not normally attribute views or comments to named Ministers, although this can be done on request.

2.19 Cabinet agendas, papers and minutes are published six weeks after the meeting to which they relate. The published versions are edited in accordance with the Assembly's Code of Practice on Public Access to Information, and are submitted to the First Minister for approval prior to publication. On occasion, this may mean withholding a paper from publication in its entirety. Decisions to withhold are made by the next meeting of Cabinet in each case, nevertheless, Ministers should indicate when submitting a Cabinet paper if they consider it to be inappropriate for publication.

2.20 The Secretariat is responsible for informing relevant officials of the conclusions of Cabinet and sub-committee meetings, and monitoring follow-up action.

Collective responsibility

2.21 Cabinet decisions are binding on all Ministers. They are, however, normally announced and explained as the decision of the Minister concerned. On occasions it may be desirable to emphasise the importance of a decision by stating specifically that it is the decision of Cabinet. Under no circumstances should a decision be announced as that of 'the Assembly', unless there has been a vote in Plenary to that effect.

2.22 Collective responsibility requires that Ministers should be able to express

their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. Ministers should thus not disagree publicly with Cabinet decisions, or suggest that the published minutes are not a fair and accurate record.

Cabinet documents

2.23 Ministers relinquishing office other than after an Assembly election should hand over to their successors those Cabinet documents required for current administration and should ensure that all others have been destroyed.

2.24 After an Assembly election, the outgoing First Minister issues specific instructions about the disposal of the Cabinet papers of the outgoing Cabinet.

2.25 Ministers may wish to consider making provision in their wills against the improper disposal of any official or Cabinet documents which they might have retained in their possession by oversight.

The Counsel General

2.26 The Counsel General is the chief legal adviser to the Assembly Cabinet and to the Assembly. The Counsel General's opinion must be sought whenever a Minister is in doubt about the legal powers available to carry out any function transferred or delegated to the Assembly, and that of his Office should be sought routinely before a Minister exercises any statutory functions delegated to him or her. The Counsel General should, in particular, be consulted in cases where:

- a. there is any doubt or question as to the Assembly's power to act in a particular case;
- b. the legal consequences of action or a failure to act by the Assembly might have important repercussions in the foreign, European Union or domestic field;
- c. there is any doubt or question concerning
 - i. the vires of proposed sub-ordinate legislation; or
 - ii. the legality of proposed administrative action, particularly where the action might be subject to challenge in the courts by means of application for judicial review;

- d. Assembly Ministers or officials wish to have advice on questions involving legal considerations, which are likely to come before the Assembly Cabinet;
- e. there is a particular legal difficulty which may raise political aspects of policy.
- f. two or more Ministers disagree on legal questions and wish to seek the view of the Counsel General.

2.27 Written opinions of the Office of the Counsel General unlike other Ministerial papers, are generally made available to succeeding Administrations. Opinions or an advice given by the Counsel General must not be disclosed outside the Cabinet without his authority.

Legal proceedings involving Ministers

2.28 Ministers occasionally become engaged in legal proceedings primarily in their personal capacities but in circumstances which may have implications for them in their official positions. Defamation is an example of an area where proceedings will invariably raise issues for the Minister's official as well as his private position. In all such cases they should consult the Office of the Counsel General before consulting their own solicitors, in order to allow the OCG to express a view on the handling of the case so far as the public interest is concerned or, if necessary, to take charge of the proceedings from the outset.

Deputy Ministers

2.29 The First Minister may from time to time appoint Deputy Ministers. Deputy Ministers are not members of the Cabinet and receive no extra salary. They support, advise and substitute for Ministers as needed. The extent to which Deputy Ministers are involved in the business of the Assembly and the Cabinet will be a matter for each Minister. Subject to that, Deputy Ministers can see submissions and advise Ministers on them; answer correspondence on behalf of an Assembly Minister; speak in Plenary on behalf of a Minister (except where Standing Orders require a Minister to do this); and attend outside meetings on behalf of an Assembly Minister.

2.30 Deputy Ministers cannot take executive decisions or exercise delegated functions; move or table motions where Standing Orders require a Minister to do

this; or answer Assembly Questions.

3. Assembly Ministers And the Assembly

Assembly Ministerial statements and announcements

3.1 When the Assembly is in session, Ministers will want to bear in mind the desire of the Assembly that the most important announcements of the Assembly's policy should be made, in the first instance, in the Assembly. Even when Assembly Ministerial announcements are not of major importance their timing may require careful consideration in order to avoid clashes with other Assembly Ministerial publications, statements or announcements or with the planned Assembly business.

3.2 If too many announcements are made by oral statement at the end of Questions, Assembly business could be hindered. Nevertheless, careful consideration should be given in the case of important or particularly sensitive issues to the desirability of making an oral statement rather than an announcement by Written Statement or by answer to a Written Assembly Question. Assembly Ministers proposing to make a statement after questions are asked to conform with the following procedure.

- a. As much notice as possible of the intention to make an announcement should be given to
 - i. the Minister for Assembly Business and the Head of the Business Unit.

This notification should indicate the broad content of the proposed announcement. If agreement in principle is given, a draft of the statement should be circulated to the same recipients as soon as possible, having been approved by the Assembly Minister with responsibility. Draft statements should be accompanied by background notes and Question and Answer briefing.

b. In the case of announcements by Written Answer, particular care must be taken to avoid making a press announcement before the Written Answer has been delivered to the AM who tabled the Question.

c. Assembly Ministers should not give undertakings, either in or

outside the Assembly, that an oral statement will be made to the Assembly on any subject at a specific time or within a particular period until agreement has been given to the proposed timing and the terms of the statement by the Minister for Assembly Business and the First Minister.

d. Copies of the final version of such announcements should be sent to the Minister for Assembly Business, the Head of the Business Unit and the head of the Plenary Business team as soon as they are available, but not less than 2 hours before the statement is due to be made in Plenary.

e. A copy of the text of any oral statement to be made at the end of Questions should usually be shown to the Opposition Parties Business Managers at least 30 minutes before it is made. Advance copies of such statements are provided in accordance with the agreed protocol for statements. However, there may be occasions when this will not be possible, for example, for reasons of market confidentiality.

f. Electronic copies of the statements will be sent to all Assembly Members via the Chamber web when the Minister making the statement stands to deliver it. All advance copies will be released on the assumption that Assembly Ministers can and will make changes to the statements up to and including the point when they are at the Lectern.

g. Every effort must be made to ensure that where a former Assembly Minister or Assembly Ministerial colleagues and/or a MP is mentioned in a statement or report which prompts an Assembly Ministerial statement, he or she is given as much notice as is reasonably possible.

h. Every effort should be made to avoid leaving significant announcements to the last day before a Recess

Supply of Assembly publications

3.3 The Minister for Assembly Business is responsible for presenting items of the Administration's Plenary business to the Table Office in accordance with Standing Order 6.12. Where a motion refers to one or more documents, they must have been made available to Members in advance. The nature of the motion and/or the document will determine whether it requires formal laying in the Table Office. Such documents are primarily made available electronically. However, Standing Order 6.12A allows documents to be made available to Members in hard copy or,

(where the size of the document means that it is not reasonably practicable to make it available by other means) by depositing a copy in the Members' Library.

4. Ministers and their Portfolios

Changes in Assembly Ministerial responsibilities

4.1 The First Minister is responsible for the overall organisation of the Cabinet and the allocation of functions between Ministers. Ministers cannot lawfully delegate or transfer functions to each other, and any Minister who wishes to propose such changes should thus discuss them with the First Minister. In all cases, though, decisions rest solely with the First Minister.

Arrangements during absence

4.2 Ministers' private secretaries should inform the Secretariat of any absences through sickness, holidays, etc so that appropriate arrangements can be made for their functions to be delegated to another Minister. Where the absence is, or appears likely to be, lengthy, Ministers will naturally wish to inform the First Minister personally. Absences on a day when the Minister is expected to answer oral questions should be dealt with in accordance with Standing Order 6.34 ie. another Minister may, with the prior consent of the Presiding Officer, answer questions on behalf of the absent Minister.

Special Advisers

4.3 The employment of Special Advisers on the one hand adds a political dimension to the advice available to Ministers, and on the other provides Ministers with the direct advice of distinguished "experts" in their professional field, while reinforcing the political impartiality of the permanent Civil Service by distinguishing the source of political advice and support. The First Minister has been given the power to appoint up to six special advisers. The appointment of special advisers are made to permanent or temporary Civil Service posts in accordance with the rules of the Civil Service Commissioners. All such appointments should be made, and all Special Advisers should operate, in accordance with the terms and conditions of the Model Contract for Special Advisers and the Code of Conduct for Special Advisers.

Appointments by Ministers

4.4 This should be read in conjunction with 'the National Assembly for Wales' Code of Practice for Ministerial Appointments to Public Bodies'.

Overall responsibility for ensuring that the public appointments procedures in Wales are in accordance with the Commissioner's Code of Practice rests with the First Minister. The First Minister may delegate responsibility for specific public appointments to Assembly Ministers. For certain high profile appointments, eg the Chair of the Welsh Development Agency, the First Minister may reserve for himself the role played in all other appointments by the relevant Assembly Minister.

4.5 Ultimate responsibility for public (non-Civil Service) appointments rests with the Minister concerned. Appointment on merit is the overriding principle within the appointments process. The Minister should have regard to public accountability, the requirements of the law and the Assembly's and Commissioner's Codes of Practice referred to above. The process by which such appointments are made should conform to the principles in the Codes - Ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency, and proportionality - and to the procedures set out in detail in the Codes.

4.6 The principles of equal opportunity and diversity must be inherent within the appointments process. Criteria for selection can take account of the need to appoint boards which include a balance of skills and background. The Assembly will take positive action wherever possible to attract suitable candidates from all sections of society, and this in turn, should lead to wider representation on public bodies. Ministers must however ensure that any initiative or positive action they take to encourage or achieve wider representation is within the law.

4.7 The Assembly's Code makes provision for the Assembly's principle of inclusivity. The relevant Assembly subject committee has a role in the scrutiny of those public appointments for which it has oversight. No appointment shall be made by an Assembly Minister without consultation with the relevant subject committee through its two nominees.

4.8 The First Minister should be consulted in good time about the appointment or re-appointment of:

- a. high profile Assembly Sponsored Public Bodies (both executive and advisory).

- b. Cases where the appointment is likely to have political significance.

Further guidance on this provision is given in the Assembly's 'Code of Practice for Ministerial Appointments to Public Bodies'

4.9 Any proposals by Ministers on public appointments should indicate that any salary proposals have been cleared by the Finance Minister if necessary.

5. Ministers and Civil Servants

5.1 Ministers have :

- a duty to give fair consideration and due weight to informed and impartial advice from civil servants, as well as to other considerations and advice, in reaching policy decisions;
- a duty to uphold the political impartiality of the Civil Service, and not to ask civil servants to act in any way which would conflict with the Civil Service Code;
- a duty to ensure that influence over appointments is not abused for partisan purposes;
- a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them.

5.2 Civil servants are under a duty to give honest and impartial advice to Ministers without fear or favour and this should underpin the relationship between Ministers and their civil servants. A copy of the Civil Service Code is at Annex C but does not form part of the code. Civil servants should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people paid from public funds are being used for party-political purposes. Civil servants should not be asked to attend conferences or public meetings convened by, or under the aegis of, party political organisations.

a. Ministers are responsible for issuing instructions to the staff provided by the Cabinet Executive to support them in their role as Ministers. These staff must not be used to support Ministers in their constituency capacity. In the case of any disagreement, the Permanent Secretary will instruct the Head of the Cabinet Executive on the functions, which may be carried out by staff provided by the Cabinet Executive.

5.4 If a Minister wishes to have a factual brief for a party political occasion to explain Assembly policies or actions, this can be provided on the same basis as information may be provided to any other Assembly Member, but it is not appropriate for a Minister to request preparation of a draft speech for such an occasion.

The role of the Accounting Officer

5.5 The Permanent Secretary is the Accounting Officer for the National

Assembly for Wales. The essence of the role is a personal responsibility for the propriety and regularity of the public finances for which he or she is responsible; for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. Section 98 of the Government of Wales Act 1998 provides that the Treasury may designate other members of Assembly staff as additional Accounting Officers to be responsible for a defined area of the Assembly's activities. Where such appointments are made, Ministers should have proper regard for their responsibilities.

5.6 The Accounting Officer has a particular responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness and value for money. If a Minister is contemplating a course of action which would involve a transaction which the Accounting Officer considers would breach the requirements of propriety or regularity, the Accounting Officer will set out in writing his or her objection to the proposal, the reasons for the objection and the duty to inform the Auditor General for Wales should the advice be overruled. If the Minister decides nonetheless to proceed, the Accounting Officer will seek a written instruction to take the action in question and send the relevant papers to the Auditor General for Wales. A similar procedure applies where the Accounting Officer has concerns as regards the value for money of a proposed course of action.

The role of Accounting Officers is described in detail in the memorandum, *The Responsibilities of an Accounting Officer* set out in Chapter 1, Annex 2 of the National Assembly Finance Manual.

Civil servants and Party Conferences

5.7 Ministers should not ask civil servants to attend, still less take part in, Party Conferences or meetings of policy or subject groups of any of the Parliamentary parties. Nor should civil servants in their official capacity accept invitations to conferences convened by, or under the aegis of, party political organisations except when their presence is required for carrying through essential Assembly business unconnected with the conference. An exception to this rule is made for Special Advisers who, under the terms of their contracts, may attend party functions, including the annual Party Conference (but they may not speak publicly at the conference) and maintain contact with party members. Ministers may be provided with factual brief for a party political occasion to explain Assembly policies or actions.

Contacts with outside interest groups, including Lobbyists

5.8 Ministers receive deputations from many outside interest groups which they will wish to consider as part of the formulation of Ministerial policy. The basic facts of formal meetings between Ministers and outside interest groups should be recorded, setting out the reasons for the meeting, and the names of those attending and the interests represented.

6. Ministers' Constituency and Party Interests

6.1 It is wrong in principle for Ministers to use for party or constituency work facilities provided at the Assembly's expense to enable them to carry out their official duties. This point of principle is reflected in the entitlement of Ministers to an Assembly salary in recognition of the time spent in attending to the interests of their constituents, and to the reimbursement of their secretarial expenses and the expenses of living away from home when attending to constituency business. Ministers should thus have their constituency work done at their own expense, as they would if they were Assembly Members.

6.2 Ministerial property should not generally be used for constituency work or party activities. Where Ministers host party events on Assembly property it should be at their own or party expense with no cost falling to the public purse.

6.3 Where Ministers have to take decisions on their own portfolios which might have an impact on their own constituencies, they should, take particular care to avoid any possible conflict of interest. Where necessary Ministers may refer matters to the First Minister for determination.

Welsh Administration Ombudsman

6.4 Unlike the current arrangements for submitting a complaint to the Parliamentary Commissioner for Administration (see below), members of the public can complain directly to the Welsh Administration Ombudsman (WAO) without having to enlist the support of an Assembly Member. However, before considering a complaint, the WAO would normally expect a complainant to have given the body being complained against an opportunity to put matters right through that body's own complaints procedure. The National Assembly for Wales has a "Code of Practice on Complaints" (the Code) which sets out the procedures for handling complaints.

6.5 Notwithstanding the provisions of paragraph 6.4 above, a Minister may on occasion be asked by a member of the public to submit a complaint to the WAO on his/her behalf. In such circumstances Ministers should, where possible, act no differently from other Assembly Members – particularly where the complainant is a constituent. The Minister should in the first instance make the complainant aware of the existence of the National Assembly's "Code of Practice on Complaints". Thereafter, the Minister should consider each request on its merits when deciding whether

- with the complainant's agreement and where the complaint falls within the scope of the National Assembly's Code of Practice on Complaints, to arrange for the complaint to be considered under the Code;
- to take up the complaint with the relevant Assembly Minister;
- to refer the complainant to another Minister (where the complaint is not from a constituent of the Assembly Minister);
- exceptionally, to refer the complaint to the WAO on the constituent's behalf; or
- to advise the complainant that there is no action the Minister can take.

Any Minister who is considering referring a complaint to the WAO should inform in advance the relevant Minister and the Permanent Secretary.

6.6 Where a complaint from a constituent concerns the Assembly Minister's own area of responsibility, the Minister should normally wish to investigate it personally unless he or she, or another Minister, has already been directly involved.

Deputations

6.7 Ministers are free to make their views about constituency matters known to the responsible Minister by correspondence, leading deputations or by personal interview provided they make clear that they are acting as their constituents' representative and not as an Assembly Minister. Particular problems arise over views expressed on planning applications and certain other cases involving exercise of discretion by Ministers (eg on school or hospital closures, highway or power station inquiries) in which representations intended to be taken into account in reaching a decision may have to be made available to other parties and thus may well receive publicity. Ministers should avoid criticism of the Assembly's policies, confine themselves to comments which could reasonably be made by those who are not Ministers, and make clear that the views they are putting forward are ones expressed in their capacity as Assembly Members. Once a decision has been announced, it should be accepted without question or criticism. It is important, in expressing such views, that Ministers do so in a way that does not create difficulty for Ministers who have to take the decision and that they bear in

mind the Cabinet's collective responsibility for the outcome. Ministers should also take account of any potential implications which their comments could have on their own portfolio responsibilities.

Lottery Bids

6.8 In order to avoid the impression that Ministers are seeking to influence decisions on awards of Lottery money, Ministers should not normally give specific public support for individual applications for Lottery funding. Where a Minister is a Member for an area with a potential Lottery application he or she should be guided by the principles set out in paragraph 6.7. Ministers lending support to a specific project should do so on the very clear understanding that it is in a constituency capacity.

7. Ministers' Visits

Ministers' visits overseas

7.1 Overseas visits should not normally be made while the Assembly is in session. Ministers should arrange such visits in the Recess or, where appropriate, at weekends, except where the visit is in connection with the business of the European Union or there are other compelling reasons of Assembly business. In particular, overseas visits which are largely of a fact-finding kind should be reserved for the Assembly Recess. Moreover, in planning overseas visits Ministers should take account of the fact that Cabinet meetings take precedence over all other business. Sufficient Ministers must also be available during Recesses to ensure effective conduct of Assembly business, and it may be necessary for this reason to restrict or reconsider absences abroad.

7.2 Any member of the Cabinet who wishes to be absent from the United Kingdom for any reason, except for visits to European Union (EU) countries on official business should seek the First Minister's written approval. This must be done before any commitment, even of an informal nature, is made. The reasons for the visit and a list of the countries to be visited should be given. Ministers should also indicate what the benefits of the visit would be. Copies of the letter should be sent to the Foreign and Commonwealth Office and to the Business Minister. Their views will be taken into account by the First Minister before reaching a decision.

7.3 Ministers' Private Secretaries should not themselves approach diplomatic posts direct nor should they make tentative preparations for overseas visits (other than those to EU countries on official business) before telling the Foreign and Commonwealth Office: arrangements for official Ministerial visits should invariably be put in the hands of the diplomatic post concerned.

7.4 Ministers should make it their personal responsibility to approve the size and composition of any Ministerial delegation for which they are responsible. The Cabinet Executive will retain a comprehensive and central record of travel by Ministers. This record should contain details of the numbers and costs of all Ministerial delegations whose travel has been at public expense including visits to EU countries for the purpose of attending meetings of EU Councils. The records should be maintained in such a way that an up-to-date list of visits and costs of such visits can be made available at short notice in the event of Ministers being asked to account for travel overseas. Ministers should give a lead in keeping down

the size of parties of visitors by keeping their own parties as small as possible.

Relations with other governments

7.5 Ministers should remember the importance of sending to the Foreign and Commonwealth Office a note of the salient points of any discussions which they may have with representatives of foreign or Commonwealth governments. This applies to informal discussions as well as those held in the course of official business.

Visits by Commonwealth or foreign Ministers

7.6 Ministers should inform the Foreign and Commonwealth Office before extending invitations to Ministers in other governments to pay official visits to this country; and in any case of doubt or difficulty, they should consult him or her. Ministers should also inform the Foreign and Commonwealth Office about all visits, which become known to them, whether private or official, by Ministers in other governments or by any other person of equivalent status, so that the security implications can be considered at the earliest possible stage.

Hospitality overseas

7.7 Ministers should not overlook the possible foreign policy implications of such day-to-day matters as offering hospitality to prominent political figures visiting this country, accepting social commitments of a similar kind, giving public support for petitions, open letters, etc. Such actions may be construed as significant by observers. In any case of doubt Ministers should consult the Foreign and Commonwealth Office before making commitments. In addition the Foreign and Commonwealth Office should be consulted whenever a Minister intends to make a speech touching on matters affecting foreign and Commonwealth affairs.

7.8 If it is thought that a Minister may need to provide entertainment while overseas, the advice of the Foreign and Commonwealth Office should be sought both on the desirability and on the form of such entertainment.

Ministers recalled from abroad

7.9 If a Minister is abroad with permission and is called home for Assembly

Ministerial or Assembly reasons - including to vote - the cost of the extra journey back and forth may be met by public funds.

Ministers ' visits

7.10 Ministers who are planning official visits to England, Scotland and Northern Ireland should inform the Minister in the country concerned. It is also customary to inform the Lord Chancellor of prospective visits to the Channel Islands and the Isle of Man.

7.11 It is the custom for a Minister when preparing to make a visit within Wales to inform the Assembly Members for the region, the Assembly constituency Member and the relevant MP for the area. Special care should be taken not to overlook this courtesy. Ministers cannot invite AMs or MPs to accompany them to functions organised by a third party, but adequate notice to the relevant AMs or MP will enable them to ensure that they have an opportunity to request invitations from local organisers to 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. Similar information should be provided when Ministers are visiting other parts of the UK, including to the relevant Members of the Scottish Parliament or Northern Ireland Assembly.

Expenses on travel and hospitality

7.12 In using official cars and travelling by rail or air, Ministers must always make efficient and cost-effective travel arrangements. Detailed guidance is set out in Annex B, *Travel by Ministers*. When Ministers travel on official business, their travel expenses should normally be borne by the Department. When any expenses are not met in this way, Ministers will wish to ensure that no undue obligation is involved.

7.13 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 government 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 transport from other organisations should not normally be accepted, except where 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 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 First Minister should be consulted.

Air Miles

7.14 Air Miles and other benefits earned through travel paid for from public funds, other than where they are *de minimis* (for example, access to special departure lounges or booking arrangements which go with membership of regular flier clubs), should be used only for official purposes or else foregone. However, if it is impracticable to use the benefits for Assembly travel, there is no objection to Ministers donating them to charity if this is permissible under the terms of the airline's scheme and the charity is one chosen by the airline.

Travelling expenses of spouses/ partners

7.15 The expenses of a Minister's spouse/partner when accompanying the Minister on official duties may occasionally be paid from public funds, provided that it is clearly in the public interest that he or she should accompany the Minister. For official engagements within Wales, this is at the discretion of the Minister who should consult the Permanent Secretary. The First Minister's prior written approval is however required for any arrangement whereby a Minister's spouse/partner may travel at public expense elsewhere.

Travelling expenses of Special Advisers

7.16 If necessary, a Minister may take a Special Adviser on an overseas visit at the public expense. The written approval of the First Minister should be obtained before a Special Adviser accompanies a Minister overseas.

Offers of hospitality, gifts, etc.

7.17 Detailed rules on the acceptance of gifts, services and hospitality can be found in chapter 10. As a general rule Ministers should not offer gifts or initiate an exchange. While this chapter makes clear that no Minister or member of their family should accept a gift from anyone which would, or might appear to, place him or her under an obligation, there may be difficulty in refusing a gift from another government (or organisation) without the risk of apparent discourtesy. On the other hand the acceptance of a gift or the knowledge that one will be offered may in some countries and in some circumstances entail the offer of a gift in exchange. In deciding whether to accept gifts from or offer gifts to members of other governments (or organisations), Ministers should wherever possible consult the Permanent Secretary if they are in any doubt about the matter.

Foreign decorations

7.18 Ministers should not, while holding office, accept decorations from foreign countries.

8. Accountability to the Assembly

8.1 In their dealings with the committees and sub-committees established by the Assembly, Ministers should be as open as possible and make available any information requested, subject to Standing Order 17, on access to information by Members and the public; the Assembly's codes on access to information; the need to protect information given in confidence by other bodies or individuals; and the Minister's responsibility to the First Minister as a member of the Assembly Cabinet.

8.2 Each Minister who has been given specific policy responsibilities will be a member of the equivalent Subject Committee. The Committee will be involved in scrutinising and developing the strategic policy objectives for the Assembly in its particular field. Ministers should seek to make full use of the expertise and views of Subject Committees.

8.3 Each Minister should make as much information as possible available to the Committee, subject to the need to protect the confidentiality of certain documents or the confidentiality of advice to Ministers from Assembly staff. Where the Committee requests further specific information, the Minister should make this available except where such documents or information are exempted from disclosure by Standing Orders or the Code of Practice on the Provision of Information to Assembly Members.

8.4 A Minister will (as a Member) be a member of the regional committee or committees which includes his or her constituency or electoral region. A Minister (in his or her capacity as a member of the Assembly Cabinet) may also be asked to help that of another regional committee in its work while it is considering issues that fall within the Minister's responsibilities. The Minister should be careful to make clear at all times the capacity in which he or she is contributing to the work of a regional committee.

8.5 Ministers may also be members, or be asked to help the work, of other committees and sub-committees (except the Audit Committee and the Legislation Committee established by the Assembly). In all cases, the principles of openness and availability of information should be applied in order to help the work of the Assembly, subject to the rules on access to information agreed by the Assembly.

9. Ministers and the Communication of Policy

Communication of Policy

9.1 Official facilities financed out of public funds can be used for Assembly Ministerial 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 Government Information Service are set out in *Guidance on the Work of the Government Information and Communication Service*.

9.2 In order to ensure the effective presentation of the Assembly's policy, all submissions relating to major interviews and media appearances, both print and broadcast, should be copied to the First Minister before any commitments are entered into. The timing and form of announcements should be co-ordinated between Ministers to ensure that there is no overlap. The First Minister should also be consulted on matters that either effect the conduct of the Assembly as a whole or are of a constitutional character. The Foreign and Commonwealth Office should always be consulted before any mention is made of matters affecting Foreign and Commonwealth affairs of dependant territories. Ministers wishing to refer in a speech or any other public statement to Assembly expenditure matters should consult the Finance Minister beforehand.

Press conferences

9.3 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 Press Office. All press conferences are on the record and open to any representative of the media. It is often the practice of Ministers to give separate radio and TV interviews afterwards in order to secure the most effective presentation of their views or announcement.

Publication of Consultation Papers

9.4 Before publishing a Consultation Paper, the Minister should consider whether it raises issues which require full collective consideration, and therefore require clearance through the Cabinet. Any consultation paper containing a major statement of policy should be circulated to the Cabinet before publication by the Secretariat to the Cabinet.

9.5 Except where such consultation papers are of a routine character or of minor importance, the timing of their publication is governed by similar considerations to those applying to announcements made in the Assembly.

Speeches

9.6 Ministers cannot speak on public affairs for themselves alone. In all cases, other than those described in paragraph 6.7, they speak as Ministers; and the principle of collective responsibility applies. They should ensure that their statements are consistent with collective Ministerial policy and should not anticipate decisions not yet made public. Ministers should exercise special care in 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 responsibilities should consult that Minister. See also paragraph 9.2 above.

9.7 Ministers should use official machinery for distributing texts of their speeches only when such speeches are made on official occasions and deal with Ministerial policy as distinct from party policy. Speeches made in a party political context should be distributed through the party machinery. If exceptionally a Minister makes a policy announcement on an essentially party occasion, the Press Office will provide public information about the announcement, excluding any party political content. Press Officers will not normally attend such occasions.

9.8 Ministers should not accept payment for speeches of an official nature or which directly draw on their responsibilities or experience as Ministers, either on their own account or the Assembly's account, or with a view to donating the fee to charity. If the organisation inviting the Minister insists on making a donation to a charity then it should be a charity of the organisation's choice. This is to avoid any criticism that a Minister is using his or her official position to influence or take the credit for donations to charity.

Broadcasts by Ministers

9.9 The provisions of paragraphs 9.1 to 9.3 apply to Ministerial broadcasts as well.

9.10 Radio and television broadcasts by Ministers are of three types: party political; special broadcasts by Ministers; and interviews with Ministers for news and feature programmes:

- a. Party-political broadcasts on radio and television are arranged through the Party machine;
- b. the broadcasting authorities may provide opportunities within the regular

framework of their programmes for Ministers to give factual explanations of legislation or policies approved by the Assembly, or to seek the co-operation of the public on matters where there is a general consensus of opinion. The Opposition have no automatic right of reply;

- c. Ministers will often wish to (or be invited to) be interviewed in relation to new or changing policies. This can either be as part of a general news or feature programme.

9.11 Ministers invited to broadcast on radio and television in a private and not a Ministerial capacity will wish to consider if such a broadcast would have a bearing on another Minister's portfolio in which case they should clear the matter with the colleague concerned before agreeing to the invitation. Ministers invited to take part in programmes to be broadcast outside the United Kingdom should consult the Foreign and Commonwealth Secretary and any other Minister who may be concerned with the subject of the broadcast. Ministers invited to broadcast while on a visit to another country should seek the advice of Her Majesty's Representative in that country. Ministers will wish to use their discretion as to whether the nature of any such invitation at home or abroad is such that they should consult the First Minister before agreeing to broadcast.

Press articles

9.12 Ministers may contribute occasionally to a book, journal or newspaper (including a local newspaper in their constituency) for the purpose of supplementing other means of informing the public about the work of the Assembly provided that publication will not be at variance with their obligations to the Assembly and their duty to observe the principle of collective Ministerial responsibility. Any Minister wishing to practice regular journalism, including the contribution of weekly or fortnightly articles to local newspapers in their constituencies, must have the prior approval of the First Minister. In cases of doubt, and in all cases where a Minister is contemplating the contribution of an article going beyond the strict confines of his or her portfolio responsibility, the First Minister should be consulted, before work has begun and in any case before any commitment to publish is entered into. In all cases where an article contains material which falls within the portfolio responsibility of another Minister, that Minister must be consulted.

9.13 Ministers are advised not to engage in controversy in the correspondence columns of either the home or the overseas press. Ministers may however see

advantage in correcting serious errors or misstatements of fact which lead to false conclusions. Such letters should be brief and confined to the exposition of facts.

9.14 Ministers should not accept payment for official broadcasts or for writings either on their own or on the Assembly's account, or with a view to donating the fee to charity. If the organisation receiving the Minister's written contribution insists on making a donation to a charity then it should be a charity of the organisation's choice. This is to avoid any criticism that a Minister is using his or her official position to influence or take the credit for donations to charity.

Books

9.15 Ministers may not, while in office, write and publish a book on their Assembly Ministerial experience. Nor, while serving as a Minister, may they enter into any agreement to publish their memoirs on leaving their Ministerial position, without the agreement of the First Minister. Former Ministers are required to submit their manuscript to the Permanent Secretary and to conform to the principles set out in the Radcliffe Report of 1976 (Cmnd 6386) (see paragraphs 2.16 and 2.17 above). Ministers may not receive payment for a book written before becoming a Minister if the decision to publish was taken afterwards.

Party and other publications

9.16 The rule in paragraph 9.15 does not debar Ministers from contributing to the publications of the political organisations with which they are associated. However, in all cases where an article contains material which falls within the portfolio responsibility of another Minister, that Minister must be consulted. Payment should not be accepted for articles which draw on Ministerial experience or which have been prepared with any assistance from public resources.

9.17 The restrictions on the practice of journalism by Ministers in paragraphs 9.13 - 9.16, does not extend to writings of a literary, sporting, artistic, musical, historical, scientific, philosophical or fictional character which do not draw on their Assembly Ministerial experience. While payment for the occasional piece is acceptable, regular payments are not.

9.18 Ministers are sometimes asked to give interviews to historians or to other persons 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 the possibility that their views may be reported in a manner incompatible with their responsibilities and duties as members of the Assembly's Cabinet. Careful consideration should therefore be given to such invitations before they are accepted; in cases of doubt, the First Minister should be consulted.

Complaints

9.19 Ministers who wish to make a complaint against a journalist or a particular section of the media either to the Press Complaints Commission or to the Broadcasting Standards Commission must have the authority of the First Minister.

10. Ministers' Private Interests

General principle

10.1 Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise. As Assembly Members, Ministers are also bound by the rules on registration and declaration of interests set out in Standing Order 4 and the accompanying Annex.

Responsibility for avoiding a conflict

10.2 It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, and to defend that decision, if necessary by accounting for it in the Assembly. The role of the Permanent Secretary is to ensure that advice is available when it is sought by the Minister, either by providing it personally, drawing on precedent or by securing the services of a professional adviser. In cases of serious difficulty or doubt the matter may be referred to the First Minister for a view. But ultimately it is the responsibility of Ministers individually to order their own private lives in such a way as to avoid criticism, and the final decision about what action to take to achieve that is theirs.

Procedure

10.3 Notwithstanding the provisions of Standing Order 4, Ministers are advised to provide their Permanent Secretary with a full list in writing of all interests which might be thought to give rise to a conflict. The list should cover not only the Minister's personal interests but those of a spouse or partner, of children who are minors, of trusts of which the Minister or a spouse or partner is a trustee or beneficiary, or of closely associated persons. The list should cover all kinds of interest including financial instruments and partnerships, financial interests such as unincorporated businesses and real estate, as well as relevant non-financial private interests such as links with outside organisations, and previous relevant employment.

10.4 On receipt of the written list the Permanent Secretary will arrange a meeting with the Minister to discuss it and to consider what advice is necessary and from what source, and what further written information is needed. The Permanent Secretary will stand ready either to give a considered view on the issues which the Minister raises, drawing on precedent or by arranging for expert or professional advice also to be made available to the Minister from inside or outside the

Assembly. At the end of the exercise Ministers are advised to record in writing what action has been considered and taken, and to provide the Permanent Secretary with a copy of that record.

10.5 Where it is proper for a Minister to retain a private interest it is the rule that he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it and that the Minister should remain entirely detached from the consideration of that business. Similar steps may be necessary if a matter under consideration in the Assembly relates in some way to a Minister's previous or existing private interests such that there is or may be thought to be a conflict of interest. Particular care needs to be taken where financial interests are involved: see paragraphs 10.11 to 10.18 below.

10.6 The personal information which Ministers disclose to those who advise them is treated in complete confidence and may not be disclosed without their permission. If an allegation is made that a particular Minister has a conflict of interest it must be for that Minister to explain his or her position and justify what has been done. In doing so it is open to them to confirm (if it is the case) that they have consulted their Permanent Secretary in accordance with this Code. The Minister should however consult the Permanent Secretary about the content of any such statement before making it to ensure that there is agreement about the content, and any disagreement should be referred to the First Minister.

10.7 The intention of these procedures is not to inhibit the holding of Ministerial office by individuals with wide experience, whether of industry, a profession or some other walk of life, but to ensure that systematic steps are taken to avoid the danger of an actual or perceived conflict of interest. The following paragraphs set out in more detail particular measures which should be taken.

Public appointments

10.8 When they take up office Ministers should give up any other public appointment they may hold. Where it is proposed that such an appointment should be retained, the First Minister must be consulted.

Ministers may apply for Assembly public appointments whilst in office on the understanding that they would have to resign as Ministers and Assembly members should an offer of a post be made and should they wish to accept it.

Ministers, like other Assembly members and staff, are asked not to provide references for candidates applying for public appointments. Such references cannot be accepted.

Non-public bodies

10.9 Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree conflict with Assembly Ministerial policy and thus give rise to a conflict of interest. Hence Ministers should not normally accept invitations to act as patrons of or otherwise offer support to pressure groups, or organisations dependent in whole or in part on Assembly funding. There is normally no objection to a Minister associating him or herself with a charity (subject to the points above) but Ministers should take care to ensure that in participating in any fund-raising activity, they do not place, or appear to place, themselves under an obligation as Ministers to those to whom appeals are directed (and for this reason they should not normally approach individuals or companies personally for this purpose). In any case of doubt, the First Minister should be consulted before a Minister accepts an association with such bodies. Ministers should also exercise care in giving public support for petitions, open letters etc.

Trade unions

10.10 There is, 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 give up 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 is acceptable).

Financial interests

10.11 Ministers must scrupulously avoid any danger of an actual or apparent conflict of interest between their Ministerial position and their private financial interests. In order to avoid such a danger, they should be guided by the general principle that they should either dispose of any financial interest giving rise to the

actual or apparent conflict or take alternative steps to prevent it. It is particularly important that the procedure described in paragraphs 10.3 and 10.4 is followed in the case of financial interests. The Permanent Secretary as Accounting Officer has a personal responsibility for financial propriety and regularity across the Assembly's business, and his or her advice must be given particular weight where such issues arise.

10.12 Two particular ways in which a conflict of financial interest, or the perception of it, can arise are as follows:

- a. from the exercise of powers or other influence in a way that does or could be considered to affect the value of interests held; or
- b. from using special knowledge acquired in the course of their Assembly Ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to their private financial interests.

10.13 Apart from the risk to the Minister's reputation, two legal obligations must be borne in mind:

- a. any exercise or non-exercise by a Minister of a legal power or discretion or other influence on a matter in which the Minister has a pecuniary interest could be challenged in the courts and, if the challenge is upheld, could be declared invalid. The courts interpret conflict of interest increasingly tightly;
- b. Ministers are bound by the provisions of Part V of the Criminal Justice Act 1993 in relation to the use or transmission of unpublished price-sensitive information obtained by virtue of their Ministerial office.

Financial interests: alternatives to disposal

10.14 If for any reason the Minister is unable or unwilling to dispose of a relevant interest, he or she should consider, with the advice of the Permanent Secretary and, where necessary, of external advisers, what alternative measures would sufficiently remove the risk of conflict. These fall into two types: those relating to the interests themselves, and those relating to the handling of the decisions to be taken or influenced by the Minister him/herself.

Steps to be taken where financial interests are retained

10.15 As regards steps other than disposal which might be taken in relation to interests, the Minister might consider placing all investments (including derivatives) into a 'blind' trust, ie one in which the Minister is not informed of changes in investments or of the state of the portfolio, but is still fully entitled to both the capital and income generated. A blind trust is only blind in the case of a widely-spread portfolio of interests, managed by external advisers. Once a blind trust has been established the Minister should not be involved or advised of decisions on acquisition or disposal relating to the portfolio. Ministers should remember that Part VI of the Companies Act 1985 allows companies to require information as to the true owners of its shares, which could result in the fact of an Assembly Minister's interest becoming public knowledge despite the existence of a trust. It should also be remembered that even with a trust the Minister could be assumed to know the contents of the portfolio for at least a period after its creation, so the protection a trust offers against conflict of interest is not complete. Alternatively a power of attorney may be suitable. However, this is a complex area and the Minister should seek professional advice because, among other things, there may be tax consequences in establishing this kind of arrangement.

10.16 Another step which (perhaps in conjunction with other steps) might provide a degree of protection would be for the Minister to accept an obligation to refrain from dealing in the relevant shareholdings etc for a period.

10.17 Unless adequate steps can be taken in relation to the financial interests themselves, the Minister and the Assembly must put processes in place to prohibit access to certain papers and ensure that the Minister is not involved in certain decisions and discussions. The extent to which this can be done depends on the specific powers under which the Minister would be required to take decisions. For example, it will normally be possible without risk of legal challenge to pass the handling of the matter to another Minister or appropriate official in the Assembly. In such cases, legal advice should always be sought to ensure that the relevant powers can be exercised in this way.

10.18 In some cases, it may not be possible to devise such a mechanism to avoid actual or perceived conflict of interest, for example because of the nature or size of the investment or the nature of the Assembly's work. In such a case, or in any case where, after taking legal advice and the advice of the Permanent Secretary, the Minister is in doubt whether adequate steps have been or can be taken, he or she should consult the First Minister. In such a case it may be necessary for the

Minister to cease to hold the office in question.

Partnerships

10.19 Ministers who are partners, whether in professional firms, for example solicitors, accountants etc, or in other businesses, should, on taking up office, cease to practise or to play any part in the day-to-day management of the firm's affairs. They are not necessarily required, however, to dissolve their partnership or to allow, for example, their annual practising certificate to lapse. Beyond this it is not possible to lay down precise rules applicable to every case; but any continuing financial interest in the firm would make it necessary for the Minister to take steps to avoid involvement in relevant decisions, as described in paragraph 10.17 above. Ministers in doubt about their personal position should consult the First Minister.

Directorships

10.20 Ministers must resign any directorships they hold when they take up office. This applies whether the directorship is in a public or private company and whether it carries remuneration or is honorary. The only exception to this rule is that directorships in private companies established in connection with private family estates or in a company formed for the management of flats of which the Minister is a tenant may be retained subject to the condition that if at any time the Minister feels that conflict is likely to arise between this private interest and public duty, the Minister should even in those cases resign the directorship. Directorships or offices held in connection with charitable undertakings should also be resigned if there is any risk of conflict arising between the interests of the undertakings and the Assembly.

Membership of Lloyd's

10.21 Ministers who are underwriting members of Lloyd's should not take an active part in the management of the affairs of syndicates of which he/she is a member, and should on appointment as a Minister withdraw from any such active participation in its management. Ministers with underwriting connections to Lloyd's (whether past or present) should seek the advice of the Permanent Secretary in the unlikely event that there are implications for handling Assembly discussions or collective decisions which are not always obvious.

Nomination for prizes and awards

10.22 From time to time, the personal support of Ministers is requested for nominations being made for international prizes and awards, eg, the annual Nobel prizes. Ministers should not sponsor individual nominations for any awards, since it would be inevitable that some people would assume that Ministers were themselves giving their sponsorship to nominees.

Acceptance of gifts and hospitality

10.23 It is a well established and recognised rule that no Minister or public servant should accept gifts, hospitality or services from anyone which would, or might appear to, place him or her under an obligation. The same principle applies if gifts etc are offered to a member of their family.

10.24 This is primarily a matter which must be left to the good sense of Ministers. But any Minister in doubt or difficulty over this should seek the First Minister's guidance. The same rules apply to the acceptance of gifts from donors with whom a Minister has official dealings in this country as to those from overseas (paragraph 7.17 above), that is:

- a. Receipt of gifts should, in all cases, be reported to the Head of Cabinet Executive ;
- b. Gifts of small value (currently up to £125) may be retained by the recipient;
- c. Gifts of a higher value should be handed over to the Assembly for disposal, except that
 - i. The recipient may purchase the gift at its cash value (abated by £125). If the gift is worth more than this it should be declared in the Register of Members' Interests as well as to the Head of Cabinet Executive under (a) above. *The threshold for the registration of gifts in the Register of Members' Interests is currently set at £125 (July 2001 Report of Members' Interests, paragraph 3).*
 - ii. If the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained
 - iii. If appropriate, the gift may be displayed or used in the Assembly

iv. If the disposal of the gift would cause offence or if it might be appropriate 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 Assembly for this purpose for a period of up to five years;

d. Gifts received overseas worth more than the normal travellers' allowances should be declared at importation to Customs and Excise who will advise on any duty and 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 attract.

10.25 Gifts given to Ministers in their Assembly Ministerial capacity become the property of the Assembly and do not need to be declared in the Register of Members' Interests unless the Minister wishes to keep the gift (if it is below the threshold of £125) or to purchase it (see paragraph 10.24). Gifts given to Ministers as Assembly Members fall within the rules in Standing Order 4 and Annex A.

10.26 In the event of a Minister accepting hospitality on a scale or from a source which might reasonably be thought likely to influence Assembly Ministerial action, it should be declared in the Assembly's Register of Members' Interests. Registration of hospitality would normally be required for hospitality over £170 in value.

Provision of hospitality by Ministers

10.27 The provision of hospitality by Ministers will be met out of public funds. Hospitality will be provided by Ministers for outside organisations, visiting dignitaries and key events where it is deemed appropriate to make such a provision. Care should be taken to avoid any criticism that public funds are being used inappropriately.

Acceptance of appointments after leaving Ministerial office

10.28 On leaving office, Ministers should seek advice from the independent Advisory Committee on Business Appointments about any appointments they wish to take up within two years of leaving office, other than unpaid appointments in non-commercial organisations or appointments in the gift of the Assembly, such as Assembly Ministerial appointments to international organisations. Although it is in the public interest that former Ministers should be able to move into business or other areas of public life, it is equally important that there should be no cause for

any suspicion of impropriety about a particular appointment. If therefore the Advisory Committee considers that an appointment could lead to public concern that the statements and decisions of the Assembly Minister, when in the Assembly, have been influenced by the hope or expectation of future employment with the firm or organisation concerned, or that an employer could make improper use of official information to which a former Minister has had access, it may recommend a delay of up to two years before the appointment is taken up, or that for a similar period the former Minister should stand aside from certain activities of the employer.

11. Assembly Ministerial Pensions

Participation in the National Assembly for Wales Members' Pension Scheme

11.1 Ministers have the option of participating in the National Assembly for Wales Members' Pension Scheme in respect of their Assembly salary. The National Assembly for Wales Fees Office will provide details of the pension benefits and the contributions payable. Ministers who have accrued pension rights in another pension scheme may, if they elect to participate in the Assembly Scheme in respect of their Assembly salary, and if the rules of the other scheme permit, opt to have the value of those accrued rights transferred to the Scheme. The Fees Office will advise on the additional benefits, which would be secured by such a transfer payment. Ministers interested in pursuing this option should note that time limits may apply and an early discussion with the Fees Office is recommended.

Participation in other pension schemes

11.2 Ministers with accrued pension rights in another pension scheme who do not (or cannot) elect for a transfer payment may leave these as "preserved" rights in the other scheme, with no further contributions being payable during their tenure of office. Alternatively, if the rights are secured by an insurance policy (and assuming that the rules of the other scheme and the policy itself so permit) the policy could be transferred to them, either on a paid-up basis or with the right to continue payment of the premiums themselves (subject to Inland Revenue limits). Similarly, a Minister may wish to continue contributing to an existing retirement annuity contract or personal pension scheme. Ministers must be aware, though, that under no circumstances can they participate in the Assembly Scheme if they wish to continue as a contributing member of another pension arrangement (of whatever type) in respect of their Assembly salary.

11.3 Ministers who expect to resume their former employment on ceasing to hold Assembly office and who elect not to participate in the Assembly Scheme in respect of their Assembly salary may remain in active membership (that is, with continued payments of contributions, and with their period of office counting as continued pensionable employment) of any pension scheme relating to that employment provided that this can be done under the rules of the scheme. In these circumstances the continued contributions may be paid by the Minister alone, or by the former employer alone, or jointly, depending on the rules of the other scheme. As noted in paragraph 11.2, Ministers would not, in these circumstances, be able to participate in the Assembly Scheme in respect of their Assembly salary.

11.4 It must be emphasised that any arrangements made under paragraph 11.3 must not go outside the terms of the particular pension scheme. There would be no objection to a general alteration of the rules of a scheme when this is necessary to permit such arrangements; but approval could not be given for the addition to the scheme of a special provision relating only to the tenure of an Assembly Office. If Ministers have any doubts about the propriety of any arrangements they intend making, the First Minister's Private Secretary may be consulted.

11.5 Ministers who elect not to participate in the Assembly Scheme in respect of their Assembly salary, and who make no arrangements of the kind set out in paragraph 11.3, may wish to pay premiums to a personal pension or stakeholder pension scheme to provide additional pension etc, benefits for themselves or provision for their families in the event of death. Such contracts are issued subject to the limitations and conditions laid down in the Tax Acts. Tax relief on premiums is limited to a percentage of the Assembly salary. This percentage is age-related, being 17.5% for individuals up to 35, rising to 40% for those aged 61 and over.

11.6 The taxation effects of arrangements such as are mentioned in the paragraphs above may vary according to the Assembly Minister's particular circumstances. The Controller, Inland Revenue Pension Schemes Office, PO Box 62, Yorke House, Castle Meadow Road, Nottingham, NG2 1BG, will be willing to explain the effects for tax purposes of any proposed arrangements under paragraph 11.3, he will also give, on request, further information on the legislation and reliefs available in respect of retirement annuity contracts or personal pension schemes.

Annex A

The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

Annex B

Official Travel

Allocation of Official Cars

1. Ministers will be provided with official cars. These will also be made available to the Permanent Secretary and the Counsel General.
2. Ministers should use an official car for any purpose (other than Party or private business) which will secure a saving of their time.
3. Ministers are permitted to use an official car for home to office journeys during the week or at the weekends on the understanding that they would normally be carrying papers on which they would be working.
4. When travelling on official business a Minister may use a private car instead of an official car and claim mileage allowance in the same circumstances and on the same terms as Assembly Civil Servants.
5. Subject to the general rules set out in this Annex, an Assembly Minister's spouse or partner may use the car for official engagements. Official cars may not normally be used by the spouses or partners or other family members of Ministers in connection with private or political functions or engagements.
6. Official car drivers should not be expected to work excessively long hours and Ministers travelling to North Wales or on other long journeys should ensure that sufficient rest periods (including an overnight stay where necessary) are built into their schedule. Ministers should therefore endeavour to use taxis for short official journeys late at night and at weekends Ministers should also be prepared to make use of other forms of transport where practicable.
7. Official cars should not be used for journeys on party business such as constituency visits or attendance at party meetings. These should be kept entirely separate from official engagements. Car drivers are required to keep log sheets of journeys made by Ministers.
8. Ministers have first call on official cars. Where there is a high call on official cars, it may be appropriate for Ministers to be driven in hired chauffeur driven cars.

9. Deputy Ministers will usually make their own travel arrangements to any engagements that are carried out on behalf of a Minister unless an official car has already been booked for the Minister who has asked the Deputy Minister to attend in his or her absence.

Rail Travel

10. Ministers qualify for first class travel

Air Travel

11. Ministers have discretion to use civil scheduled flights in this country and abroad if they consider that this will save time. Wherever possible British airlines should be used but if the route or time of a Minister's journey makes this impossible, subject to any security restraints which may apply, a scheduled flight on a foreign airline may be taken.

12. Ministers may travel by the best available class for flights lasting longer than two and a half hours but should normally travel by Club or economy class on flights of less than two and a half hours.

Flights in privately-chartered aircraft

13. Flights in privately-chartered aircraft may be authorised when a scheduled service is not available, when it is essential to travel by air but the requirements of Assembly business, security considerations or urgency preclude the journey being made by a scheduled service. Approval for such flights should only be given in exceptional circumstances where it can be demonstrated that there is no other alternative, and should be sought from the First Minister.