

SECTION 11: MINISTERS' BUSINESS OR PRIVATE INTERESTS

- 11.1. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests (financial or otherwise). They should normally make their own decisions on how best to proceed. Where there is a doubt it will almost always be better to relinquish or dispose of the interest but Ministers should submit any such case to the First Minister and deputy First Minister, through the Secretary to the Executive Committee, for their advice.
- 11.2 Where a Minister wishes to retain a private interest, it is the rule that he or she should signal that interest by registering it in the Assembly's Register of Interests. If business related to a Minister's private interests is to be discussed with colleagues, that Minister must declare the interest, and remain entirely detached from the consideration of that business. Similar steps may be necessary should a matter under consideration in the department relate in some way to a Minister's previous private interests such that there is or may be thought to be a conflict of interest.

Public Appointments

- 11.3. When he or she takes up office, a Minister should normally give up any other public appointment, including membership of District Councils. Where it is proposed that such an appointment should be retained, the First Minister and deputy First Minister must be consulted through the Secretary to the Executive Committee.

Non-public bodies

- 11.4. Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives may in any degree conflict with the Northern Ireland Assembly's Programme of Government 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 on the Assembly for funding either in whole or in part. There is normally no objection to a Minister associating himself 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 and deputy First Minister should be consulted, through the Secretary to the Executive Committee, 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

- 11.5 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

- 11.6 Ministers must scrupulously avoid any danger of an actual or apparent conflict of interest between their Ministerial position and their private financial interests. Such a conflict, or the perception of it, can arise:
- a. from 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 Ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to their private financial interests.
- 11.7 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.
- 11.8 These risks attach not only to the Minister's personal interests, but to those of a spouse or partner, to those 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. They relate to all kinds of financial interests, including not only all kinds of financial instrument but also such interests as partnerships, un-incorporated businesses, real estate etc.
- 11.9 It is not intended to inhibit the holding of Ministerial office by individuals with wide experience, whether of industry, a profession or some other walk of life. In order to avoid the danger of an actual or perceived conflict of interest, Ministers should be guided in relation to their financial interests by the general principle that they should either dispose of any financial interest giving rise to the actual or perceived conflict or take alternative steps to prevent it.

- 11.10 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 of the department 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.
- 11.11 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 bare 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. This course would normally be useful only in the case of a widely-spread portfolio of interests. 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. Ministers should remember that Part VII of the Companies (NI) Order 1986 allows companies to require information as to the true owners of its shares, which could result in the fact of a 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. 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.
- 11.12 Unless adequate steps can be taken in relation to the financial interests themselves, the Minister must seek to avoid involvement in relevant decisions. The extent to which this can be done depends on the specific powers under which the Minister would be required to take decisions.
- 11.13 In some cases, it may not be possible to avoid an actual or perceived conflict of interest, for example because of the nature or size of the investment or the nature of the department'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 and Deputy First Minister, through the Secretary to the Executive Committee. In such a case it may be necessary for the Minister to cease to hold the office in question.
- 11.14 In addition to this general guidance:
- a. Partnerships.

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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 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. Ministers in doubt about their personal position should consult the First Minister or the deputy First Minister, through the Secretary to the Executive Committee.

b. Directorships.

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, he or she should resign the position. 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 Government.

- 11.15 In all cases concerning financial interests and conflict of interest Ministers may wish to consult financial advisers as to the implication for their (or their family's) affairs of any action which they are considering to avoid any actual or potential conflict of interest. They should also consult the Permanent Secretary in charge of their department, who as Accounting Officer, has a personal responsibility for financial propriety and regularity. It is, in the end, for Ministers to judge (subject to the decision of the First and deputy First Ministers in cases of doubt) what action they need to take; but they should record, in a minute to the Permanent Secretary, whether or not they consider any action necessary, and the nature of any such action taken then or subsequently to avoid actual or perceived conflict of interest.

Membership of Lloyd's

- 11.16 Any Minister who is a member of Lloyd's should abide by the guidance set out in Appendix E to this document.

Nominations for International Awards

- 11.17 From time to time, the personal support of Ministers may be requested for nominations being made for international prizes and awards, eg, the annual Nobel prizes. Ministers should not normally sponsor individual nominations for any awards, to avoid the perception that the NI Administration was itself thereby giving sponsorship.

SECTION 12: ACCEPTANCE OF GIFTS HOSPITALITY AND SERVICES

12.1 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. The same principle applies if gifts etc. are offered to a member of their family.

12.2 This is primarily a matter for decision by Ministers. But any Minister in doubt or difficulty over this should seek the guidance of the Secretary to the Executive Committee. The rules applying to the acceptance of gifts from donors with whom a Minister has official dealings are as follows:

- a. Each Minister's Private Office should keep a Register of Gifts and Hospitality recording both offers made and acceptances/ refusals. Receipt of gifts should, in all cases, be reported to the Permanent Secretary;
- b. Gifts of small value (currently this should be put at up to £140) may be retained by the recipient;
- c. Gifts of a higher value should be handed over to the department for disposal, except that:
 - (i) The recipient may purchase the gift at its cash value (abated by £140);
 - (ii) If the recipient wishes to reciprocate with, and pay for, a gift of equivalent value, the gift received may be retained;
 - (iii) If the department judges that it would be of interest, the gift may be displayed or used in the department;
 - (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 department for this purpose for a period of up to five years;
- d. While rules a - c make it 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 governmental 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. As a general rule Ministers should not offer gifts or initiate an exchange. In deciding whether to accept gifts from or offer gifts to members of governments (or governmental organisations) Ministers should wherever possible consult their Permanent Secretaries who will be able to advise them. Gifts received overseas

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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;

- e. In the event of a Minister accepting hospitality on a scale or from a source which might reasonably be thought likely to influence Ministerial action, it should be declared to the Northern Ireland Assembly Register of Members' Interests.

SECTION 13: OUTGOING MINISTERS: ACCEPTANCE OF OUTSIDE APPOINTMENTS

13.1 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 members of the Executive Committee. 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 Minister, when a member of the Executive Committee, 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.