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Llywodraeth Cynulliad Cymru

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Welsh Assembly Government

June 2007

The public having placed their trust in us to serve on their behalf, as Ministers, expect us to behave according to the highest standards. The Ministerial Code, attached, sets out the principles and standards to which I expect all Ministers to adhere.

The Code should be read in conjunction with the Civil Service Code which sets out the behaviour expected of the civil service staff working to the Assembly Government. That Code has not yet been finalised although it will be circulated to Ministers for inclusion with the Ministerial Code as soon as it is available.

Finally, the Code provides advice on the role of the Counsel General. Once a Counsel General has been appointed I may need to provide further advice on their role. Any changes to the Code in this regard will also be circulated to Ministers in due course.

Yours
Rhodri



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

MINISTERIAL CODE

A Code of Ethics and Procedural Guidance for Ministers and Deputy
Ministers

WELSH ASSEMBLY GOVERNMENT
JUNE 2007

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PART 1 – MINISTERIAL CODE OF ETHICS

1. Ministers

1.1 In the performance of their duties, Ministers are expected to behave according to the highest standards of constitutional and personal conduct. In particular, they are expected to observe the Seven Principles of Public Life (as listed in Annex A) and the following principles of Ministerial Conduct:

- i) Ministers must uphold the principle of collective responsibility, as defined in Section 6
- 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 or would cause, or be likely to cause, substantial harm in accordance with the relevant legislation and the Code of Practice on Public Access to Information;
- 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 Members.
- ix) Ministers must not use the Assembly Government'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.

1.2 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 and Deputy Ministers and the Counsel General (unless otherwise stated). It should be read against the background of the duty of Ministers to comply with the law, including international law and treaty obligations; to observe the general obligations listed above; and to protect the integrity of public life. Ministers must also, of course, adhere at all times to the requirements that the Assembly has itself laid down.

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.

2. Ministers and their Responsibilities

Ministerial Responsibilities and Titles

2.1 The First Minister is responsible for the overall structure and organisation of the Welsh Assembly Government. Welsh Ministers and Deputy Welsh Ministers are appointed by him. Such appointments are also subject to the approval of The Queen.

2.2 The allocation of functions between Ministers is the responsibility of the First Minister whose approval must be sought where any changes are proposed that affect this allocation and the responsibilities for the discharge of Ministerial functions.

2.3 All Ministerial titles, and any proposed changes to them, must also be approved by the First Minister.

Ministers' Availability

2.4 The First Minister's office should be kept informed of Ministers' engagements, and also of their weekend and holiday arrangements, so that, if a sudden emergency arises, it can inform the First Minister which Ministers are immediately available. As set out at paragraph 9.4 any Minister who wishes to be absent from the UK for any reason, other than official business at a European Union institution, must seek the First Minister's approval.

2.5 When a Minister is absent for a considerable period for any reason it may be desirable that arrangements should be made for another member of the Cabinet to be available to cover for him or her and to represent his or her interests in discussions in Cabinet or in any other collective Ministerial meeting. The First Minister's prior approval should be sought for the arrangements for cover for an absent Minister.

Special Advisers

2.6 The employment of Special Advisers adds a political dimension to the advice available to Ministers and provides Ministers with the direct advice of distinguished experts in their professional field. It also reinforces 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 or the full time equivalent. If the First Minister leaves office the advisers appointed by him also leave. The First Minister is responsible for deciding on the distribution of special adviser posts within the Welsh Assembly Government, whether in support of individual Ministers or as collective resource. All appointments require the prior written approval of the First Minister, and no commitments to make such appointments should be entered into in the absence of such approval. 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.

Unpaid Advisers

2.7 Ministers may appoint unpaid advisers. The appointment of an unpaid adviser is a personal appointment by the Minister concerned. There is no contractual relationship between such an adviser and the Welsh Ministers and the appointment carries no remuneration or reimbursement from public funds. Such appointments are exceptional, and the prior written approval of the First Minister should be sought before any commitment is entered into. In making appointments Ministers must ensure that there is no conflict of interest between the matters on which the unpaid adviser will be advising and his or her private concerns. A letter of appointment must be issued by the Minister concerned making this clear. The letter should indicate the subjects with which an unpaid adviser may (or may not) deal and explain what papers they will have access to. Where an adviser is acting on similar terms to a Special Adviser but on an unpaid basis then they should conduct themselves as if they were a Special Adviser. As with Special Advisers, Unpaid Advisers are required to uphold the political impartiality of the Civil Service. The normal rules of confidentiality apply in relation to the protection by the adviser of any official information to which he or she has access by virtue of the appointment. Unpaid advisers are also subject to the Official Secrets Act and Business Appointment Rules for Crown Servants. Aside from the provision of a furnished office, use of a telephone, and access to typing facilities, a personal computer and internal departmental messenger system, an unpaid adviser should constitute no cost to the public purse.

Appointments by Ministers

2.8 This should be read in conjunction with the 'Code of Practice for Ministerial Appointments to Public Bodies' published by the Commissioner for Public Appointments.

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. For certain high profile appointments the First Minister may reserve for himself the role played in all other appointments by the relevant Minister.

2.9 Ultimate responsibility for public (non-Civil Service) appointments rests with the Minister concerned. Subject to paragraphs 2.8 and 2.10-2.12 and to the constitution of the body to which the appointment is made, public (non-civil service) appointments are the responsibility of the Minister concerned, who should appoint the person(s) he or she considers to be best qualified for the position. The Minister should have regard to public accountability, the requirements of the law and the Commissioner's Code of Practice referred to above. The process by which such appointments are made should conform to the principles in the Code - Ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency, and proportionality - and to the procedures set out in detail in the Codes.

2.10 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 Government 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.

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

- a. high profile Assembly Government Sponsored Public Bodies (both executive and advisory).
- b. Cases where the appointment is likely to have political significance.

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

3. Ministers and Civil Servants

3.1 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 or the Code of Conduct for Special Advisers;
- 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.

3.2 Welsh Assembly Government staff are civil servants. 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 Code governing the conduct of Welsh Assembly Government staff is at Annex B but does not form part of this Ministerial 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.

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

Civil servants and party political engagements

3.4 If a Minister wishes to have a factual brief for a party political or other non-Ministerial event to explain Assembly Government 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 civil servants to prepare a draft speech for such an event (although they may properly ask special advisers to do so).

3.5 Ministers should not ask civil servants to attend, still less take part in, Party Conferences or meetings of a party political nature. 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 Government business unconnected with the conference. (This does not include, for example, conferences of the Trades Union Congress or the

Confederation of British Industry. 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 Government policies or actions.

Contacts with outside interest groups, including Lobbyists

3.6 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.

The role of the Accounting Officer

3.7 The Permanent Secretary is the Principal Accounting Officer for the Welsh Ministers. Section 133 of the Government of Wales Act 2006 provides that the Principal Accounting Officer for the Welsh Ministers may designate other members of Assembly Government staff as additional Accounting Officers to be responsible for a defined area of the Assembly Government's activities. Where such appointments are made, Ministers should have proper regard for their responsibilities.

3.8 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. Accounting Officers normally answer personally to the Audit Committee of the Assembly on matters relating to the defined areas for which they are responsible, within the framework of Ministerial accountability to the Assembly. They may also be required to give evidence to the House of Commons Public Accounts Committee, either direct to that Committee, or at that Committee's request, to the Assembly's Audit Committee.

3.9 Accounting Officers have 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. The Accounting Officer is obliged to comply with the instructions and must 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 procedure enables the Audit Committee to see that the Accounting Officer does not bear personal responsibility for the actions concerned.

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 Assembly Government Finance Manual.

4. Ministers' Constituency and Party Interests

4.1 It is wrong in principle for Ministers to use for party or constituency work facilities provided at the Assembly Government'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 who do not hold Ministerial office.

4.2 Ministerial property should not generally be used for constituency work or party activities. However, the reality of Ministers' working lives means that there will inevitably be some overlap between their official Ministerial business and their constituency or party work. There will be occasions when Ministers may wish to use their rooms for meetings which impinge on such work and which, to enable the smooth functioning of their Ministerial lives, it would be appropriate for them to undertake. Examples of circumstances in which it would be appropriate include:

- a) Meetings between Ministers and their Assembly Member support staff for specific, clearly defined reasons involving the interaction between Ministerial and constituency business, such as diary planning discussions.
- b) Meetings between the Minister and his or her constituents who are making representations on a subject within the Minister's portfolio.
- c) Meetings with Assembly Members from within their own party to discuss the handling of Assembly business.

4.3 Where Ministers, in exceptional circumstances, host party political events on Assembly Government property it should be at their own or party expense.

4.4 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 Ministers are uncertain about whether a conflict arises between their Ministerial and constituency capacity they should consult the First Minister. Where necessary Ministers should refer matters to the First Minister for determination.

Public Services Ombudsman Wales

4.5 The Public Services Ombudsman for Wales (the Ombudsman) can consider complaints of maladministration or service failure by most Welsh public bodies including the Welsh Assembly Government. However, before considering a complaint, the Ombudsman 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 Welsh Assembly Government's Code of Practice on

Complaints (the Code) sets out the principles and procedure that will be applied when considering a complaint.

4.6 A member of the public can make a complaint directly to the Ombudsman or authorise a person to do so on his or her behalf. A Minister may, on occasion, be asked by a member of the public to make a complaint about the Welsh Assembly Government to the Ombudsman. 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 tell the complainant about the Welsh Assembly Government'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 Welsh Assembly Government'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 Minister;
- to refer the complainant to another Minister (where the complaint is not from a constituent of the Minister);
- exceptionally, to refer the complaint to the Ombudsman; or
- to advise the complainant that there is no action the Minister can take.

Any Minister who is considering referring a complaint about the Welsh Assembly Government to the Ombudsman should inform, in advance, the relevant Minister and the Permanent Secretary.

Deputations and Representation (including planning cases) General Ministerial Involvement

4.7 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 a 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.

4.8 Ministers are advised to take particular care in such cases to represent the views of their electorate rather than express a view themselves. But when they find it unavoidable to express a view they should ensure that their comments are made available to the other parties, avoid criticism of the Assembly Government'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 the Assembly Member representing a particular constituency or region. It is particularly important to bear in mind that any attempt to influence the Minister taking a decision on a planning case, other than through the proper channels, could imperil that decision. In addition, if Ministers wish to take a position on a case, whether or not as Assembly Members, they should ensure they are clearly divorced from the Ministerial decision making process on that case and that their pronouncements could not directly threaten the soundness of the decision (eg if their portfolio area is a key factor in the planning decision).

4.9 Once a decision has been announced, it should be accepted without question or criticism. It is important that, in expressing the views of their constituents, 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.

4.10 To summarise, Ministers can, in representing their electorate's views on planning cases, act as follows:

- (a) They may write to the Minister responsible for taking a decision on a planning application arguing against/in favour of a particular course of action. But in so doing they should make it clear that they are representing their electorate or are acting at the request of a particular group or person;
- (b) There is no reason why Ministers should not express agreement with the views of a particular group or person when submitting representations in connection with a planning application;
- (c) Such expressions of personal opinion should, however, be restricted to those cases in which Ministers find it "unavoidable to express a view". In such cases Ministers should ensure that they follow the procedures set out at paragraph 4.8 above;
- (d) Where, however, the determination of a planning application will lead to, or will implicitly involve, other decisions or judgements in which the Minister making representations is involved (eg the need for a new health facility or school etc.) then that Minister should not make any comment of his or her own;
- (e) Ministers may, in their capacity as a constituency Assembly member, attend public meetings; they may make representations to a planning authority; they may argue a constituent's case at a public local inquiry; and they may take a personal position. But their role must be consistent with (a) to (c) above. They may not take a personal position in respect of cases under (d) above; and
- (f) Any broadcasts or contributions to press articles should be cleared with the responsible Minister (see paragraph 8.13).

Planning cases: The Minister with responsibility for Planning

4.11 Planning decisions are often the focus for public interest in a controversial project or proposal. It is not surprising that there is a large body of case law about planning decisions and the public's expectations in relation to the decision-making process. Planning is also cross-cutting and inclusive by nature, and most policy areas for which Ministers are responsible are capable of being important factors in a planning decision.

4.12 One of the basic tenets of the planning system is that, in the interests of natural justice, decisions are based on an open and fair consideration of all relevant planning matters with the same information being available to all interested parties. Accordingly, **Ministers, and in particular the Minister with responsibility for Planning, must do nothing which might be seen as prejudicial to the planning decision process, particularly in advance of the decision being taken.** Action that might be viewed as being prejudicial includes (i) taking a decision, or being part of the decision-making process, in respect of an application which falls within the Minister's constituency or region; (ii) expressing an opinion publicly on a particular case which is, or may subsequently come, before the Minister for decision; (iii) meeting the developer or objectors to discuss the proposal, but not meeting all parties with an interest in the decision; or (iv) commenting on decisions once they have been issued, other than in terms of what has appeared in the decision letter or, in the case of development plan approvals, any accompanying explanatory annexes.

4.13 In the case of (i) and (ii), in order to preserve the integrity of the decision from challenge on grounds of prejudice, the Minister with responsibility for Planning (or indeed any other Minister involved in the decision-making process) would have to debar him or herself from any involvement in the case if the application fell within his or her constituency or region or if the Minister had expressed a personal view on the proposal. As regards (iii), it would be possible to hold a meeting as long as the Minister was able to meet all interested parties in respect of a particular proposal. However it is unlikely to be a practical proposition to meet all parties together and, if separate meetings were held, it would require great care over what was said at each so that no party could claim bias in favour of one view. On (iv), decision letters set out in full the grounds for decisions and the Minister should make it clear that in any discussion after a decision is made he or she would be unable to add to the terms of the relevant decision letter.

Ministers should also remember that:

- a) In the interests of certainty and stability, decisions on planning matters are final subject only to challenge in the Courts on a point of law: but these points can include, failing to follow procedural rules and conventions correctly, taking into account irrelevant considerations (or failing to take into account considerations which are relevant) and drawing a conclusion from the considerations which is so unreasonable that no reasonable Minister could have arrived at it.
- b) It is vital that the Minister making the planning decision has an open mind right up to the moment when they make their decision, so any reaction to an affected

person's views should be provisional and expressed to be subject to the consideration of all other relevant matters.

- c) Most devolved policy areas are capable of being extremely important considerations in a planning decision. Ministers should consider carefully whether a statement made in the context of their portfolio might prejudice the effectiveness of the planning decision process.
- d) The rules about whether a particular matter is a relevant consideration in a planning decision are complex and do not always accord with public expectations (eg the identity of the applicant is not usually relevant). Some representations and views may thus have to be discounted entirely.

Non-planning decisions

4.14 The rules and principles outlined above are critical to planning decisions, but will also be relevant to many other similar decisions which Ministers are responsible for taking (eg school or hospital closures, highway or power station enquiries).

Lottery Bids

4.15 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 paragraphs 4.7 and 4.8. Ministers lending support to a specific project should do so on the very clear understanding that it is in a constituency capacity.

5. Ministers' Private Interests

Conflicts of Interest

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

5.2 On appointment to each new office Ministers are advised to provide the 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

- financial interests (liabilities as well as assets);
- directorships and shareholdings;
- property which is rented or leased out and any property which Ministers might be renting or leasing on preferential terms;
- any sponsorship received from a Trade Union;
- public appointments including school governorships, membership of Assembly Government Sponsored Public Bodies;
- links with charities;
- details of any dispute with, or investigation by, the Inland Revenue

The list should also cover any relevant non-financial private interests such as links with outside organisations, and previous relevant employment. It would be helpful if Ministers could indicate which information is genuinely confidential. Information in the public domain is unlikely to be protected from disclosure. See paragraph 5.6 for further information on the confidentiality of this information.

5.3 On receipt of the written list the Permanent Secretary will, if he deems it necessary, arrange a meeting with the Minister to discuss the private interests in more detail and to consider what advice is necessary and from what source, and whether 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 Government. 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.

5.4 Ministers are advised to notify the Permanent Secretary promptly and in writing of any change in circumstances. The Permanent Secretary will write to Ministers on an annual basis, inviting them to check that their existing record of private interests is complete and up to date.

5.5 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 Government 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 5.11 to 5.17 below.

5.6 The personal information which Ministers disclose to those who advise them is treated in confidence. Should the Assembly Government receive a request for this information it will take account of a range of factors including the confidentiality of the information. The relevant Minister will also be consulted and his or her views taken into account before a decision would be made on disclosure. 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 they may wish to make public the list of their private interests (required under paragraph 5.2) and the steps taken to avoid an actual or perceived conflict. It is open to them if they wish 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.

5.7 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 based on experience over successive governments in Wales and the United Kingdom.

Public appointments

5.8 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, like Assembly Government staff, are asked not to provide references for candidates applying for public appointments. In cases of doubt the First Minister should be consulted.

Non-public bodies

5.9 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 Government 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 Government 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

5.10 There is of course, no objection to a Minister holding trade union membership but care must be taken to avoid any actual or perceived conflict of interest. Accordingly, Ministers should arrange their affairs so as to avoid any suggestion that a union of which they are a member has any undue influence; they should take no active part in the conduct of union affairs, should 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

5.11 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 5.2 and 5.3 is followed in the case of financial interests. The Permanent Secretary as Principal Accounting Officer has a personal responsibility for financial propriety and regularity across the Assembly Government's business, and his or her advice must be given particular weight where such issues arise.

5.12 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 Ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to their private financial interests.

5.13 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 or the Counsel General 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

5.14 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

5.15 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. 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.

5.16 Unless adequate steps can be taken in relation to the financial interests themselves, the Minister and the Assembly Government 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:

- a) In the case of a Deputy Welsh Minister, it should be possible for the Minister to whom he or she reports to take the decision;
- b) In the case of a Welsh Minister, it should be possible for the First Minister to take the decision; or
- c) In the case of the First Minister or the holder of a specific office in whom powers are vested, it should normally be possible without risk of legal challenge to pass the handling of the matter to a Deputy Minister or an appropriate official. In such cases legal advice should always be sought to ensure that the relevant powers can be exercised in this way.

5.17 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

5.18 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 5.16 above. Ministers in doubt about their personal position should consult the First Minister.

Directorships

5.19 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 Government.

Membership of Lloyd's

5.20 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 Government discussions or collective decisions which are not always obvious.

Nomination for prizes and awards

5.21 From time to time, the personal support of Ministers is requested for nominations being made for international prizes and awards. 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

5.22 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.

5.23 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 9.36), that is:

- a) Receipt of gifts should, in all cases, be reported to the Head of Cabinet Secretariat;
- b) Gifts of small value (currently up to 0.5% of the basic gross annual Assembly salary for an Assembly Member) may be retained by the recipient;
- c) Gifts of a higher value should be handed over to the Cabinet Secretariat for disposal, except that
 - (i) The recipient may purchase the gift for personal retention at its cash value (abated by 0.5% of the basic gross annual Assembly salary for an Assembly Member).
 - (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 a property used by the Assembly Government
- (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 by the Cabinet Secretariat 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.

5.24 Gifts given to Ministers in their Ministerial capacity become the property of the Assembly Government and do not need to be declared in the Register of Members' Interests. Gifts given to Ministers as Assembly Members fall within the rules relating to the Register of Members' Interests of the Assembly.

5.25 The Assembly Government will publish an annual list of gifts received by Ministers on behalf of the Assembly Government valued at more than 0.5% of the basic gross annual Assembly salary for an Assembly Member. The list provides details of the value of the gifts and whether they were retained by the Assembly Government or purchased by the Minister.

5.26 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 in the Assembly's Register of Members' Interests. Registration of hospitality would normally be required for hospitality above the value of 0.5 per cent of the basic gross annual Assembly salary for an Assembly Member.

Provision of hospitality by Ministers

5.27 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

5.28 On leaving office, Ministers must 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 Government. 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 in government, 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.

5.29 It is for Ministers to decide whether to accept the advice of the Advisory Committee although if they do not choose to accept the advice that fact will be made public.

PART 2

PROCEDURAL GUIDANCE FOR MINISTERS

6. Ministers and the Cabinet

The Cabinet

6.1 The Cabinet of the Welsh Assembly Government consists of the First Minister, and Welsh Ministers appointed by the First Minister under Section 48 of the Government of Wales Act 2006. Most functions are exercisable by the Welsh Ministers and are conferred upon them collectively. However these functions are not required to be exercised jointly by all the Welsh Ministers. Section 57(3) of the Government of Wales Act provides that the First Minister or any of the Welsh Ministers can exercise any of the functions of the Welsh Ministers. And Section 57(4) provides that any act or omission of the First Minister or any of the Welsh Ministers is legally the act or omission of each of them.

Collective Responsibility

6.2 The Cabinet operates on the basis of collective responsibility. The internal processes through which a decision has been made should not be disclosed. Decisions reached by the Cabinet are binding on all its members. Ministers are required to abide by them and defend them as necessary. Such decisions are, however, normally announced and explained as the decision of the Minister concerned. On occasion it may be desirable to emphasise the importance of a decision by stating explicitly that it is the decision of the Welsh Assembly Government; but this is very much the exception rather than the rule.

6.3 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. This in turn requires that the privacy of opinions expressed and advice offered within the Assembly Government should be maintained. It is therefore essential that, subject to the guidelines on the disclosure of information set out in the Code of Practice on Public Access to Information, Ministers take the necessary steps to ensure that they and their staff preserve the privacy of Assembly Government business and protect the security of Assembly Government documents. (See paragraphs 6.29-6.31 below.)

6.4 Collective responsibility as defined above also applies to any Deputy Welsh Ministers who are appointed by the First Minister under Section 50 of the Government of Wales Act even though they are not members of the Cabinet.

6.5 Collective responsibility applies to the Counsel General, subject to the Counsel General's independence in certain functions, as explained below (see paragraphs 6.33-6.40).

Cabinet Business

6.6 The Cabinet normally meets regularly, as determined by the First Minister. Its business consists, in the main, of matters which significantly engage the collective

responsibility of the Welsh Assembly Government, either because they raise major issues of policy or because they are of critical importance to the public.

6.7 Matters which do not significantly engage collective responsibility need not be brought to the Cabinet unless the Minister or Ministers concerned wish to have the advice of colleagues in a full meeting of the Cabinet. A precise definition of such matters cannot be given; as a general rule, however, Ministers should put before their colleagues the sorts of issues on which they themselves would wish to be consulted.

6.8 Issues should not be brought to Cabinet until there has been appropriate consultation with Ministers with a direct portfolio interest and their views have been fully reflected in the paper. Questions involving more than one Minister which require collective consideration in the Cabinet should be examined by the officials concerned before submission to the Cabinet so that the decisions required may be clearly defined. When there is a difference between Ministers, it should not be referred to the Cabinet until other means of resolving it have been exhausted, including discussions between the Ministers concerned.

6.9 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 Legal Services Department, and include a proper appraisal of any financial implications. The Cabinet Unit 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.

Cabinet Correspondence

6.10 Cabinet Correspondence enables Cabinet to reach decisions on issues which, while requiring collective agreement by the Cabinet, do not necessarily require to be discussed around the Cabinet table. As with Cabinet papers, Cabinet Correspondence should only be used once appropriate consultation has been undertaken with Ministers with a direct portfolio interest and their views have been fully reflected in the correspondence.

6.11 There are no hard and fast rules for when Cabinet Correspondence might be appropriate, but it is best used, for example, for securing sign-off for specific policy proposals or the near final text of a consultation paper or other document. It is not a particularly effective mechanism for seeking colleagues' views on an issue (rather than inviting comments on specific proposals or recommendations) and should not be used to seek agreement to draft documents which Ministers with a direct portfolio interest are effectively seeing for the first time. Cabinet Unit is available to assist with consideration of whether Cabinet Correspondence is appropriate in individual cases.

6.12 Decisions taken by Ministers through Cabinet correspondence have the same

status as decisions taken at meetings of the Cabinet.

Ministerial Discussions below the Level of the Cabinet

6.13 Collective Ministerial discussions can take place in a variety of fora below the level of the Cabinet. The Cabinet may establish a Cabinet Sub-Committee or Task and Finish Group that may also include Deputy Welsh Ministers. Alternatively a one-off meeting involving the Ministers concerned may be arranged. Any collective Ministerial meeting should be minuted with decisions and any outstanding issues recorded clearly.

6.14 Collective Ministerial meetings below the level of the Cabinet have 2 main purposes. First they relieve the pressure on the Cabinet itself by enabling as much business as possible to be settled at a lower level; or, failing that, by clarifying the issues and defining the points of disagreement. Second, they support the principle of collective responsibility by ensuring that, even though an important question may never reach the Cabinet itself, the decision will be fully considered and the final judgement will be sufficiently authoritative to ensure that the Cabinet as a whole can properly be expected to accept responsibility for it.

6.15 If the Cabinet agrees to delegate an issue to a Cabinet Sub-Committee or a Task and Finish Group and a Minister is dissatisfied with the conclusions, the issue may, with the approval of the First Minister, be referred to the Cabinet.

6.16 More detailed guidance on the arrangements for collective decision-making in the Assembly Government is set out in separate guidance.

Cabinet Meetings

6.17 Cabinet meetings take precedence over all other business although it is understood that there may occasionally be exceptional circumstances (e.g. Assembly business or business overseas) which mean that a Minister may have to be absent. Requests by Ministers for permission to be absent from Cabinet should be made only in such exceptional circumstances, and should be made at the earliest opportunity and by means of a personal minute to the First Minister. A minute is not necessary when the reason for absence from a Cabinet meeting is an overseas visit for which the First Minister's approval has already been obtained. Minutes seeking the First Minister's approval for overseas visits or for absence for any other reason should be copied to the Permanent Secretary and the Cabinet Unit.

6.18 Guidelines on the conduct of Cabinet business are set out in separate guidance. 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 Cabinet Unit at the earliest possible opportunity when Cabinet discussion is likely to be needed.

6.19 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 Cabinet Unit no later than the Thursday afternoon preceding each meeting.

6.20 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 Cabinet Unit to oral items their Minister intends to raise as far in advance of the meeting as possible.

6.21 Cabinet papers should be as clear and as brief as possible. They should not normally exceed four pages at most, and the Cabinet Unit 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 Cabinet Unit can provide detailed help to officials in each case.

6.22 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.

Attendance at Meetings of Cabinet Sub-Committees and task and Finish Groups

6.23 Attendance at meetings of Cabinet Sub-Committees and Task and Finish Groups should take precedence over most other business - the principal exception being business in the Assembly where the Minister's attendance is essential. Ministers' Private Offices should not therefore arrange any engagements for their Minister (and nor should Ministers themselves arrange any business) which would be likely to conflict with a meeting of a Committee or Group of which their Minister is a member.

6.24 If, after a meeting date has been fixed, a Minister finds that he/she has to withdraw from a meeting, he/she must send a personal minute to the Chair explaining the circumstances which necessitate such withdrawal. The minute should be copied to the First Minister, the Permanent Secretary and the Cabinet Unit.

6.25 If, exceptionally, a Minister is unable to attend a meeting of a Committee or Group of which he/she is a member, he/she should try to arrange for his or her Deputy to attend in his or her place.

Cabinet Conclusions and Minutes

6.26 The Cabinet Unit 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.

6.27 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 Government'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.

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

Confidentiality of Documents Etc

6.29 Ministers relinquishing office without a change of administration should hand over to their successors those official documents which are required for current administration and should ensure that any others which bear a protective marking have been destroyed. By convention, former Ministers are allowed reasonable access to official papers which they saw when they were in office. Such access is limited to that Minister personally, and the papers made available for inspection cannot therefore be copied or taken away. The use made of those papers is limited by the need to ensure that the conventions about confidentiality of exchanges between Ministers and civil servants' advice to Ministers are not breached. Approaches in these cases should be made in the first instance to the Permanent Secretary's office.

6.30 On a change of administration, the outgoing First Minister issues specific instructions about the disposal of the Cabinet papers of the outgoing Cabinet.

6.31 Ministers may think it wise to make provision in their wills against the improper disposal of any official documents which they might have retained in their possession by oversight.

6.32 The principle of collective responsibility and the confidential nature of discussions between Ministers and their civil servants impose certain obligations on former Ministers who are contemplating the publication of material based upon their recollection of the conduct of Assembly Government business in which they took part. They are required to submit their manuscript to the Permanent Secretary and to conform with the principles set out in the Radcliffe Report of 1976 (Cmnd 6386).

The Counsel General

6.33 The Counsel General is not a Welsh Minister but is a member of the Welsh Assembly Government. The Counsel General will attend and participate in Cabinet meetings by invitation of the First Minister. The Counsel General is the final and authoritative legal adviser to the Welsh Assembly Government and oversees representation of the Welsh Assembly Government in the courts. The Counsel General may participate in Assembly proceedings (to the extent permitted by Standing Orders) and is accountable to the Assembly for the exercise of functions conferred directly on the Counsel General. These include the power to undertake legal proceedings for the promotion or protection of the public interest, to refer to the courts questions concerning the legislative competence of the Assembly or to participate in proceedings for the determination of devolution issues. The Counsel General will also be the representative of the Welsh Assembly Government in exchanges with the UK law officers and/or law officers of the other devolved administrations.

6.34 The Director of Legal Services is employed as the chief legal adviser to the Welsh Assembly Government and, as a civil servant, is bound by the Civil Service Code. The Director of Legal Services is responsible for the Legal Services Department in providing a comprehensive legal service to the Welsh Assembly Government and through which the First Minister and Welsh Ministers and their portfolio departments receive legal advice and support in the performance of their functions. In addition to those legal matters described at paragraph 6.34 below on which the Counsel General is likely to become engaged, the Director will consult the Counsel General on any matter where the Director is in doubt concerning the legality or constitutional propriety of a proposed Measure or subordinate legislation which the Welsh Assembly Government proposes to introduce, or the legality of proposed administrative action, particularly where that action might be subject to challenge in the courts.

6.35 It will be appropriate to seek the Counsel General's opinion on certain legal questions, typically, those of greatest legal complexity, or political controversy or sensitivity, or which have the widest implications. The Counsel General's opinion should be sought via a reference from the Director of Legal Services. Whilst in exceptional situations, it may be necessary and appropriate for a Minister to seek the Counsel General's view directly, any formal written advice from the Counsel General must be sought on instruction from the Director of Legal Services. The Counsel General's opinion, or advice from the Legal Services Department, must be sought in good time before the Welsh Assembly Government is committed to critical decisions involving legal considerations.

6.36 Written opinions of the Counsel General, unlike other Ministerial papers, are generally made available to succeeding Administrations. The fact that the Counsel General has advised (or has not advised) and the content of advice given by the Counsel General must not be disclosed outside the Welsh Assembly Government Cabinet without the authority of the Counsel General.

6.37 Where a prosecution function is vested in the Counsel General, that function is to

be exercised by him or her independently of the Welsh Assembly Government. Other members of the Welsh Assembly Government must not interfere in, or be involved in any way with, the exercise of such a function.

6.38 Where a prosecution function is vested in the First Minister, or the Welsh Ministers, that function will normally be exercised by Welsh Assembly Government staff, in accordance with the Permanent Secretary's arrangements. Under these arrangements the Director of Legal Services must approve any decision to prosecute, liaising as appropriate with the Counsel General.

6.39 In relation to civil proceedings, the Counsel General must protect the interests of the Welsh Assembly Government where he or she is acting on behalf of the Welsh Ministers, or the First Minister, in a representative capacity.

6.40 Where the Counsel General is acting under section 67 of the Government of Wales Act 2006 (or exercising any other function vested in the Counsel General of protecting or promoting the public interest), the Counsel General acts independently of the Welsh Assembly Government. The same applies where the Counsel General is exercising a function under s. 96, s. 99 of the Government of Wales Act 2006 (scrutiny of proposed Orders in Council under s. 95 of the Act and scrutiny of proposed Assembly Measures). However, before taking any such action, the Counsel General should inform the First Minister, or the relevant Welsh Minister appointed under section 48 of the Government of Wales Act 2006.

Legal proceedings involving Ministers

6.41 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 or her private position. In all such cases they should consult the Counsel General before consulting their own solicitors, in order to allow the Counsel General to express a view on the handling of the case so far as the public interest is concerned.

As regards the timing of an approach to the Counsel General the following should be applied:

a) a Minister should consult the Counsel General as soon as he or she is minded to threaten legal proceedings or to take any action – for example, writing a hostile letter – which might be perceived as being the first step towards litigation. He or she should certainly consult the Counsel General before instructing solicitors to commence legal proceedings, and ideally before making any approach to solicitors;

b) similarly, when a Minister is a defendant in an action, he or she should notify the Counsel General as soon as possible. Preferably, this should be before he or she has instructed his or her own solicitors in the matter but, in any event, the

Counsel General should be notified as soon as the Minister is aware that legal proceedings are threatened;

c) it is not necessary for the Counsel General to be consulted before a Minister seeks legal advice on a matter, provided that the Minister at that time has no intention to commence proceedings and there is no indication that proceedings are to be commenced against him/her;

d) a Minister may become involved in proceedings other than as a party – for example, if he or she is a witness in proceedings. A Minister who agrees to volunteer a statement for one side rather than another in such a case may, for example, inadvertently give the appearance that the Crown is backing one side in private litigation. More seriously, acting as witness may carry a risk that the Minister is asked to disclose sensitive information or documents for which public interest immunity should be claimed, and in those circumstances the Counsel General needs to be alerted to that possibility from the outset. In these circumstances, the Minister should inform the Counsel General as soon as he or she is aware of his or her potential involvement in the proceedings.

7. Ministers and the Assembly

Assembly Statements and other Assembly Government Announcements

7.1 Ministers have a duty to the Assembly to account, and be held to account, for their policies, decisions and actions. It follows therefore that when the Assembly is meeting, Ministers should ensure that important announcements of Welsh Assembly Government policy are made, in the first instance, to the Assembly.

7.2 Oral statements can only be made at plenary meetings of the Assembly which are normally held on a Tuesday and Wednesday afternoon during the times set aside for government business, when the Assembly is not in recess. The agenda for each day's business will normally have been announced by the Minister with responsibility for Assembly Business the previous week. Requests to allow an unscheduled statement to be made must be made to the Minister with responsibility for Assembly Business. If too many announcements are made by oral statement 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 Answer to an Assembly Question. Ministers proposing to make an oral statement or to make an important announcement in the Assembly through another mechanism are therefore 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 First Minister's Private Secretary; (ii) the Minister for Assembly Business's Private Secretary; (iii) the Permanent Secretary's Office (iv) the Press Office; (v) the Head of the Office of the Business Minister and (vi) the Cabinet Unit. This notification should indicate the broad content of the proposed announcement; if necessary, why an oral statement is thought to be appropriate; and whether the policy with which it is concerned has been approved by Ministers, with references to relevant discussions in Cabinet or in other collective Ministerial meetings. If agreement in principle is given, a draft of the statement or answer should be circulated to the same recipients as soon as possible, having been approved in broad terms, though not necessarily in detail, by the relevant Minister and other Ministers with a portfolio interest. (In cases of urgency, clearance in principle and clearance of the detailed text could be secured at the same time);

(b) In the case of announcements by Written Answer to an Assembly Question a press announcement must not be made before the Written Answer has been e-mailed to the AM who tabled the Question. The timing of the announcement should be discussed and agreed with the Minister with responsibility for Assembly Business and the Assembly Clerk's Office;

(c) 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 by the First

Minister and the Minister for Assembly Business to the proposed timing, and by the Ministers concerned to the terms of the statement;

(d) Ministers should take account of the pressures of other Assembly Government business when considering the timing of statements. Where possible the Assembly Government's intention to make a statement should be intimated in time for it to be announced by the Minister responsible for Assembly Business in the weekly Business Statement. Where the need for an urgent statement emerges subsequently, early notice must be given to the Head of the Business Minister's Office to ensure the Presiding Officer is informed of the changes to the government's business. Such requests must be submitted no later than 12 noon on the day the statement is to be made;

(e) Copies of the final version of such announcements should be sent to the Private Secretaries to the First Minister and the Minister for Assembly Business and to the Permanent Secretary's Office, the Head of the Business Minister's Office, the Cabinet Unit and the Press Office as soon as they are available;

(f) A copy of the text of any oral statement should normally be passed to the opposition parties one hour before it is made. For this purpose the final text must reach the office of the Minister for Assembly Business in the Assembly at least one and a half hours before the statement is due to be made;

(g) The Minister for Assembly Business's Office will arrange for a copy of the final text of an oral statement to be sent in advance to the Presiding Officer;

(h) Copies of any Ministerial statement made in the Assembly, marked "check against delivery", and of any document being published by means of the statement should be passed to the Plenary Business Unit, Office of the Business Minister and Chief Whip who will arrange for it to be sent to all Assembly Members. This affords Members an opportunity of studying the statement in advance of its publication in the Record of Proceedings; and

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

Commitments to Legislate

7.3 Ministers should not give undertakings either in or outside the Assembly to introduce an Assembly Measure or a Legislative Competence Order on any issue without the prior agreement of the Cabinet.

Introduction of Legislative Competence Orders and Measures

7.4 Ministers responsible for Legislative Competence Orders or Measures being introduced in the Assembly should ensure that the proposed Legislative Competence Order or Measure is accompanied by a clear, informative and comprehensive

Explanatory Memorandum setting out the information as required by the Assembly's Standing Orders. Explanatory Memoranda must be cleared by the Cabinet Sub-Committee on Legislation prior to proposed Measures being introduced.

Supply of Publications

7.5 The Minister for Assembly Business is responsible for presenting items of the Assembly Government's Plenary business to the Table Office in accordance with Standing Order 7.21. Where a motion refers to one or more documents, they must have been made available to Members in advance.

Financial Resolutions

7.6 All motions for Financial Resolutions under Standing Orders 23.80 to 23.85 will be tabled in the name of the Minister responsible for finance. However, he or she is not responsible for securing Assembly approval for the Resolution. This responsibility falls to the Minister responsible for the proposed Measure to which the Financial Resolution relates.

Ministerial Availability

7.7 It is expected that Ministers' commitments in Assembly will normally take precedence over other engagements and it is each Minister's responsibility to ensure that requests for absence from the Assembly are submitted and cleared in advance by the Minister for Assembly Business.

Membership of Cross-Party Groups

7.8 In order to avoid any conflict of interest, Ministers should not take up membership of any Cross-Party Groups. On taking up office, they should relinquish membership of any such groups of which they are, at that time, a member.

Appearing before a Select Committee of the UK Parliament

7.9 A Select Committee of the UK Parliament may invite a Welsh Minister to attend and give evidence at one of its meetings. Where possible, Welsh Ministers should normally accept such invitations and should provide the Committee with relevant information about Assembly Government policy and practice. In these circumstances the First Minister should be kept informed.

8. Ministers and the Communication of Policy

Communication of Policy

8.1 Official facilities financed out of public funds can be used for Assembly Government publicity and advertising, but may not be used for the dissemination of material which is essentially party political. The conventions governing the work of the Government Information Service are set out in *Guidance on Government Communications*.

8.2 In order to ensure the effective presentation of the Assembly Government's policy, no commitments for major interviews or media appearances, both print and broadcast, should be made until the First Minister's approval has been sought and obtained. The timing and form of announcements should be co-ordinated between Ministers to ensure that there is no overlap.

Press conferences

8.3 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

8.4 Before publishing a Consultation Paper, the Minister should consider whether it raises issues which require full collective consideration, and therefore require the clearance of the Cabinet (see Chapter 6). Any consultation paper containing a major statement of policy should be circulated to the Cabinet before publication.

8.5 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. Ministers are therefore asked to apply to consultation papers the procedure laid down in paragraph 8.4 above.

Speeches

8.6 Ministers cannot speak on public affairs for themselves alone. In all cases, other than those described in paragraphs 4.7 and 4.8, they speak as Ministers; and the principle of collective responsibility applies. They should ensure that their statements are consistent with collective Assembly Government 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 8.2 above.

8.7 The First Minister should always be consulted before any mention is made of matters which either affect the conduct of the Assembly Government 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 Government expenditure matters should consult the Finance Minister beforehand. Any proposal to speak on non-devolved matters, in a formal Ministerial capacity, should also be cleared with the First Minister in advance.

8.9 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.

8.10 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 Government'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

8.11 The provisions of paragraphs 8.1 to 8.3 apply to Ministerial broadcasts as well.

8.12 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 Assembly Government policy, 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.

8.13 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 European and External Affairs Division who will in turn inform the Foreign and Commonwealth Secretary and any other UK or Welsh 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

8.14 Ministers may contribute occasionally to a book, journal or newspaper (including a local newspaper in their constituency) or publications on the internet (eg a 'blog') for the purpose of supplementing other means of informing the public about the work in their area of responsibility within the Assembly Government, 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 or publish and maintain a 'blog', 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. In all cases Ministers must also ensure any published writing does not conflict with the principle of collective responsibility.

8.15 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. The advice of the Press Office should be sought before any such letter is sent in a Ministerial capacity.

8.16 Ministers should not accept payment for official broadcasts or for writings either on their own or on the Assembly Government'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

8.17 Ministers may not, while in office, write and publish a book on their 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 6.29 and 6.31 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

8.18 The rule in paragraph 8.14 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.

8.19 The restrictions on the practice of journalism by Ministers in paragraphs 8.14 - 8.17, does not extend to writings of a literary, sporting, artistic, musical, historical, scientific, philosophical or fictional character which do not draw on their Ministerial experience. While payment for the occasional piece is acceptable, regular payments are not.

8.20 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 Ministers. Careful consideration should therefore be given to such invitations before they are accepted; in cases of doubt, the First Minister should be consulted.

Complaints

8.21 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. The nature of the complaint and the case for referring it to the appropriate body should be set out in a minute to the First Minister, copied to the Permanent Secretary and the Head of the Press Office. Similarly, Ministers should always consult the Press Office and through them the First Minister before making any oral complaint to a media organisation about their handling of a story.

9. Ministers' Visits

Ministers' visits overseas

9.1 Overseas travel by Ministers can provide important benefits to the Assembly Government and to Wales generally. To ensure that their travel is approved properly and undertaken in an appropriate manner and at an appropriate time, Ministers must follow the principles and processes set out below.

9.2 Overseas visits should not normally be made while the Assembly is in session. Ministers should arrange such visits in the Recess or, where appropriate, on days when no Assembly business is scheduled, except where the visit is in connection with the business of the European Union or there are other compelling reasons of Assembly Government 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 Government business, and it may be necessary for this reason to restrict or reconsider absences abroad.

9.3 European and External Affairs Division (EEAD) should be informed as soon as any overseas visit is contemplated (for example, whenever an invitation is received). They will be responsible for consulting the Foreign and Commonwealth Office (FCO), and feeding back their views. EEAD should thereafter be kept fully involved in making arrangements for the visit. EEAD will maintain a central record of all contemplated Ministerial Visits (as well as those which have taken place – see below).

9.4 Any Minister who wishes to be absent from the United Kingdom for any reason, except for official business at a European Union (EU) institution, must seek the First Minister's written approval. This must be done before any commitment is made. The minute seeking approval should include the reasons for the visit and a list of the countries to be visited, the approximate cost and a list of the officials who will be accompanying the Minister. Ministers should also indicate what the benefits of the visit would be. Copies of the minute should be sent to the Business Minister and the Head of EEAD.

9.5 Ministers planning visits to EU Councils or meetings of other European Union institutions should inform the First Minister in writing and should copy the minute to the Head of EEAD.

9.6 The First Minister's prior written approval is required for any official visit overseas by a special adviser or where it is proposed that a Minister should be accompanied on any official visit overseas by his or her spouse or partner or by an unpaid official.

9.7 Where the First Minister proposes to be absent from the United Kingdom for any reason other than official business at a European Union institution, he must first seek The Queen's permission to leave the country.

9.8 No preparations, however tentative, should be made for overseas visits (other than those to EU institutions) before consulting EEAD. Arrangements for official Ministerial visits should invariably be made in close collaboration with the diplomatic post concerned.

9.9 Ministers should make it their personal responsibility to approve the size and composition of any Ministerial delegation for which they are responsible prior to seeking the approval of the First Minister. Cabinet Secretariat 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

9.10 Ministers should remember the importance of sending to the First Minister a note of the salient points of any discussions which they may have with representatives of foreign or Commonwealth countries or regions. This applies to informal discussions as well as those held in the course of official business. The note should be copied to EEAD which will ensure that the Foreign and Commonwealth Office are briefed as appropriate. Ministers should note that this equally applies if such contacts are made while on holiday in the country concerned (and if Ministers intend making such contact, they must seek the views of the First Minister before travelling).

Visits by Commonwealth or foreign Ministers

9.11 Ministers should consult the First Minister before extending invitations to Ministers in other national or regional governments to pay official visits to Wales. Relevant officials should also inform EEAD 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. It will be for the First Minister to decide whether to consult the Foreign and Commonwealth Office before inviting Ministers from foreign and commonwealth countries to Wales.

Hospitality overseas

9.12 Whether at home or overseas, Ministers should not overlook the possible foreign policy implications of such day-to-day matters as offering hospitality to overseas 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 foreign observers even where the nature of the contact is informal. In any case of doubt Ministers should ask EEAD to consult the Foreign and Commonwealth Office before making any commitment. In addition the Foreign and Commonwealth Office should be consulted whenever a Minister, in his or her formal Ministerial capacity, intends to make

a speech touching on matters affecting foreign and Commonwealth affairs.

9.13 If it is thought that a Minister may need to provide hospitality while overseas, the advice of EEAD should be sought, who will consider whether the Foreign and Commonwealth Office should be consulted, both on the desirability and on the form of such entertainment.

Ministers recalled from abroad

9.14 If a Minister is abroad with permission and is called home for Assembly Government or Assembly reasons - including to vote - the cost of the extra journey back and forth may be met by public funds.

Ministers' visits within the United Kingdom

9.15 Ministers who are planning official visits to England, Scotland and Northern Ireland which would involve a public engagement should inform the First Minister. In the case of visits in England, the relevant Secretary of State should be informed; as should the First Minister in Scotland and the First and Deputy First Minister in Northern Ireland. Ministers should also inform the Lord Chancellor about any planned visits to the Channel Islands or the Isle of Man. In addition, Ministers wishing to visit a UK Government establishment in Wales or elsewhere not sponsored by the Assembly Government (eg the barracks of a unit of the Armed Forces) should advise the sponsor Department in advance.

9.16 It is the custom for a Minister when preparing to make a visit of a public nature 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. 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

9.17 In planning their official travel and subsistence arrangements, Ministers should adhere to the guiding principles set out below:

(i) Propriety: Official transport should not be used, nor expenses claimed, for travel arrangements or hospitality arising from Party, private or other non-Ministerial business, except where this is justified on security grounds.

(ii) Efficient use of resources: The availability of some services such as official

cars has to be limited, and Ministers should bear in mind the need to use them efficiently.

(iii) Cost consciousness: The cost of alternative arrangements should be considered before decisions involving substantial costs are made. In particular this will be a consideration where special flights are being considered as an alternative to scheduled services. This principle should also be borne in mind when considering accommodation arrangements.

(iv) Security: Ministers should keep security risks in mind at all times, particularly when travelling by car.

(v) Public accountability: Individual Ministers are responsible for justifying their actions and decisions to the Assembly. They will wish to be satisfied that their arrangements could be defended in public.

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

Use of Official Cars

9.19 Official cars will be made available to Ministers, Deputy Ministers and the Counsel General. These will also be made available for the Permanent Secretary. Ministers should use an official car for any purpose (other than party, private or non-Ministerial business) which will secure a saving of time.

9.20 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 be working on Assembly Government business and carrying Ministerial papers during the journey.

9.21 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 Government civil servants.

9.22 Subject to the general rules set out in this Code, a Minister's spouse or partner may use the car when accompanying the Minister on 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.

9.23 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.

9.24 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.

9.25 Car drivers are required to keep log sheets of journeys made by Ministers. Ministers will be responsible for ensuring that cars are used only for authorised journeys. Log sheets will be handed in weekly by the official drivers to the Cabinet Secretariat Corporate Unit.

9.26 The First Minister has a dedicated car and driver. Other Cabinet Ministers and the Counsel-General have first call on the remaining official cars, followed by Deputy Ministers. Where there is a high call on official cars, it may be necessary for Ministers to be driven in hired chauffeur driven cars or in taxis, for short journeys.

Rail Travel

9.27 Ministers qualify for first class travel

Air Travel

9.28 Ministers have discretion to use civil scheduled flights in this country and abroad if they consider that this will save time. When booking flights, the principles of cost consciousness and security should be borne in mind.

9.29 All air travel by Ministers should be offset by the purchase of credits from carbon emission reduction projects. Advice on how this will be met should be included in the business case on the journey submitted to the First Minister.

9.30 Ministers should normally travel by business class for flights lasting longer than two and a half hours and by economy class on flights of less than two and a half hours.

9.31 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 Government 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.

Flights in privately-chartered aircraft

9.32 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 Government 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.

Overnight accommodation

9.33 When making arrangements for overnight accommodation Ministers should ensure consideration is given to the cost of alternatives available to them.

Travelling expenses of spouses/ partners

9.34 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

9.35 If necessary, a Minister may take a Special Adviser on an overseas visit at the public expense provided that it is clearly in the public interest that he or she should accompany the Minister. The written approval of the First Minister should be obtained before a Special Adviser accompanies a Minister overseas.

Offers of hospitality, gifts, etc.

9.36 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 Head of EEAD if they are in any doubt about the matter.

9.37 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.

Foreign decorations

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

10. Ministerial Pensions

Participation in the National Assembly for Wales Members' Pension Scheme

10.1 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

10.2 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.

10.3 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.

10.4 It must be emphasised that any arrangements made under paragraph 10.3 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 a Ministerial Office. If Ministers have any doubts about the propriety of any arrangements they intend making, the First Minister may be consulted.

10.5 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 10.3, 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.

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

The Civil Service Code

Civil Service values

1. The Civil Service is an integral and key part of the government of the United Kingdom¹. It supports the Government of the day in developing and implementing its policies, and in delivering public services. Civil servants are accountable to Ministers². They are in turn accountable to the National Assembly for Wales³.
2. As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality. In this Code:
 - ‘integrity’ is putting the obligations of public service above your own personal interests;
 - ‘honesty’ is being truthful and open;
 - ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence; and
 - ‘impartiality’ is acting solely according to the merits of the case and serving equally well Governments of different political persuasions.
3. These core values support good government and ensure the achievement of the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, the National Assembly for Wales, the public and its customers.
4. This Code⁴ sets out the standards of behaviour expected of you and all other civil

¹This Code applies to all Home civil servants who are members of staff of the Welsh Assembly Government. Other Home civil servants have their own versions of the Code. Similar Codes apply to the Northern Ireland Civil Service and the Diplomatic Service.

² In this version of the Code, “Ministers” means the First Minister for Wales, the Welsh Ministers, Deputy Welsh Ministers and the Counsel General to the Welsh Assembly Government. The Counsel General of the Welsh Assembly Government may not be an Assembly Member but he/she may participate in Assembly proceedings.

³ Constitutionally, civil servants are servants of the Crown. The Crown's executive powers are exercised by the UK Government on non-devolved matters and by the First Minister for Wales, the Welsh Ministers, Deputy Welsh Ministers, or the Counsel General to the Welsh Assembly Government on devolved matters in relation to Wales.

⁴ The respective responsibilities placed on the First Minister for Wales, the Welsh Ministers, Deputy Welsh Ministers and the Counsel General to the Welsh Assembly Government and special advisers in relation to the Civil Service are set out in their Codes of Conduct: www.wales.gov.uk/civilservicecode

servants. These are based on the core values.

Standards of behaviour

Integrity

5. You must:

- fulfil your duties and obligations responsibly;
- always act in a way that is professional⁵ and that deserves and retains the confidence of all those with whom you have dealings;
- make sure public money and other resources are used properly and efficiently;
- deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability;
- handle information as openly as possible within the legal framework; and
- comply with the law and uphold the administration of justice.

6. You must not:

- misuse your official position, for example by using information acquired in the course of your official duties to further your private interests or those of others;
- accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgement or integrity; or
- disclose official information without authority. This duty continues to apply after you leave the Civil Service.

⁵ This includes taking account of ethical standards governing particular professions.

Honesty

7. You must:

- set out the facts and relevant issues truthfully, and correct any errors as soon as possible; and
- use resources only for the authorised public purposes for which they are provided.

8. You must not:

- deceive or knowingly mislead Ministers, the National Assembly for Wales or others; or
- be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

9. You must:

- provide information and advice, including advice to Ministers, on the basis of the evidence, and accurately present the options and facts;
- take decisions on the merits of the case; and
- take due account of expert and professional advice.

10. You must not:

- ignore inconvenient facts or relevant considerations when providing advice or making decisions; or
- frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions.

Impartiality

11. You must:

- carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity.

12. You must not:

- act in a way that unjustifiably favours or discriminates against particular individuals or interests.

Political Impartiality

13. You must:

- serve the Government, whatever its political persuasion, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of this Code, no matter what your own political beliefs are;
- act in a way which deserves and retains the confidence of Ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future Government; and
- comply with any restrictions that have been laid down on your political activities.

14. You must not:

- act in a way that is determined by party political considerations, or use official resources for party political purposes; or
- allow your personal political views to determine any advice you give or your actions.

Rights and responsibilities

15. The Welsh Assembly Government has a duty to make you aware of this Code and its values. If you believe that you are being required to act in a way which conflicts with this Code, the Welsh Assembly Government will consider your concern, and make sure that you are not penalised for raising it.
16. If you have a concern, you should start by talking to your line manager or someone else in your line management chain. If for any reason you would find this difficult, you should raise the matter with the Welsh Assembly Government's nominated officers who have been appointed to advise staff on the Code.

17. If you become aware of actions by others which you believe conflict with this Code you should report this to your line manager or someone else in your line management chain; alternatively you may wish to seek advice from your nominated officers. You should report evidence of criminal or unlawful activity to the police or other appropriate authorities.
18. If you have raised a matter covered in paragraphs 15 to 17, in accordance with the relevant procedures⁶, and do not receive what you consider to be a reasonable response, you may report the matter to the Civil Service Commissioners⁷. The Commissioners will also consider taking a complaint direct. Their address is:

3rd Floor, 35 Great Smith Street, London SW1P 3BQ.
Tel: 020 7276 2613
email: ocsc@civilservicecommissioners.gov.uk

If the matter cannot be resolved using the procedures set out above, and you feel you cannot carry out the instructions you have been given, you will have to resign from the Civil Service.

19. This Code is part of the contractual relationship between you and your employer. It sets out the high standards of behaviour expected of you which follow from your position in public and national life as a civil servant. You can take pride in living up to these values.

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⁶The whistleblowing legislation (the Public Interest Disclosure Act 1998) may also apply in some circumstances. The Directory of Civil Service Guidance gives more information: www.wales.gov.uk/civilservicecode

⁷The Civil Service Commissioners' Appeals leaflet gives more information: www.civilservicecommissioners.gov.uk. This Code does not cover HR management issues.