

STANDARDS OF MINISTERIAL ETHICS

FOREWORD

These Standards of Ministerial Ethics will replace Chapter 5 of the *Guide on Key Elements of Ministerial Responsibility*, last issued in December 1998, which deals with ministerial conduct. The Guide will be revised and reissued as a whole when the Parliament resumes in 2008.

The Australian people are entitled to expect the highest standards of behaviour from their elected representatives in general and Ministers in particular.

These Standards give a clear indication of my expectations of Ministers. They clearly state that Ministers are required to act with integrity and fairness, be responsible for the way they exercise their powers and accept the full implications of the principle of ministerial responsibility.

In several important aspects, the Standards will require Ministers to accept higher levels of conduct than has been the case in the past. In particular:

- Lobbyists will be required to register their details publicly on a Register of Lobbyists to be established by the Department of the Prime Minister and Cabinet before seeking access to Ministers or their offices;
- Ministers will be required to undertake that, when they leave office, they will not seek to have business dealings with members of the Government, the Public Service or the Defence Force on any matters that they dealt with in an official capacity in the preceding 18 months;
- Electoral fundraising at The Lodge and Kirribilli House will be prohibited;
- Ministers will be required to divest themselves of all shareholdings other than through investment vehicles such as broadly diversified superannuation funds or publicly listed managed or trust arrangements.

Kevin Rudd

STANDARDS OF MINISTERIAL ETHICS

(All references to Ministers should be read as including Parliamentary Secretaries)

1. Principles

1.1 The ethical standards required of Ministers in Australia's system of government reflect the fact that, as holders of public office, Ministers are entrusted with considerable privilege and wide discretionary power.

1.2 In recognition that public office is a public trust, therefore, the people of Australia are entitled to expect that, as a matter of principle, Ministers will act with due regard for integrity, fairness, accountability, responsibility, and the public interest, as required by these Standards.

1.3 In particular, in carrying out their duties:

- (i) Ministers must ensure that they act with integrity – that is, through the lawful and disinterested exercise of the statutory and other powers available to their office, appropriate use of the resources available to their office for public purposes, in a manner which is appropriate to the responsibilities of the Minister.
- (ii) Ministers must observe fairness in making official decisions – that is, to act honestly and reasonably, with consultation as appropriate to the matter at issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved, and the interests of Australia.
- (iii) Ministers must accept accountability for the exercise of the powers and functions of their office – that is, to ensure that their conduct, representations and decisions as Ministers, and the conduct, representations and decisions of those who act as their delegates or on their behalf – are open to public scrutiny and explanation.
- (iv) Ministers must accept the full implications of the principle of ministerial responsibility. They will be required to answer for the consequences of their decisions and actions – that is, they must ensure that:
 - their conduct in office is, in fact and in appearance, in accordance with these Standards;
 - they promote the observance of these Standards by leadership and example in the public bodies for which they are responsible; and

- their conduct in a private capacity upholds the laws of Australia, and demonstrates appropriately high standards of personal integrity.

1.4 When taking decisions in or in connection with their official capacity, Ministers must do so in terms of advancing the public interest – that is, based on their best judgment of what will advance the common good of the people of Australia.

1.5 Ministers are expected to undertake whatever actions may be considered by the Prime Minister to be reasonable in these circumstances to meet the general obligations set out above, including the following specific requirements and procedures.

2. Integrity

2.1 Along with the privilege of serving as a Minister, there is some personal sacrifice in terms of the time and energy that must be devoted to official duties and some loss of privacy. Although their public lives encroach upon their private lives, it is critical that Ministers do not use public office for private purposes. In particular, Ministers must not use any information that they gain in the course of their official duties, including in the course of Cabinet discussions, for personal gain or the benefit of any other person.

2.2 Ministers must declare and register their personal interests, including but not limited to pecuniary interests, as required by the Parliament from time to time. Ministers must also comply with any additional requirements for declarations of interests to the Prime Minister as may be determined by the Prime Minister, and notify the Prime Minister of any significant change in their private interests within twenty-eight days of its occurrence.

2.3 Failure to declare or register a relevant and substantive personal interest as required by the Parliament constitutes a breach of these Standards.

Directorships etc.

2.4 Except with the express approval of the Prime Minister, Ministers will resign or decline directorships of public or private companies and businesses on taking up office as a Minister. Approval to retain a directorship of a private company or business will be granted only if the Prime Minister is satisfied, on the advice of the Secretary of the Department of the Prime Minister and Cabinet, that no conflict of interest is likely to arise.

2.5 If the Prime Minister has approved a Minister remaining as a director of a company and the enterprise subsequently begins to operate in an area potentially affected by decisions which are likely to be made by the Minister, it is the responsibility of the Minister concerned to declare any conflict of interests involved, and to resolve the matter immediately to the satisfaction of

the Prime Minister on the advice of the Secretary of the Department of the Prime Minister and Cabinet.

2.6 Ministers will not provide advice or assistance to any enterprise otherwise than in a disinterested manner as may be required in their official capacity as a Minister. If a Minister has in the past had a personal association with a company or business and is required to make a decision that affects that enterprise alone or only a small number of enterprises of which that enterprise is one, the Minister should pass responsibility for the decision to either the senior Minister in the portfolio or a Minister nominated by the Prime Minister.

2.7 Ministers must bear in mind that their private interests can give rise to perceptions of conflicts of interests that might contaminate not just their own decisions but also the decisions of the Cabinet to which they are a party. Ministers must therefore ensure that they declare any private interests held by them or members of their families which give rise to, or are likely to give rise to, a conflict with their public duties.

2.8 Ministers must, in relation to the matters under discussion in Cabinet or a committee of the Cabinet, declare any private interests, pecuniary or non-pecuniary, held by them or members of their immediate family of which they are aware, which give rise to, or are likely to give rise to, a conflict with their public duties. Further information about the management of conflicts of interest in the context of Cabinet discussions is contained in the Cabinet Handbook.

Shareholdings

2.9 In recognition of the collective responsibility that Ministers bear in relation to Cabinet decisions, these Standards require that Ministers divest themselves of investments and other interests in any public or private company or business, other than public superannuation funds or publicly listed managed funds or trust arrangements where:

- the investments are broadly diversified and the Minister has no influence over investment decisions of the fund or trust; and
- the fund or trust does not invest to any significant extent in a business sector that could give rise to a conflict of interest with the Minister's public duty.

2.10 If a Minister becomes aware that a fund or trust has invested in a company that might give rise to a perception of a conflict of interest, the Minister should inform the Prime Minister immediately and liquidate the investment in the fund or trust if required to do so.

2.11 If a Minister is required by these Standards to dispose of an interest of any kind, the transfer of the interest to a family member or to a nominee or private trust is not an acceptable form of divestment.

Family members

2.12 Ministers must have regard to the pecuniary and other private interests of members of their immediate families, to the extent known to them, as well as their own interests, in considering whether a conflict or apparent conflict between private interests and official duty arises.

2.13 Ministers should encourage family members to dispose of, or not to invest in, shares in companies which operate in their area of responsibility. Where a Minister is aware of the nature of investments of family members from which they derive a beneficial interest and which might give rise to a perception of a conflict of interests, those interests should be structured so that the Minister exercises no control over the investment.

Other forms of employment

2.14 Ministers are required to withdraw from any professional practice or the management of any business. They may not receive any income from business in any form, otherwise than as provided for by these Standards, or from personal exertion other than as a Minister and Member of Parliament. This does not preclude receipt of income such as royalties in respect of activities undertaken before assuming ministerial office, which should be declared in accordance with the requirements of the Parliament and the additional requirements of the Prime Minister.

2.15 A Minister shall not act as a consultant or adviser to any company, business, or other interests, whether paid or unpaid, or provide assistance to any such body, except as may be appropriate in their official capacity as Minister. (This requirement does not apply where a Minister has the Prime Minister's permission to continue an interest in a family business – see above).

Gifts

2.16 Ministers are required to exercise the functions of their public office unaffected by considerations of personal advantage or disadvantage. Ministers, in their official capacity, may therefore accept customary official gifts, hospitality, tokens of appreciation, and similar formal gestures in accordance with the relevant guidelines, but must not seek or encourage any form of gift in their personal capacity. Ministers must also comply with the requirements of the Parliament and the Prime Minister relating to the declaration of gifts.

2.17 Ministers must not seek or accept any kind of benefit or other valuable consideration either for themselves or for others in connection with performing or not performing any element of their official duties as a Minister. Ministers shall ensure that they do not come under any financial or other obligation to individuals or organisations to the extent that they may appear to be influenced improperly in the performance of their official duties as Minister.

Employment of family members

2.18 Ministers' close relatives and partners are not to be appointed to positions in their ministerial or electorate offices, and must not be employed in the offices of other members of the Executive Government without the Prime Minister's express approval. A close relative or partner of a Minister is not to be appointed to any position in an agency in the Minister's own portfolio if the appointment is subject to the agreement of the Minister or Cabinet.

Post-ministerial employment

2.19 Ministers are required to undertake that, for a twelve month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months in office. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public.

2.20 Ministers shall ensure that their personal conduct is consistent with the dignity, reputation and integrity of the Parliament.

3. Fairness

3.1 Ministers must be able demonstrate that they have taken all reasonable steps to observe relevant standards of procedural fairness and good decision making applicable to decisions made by them in their official capacity.

3.2 In particular, Ministers are required to ensure that official decisions made by them as Ministers are unaffected by bias or irrelevant consideration, such as considerations of private advantage or disadvantage.

4. Accountability

4.1 Ministers and their staff are provided with resources and facilities at public expense for the effective conduct of public business. Such resources are not to be subject to wasteful or extravagant use, and due economy is to be observed at all times. In particular, Ministers must be scrupulous in ensuring the legitimacy and accuracy of any claim for entitlement to ministerial, parliamentary or travel allowance.

4.2 Ministers must comply with the relevant guidelines for the use of official residences - The Lodge and Kirribilli House. Ministers will not authorise or participate in any electoral fundraising activities at any official residences.

4.3 Additionally, Ministers are to regard the skills and abilities of public servants as a public resource, and are expected to ensure that public servants

are deployed only for appropriate public purposes. The political and other personal interests of career public servants are to be disregarded unless such interests pose a conflict of interest or give rise to a breach of established conventions of public service neutrality.

4.4 Ministers are required to provide an honest and comprehensive account of their exercise of public office, and of the activities of the agencies within their portfolios, in response to any reasonable and bona fide enquiry by a member of the Parliament or a Parliamentary Committee.

5. Responsibility

5.1 Ministers are expected to be honest in the conduct of public office and take all reasonable steps to ensure that they do not mislead the public or the Parliament. It is a Minister's personal responsibility to ensure that any error or misconception in relation to such a matter is corrected or clarified, as soon as practicable and in a manner appropriate to the issues and interests involved.

5.2 Ministers must not encourage or induce other public officials, including public servants, by their decisions, directions or conduct in office to breach the law, or to fail to comply with the relevant code of ethical conduct applicable to them in their official capacity. Ministers are also expected to ensure that reasonable measures are put in place in the areas of their responsibility to discourage or prevent corrupt conduct by officials.

6. The Public Interest

6.1 Ministers are expected to conduct all official business on the basis that they may be expected to demonstrate publicly that their actions and decisions in conducting public business were taken with the sole objective of advancing the public interest.

7. Implementation

7.1 Ministers must accept that it is for the Prime Minister to decide whether and when a Minister should stand aside if that Minister becomes the subject of an official investigation of alleged illegal or improper conduct.

7.2 Ministers will be required to stand aside if charged with any criminal offence¹, or if the Prime Minister regards their conduct as constituting a *prima facie* breach of these Standards. Ministers will be required to resign if convicted of a criminal offence, and may be required to resign if the Prime Minister is satisfied that they have breached or failed to comply with these Standards in a substantive and material manner.

¹ *Criminal offence* does not include an infringement notice such as an “on the spot” fine.

7.3 Where an allegation involving improper conduct of a significant kind, including a breach of these Standards, is made against a Minister (including the Prime Minister) the Prime Minister may refer the matter to an appropriate independent authority for investigation and/or advice.

7.4 Advice received by the Prime Minister from the Secretary of the Department of the Prime Minister and Cabinet may be made public by the Prime Minister, subject to proper considerations of privacy.

8 Contact with Lobbyists

8.1 Ministers will be approached by individuals and organisations, acting on their own behalf or on behalf of others, whose purpose is to seek to influence (lobby) government on a variety of issues.

8.2 The Department of the Prime Minister and Cabinet will establish and maintain a Register of Lobbyists and make it available online. Lobbyists will be required to register their details on the Register before seeking access to Ministers or their offices.

8.3 Ministers should ensure that dealings with lobbyists are conducted so that they do not give rise to a conflict between public duty and private interest.

8.4 In dealing with a lobbyist who is acting on behalf of a third party, it is important to establish whose interests the lobbyist represents so that informed judgments can be made about the outcome they are seeking to achieve.

8.5 Ministers should ensure that lobbyists with whom they have dealings are properly registered, and must report any instance of non-compliance with the requirements relating to lobbyists.

8.6 In addition, as outlined earlier, Ministers will undertake that for a twelve month period after ceasing to be a Minister, they will not lobby, advocate or have business meetings with members of the government, parliament, public service or defence force on any matters on which they have had official dealings as Minister in their last eighteen months of office.

8.7 Where representations are being made on behalf of a foreign government or the agency of a foreign government, special care needs to be exercised as foreign policy or national security considerations may apply. It may be appropriate in certain cases to advise the Minister for Foreign Affairs of representations received.