



Governor's Office
Anguilla



CODE
ESTABLISHING THE OPERATIONS OF THE
EXECUTIVE COUNCIL
and the
DUTIES OF MEMBERS
DUTIES AND RESPONSIBILITIES OF PERMANENT SECRETARIES
APPOINTMENT PROCESSES AND FUNCTIONING OF SPECIAL
MINISTERIAL ASSISTANTS/ADVISERS

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1. Overview and Enforcement of the Code

1.1 This document provides guidance to Ministers on how they should act, and conduct and arrange their affairs, so as to uphold acceptable ethical standards. It lists the principles which shall apply in particular situations. Ministers are personally and legally responsible (where applicable) for deciding how to act and conduct themselves in light of this Code and the Principles of Public Life, and for justifying their actions and conduct to the Executive Council, the House of Assembly and its committees, and the public.

1.2 Ministers are expected to read and be conversant with this Code and any Code of Conduct for Executive Council members as well as the Anguilla Constitution, the Financial Administration and Audit Act (especially as it relates to their financial responsibilities), the Public Service Commission Act and Regulations; abide by the overarching duties on Ministers to generally comply with the law including international law and treaty obligations; uphold the administration of justice, and protect the integrity of public life. Ministers are expected to observe and uphold the Seven Principles of Public Life and to be guided by the Guide to identifying, avoiding and managing Conflicts of Interests respectively set out as Appendices I and II to the Code.

1.3 Ministers are expected to behave in a manner which upholds the highest standards of integrity, honesty and propriety. If there is an allegation about a breach of this Code or its appendices, it should be reported to the Governor.

2. Statutory Responsibilities of Members of the Executive Council

2.1 All members of Executive Council should read, and be familiar with, the contents of the Constitution of Anguilla.

2.2 They should read, in particular, those Chapters of the Constitution which relate to the The Governor (Chapter II) and The Executive (Chapter III).

2.3 Before reading the remainder of this document, Members should read paragraphs 31-33 of the Constitution as these set out the outline procedure to be followed by members of the Executive Council.

2.4 Members should also note the provisions of Section 28(1) of the Constitution under which the Governor is required to consult with, and act in accordance with the advice of, the Executive Council. But this is subject to the Governor's reserved executive powers in Section 29 of the Constitution, whereby the Governor is not obliged to act on the advice of the Executive Council if, in his opinion, it would be inexpedient in the interests of public order or public faith.

2.5 Members should further note the Governor has reserved powers in section 28(2) of the Constitution, under which he is not obliged to consult with Executive Council in relation to, amongst other things, external affairs, international financial services, defence and internal security.

3. Conduct Of Ministers

3.1 Before taking office a Member of the Executive Council should consider:

(a) whether any outside interests may conflict with his public responsibilities, and particularly whether engagement in private business or professional practices is inconsistent with the discharge of such responsibility; and

b) whether any directorships held are other than honorary directorships connected with philanthropic undertakings or deal wholly with family affairs or interests and are not primarily engaged in trading.

3.2 The normal rule is that Members should divest themselves for the period of their appointment of any outside interests which may conflict with their public responsibilities and resign directorships which do not fit with the description of paragraph 3.1 (b) above. While the Constitution does not specifically preclude the appointment of a member of the Executive Council who fails to meet these criteria the Governor should be consulted about any private interests held or any directorships retained which should be disclosed to him.

3.3 During their term of office Members should not enter into any transactions whereby their private pecuniary interests might, even remotely, come into conflict with their public duty.

3.4 No Members should use official information coming to them in their capacity as Members for their personal profit or that of relations or friends.

3.5 No Member should put himself, or allow himself to be put in a position to use his official influence in support of any scheme or in influence of any contract in regard to which he has an undisclosed interest.

3.6 On assumption of office Members should disclose to the Governor in confidence, a full list of any holdings of stocks and shares, directorships or any other connection with companies which have an interest in Anguilla whether or not such companies are parties to any Government contracts. Members should use the strictest discretion in deciding in circumstances where their private interests and public duty may conflict whether they may properly continue to hold such stocks, shares or other interests. Members should also scrupulously avoid speculative investments in securities in which, from their position and special means of acquiring early or confidential information, they have, or may have, an advantage over other people in anticipating market changes.

3.7 Members should scrupulously avoid speculative investments in land in which from their public office and access to early or confidential information they have, or may have, an advantage over other people in anticipating market changes.

3.8 No Member may accept any kind of favour from persons who are in negotiation with or seeking to enter into contractual or prospecting or pecuniary relations with the Government. Members should carefully avoid all transactions such as acceptance of gifts of substantial value

from members of the public which can give weight to the belief that this Code of Conduct is being offended.

3.9 No Member should use his influence to support the candidature of any person for advancement to or promotion within the Public Service.

3.10 No Member should hold any official position in a trade union nor participate actively in its affairs.

3.11 A Member should not practice journalism while holding office or make any communications to the Press other than in their capacity as a Member. They may however, publish articles of a general nature on subjects which are not lawfully connected with their official duties and which do not relate to political or administrative matters.

3.12 This Code of Conduct applies, where appropriate, to official members of Council as well as elected members

4. Ministerial Responsibility and Executive Council

4.1 Under Section 27 of the Constitution, a Minister is assigned in writing responsibility for a portion of the business of the Executive Council. This ministerial responsibility, together with the necessity to uphold the principle of collective responsibility (see Section 5) and to preserve unity, makes it incumbent upon the Minister to submit to the council:

- Memoranda papers on subjects within their portfolio for discussion and decision; and
- Matter which by law must be presented before that body.

4.2 A decision on what to submit to Executive Council places considerable responsibility on the Minister. The submission of too many matters may over-burden the Council and suggest a lack of confidence on the part of the Minister and submission of too few might give rise to the complaint that they are acting too independently of their colleagues. They may even be called upon to resign if they make a decision which the Council is unable to support.

4.3 Ministers and their officials therefore should ensure that major policy matters are referred to the Executive Council whilst refraining from submitting trivial or routine subjects matters.

4.4 Executive Council meetings take precedence over all other Ministerial business, although it is understood that Ministers will occasionally have to be absent due to unavoidable commitments. However, a Ministers first duty is to participate fully in the discussions and decision making of Executive Council.

4.5 Minister's who wish to be absent from duty or go overseas should inform the Governor. In the case of a Minister, the application should be accompanied by the recommendation of the Premier - regarding the responsibilities of the Minister's portfolio – during the period off absence, whether the appointment of a temporary minister is required or whether the portfolio will be held by another Minister

4.6 Ministers and their Permanent Secretaries should ensure appropriate arrangements are made to cover when Ministers are absent from the country. Special care must be taken over the exercise of statutory powers. Ministers should always seek legal advice from the Attorney General in cases of doubt. Ministers should inform the Governor, Premier and Clerk to the Executive Council in advance of absences and of cover arrangements.

4.7 The Premier is responsible for advising the Governor on the overall allocation of functions between Ministers. Subject to the provisions of the Constitution the Governor, acting in accordance with the advice of the Premier, may, by directions in writing, assign to any Minister responsibility for the conduct of any business of the Government of Anguilla including responsibility for the administration of any department of government.

4.8 Ministers take Oaths of Allegiance and Ministerial Office. The principle of collective responsibility, save where it is explicitly set aside, applies to all Government Ministers. It requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private, while maintaining collective responsibility in public when decisions have been

reached. This in turn requires that the privacy of opinions expressed in Executive Council, including in correspondence, should be maintained.

4.9 The internal process through which a decision has been made should not be disclosed. Decisions reached by the Executive Council are binding on all members of the Government. *They are, however, normally announced and explained as the decision of the Minister concerned.*

4.10 Matters wholly within the responsibility of a single Minister and which do not significantly engage collective responsibility need not be brought to the Executive Council unless the Minister wishes to inform his colleagues or to have their advice. The Governor can advise on whether a matter should be brought to Executive Council where a ministry is unsure.

4.11 When there is a difference of opinion between ministries, it should not be referred to the Executive Council until other means of resolving it have been exhausted. It is the responsibility of the initiating ministry to ensure that proposals have been discussed with other interested ministries and the outcome of these discussions should be reflected in the paper submitted to Executive Council.

4.12 Every paper, including the agenda itself, is itself Confidential as is every subject coming before Executive Council. A Minister should ensure that the contents of all documents relative to their or another Minister's portfolio are kept in strict confidence.

4.13 The doctrine of Confidence continues to binding on a member after their resignation or in the event of a dissolution of a Government. If a member resigns and wishes to discussions in Executive Council they must first obtain consent of the Governor before making any such reference.

4.14 The Clerk to Executive Council will notify the Governor and the Attorney General of any breach of confidence which comes to their notice.

5. Collective responsibility

5.1 The Executive Council is collectively responsible to the House of Assembly and consequently the principle of collective responsibility is fundamental to the operations of the Executive Council. A basic principle therefore in the functioning of the Executive Council is unity, it is important therefore to present a united front to the public.

5.2 A member may not speak either in public or in private against a decision of the Executive Council. Being a member of the Government Side in the House of Assembly, they must not speak or vote on any measure debated in the Executive Council otherwise than on the lines agreed to by the Executive Council.

5.3 No Minister may, in the House of Assembly or in public speeches or elsewhere, commit the Government to any course of action save in accordance with decisions on policy already made by the Executive Council.

5.4 All members of the Executive Council, therefore, are collectively responsible for the policy decided within the Council and are required to support decisions taken there in the House of Assembly and if necessary before the public.

5.5 The principle is not affected by the assignment of responsibility to individual Ministers so that in order to preserve this principle in practice, a Minister should:

- ensure that his decisions, when not within the policy already decided by the Executive Council, are nevertheless clearly defensible by the Council;
- avoid conflict by putting before the Executive Council matters on which there may be doubt regarding the attitude of Executive Council colleagues or concerning which there is any unresolved difference of opinion;
- refrain from committing the Government publicly to any course of action save in accordance with the policy of the Executive Council; and
- preserve unity within the Executive Council by consulting both formally and informally, as the occasion demands with other members of the Council.

5.6 As the practice of collective responsibility calls for unity among Ministers, any Minister who finds it impossible to accept and support any decisions of the Executive Council needs to consider the one course open to him and that is to resign his office.

6. Business for Executive Council of Ministers

6.1 Summoning of Regular Meetings

- The Clerk to the Executive Council takes the Governor's instructions on the Agenda and the calling of regular meetings. The Governor alone has the right to summon a meeting of Executive Council. Requests for convening of an emergency meeting must be submitted to the Governor, or may be called by the Governor themselves;
- The Governor may summon any public servant to a meeting of the Executive Council.

6.2 Proceedings of the Executive Council Meeting

- Proceedings of the Executive Council are informal and not subject to the rules of Debate;
- Unless consent for the consideration of additional items is obtained from the Governor or member presiding, then discussion will be limited to the items on the agenda;
- Notice of matters for discussion must be given by the submission of a memorandum in accordance with the rules for bringing matters before Executive Council; and
- The member putting forward the memorandum is expected to lead the discussion except in his absence, they may ask one of his colleagues to deputise for them. In such event the absent member should ensure that his deputy is fully briefed on the relevant matter.

6.3 Matters Raised Orally

- "Matters Arising" and "Any other Business" can lead to wide-ranging discussions and lack of precision. It is important that the deliberations of the Executive Council should be based on carefully prepared Executive Council Memoranda; and
- In an emergency or exceptional circumstances a member wishing to raise a matter orally should inform the Governor as soon as possible. Executive Council would not normally be expected to make a decision of policy on a subject raised orally.

6.4 Notice and Agenda

- The Executive Council will normally meet weekly (on Thursday at 9 am) and the agenda will be closed at noon on the Friday prior to the meeting;
- A Minister must make a personal approach to the Governor if they wish to propose an amendment to the agenda;
- The notice and agenda of a meeting and the supporting memoranda will be circulated by the Clerk to the Executive Council by mid-day on the Tuesday prior to the meeting.

6.5 In the submission of Memorandum to the Executive Council, the initiating Ministry will take action as follows:

- The initiating Ministry is responsible for submitting the Memorandum using the correct template and format. All documents are to be headed “This document is the property of the Government of Angullia”;
- The initiating Ministry is responsible for seeing that all interested parties (i.e. Finance, Legal - through the Attorney General’s Chambers, other Ministries involved) have been consulted and their views included in the final draft, as well as making certain that clear recommendations have been placed before the Council;
- Submissions that impact more than one ministry should only be accepted if both ministries approve the paper. And where policy decisions require additional funds then the sources of funds should be identified by the ministry in consultation with the Ministry of Finance before the paper is submitted;
- The memorandum, after it has been accepted and initialled by the Minister, should be attached loosely to a subject file which should be minuted to the Clerk to Executive Council for action;
- All copies are to be numbered, each member of the Executive Council and each authorized official having their own number, which will be recorded by the Clerk;
- At each meeting of executive Council members should return to the Clerk the documents from the previous meeting, once the minutes have been agreed. The Clerk will record their return and destroy them; and
- All documents must be returned to the Clerk by a Minister on his resignation or on their ceasing to be a Minister;

6.6 The main kinds of Executive Council documents are:

- Memoranda – submitting questions for decision or giving information likely to lead to discussion;
- Agenda - listing the business to be decided by a meeting;
- Minutes - recording proceedings and decisions; and
- Information papers - providing information for members although the subject matter- is not intended for debate or decision.

6.7 The above-mentioned documents are all the property of the Executive Council and the Clerk should ensure that their contents are not divulged to unauthorised persons. Nor should they be reproduced in any Ministry of Government Office.

6.8 A paper put before the Executive Council should either be a memorandum or an information paper.

7. Action on decisions of the Council

Recording of Decisions

7.1 Decisions of the Executive Council are recorded by the Clerk in the Minutes.

Content of Minutes

7.2 The clerk must record in the minutes only the essence of the discussion or the decision and not refer to opinions expressed by members. The minute will record the decision taken and indicate the responsible official for conveying or actions in furtherance of the decision.

Issuance of Minutes

7.3 Complete copies of these minutes are issued to members of the Executive Council soon as possible after the meeting.

Amendments to Minutes

7.4 Because a Ministry or Department is often required to take action immediately following a decision by Executive Council, confirmation of minute cannot be left until a subsequent meeting. The record of the meeting will stand, therefore, unless a Member of the Executive Council raises with the Clerk any objections they may have within 24hours of receiving the minutes. If the clerk receives amendments of a minor nature these may stand. Substantive amendments should not be made to the minutes. They should be discussed at the next meeting of the Council. In the interim they should be regarded as being in abeyance. In cases of doubt as to whether an amendment is minor or substantive, the Clerk should consult the Governor

Extracts from minutes

7.5 Extracts from the minutes are forwarded on white slips as soon as possible after an Executive Council meeting to the Permanent Secretary in the relevant ministry(ies), and when appropriate will be endorsed "The Governor concurred and directed accordingly".

Permanent Secretary Responsible for Conveying Instructions

7.6 The Permanent Secretary will be responsible for the preparation of a letter, memorandum or other document conveying such instructions as may be necessary arising out of these decisions. The decision will normally be conveyed as a direction of the Governor (where appropriate) or the appropriate member of the Executive Council and not as a decision of the Council unless the latter course has been prescribed for reasons of emphasis.

Words of Decisions

7.7 When the actual words of the decision are being used verbatim, these words should not be quoted in inverted commas.

Reference Numbers of Papers

7.8 Reference numbers of Executive Council papers must never be used on any other documents.

Major variation of Decision

7.9 The Executive Council may be asked to reconsider a decision previously made if the

Minister finds it impracticable to implement the decision or if the circumstances have changed and the decision has become difficult or undesirable to implement.

Minor Variations of Decisions

7.10 The Minister should inform the Governor through the Clerk to Executive Council of the nature of the variation suggested and take instructions whether to go ahead or to go back to the Council.

8. Access to Council Documents

8.1 As a general rule Ministers will only have access to memoranda and minutes of meetings which took place when they themselves personally held office as a Minister.

8.2 On a change of Government Ministers may, however, with the permission of the governor, be given copies of decisions on subjects considered before their time if knowledge of such decisions is necessary for the discharge of current business.

8.3 No Minister is entitled as of right to have access to a Memorandum put to the Council or the minutes of meetings of the Council held when he was not a Minister.

8.4 Notwithstanding any other rules regarding the access to Executive Council documents, a Minister, on returning to office, is entitled to see copies of specific memoranda and minutes issued while they was previously in office. Application to have access to such documents should be made to the Council, giving details of the papers required.

9. Petitions

General

9.1 No paper can be put to the Executive Council by anyone unless he is a member of the Council. It follows that no member of the public is entitled to address the Council. However, members of the public may, from time to time, address letters or petitions to the Council or the Clerk to the Council.

Treatment of Petitions

9.2 On receipt, a letter of acknowledgement stating that the correspondence has been referred to the Minister responsible for the particular subject matter is despatched by the Clerk to the Executive Council to the sender of the petition.

9.3 The Clerk sends a copy of the letter received and a copy of the letter of acknowledgement to the appropriate Minister.

9.4 If considered necessary, the Minister may draw the subject matter of the petition to the attention of the Executive Council.

10. The role of the Attorney General

10.1 It is a Minister's responsibility to ensure that the Attorney General's Chambers is consulted in good time before the Government is committed to critical decisions involving legal considerations.

10.2 Written opinions of the Attorney General's Chambers, unlike other ministerial papers, are generally made available to succeeding Administrations.

10.3 When advice from the Attorney General's Chambers is included in correspondence between ministers or in papers for Executive Council, it may if necessary be summarised but if this is done, the complete text of the advice should be attached.

10.4 The fact that the Attorney General has advised or not advised and the content of his or her advice must not be disclosed outside Government without his or her authority.

11. Ministers' relations with Public Officers

11.1 Ministers must treat public officers with courtesy and respect.

11.2 The relevant Permanent Secretary will arrange an orientation and briefing session covering existing policy, strategy and finances for a Minister taking up office, at a time convenient to the Minister; the Minister has a duty to attend the orientation and briefing.

11.3 Ministers are responsible for setting policy and strategy. Public officers, under the management of the Ministry's Permanent Secretary, are responsible for advising on policy, implementing policy, for applying policy to individual cases, and for managing the day to day operations and finances of the Ministry.

11.4 In setting policy and strategy, and any other decisions they make, ministers have a duty to give fair consideration and due weight to informed and impartial advice from public officers. They must recognise the obligations of public officers to meet accepted professional standards in providing that advice, and not seek to influence public officers to depart from those standards in providing advice.

11.5 Ministers must work with public officers to uphold the political impartiality and objectivity of the Public Service as set out in the General Orders and the Anguilla Public Service Code of Ethics, and not ask or seek to influence public officers to act in a way which would conflict with their duties or the ethical values as set out in those documents. Public officers who believe ministers are asking them (or seeking to influence them) to act against their legal obligations, duties or values as set out in the General Orders or the Anguilla Public Service Code of Ethics have a duty, to report that to the relevant authority or authorities. Any public officer so reporting a Minister is protected against suffering any disadvantage through adherence to the provisions of the Public Service Commission Regulations.

11.6 Ministers have a duty to ensure the public officers in their Ministry are fully informed of any meetings they have with other Ministers, or persons outside the government, and any undertakings that have been given.

11.7 Ministers must not intervene in issues affecting a public officer's career such as recruitment, promotion, reward, discipline and dismissal. Where Ministers have a concern about a public officer below the level of Permanent Secretary, they should discuss that with the Permanent Secretary. Where they have a concern about the Permanent Secretary, they should discuss it with the Deputy Governor as Delegated Head of the Public Service.

11.8 Public Service appointments must be made in accordance with the requirements of the Constitution and the Public Service Commission Regulations.

11.9 Ministers also have a duty to ensure that any broader influence they have over the management of the Public Service, including promotion, reward and discipline, and employment conditions, is not abused for party political purposes or personal interests. Ministers must ensure that their special advisers/assistants treat the public officers in their Ministry with respect, courtesy and cooperation.

12. Ministers' relations with Accounting Officers and the Permanent Secretary, Finance

12.1 Permanent Secretaries and other public officers are appointed as Accounting Officers as set out in the Financial Administration and Audit Act. This is a personal responsibility for the propriety and regularity of the public finances for which the Accounting Officers are responsible; for the prompt collection and receipt of revenue; for the control and accurate accounting of expenditure for keeping proper accounts; for the avoidance of waste and extravagance; and for the efficient use of resources. These responsibilities are set out in the Financial Administration and Audit Act.

12.2 Ministers shall not instruct a public officer on expenditure or allocation of funds and resources within a Ministry: this is the responsibility of the Accounting Officer.

12.3 Accounting Officers answer personally to the Public Accounts Committee of the House of Assembly on these matters, separately from Ministers' accountability to the House of Assembly for the policies, actions and conduct of their ministry.

12.4 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.

12.5 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 objections to the proposal, the reasons for the objection and the duty to inform the Governor, Deputy Governor, PS Finance, Chief Auditor, and the Public Accounts Committee should the objections be overruled.

12.5 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 send the relevant papers to the Governor's, Deputy Governor, PS Finance, Chief Auditor and the Public Accounts Committee. The same procedures apply where the Accounting Officer has concerns about whether a proposed course of action offers value for money. This notification process enables the Chief Auditor and the Public Accounts Committee to see that the Accounting Officer does not bear personal responsibility for the actions concerned.

13. Ministers and Statutory Bodies and Boards

13.1 Ministers must respect the statutory role and autonomy of statutory bodies and boards. Any involvement that ministers have in appointments to statutory bodies and boards, and officers or employees of those bodies and boards, must reflect the public interest rather than party political or personal interest.

13.2 Ministers must support the Accounting Officer of their ministry in discharging the obligations as Accounting Officer for the expenditure of statutory bodies and boards affiliated to the ministry.

13.3 Ministers have a duty to ensure that any influence they have over public appointments (including to statutory bodies and boards) is not abused for party political purposes, or personal interests.

14. Special Ministerial Assistants/Advisers

14.1 Ministers may each appoint not more than one special ministerial assistant/adviser. All such appointments require the prior approval of the Executive Council and no commitments to make such appointments should be entered into in the absence of such approval or without an approved budget to meet the costs.

14.2 Special ministerial assistants/advisers who are paid by individuals or organisations other than the government, or who are unpaid, also require the prior approval of the Executive Council including details on how they are paid.

14.3 The guidelines for the appointment and conduct of special ministerial assistants/advisers are set out in Appendix III of this Code.

14.4 The responsibility for the management and conduct of all special ministerial assistants/advisers including discipline, rests with the Minister with responsibility for the portfolio to which they have been assigned. Individual Ministers will be accountable to the Premier, the House of Assembly and its committees, and the public for their actions and decisions in respect of their special ministerial assistants/advisers. More details are given in the Guidelines set out in Appendix III of this Code.

15. Ministers and Government Publications and Documents

15.1 Before publishing a policy statement or consultation paper, Ministers and their officials should consider whether it raises issues which require full collective ministerial consideration through Executive Council. The expectation is that such papers will need collective agreement prior to publication. Any publication containing a major statement of Government policy should be circulated to the Executive Council before publication. This is the case where papers contain major statements even when no issue requiring collective consideration is required.

15.2 Where commercially sensitive material is involved, no copies of government publications should be made available to the media or any other person outside government, prior to

publication.

15.2 Ministers relinquishing office should hand back to their Ministry any Executive Council documents and other ministry and government papers in their possession.

15.3 On a change of Government, the Governor will issue special instructions about the disposal and/or storage of Executive Council and ministry papers of the outgoing Administration.

15.4 Ministers must honour any confidentiality requirements on classified documents in perpetuity (for clarity this includes after they leave office).

16. Ministers and the communication and presentation of Government Policy

16.1 Official facilities paid for out of public funds can be used for Government publicity and advertising but shall not be used for the dissemination of material which is essentially party political.

16.2 Ministers should ensure that their statements are consistent with collective Government policy. Ministers should take special care in referring to subjects which are the responsibility of other Ministers.

16.3 Ministers must only use official machinery for distributing texts of speeches relating to Government business. Speeches made in a party political context must be distributed through the party machinery.

16.4 Ministers invited to broadcast on radio, television and/or webcasts in a political or private capacity should consider if such a broadcast would have a bearing on another ministry's responsibilities, in which case they should clear the matter with the ministerial colleague concerned before agreeing to the invitation.

16.4 Ministers shall not accept payment for speeches or media articles of an official nature or which directly draw on their responsibilities or experience as Ministers or with a view to donating the fee to charity. If the organisation in question insists on making a donation to a charity then it should be a charity of the organisation's choice.

16.5 Ministers shall not, while in office, write and publish a book on their ministerial experience. After leaving office, Ministers must submit a draft of any such book to the Governor in advance of publication for comment.

17. Permanent Secretaries and Official Communications

17.1 The Permanent Secretary is the channel of official communication between the Minister and other Ministries, Statutory Authorities and Corporations, commercial firms and members of the public. Because of his ultimate responsibility the Permanent Secretary has an unquestioned right to see all communications coming into the Ministry and to approve before issue all communications emanating from it. However, he is free to delegate as much of this authority as he thinks fit to the Heads of Departments by allowing them in his discretion first access to incoming communications marked for their attention and by permitting them to sign outgoing

communications for him, or in the case of purely professional or technical correspondence, over their own departmental titles.

18. Elections

18.1 In the period between an election being called, and the election taking place, the Government retains its responsibility to govern, and Ministers remain in charge of their Departments. Essential business must be carried on. However, it is customary for Ministers to observe discretion in initiating any new action of a continuing or long-term character. Decisions on matters of policy on which a new Government might be expected to want the opportunity to take a different view from the present Government should be postponed until after the Election, provided that such postponement would not be detrimental to the public interest or wasteful of public money.

18.2 During the election period, official support, and the use of public resources, including publicity, will not generally be provided for Ministerial announcements – especially where those announcements could have a bearing on elections.

18.3 Public officers should not be asked to carry out new research or develop new arguments for use in election debate.

18.4 Care should also be taken over decisions and announcements of decisions made at official level which may have a bearing on elections. In some cases it may be better to defer an announcement until after the elections, but this would need to be balanced against any implication that deferral could itself influence the elections – and decisions should not be postponed where that would be detrimental to the public interest or wasteful of public money. Each case will need to be considered on its merits. If in doubt, public officers should consult the Permanent Secretary; the Permanent Secretary may wish to consult the Deputy Governor and/or the Governor.

APPENDIX I

SEVEN PRINCIPLES OF PUBLIC LIFE

The Seven Principles of Public Life apply to anyone who works as a public office-holder, including all those who are elected or appointed to public office, and all those appointed to work in the Public Service. When followed they will help to ensure good government.

- **Selflessness**

Holders of public office should act solely in terms of the public interest.

- **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

- **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty**

Holders of public office should be truthful.

- **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

APPENDIX II

CONFLICTS OF INTEREST

Definition of Conflict of Interest

1. A conflict of interest occurs when public officials (Governor, Ministers, Permanent Secretaries and Special Ministerial Assistants/Advisers) are in a position to be influenced, or appear to be influenced, by their private interests when doing their job. A conflict of interest involves gaining personal advantage as well as avoiding personal disadvantage. A conflict of interest is not limited to circumstances where a public official, or a person close to a public official may gain or lose financially as a result of a public official's position. It includes situations where the official decisions of a public official may be influenced by their private interests in social and professional activities, and interests with individuals or groups, including family and friends.
2. A conflict of interest can therefore:-
 - i) Arise when a person making a decision has divided loyalties.
 - ii) Arise from financial involvement in a transaction (pecuniary interest).
 - iii) Arise from a non-pecuniary arrangement; a personal or professional association from which the person may benefit.
 - iv) Be an actual conflict - The holder of a public position can immediately be influenced by their private interests when doing their job.
 - v) Be a perceived conflict - The holder of a public position appears to be influenced by their private interests when doing their job.
 - vi) Be a potential conflict - The holder of a public position who may in the future be influenced by their private interests when doing their job.
 - vii) Arise where there is no personal benefit.

Managing Conflicts of Interest

3. Conflicts of interest are not in themselves wrong. What is important is how they are managed. Public officials also have private lives. There will be occasions when a public official's private interests may come into conflict with his/her public duty to put the public interest first at all times. Individuals should disclose their conflicts of interest and raise the issue with others if they think they may have a potential conflict. To remain silent is to suggest there is no conflict.

The perception that a conflict of interest has influenced an outcome is likely to undermine public confidence in the integrity of Executive Council and /or a Ministry and the public official. When a conflict of interest is badly managed it can lead to corruption or abuse of public office, or the perception that these exist.

Responsibility of Public Officials

4. Public officials, where reasonably possible, should avoid conflicts between their personal interest and public interest. It is, however, not always possible to avoid having a conflict of interest. Once officials become aware of a conflict of interest what is important is what is done or not done. If a conflict of interest cannot be reasonably avoided public officials have a responsibility to identify and effectively assist in the management of any conflicts of interest.

Identifying Conflicts of Interest

5. There are some factors that should be considered when a public official is deciding whether their public duty and their private interests are in conflict. Factors that may put a public official at risk of a conflict of interest include:-
 - Financial and economic interests, such as debts or assets.
 - A family or private business.
 - A secondary employment commitment.
 - Affiliations with for-profit and non-profit organisations, sporting bodies, clubs and associations.
 - Affiliations with political, trade union or professional organisations, and other personal interests.
 - Obligations to professional, community, ethnic, family or religious groups in a professional capacity.
 - Obligations because of relationships to people living in the same household.
 - Enmity towards, or competition with, another individual or group.
 - Significant family or other relationships with clients, or contractors.
 - Highly specialist skill(s) in an area where demand for the skill(s) frequently exceeds supply.
 - Future employment prospects or plans (that is, post-separation employment).

Strategies to Manage Conflicts of Interest

6. There are a number of strategies that can be utilized to effectively and transparently assist in the management of a conflict of interest. These are set out below.
 - i) Formally register in the Executive Council Minutes the details of the existence of a possible/potential conflict of interest. This should be utilized in all instances of a conflict of interest whether alone or in conjunction with one of the strategies listed below.
 - ii) Restrict the official's involvement in the matter. Involvement in all or parts of the process dealing with the matter will be restricted.
 - iii) A disinterested third party may be recruited to oversee all or part of the process dealing with the matter.
 - iv) The public official removes himself/herself completely from dealing with the matter.
 - v) The public official relinquishes the private interest that is creating the conflict.
 - vi) The public official resigns from their public office.

APPENDIX III

GUIDELINES FOR APPOINTMENT AND CONDUCT OF SPECIAL MINISTERIAL ASSISTANTS/ADVISERS

These Guidelines are intended to provide guidance on the rationale for the appointment of Special Ministerial Assistants/Advisers, their areas of responsibility and how they should conduct themselves in order to uphold acceptable ethical standards.

1. Background

The Government of Anguilla suffers from several constraints on its effective and timely development and implementation of policy, programmes and projects for the sustainable progress of Anguillian society. These include:

- a) the limited number of Ministries permitted under the Constitution, the smallness of the government structures and the limitations of the budget;
- b) the small number of highly trained and experienced managers in the Anguilla Public Service in the areas of policy development, programme and project planning and implementation;
- c) the general lack of middle level operational managers in various Ministries and Departments with the consequence that top administrators must of necessity devote inordinate amounts of time to operational matters, leaving very little time for forward planning, policy analysis and programme planning and implementation;
- d) restrictions placed by General Orders on the conduct of public officers;
- e) the absence of well organised policy and planning structures and processes, which facilitate participation by the various stakeholders in the society and economy in addition to public service officials; and
- f) lack of formal democratic organs and structures through which the populace can make their views and concerns about the work of government heard.

2. Purpose of Special Ministerial Assistants/Advisers

The appointment of Special Ministerial Assistants/Advisers is intended to:

- a) provide Ministers of Government with analysis, advice and recommendations on policies, strategies, programmes and plans designed to address various subjects for which they are responsible.
- b) strengthen the links and provide a political liaison between Government and the community at the individual and group levels;

- c) create an additional, officially recognized source of ideas for input into the planning process;
- d) assist Ministers in implementing projects and programmes in harmony with public service managers;
- e) enhance Ministers' ability to monitor and keep track of progress in the implementation of special projects and plans as determined by them; and
- f) enable Ministers to undertake special priority assignments, which for various reasons cannot be readily addressed by the 'public service structures', by delegating responsibility for such assignments to Special Ministerial Assistants/Advisers.

3. Discharge of duties by Special Ministerial Assistants/Advisers

Special Ministerial Assistants/Advisers will discharge their roles by carrying out such of the following duties as their Minister may require (note: this list may be amended from time to time):

- a) reviewing papers before they go to the Minister, drawing attention to problems and difficulties, especially ones having party political implications, and ensuring sensitive political points are handled properly;
- b) "devilling" for the Minister, and checking facts and research findings;
- c) preparing speculative policy papers that can generate long- term policy thinking within a Department;
- d) contributing to policy planning within the Department by contributing ideas that extend the existing range of options available to the Minister;
- e) liaising with the party, including the Party's own research department, to ensure that the Ministry's own policy reviews and analysis take full advantage of ideas from the party, and encouraging presentational activities by the party, which contribute to the Government's and Ministry's objectives;
- f) helping to brief Party Members, elected or nominated to the House of Assembly and other officials on issues of Government policy;
- g) liaising with outside interest groups to ensure the Minister's access to their contribution;
- h) speech writing and related research including adding party political content to material prepared by permanent public officers;
- i) providing expert advice as a specialist in a particular field.

4. Guidelines for functioning of Special Ministerial Assistants/Advisers

- a) Appointments will be at the pleasure of Executive Council and will in any event be for periods not exceeding the term of office of the Government and will terminate not later than the date on which the term of office ends.
- b) The Special Ministerial Assistant/Adviser will take instructions from his/her respective Minister and will report to the Minister.
- c) The Special Ministerial Assistant/Adviser will not have any civil service role, but will require information from time to time from civil servants, the provision of which should be facilitated via the Minister and the Permanent Secretary.
- d) The Special Ministerial Assistant/Adviser will not have any authority over a Permanent Secretary, nor any other Civil Servant, but the Assistant and the Permanent Secretary under the leadership of the Minister will be expected to develop a cooperative and harmonious working relationship in order that they can provide the best advice and support to the Minister.
- e) The Special Ministerial Assistant/Adviser's role may be mainly advisory or it may be focused on facilitating the effective implementation of specific initiatives of the Minister, or may involve mainly the provision of support to the Minister in the discharge of his responsibilities, or a combination of roles in this regard, depending on knowledge, training, skills and experience that each will bring to the role.
- f) Full time Special Ministerial Assistants/Advisers will be required to put in at least the same number of hours as constitute a work week for the Anguilla Public Service.
- g) Part time Special Ministerial Assistants/Advisers will be required to contribute at least an average of not less than 20 hours a week of their time to their functions.
- h) Special Ministerial Assistants/Advisers are required to go through the Minister and the Permanent Secretary to access information and assistance from civil servants.
- i) Special Ministerial Assistants/Advisers will normally be required and expected to participate in meetings and discussions at the request of the Minister as well as to produce papers, chair committees and coordinate the management of special events and programmes.
- j) Where Special Ministerial Assistants/Advisers are having significant meetings, to discuss policy or expenditure, either with public officers in other parts of government, or with outside stakeholders, a member of the civil service should be present. Where such meetings arise without being planned, Special Ministerial Assistants/Advisers should inform officials in the Ministry that the meeting took place and give an outline of what was discussed.
- k) They may represent the Minister at events and on occasions where a political presence rather than a civil service presence is more appropriate; and

- l) Attend regional and International meetings on behalf of the Minister, where appropriate.

5. Enforcement of the Guidelines

- a) All Special Ministerial Assistants/Advisers are expected to behave in a way that upholds the highest standards of integrity, honesty, and propriety.
- b) Special Ministerial Assistants/Advisers are expected to read and be conversant with these Guidelines as well as the Anguilla Constitution, the Financial Administration and Audit Act and the Public Service Act and Regulations; they should abide by the overarching duties on Special Ministerial Assistants/Advisers to generally comply with the law including international law and treaty obligations; to uphold the administration of justice, and to protect the integrity of public life. Special Ministerial Assistants/Advisers are expected to observe and uphold the **Seven Principles of Public Life** and to adhere to the **Guide to identifying, avoiding and managing Conflicts of Interests** respectively set out as Appendices I and II to the **Code of Conduct**.
- c) Special Ministerial Assistants/Advisers will be paid a salary out of public funds.

6. Conduct of Special Ministerial Assistants/Advisers

- a) Special Ministerial Assistants/Advisers must not misuse their official position or information acquired in the course of their official duties to further their private interests or the private interests of others – to do so is an act of corruption, and as such may be a criminal offence as well as a breach of these Guidelines. Special Ministerial Assistants/Advisers should not receive benefits of any kind which others might reasonably see as compromising their personal judgment or integrity. They are required to declare details of gifts and hospitality received to their Ministers copied to the Clerk to Executive Council. Ministries will publish on an annual basis, information about gifts and hospitality received by their Special Ministerial Assistant(s)/Adviser(s).
- b) Special Ministerial Assistants/Advisers' actions should not be influenced or be seen to be influenced by the hope or expectation of future employment with a particular firm or organisation.
- c) Special Ministerial Assistants/Advisers must declare to the Minister and Permanent Secretary any interest in relation to any case or application which comes before their minister or ministry officials. They must also declare to their Minister and Permanent Secretary any interest in relation to any case or application, which comes before the minister or officials in other ministries, if they or their Minister get involved in that case or application in any way.
- d) Special Ministerial Assistants/Advisers must not deceive or knowingly mislead Parliament or the public.
- e) Special Ministerial Assistants/Advisers must not, without authority, disclose official

information which has been communicated in confidence in Government or received in confidence from others in the course of Government work.

- f) The preparation or dissemination of inappropriate material or personal attacks has no part to play in the job of being a Special Ministerial Assistant/Adviser as it has no part to play in the conduct of public life. Any Special Ministerial Assistant/Adviser found to be disseminating inappropriate material will automatically be dismissed by Executive Council.

7. Special Ministerial Assistants/Advisers' relations with the Public Service

- a) Special Ministerial Assistants/Advisers must not use governmental resources for party political purposes, and should avoid anything which might reasonably lead to that perception. When working in a Ministry or other government premises, or using government resources, Special Ministerial Assistants/Advisers are there to serve the objectives of the Government and the Ministry. It is this which justifies their access to government resources, and explains why their participation in party politics must be regulated.
- b) Special Ministerial Assistants/Advisers must uphold the political impartiality of the public service and not ask or influence public officers to act in any way which would conflict with their duties of impartiality and objectivity.
- c) Special Ministerial Assistants/Advisers must:
 - i. treat public officers with courtesy and respect;
 - ii. respect the public service's duty of impartiality, and the obligations of public officers to meet accepted professional standards in providing advice;
 - iii. Keep ministry officials informed of their activities, including meetings with statutory bodies and boards, and external stakeholders.
- d) Special Ministerial Assistants/Advisers must not:
 - i. authorise the expenditure of public funds, have responsibility for budgets, or any involvement in the award of external contracts;
 - ii. exercise any power in relation to the management of any part of the Public Service;
 - iii. intervene in issues affecting a public officer's career such as recruitment, promotion, reward, discipline and dismissal;
 - iv. exercise any statutory or prerogative power;

- v. suppress or supplant the advice being prepared for Ministers by public officers, although they may comment on such advice.
- e) Where a Special Ministerial Assistant/Adviser is uncertain about whether an activity is acceptable according to these Guidelines, he or she should seek advice in advance from the Permanent Secretary.
- f) Where any public officer has concerns about any request coming from a Special Ministerial Assistant/Adviser, they should discuss that concern with their line manager, or their Permanent Secretary. If a public officer feels for whatever reason that he or she is unable to do this then they may wish to raise the concern with the Deputy Governor or Governor.
- g) Public officers who believe they or other public officers are being asked or influenced to act against their duties or values as set out in the General Orders or the Anguilla Public Service Code of Ethics, have a duty, to report this to the relevant authorities as set out in those documents. Special Ministerial Assistants/Advisers must recognise and respect this duty.

8. **Special Ministerial Assistants/Advisers' relations with the Media**

- a) All contacts with the media should be authorised by the appointing Minister.
- b) Special Ministerial Assistants/Advisers are able, in background briefing to the media, to represent Ministers' views on Government policy with a degree of political commitment that would not be possible for public servants. Briefing on purely party political matters must be handled by the Party machine.
- c) Special Ministerial Assistants/Advisers must not publish or broadcast personal memoirs reflecting their experience in Government while in government employment.

9. **Special Ministerial Assistants/Advisers' relations with the Government Party**

- a) In all contacts with the Party, Special Ministerial Assistants/Advisers must observe normal Public Service rules on confidentiality unless specifically authorised, in a particular instance, by their Minister.
- b) As noted in Sections 7 a) & b) above, in liaising between Government and the Government Party, Special Ministerial Assistants/Advisers must not use Government resources for party political purposes, and must uphold the political impartiality of the public service.
- c) *Special Ministerial Assistants/Advisers must not take part in the work of the Party's national organisation*, and will resign on the announcement of a General Election.
- d) Special Ministerial Assistants/Advisers may give advice and support to the Minister when

the Minister is taking part in party political activities – including in internal party matters such as party elections – but must do so while on leave or at times which do not interfere with their normal duties, for example, out of office hours and not on government premises.

4 Special Ministerial Assistants/Advisers' rights and responsibilities after leaving Government Employment

- a) On leaving government employment, Special Ministerial Assistants/Advisers are obliged to return any ministry or government documents or papers they have in their possession.
- b) Special Ministerial Assistants/Advisers must continue to observe their duties of confidentiality after they have left their employment as a Special Ministerial Assistant/Adviser. They continue to be bound by duties of confidentiality in relation to any classified documents in perpetuity.

5 Leave Entitlements of Special Ministerial Assistants/Advisers

Special Ministerial Assistants/Advisers will be entitled to:-

- a) twenty-five (25) working days leave if full time and twelve (12) working days leave if part time, per calendar year, on the basis of a five day working week.
- b) sick leave and maternity leave as set out in the Fair Labour Standards Act as amended or replaced from time to time.

The relevant leave applications (as appropriate) must be submitted to the Minister through his/her Permanent Secretary at least one month in advance of the scheduled start of the leave period.

6 Compensation for Special Ministerial Assistants/Advisers

- a) Full-time Special Ministerial Assistants/Advisers will be paid at a rate which is negotiated but should never exceed the salary level of a Band C officer within the Anguilla Public Service.
- b) Part-time Special Ministerial Assistants/Advisers will be paid on a pro rata basis, but again at a rate which is negotiated but should never exceed the salary level of a Band C officer within the Anguilla Public Service..
- c) Allowances will be paid from Subhead 'Specialist Services' under the various ministries at the end of each month.
- d) Special Ministerial Assistants/Advisers will be included in the Government's group medical insurance programme available to civil servants subject to the same qualifying requirements as civil servants.

- e) Where Special Ministerial Assistants/Advisers are required by their specific Terms of Reference to undertake field work requiring the frequent use of their private vehicles, consideration should be given to paying travel allowance to the individuals concerned. The travel allowance policy adopted for the public service will be used to determine the level of any such allowance.

13. **Miscellaneous**

- a) A Special Ministerial Assistant/Adviser will in addition to these General Terms of reference be issued with Terms of Reference specific to the responsibilities he/she is being required to undertake within a Ministry or Department.
- b) Any issue not covered by the General or Specific Terms of Reference will be resolved in accordance with the Fair Labour Standards Act as amended or replaced from time to time.
- c) Special Ministerial Assistants/Advisers will be issued with Letters of Appointment stipulating the terms and conditions of appointment. Letters of Appointment will refer to the General and Specific Terms of Reference.
- d) One of the Special Ministerial Assistants/Advisers will be required to convene a regular **monthly** meeting of his/her colleagues to monitor and evaluate their effectiveness in discharging their responsibilities and to organise regular group reporting and consultation sessions with Ministers and the Parliamentary Secretary.
- e) Executive Council will review on a yearly basis the performance of the Special Ministerial Assistants/Advisers, as well as the performance of the system as a whole to ensure that any deficiencies are identified and addressed.
- f) The Government will publish an annual statement to the House of Assembly setting out the numbers, names and remuneration of all Special Ministerial Assistants/Advisers.