



Revising the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries

*A recommendation under article 13
of the Standards in Public Life Act*

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Executive Summary

This document presents revised codes of ethics for members of the House of Representatives (MPs) and ministers and parliamentary secretaries (ministers). This document is being submitted to the Standards Committee of the House of Representatives as a recommendation under article 13(1)(g) of the Standards in Public Life Act.

The revised codes of ethics for MPs and ministers that are presented in this document are intended to replace the current codes, which are found in the first and second schedules of the Standards in Public Life Act. The revised codes are intended to strengthen the ethical standards with which MPs and ministers are expected to comply and reinforce the framework of accountability within which Malta's governing institutions operate. The revised codes also address recommendations by the Group of States Against Corruption (GRECO), a body within the Council of Europe.

The revised Code of Ethics for Members of the House of Representatives incorporates the following elements:

- The adoption of a set of values in common with the Code of Ethics for Ministers and Parliamentary Secretaries.
- New principles that would require MPs not to expose themselves to any risk of being placed under undue pressure and influence in the performance of their duties.
- A provision obliging members not to use any improper influence, threats or undue pressure in the course of their duties.
- A provision obliging members not to abuse the power and privileges enjoyed by them.
- A Register for Gifts, Benefits and Hospitality in which MPs should duly record not only those received but also those bestowed by them to third parties, if such gifts are related to their parliamentary or political activities.
- A Register of Interests for registration of financial and non-financial interests.
- Spouses and/or partners as well as other members of their families shall be subject to registration of certain interests, gifts, benefits and hospitality.

The revised Code of Ethics for Ministers and Parliamentary Secretaries introduces important changes such as the following:

- Ministers are subject to employment restrictions for a period of three years after leaving office.

- Ministers are required to record their assets and financial and other interests in a Register of Interests annually and within 28 days from a change of circumstance as established by the guidelines to the code.
- Ministers are required to record all relevant communications with lobbyists in a Transparency Register.
- Ministers are obliged not to accept any gifts, benefits and hospitality for themselves or for members of their families except as permitted by guidelines issued by the Commissioner for Standards in Public Life.
- Ministers may not bestow gifts, benefits and hospitality except as permitted by the Commissioner's guidelines.
- Ministers are required to avoid abusing the powers and privileges enjoyed by them.
- Ministers are required to avoid associating with individuals who could place them under any obligation or inappropriate influence.
- Ministers are required to avoid putting themselves in situations in their private lives that may expose them to any undue pressure or influence.
- If ministers meet persons with an interest in obtaining permits, authorisations and other benefits from the state, they should do so in an official setting and in the presence of officials.
- Ministers are required to avoid conducting official business through unofficial email accounts.
- Ministers are required to channel public funding to the media on the basis of objective criteria.

Each code is accompanied by a set of guidelines which elaborates on specific aspects. Each code itself contains enabling provisions empowering the Commissioner for Standards to issue such guidelines. This approach is considered preferable to including all the necessary provisions in the codes themselves, for two reasons:

- it avoids encumbering the codes with excessive detail;
- the guidelines are flexible documents that can be changed as necessary in the light of experience or changing circumstances.

1 Introduction

1.1 The purpose of this document

Article 13(1)(g) of the Standards in Public Life Act (chapter 570 of the laws of Malta) imposes the following obligations on the Commissioner for Standards in Public Life (“the Commissioner”):

- “to make recommendations for the improvement of any Code of Ethics applicable to persons who are subject to this Act and in particular but without prejudice to the generality of the foregoing, to make recommendations on the acceptance of gifts, the misuse of public resources, the misuse of confidential information, and on limitations on employment or other activities after a person ceases to hold office as a Minister, a Parliamentary Secretary or a member of the House of Representatives;” and
- “to ensure that any recommendations made give due account to the need for any measures, guidelines or rules intended to ensure high standards in public life according to this Act are easily accessible and comprehensible to the general public.”

The reference in article 13(1)(g) to “persons who are subject to this Act” is a reference to those persons to whom the Standards in Public Life Act applies, as laid out in article 3 of the law. These are:

- (a) “Members of the House of Representatives including Ministers, Parliamentary Secretaries and Parliamentary Assistants;”
- (b) “Persons of trust only to the extent that it shall be within the power of the Commissioner, acting either of his own motion or after receiving a complaint, to investigate and report to the House of Representatives whether a person of trust shall have breached the provisions of the Code of Ethics included in the First Schedule to the Public Administration Act to which persons of trust shall by virtue of this Act and without any further requirement, be subject”;¹
- (c) “Any other person or category of persons as the Minister may by regulations, supported by an affirmative resolution of the House of Representatives, prescribe.”

Persons in each of the first two categories are subject to a code of ethics. The Code of Ethics of Members of the House of Representatives is found in the first schedule of the Standards in Public Life Act. The Code of Ethics for Ministers and Parliamentary Secretaries (which also applies to the Prime Minister and to parliamentary assistants) is found in the second schedule of the same Act. Persons of trust are subject to the Code

¹ The definition of “persons of trust” may change by virtue of Bill no. 159, which is currently before the House of Representatives.

of Ethics for Public Employees and Board Members, which is found in the first schedule of the Public Administration Act (chapter 595 of the laws of Malta).

This document only concerns the first two codes, that is to say the Code of Ethics of Members of the House of Representatives and the Code of Ethics for Ministers and Parliamentary Secretaries. It presents revised draft codes, with accompanying guidelines, which have been drawn up as replacements for the current codes.

The procedure for the amendment of the schedules to the Standards in Public Life Act is set out in article 3(4) of the Act. This provision states that the schedules may be amended by means of an order published in the Government Gazette (that is to say a legal notice) made by the Minister responsible for justice upon a recommendation by Parliament's Standing Committee for Standards in Public Life (the Committee), supported by an affirmative resolution by the House of Representatives.

The first stage of this process is therefore the consideration of any proposed amendments by the Standards Committee, which would then seek a resolution by the whole House in support of the amendments if it agrees to take them forward. This document represents a recommendation by the Commissioner to the Committee, in terms of article 13(1)(g) of the Standards in Public Life Act, to initiate the process with a view to the current codes being substituted by those set out herein.

1.2 Background to the current codes of ethics

Malta was one of the first countries in Europe to introduce codes of ethics for its parliamentarians and members of the executive.²

The Code of Ethics of Members of the House of Representatives was introduced by means of Act XI of 1995, which amended the House of Representatives (Privileges and Powers) Ordinance (chapter 113 of the laws of Malta). The Code took the form of a schedule to the Ordinance. The same Code was reproduced with a minor amendment as the first schedule of the Standards in Public Life Act. The latter Act was enacted in 2017 and brought into force in 2018.

The original version of the Code continues to appear as part of the House of Representatives (Privileges and Powers) Ordinance. This is a minor issue since the two versions of the Code are almost identical, but it would cause confusion if the Code as set out in the Standards in Public Life Act is substituted by a revised code as proposed in this document.

² OSCE Office for Democratic Institutions and Human Rights, *Background Study: Professional and Ethical Standards for Parliamentarians* (Warsaw, 2012), p.35. Available at <https://www.osce.org/files/f/documents/7/7/98924.pdf>.

Article 16 of the Ordinance provides for the Code as set out therein to be superseded by a revised code that the House of Representatives may adopt by means of a resolution. Since the Standards in Public Life Act, like all primary legislation, was enacted by Parliament, it might conceivably be considered to be a resolution of the House for the purposes of the Ordinance, meaning that the Code in the Ordinance has been superseded and no longer has the force of law. However, there is nothing in the Ordinance to indicate that this is the case and official documents continue to refer to the Code as set out in the Ordinance. For this reason the Ordinance should ideally be amended so as to delete the Code from the Ordinance and to substitute for it a cross-reference to the Code as set out in the Standards in Public Life Act. This is a matter for Parliament to consider.

A Code of Ethics for Ministers and Parliamentary Secretaries was introduced for the first time in 1994. This Code took the form of a standalone document issued by the Cabinet Office. It was superseded by a new Code in 2015. The new Code was adopted as a Cabinet document and later published on the website of Parliament. Subsequently it was reproduced as the second schedule of the Standards in Public Life Act.

1.3 Why are new codes necessary?

Aiming for high standards in public life should be a matter of conviction, not only a matter of obligation, for every member of the House of Representatives and the Executive. Everyone in public life should not only refrain from doing what is objectively wrong, but should also be aware of what may be perceived as wrong by the general public in order to avoid situations where such perceptions may arise. The ultimate test of behaviour on the part of politicians participating in the institutions of our democratic society is whether that behaviour meets the perceptions and expectations of the public.

Codes of ethics encapsulate those expectations and define the standards for persons in public life to follow. Even the most well-meaning of parliamentarians need rules to guide their conduct and assist them to avoid making bad choices. Codes of ethics set out values and rules of behaviour and help to pre-empt situations of conflict of interests.

Codes of ethics also give the public and the media clear benchmarks against which to judge the conduct of MPs and ministers. Clear codes of ethics contribute to greater accountability on the part of MPs and ministers, particularly if they are backed up by effective mechanisms to monitor and enforce adherence. Codes thereby reassure the public that their representatives are meeting high standards of conduct, and this contributes to public trust in the institutions of government.

The Organisation for Security and Cooperation in Europe (OSCE) published a study on professional and ethical standards for parliamentarians in 2012 and cited Malta as an

example to showcase the value of a code of ethics.³ However, ethical standards are not cast in stone and evolve over time. Public concerns about specific issues that may emerge concerning the conduct of persons in public life can give rise to initiatives to strengthen the relevant codes of ethics. The result is to gradually raise the standards which persons in public life are expected to follow.

There is a tendency to dichotomise between ethical behaviour, which is governed by codes of ethics, and more serious issues such as corruption, which is usually governed by criminal law, but this does not mean that ethical misconduct and corruption are unrelated. Effective safeguards against ethical misconduct will also help to check more serious offences such as corruption, whereas lax ethical standards can encourage such offences.

Conversely, initiatives to combat corruption can give rise to measures to improve ethical standards. This has been the experience of the Group of States Against Corruption (GRECO) – a body which monitors adherence to the legal instruments promulgated by the Council of Europe to prevent and combat corruption.⁴

GRECO's Fourth Evaluation Round,⁵ launched in 2012, has focussed on the prevention of corruption in respect of members of parliament, judges and prosecutors, whilst the Fifth Evaluation Round,⁶ which started in 2017, has aimed at preventing corruption and promoting integrity in central governments and law enforcement agencies.

GRECO has always maintained that the codes of conduct are not meant to replace existing legislation but rather a means to establish standards in a single text, which can be furthered by guidance with specific examples for greater comprehension and clarity.

In order for them to be meaningful tools, it is important that codes of conduct provide clear guidance on the prevention of conflicts of interest and on related issues, such as the acceptance of gifts and other benefits, incompatibilities between public office and secondary activities or financial interests, misuse of information and public resources, the obligation to disclose outside ties and contacts with third parties, and rules for reporting suspicions of corruption. Codes of conduct applicable to persons entrusted with top executive functions should describe the conduct expected from them during the government decision-making process. Such codes should also deal with issues such as conflicts of interest, the acceptance of gifts, contacts with lobbyists seeking to influence government policies, and post-employment restrictions. The aim of the latter

³ Ibid, p.35.

⁴ The Criminal Law Convention on Corruption (ETS 173), the Civil Law Convention on Corruption (ETS 174), the Recommendation on Codes of Conduct for Public Officials (Recommendation No. R(2000) 10).

⁵ <https://rm.coe.int/16806c799a>.

⁶ <https://www.coe.int/en/web/greco/evaluations/round-5-new>.

is to ensure that government decision-makers are not influenced by the prospect of future employment in the private sector.⁷

With respect to Malta, GRECO has noted that a whip is placed in an organisational conflict of interest between the role as the source of advice on whether or not a member should recuse himself or herself, and the role of ensuring that all party members do vote.⁸

In addition, GRECO has noted that there is no requirement to disclose outside sources and amounts of income received by MPs, only a requirement that members report their professions or, if employed, the name of their employer.

Also, there is no guidance about payment to MPs for matters that might be so closely connected to parliamentary duties as to raise questions about the purpose of the payment. The current financial declaration system does not require the member to report the source and amount of an individual honorarium as a separate entry, so there is no potential for parliamentary or public oversight of who is paying which member for what and how much.⁹

GRECO also points out that there is no provision to address the misuse of public resources and confidential information, no system for lobbyist registration, and no post-employment restrictions.¹⁰

In view of the findings of the Fourth Evaluation Report GRECO addressed the following recommendations to Malta regarding members of Parliament:

- (a) that a thorough review of the current provisions of the Code of Ethics of Members of the House of Representatives and the Standing Orders related to integrity, ethics, financial/activity declarations and conflicts of interest be undertaken with a view to adopting improvements that will provide more subject matter coverage, consistency and clarity, as well as guidance (paragraph 31);
- (b) that measures be taken to ensure there is appropriate supervision and enforcement of (i) the rules on the declaration of assets, financial interests and outside activities, and (ii) the standards of ethics and conflicts of interest provisions applicable to members of parliament. This clearly presupposes that a range of effective, proportionate and dissuasive sanctions be available (paragraph 46);

⁷ Codes of Conduct for Public Officials, GRECO Findings and Recommendations, Strasbourg, 20 March 2019.

⁸ Ibid, p. 13.

⁹ Ibid, p. 14.

¹⁰ Ibid, pp. 13–14.

- (c) establishing a dedicated source of confidential counselling to provide parliamentarians with advice on ethical questions, conflicts of interest in relation to their legislative duties, as well as financial declaration obligations; and providing regular awareness-raising activities for members of Parliament covering issues such as ethics, conflicts of interest, acceptance of gifts, honoraria, hospitality and other advantages, outside employment and activities, declarations of financial/activity interests, as well as other activities related to the prevention of corruption and the promotion of the integrity within Parliament.¹¹

The second recommendation, with respect to supervision and enforcement, has been implemented through the enactment and bringing into force of the Standards in Public Life Act, which empowers the Commissioner for Standards to investigate the conduct of members of the House of Representatives and to examine and verify declarations of assets and financial interests by members.

Following the Fifth Evaluation Round, GRECO adopted an evaluation report on Malta¹² which recommended that robust and systematic awareness-raising measures (e.g. refresher training and workshops, guidance documents, written reminders) be provided to all persons entrusted with top executive functions, at the start of their term and at regular intervals throughout their term. The report also recommended that information about integrity requirements for public officials be made readily available, including by posting such information on the websites of public authorities.

The report also called for rules to be laid down governing contacts between persons in top executive roles and lobbyists or other third parties seeking to influence the public decision-making process, and for the disclosure of information about such contacts and the subject-matters discussed.

GRECO further recommended that persons in top executive roles should be obliged to disclose conflicts of interests, and there should be clear procedures to resolve such conflicts, not least as a result of complaints by the public.

The report flagged the need for asset declarations by persons in top executive roles to be effectively checked by the Commissioner for Standards in Public Life and for effective sanctions to guarantee the accuracy and correctness of information declared.

The revised codes proposed in this document are in part a response to these recommendations. They also reflect the steps taken by the Commissioner for Standards to establish contacts with counterparts from other jurisdictions to draw on their experiences. The UK House of Commons Parliamentary Commissioner for Standards and

¹¹ Ibid, p. 43.

¹² Fifth Evaluation Round, Evaluation Report Malta, adopted at the 82nd Plenary Meeting in Strasbourg, 18–22 March 2019. Available from <https://www.coe.int/en/web/greco/evaluations/malta>.

the Chairperson of the House of Commons Standards Committee visited Malta in May 2019 and met with the Commissioner and his staff, as well as the Speaker of the House of Representatives and the members of the Standing Committee for Standards in Public Life, to exchange views, experiences and practices for attainment of higher standards in public life.

The Code of Conduct and related rules of the House of Commons in the UK as well as the Guide to the Rules Relating to the Conduct of Members¹³ has been referred to as good practice for the purpose of drawing up the recommended Code of Ethics for Members of the House of Representatives in Malta. Comparative research on parliamentary practices in Australia, Canada and New Zealand has been conducted and the ethical and integrity systems of these countries too have been used as a point of reference.

The office of the Commissioner for Standards in Public Life has also established working relations with the Public Governance Directorate of the Organisation for Economic Cooperation and Development (OECD). The proposed codes also take into consideration the recommendations for public sector integrity published in the OECD Public Integrity Handbook,¹⁴ which was launched on 20th May 2020. The revised codes are also compatible with the OECD Public Integrity Maturity Models.¹⁵

In the course of the past year and a half the Commissioner for Standards has also met with the parliamentary groups of the government and the opposition to discuss relevant changes to the codes.

This review has also been informed by the experience gained by the Commissioner in dealing with complaints and carrying out investigations.

1.4 The proposed codes and guidelines

The proposed new Code of Ethics for Members of the House of Representatives incorporates the following elements:

- The adaptation of the “Nolan principles”¹⁶ applicable to all aspects of public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. A set of values based on these seven principles already features in

¹³ <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/code-of-conduct-and-rules-of-the-house/>.

¹⁴ <https://www.oecd.org/corruption-integrity/reports/oecd-public-integrity-handbook-ac8ed8e8-en.html>.

¹⁵ <https://www.oecd.org/governance/ethics/public-integrity-maturity-models.htm>.

¹⁶ These principles were set out by the UK Committee on Standards in Public Life in 1995 under the chairmanship of Lord Nolan. See <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>.

the Code of Ethics for Ministers and Parliamentary Secretaries that was adopted in 2015. A set of common values based on the latter code has been incorporated in both the proposed code for MPs and that for ministers.

- New principles that would require MPs not to expose themselves to any risk of being placed under undue pressure and influence in the performance in their duties. If they appear to be in such a situation, they should resolve the matter immediately in a truthful and open manner.
- A provision obliging members not to use any improper influence, threats or undue pressure in the course of their duties.
- A provision obliging members not to abuse the power and privileges enjoyed by them.
- A proposal to establish a Register of Gifts, Benefits and Hospitality in which MPs should duly record not only those received but also those bestowed by them to third parties.
- A proposal to establish a Register of Interests for the registration of financial and non-financial interests in compliance with the accompanying guidelines;
- Spouses and/or partners as well as other members of MPs' families shall be subject to registration of certain interests, gifts, benefits and hospitality.
- The above registers along with the forthcoming recommendations for a Register of Lobbyists and the Transparency Register shall form part of Malta's Integrity Register aiming at the highest standards in public life.

The Code of Ethics for Ministers and Parliamentary Secretaries has been revised following comparative research and analyses of similar codes in Australia, Canada, New Zealand and the United Kingdom. It includes important changes derived from existing good practices with respect to ministerial codes and it transposes the recommendations from the peer review evaluations conducted by GRECO during the Fifth Evaluation Round on preventing corruption and promoting integrity in central governments (top executive functions).

The proposed new Code introduces important changes, as follows:

- Breaches of the Code may be sanctioned as provided for in the Standards in Public Life Act, without prejudice to the powers and prerogative of the Prime Minister in respect of Cabinet. This corrects a provision in the current Code, which is a carry-over from the period before it was incorporated in the Act, stating that it is within the exclusive competence of the Prime Minister to decide whether the Code has been breached and what action should be taken in such a case.
- Ministers are required to act and take decisions using the best evidence available, without discrimination or bias.

- Ministers are required to declare any personal interest in a matter about which they communicate with other ministers, MPs, public officials and public office holders.
- Ministers are subject to employment restrictions for a period of three years after leaving office.
- Ministers are required to record their assets and financial and other interests in a Register of Interests annually and within 28 days from a change of circumstance as established by the guidelines to the code.
- Ministers are required to record all relevant communications with lobbyists in a Transparency Register within seven days as per the related guidelines.
- Ministers are obliged not to accept any gifts, benefits and hospitality for themselves or for members of their families except as permitted in the guidelines issued by the Commissioner.
- Ministers may not directly or indirectly bestow gifts, benefits and hospitality except as permitted in the Commissioner's guidelines.
- Ministers who knowingly mislead Parliament are required to offer their resignation to the Prime Minister.
- Ministers are required to avoid abusing the powers and privileges enjoyed by them.
- Ministers are required to avoid associating with individuals who could place them under any obligation or inappropriate influence.
- Ministers are required to avoid putting themselves in situations in their private lives that may expose them to any undue pressure or influence, and if they find themselves in such a situation they are required to resolve it immediately in a truthful and open manner.
- If ministers meet persons with an interest in obtaining permits, authorisations and other benefits from the state, they should do so in an official setting and in the presence of officials.
- Ministers are required to avoid conducting official business through unofficial email accounts.
- State media is to be the preferred channel for statements of national importance.
- Ministers are required to direct public funding to the media on the basis of objective criteria.

Each code is accompanied by a set of guidelines which elaborates on specific aspects. Each code itself contains enabling provisions empowering the Commissioner for Standards to issue such guidelines. This approach is considered preferable to including all the necessary provisions in the codes themselves, for two reasons:

- it avoids encumbering the codes with excessive detail;
- the guidelines are flexible documents that can be changed as necessary in the light of experience or changing circumstances.

1.5 Proposals on lobbying

This document should be read in conjunction with the Commissioner's proposals on the regulation of lobbying, as published in February 2020.¹⁷ Some of the proposals in the latter document are also reflected here, such as the proposal to establish a Transparency Register to record contacts between ministers and lobbyists. This has been done on the assumption that the new codes of ethics can be introduced more quickly than the law to regulate lobbying that is proposed in the Commissioner's consultation paper, so key aspects of the proposals to regulate lobbying can be brought into effect sooner in this manner.

In addition, the provisions in the proposed code requiring ministers to meet persons with an interest in obtaining permits, authorisations and other benefits from the state in an official setting and in the presence of officials, as well as the requirement to transact official business using official email accounts, reflect proposals that were first set out in the Commissioner's consultation paper on lobbying.

The Commissioner's proposals on lobbying are still to be finalised since the submissions received in response to his discussion paper are being analysed. The relevant provisions in the guidelines applying to ministers, as set out in this document, may therefore change accordingly in future.

¹⁷ *Towards the Regulation of Lobbying in Malta: A Consultation Paper*. Available at <https://standardscommissioner.com/other-documents/>.

2 Proposed New Code of Ethics for Members of the House of Representatives

In this Code unless otherwise specified:

“Act” means the Standards in Public Life Act (chapter 570 of the laws of Malta);

“Commissioner” means the Commissioner for Standards in Public Life;

“Family members” comprise unless stipulated otherwise a spouse and/or partner (civil or cohabitating), child, parent, sibling, and their respective spouse and/or partner;

“Member” means member of the House of Representatives.

1. INTRODUCTION

1.1 Members shall all times, both inside and outside the House, conduct themselves in a manner which reflects the status and dignity of the House of Representatives.

1.2 This Code of Ethics applies to members in all aspects of their public life. It does not seek to regulate the conduct of members in their purely private and personal lives unless such conduct:

- (a) adversely affects the reputation and integrity of the House of Representatives as a whole or of its members generally; or
- (b) exposes them to any risk of being placed under undue pressure or influence in the performance of their public duties. If members appear to be in such a situation, they shall resolve it immediately in a truthful and open manner.

1.3 Members shall uphold the standards of this Code.

2. ADHERENCE TO THE RULES OF THE HOUSE

Members shall adhere to the spirit and letter of the rules of the House of Representatives and to the rules of duly constituted committees thereof, as contained in the Standing Orders of the House or any resolution approved by the House of Representatives.

3. VALUES OF THE MEMBERS OF THE HOUSE

As elected representatives of the people, members shall be inspired, and their behaviour, actions and decisions shall be guided, by the following values:

3.1 **A sense of service** – members shall be motivated by a sense of service to the community in general and the common good. Members shall not be motivated by a spirit of gain for themselves, their families, their friends, or persons close to them.

3.2 **Integrity** – members shall consistently align their conduct to the highest standards in public life and shall adhere to shared ethical values, principles and norms for upholding and prioritising the public interest over private interests.

3.3 **Diligence** – members shall familiarise themselves with the duties and obligations entrusted to them, with the Standing Orders and other rules on the basis of which Parliament functions, with the rules and procedures governing their work, and with the provisions of this Code.

3.4 **Objectivity** – whereas it is the duty of members to represent their constituents, members shall consider matters of public policy, including public appointments and public contracts, objectively.

3.5 **Accountability** – members shall be accountable to the public and shall submit themselves to the scrutiny necessary to ensure this.

3.6 **Transparency** – members shall be as open as possible about the decisions and actions that they take, and they shall give reasons for their decisions.

3.7 **Honesty** – members shall be truthful.

3.8 **Justice and respect** –

- (a) As persons in public life, members have a special responsibility to observe the law.
- (b) Members shall treat with consideration and respect all those with whom they come into contact.

3.9 **Leadership** – members shall embrace, promote and support these values and be inspired by them and lead by example.

4. OTHER REMUNERATION

Members may not receive any remuneration or compensation in whatever form for their work as members of the House of Representatives, except for their official remuneration as members.

5. IMPROPER INFLUENCE

5.1 While members are duty bound to relay the complaints of their constituents and to make representations in their name to Government authorities, members shall not

use or yield to any improper influence, threats or undue pressure in the course of their duties.

5.2 Members shall not act as lobbyists whether paid or otherwise. Members shall abide by any guidelines issued by the Commissioner in terms of article 13(1) of the Act.

6. PROVISION AND USE OF INFORMATION

6.1 Members shall not knowingly mislead or provide inaccurate information to the House.

6.2 Information which members receive in confidence in the course of their duties shall be used only in connection with those duties. Such information shall never be used for the purpose of personal gain or for the benefit of an individual, group or community close to them.

7. USE OF PUBLIC RESOURCES

Members are personally responsible and accountable for ensuring that their use of any expenses, allowances, facilities and services provided from public funds is in accordance with the rules or reasonable expectations on these matters. It shall not confer any undue personal or financial benefit on themselves or anyone else or confer undue advantage on a political organisation.

8. CONFLICT OF INTEREST

8.1 A conflict of interest arises where a personal interest may influence the independent performance of the duties and responsibilities of the members. Personal interests include, but are not limited to, any potential benefit or advantage to the members themselves or their family members. A conflict of interest does not exist where members are only concerned as a member of the general public or of a broad class of persons.

8.2 Members who have any interest which is in conflict with the proper exercise of their duties in any proceedings of the House or its committees shall declare that interest in the House at the first opportunity before a vote is taken. Members shall refer to any guidelines that may be issued by the Commissioner to determine whether such conflicts exist, and if any doubt remains members shall refer the matter to the Commissioner for negative clearance in terms of article 13(1)(c) of the Act.

8.3 Members who communicate with Ministers, other members, or public officials or authorities about any matter shall disclose any personal interest in that matter.

9. ACCEPTANCE AND BESTOWING OF GIFTS

9.1 Members shall not accept any gifts, benefits or hospitality either for themselves, any members of their families, or any other persons or bodies, unless in accordance with such guidelines as may be set out for this purpose by the Commissioner.

9.2 Members shall not directly or indirectly bestow any gift to any person or body with a view to influencing that person or body on a matter in which the members have an interest, except in accordance with guidelines as aforesaid.

9.3 The Commissioner may make guidelines requiring that any gifts, benefits and hospitality as defined therein, whether received or given, shall be reported to the Commissioner and recorded in a register.

10. REGISTRATION OF INTERESTS

Members shall record in a register, to be styled the Register of Interests, any financial or other interests in accordance with the guidelines issued by the Commissioner for the purpose. The register shall be kept by the Commissioner and shall be open for inspection by the public, subject to such restrictions as the Commissioner may prescribe.

11. REPORTING OF ATTEMPTS AT UNDUE INFLUENCE

Members shall report to the Speaker and to the competent authorities any threats, attempt at corruption, pressure or undue influence by third persons, aimed at influencing their conduct as a member.

12. IMPROPER REFERENCE TO MEMBERSHIP

Reference shall not be made in professional, occupational or business matters to membership of the House of Representatives in any way which can give undue advantage to a member.

13. MEMBERS AND PARLIAMENT

13.1 Members shall show respect to the Speaker and to all other members of the House of Representatives.

13.2 Members shall not abuse of the powers and privileges enjoyed by them.

14. GUIDELINES AND REFERENCE BACK

Members who are in doubt as to the interpretation of any provision of this Code or of any guidelines issued hereunder by the Commissioner may seek negative clearance in terms of article 13(1)(c) of the Act.

3 Proposed Guidelines to the Code of Ethics for Members of the House of Representatives

Purpose of the Guidelines

The Guidelines to the Code of Ethics for Members of the House are issued to elaborate on the provisions of the Code and assist members in understanding their obligations with respect to gifts, benefits and hospitality, the registration of interests and the declaration of interests.

The Guidelines are structured as follows:

- Part 1 deals with the receiving and bestowing of gifts, benefits and hospitality and registration in the Register of Gifts, Benefits and Hospitality;
- Part 2 deals with the registration of interests in the Register of Interests and the provision of regular updates on the registrable interests of members.
- Part 3 deals with the declaration of interests before any proceedings of the House.

The Guidelines are intended to assist members in the discharge of their obligations to the House, their constituents and the public at large by:

- (a) establishing values and standards of conduct expected of all members in undertaking their duties;
- (b) setting the rules of the Code itself and clarifying the rules through further guidelines which underpin these standards and values to which all members must adhere; and in so doing
- (c) ensuring public confidence in the standards expected of all members and in the commitment of the House to upholding these guidelines.

In these guidelines unless otherwise stipulated:

“Act” means the Standards in Public Life Act (chapter 570 of the laws of Malta);

“Code” means the Code of Ethics set out in the first schedule of the Act;

“Commissioner” means the Commissioner for Standards in Public Life;

“family members” comprise, unless stipulated otherwise, a spouse and/or partner (civil or cohabitating), child, parent, sibling, and their respective spouse and/or partner.

Part 1: Gifts, Benefits and Hospitality – Receiving and Bestowing

Provisions of the Code of Ethics

9. ACCEPTANCE AND GIVING OF GIFTS

9.1 *Members shall not accept any gifts, benefits or hospitality either for themselves, any members of their families, or any other persons or bodies, unless in accordance with such guidelines as may be set out for this purpose by the Commissioner.*

9.2 *Members shall not directly or indirectly bestow any gift to any person or body with a view to influencing that person or body on a matter in which members have an interest, except in accordance with guidelines as aforesaid.*

9.3 *The Commissioner may make guidelines requiring that any gifts, benefits and hospitality as defined therein, whether received or given, shall be reported to the Commissioner for Standards in Public Life and recorded in the register to which paragraph 10 refers.*

Register of Gifts, Benefits and Hospitality

1.1 The Commissioner shall establish a Register of Gifts, Benefits and Hospitality in which members of the House shall register gifts, benefits and hospitality received or bestowed by them.

1.2 Members shall not accept any gifts, benefits or hospitality for themselves, their family members or any other persons or body if such gifts, benefits or hospitality would place the members under an obligation in the performance of their duties or may reasonably be seen to do so. The expression “body” shall include a legal person or other association of persons whether granted legal personality or not. The non-acceptance of gifts therefore shall include gifts from natural and legal persons.

1.3 Members shall register all gifts, benefits and hospitality received by them that are not precluded under paragraph 1.2, if members are aware, or could reasonably be expected to be aware, that the gifts, benefits and hospitality are given because of their parliamentary or political activities, and if the threshold for registration is exceeded.

1.4 Members shall register all gifts, benefits and hospitality received by their family members that are not precluded under paragraph 1.2, if members are aware, or could reasonably be expected to be aware that they are given because of their parliamentary or political activities, and if the threshold for registration is exceeded.

1.5 Members shall also register all gifts, benefits and hospitality bestowed by them or their family members to third parties, if members are aware, or could reasonably be expected to be aware that such gifts, benefits and hospitality are bestowed because of members' parliamentary or political activities, and if the threshold for registration is exceeded.

1.6 Members shall register all gifts, benefits or hospitality bestowed by a third party to another third party, whether or not these included the giving of gifts, benefits and hospitality to the members themselves, in furtherance of members' political interests, and if the threshold for registration is exceeded. This provision refers to the provision of gifts, benefits and hospitality in cases when members may decide to pass on, directly or indirectly, all or part of the benefit to a third party with the intention of furthering their personal or political interests and influence.

1.7 The Register of Gifts, Benefits and Hospitality shall be freely accessible electronically by the members of the House for registration and by the public to view and scrutinise the records at any time.

Threshold for registration

1.8 Members shall register in the Register of Gifts, Benefits and Hospitality gifts, benefits and hospitality with a value of over €250 which they receive from donors in Malta and abroad. They must also register multiple benefits from the same source if taken together these have a value of more than €250 in a period of twelve months.

1.9 Members shall register in the Register of Gifts, Benefits and Hospitality gifts, benefits and hospitality with a value of over €250 which they bestow on others in Malta and abroad. They must also register multiple benefits to the same source if given together these have a value of more than €250 in a period of twelve months.

Time for registration

1.10 Members shall register all gifts, benefits and hospitality received or bestowed within 28 (twenty-eight) days of receipt or bestowal of same and subject to registration in terms of these Guidelines.

Avoidance of conflict of interest

1.11 Members must at all times consider whether they have a conflict of interest or whether they may place themselves in such a conflict of interest. If they do, members must resolve it in accordance with the relevant provisions of the Code.

1.12 Members must avoid placing themselves in situations where the members themselves or members of their family are expected to receive gifts, benefits or hospitality that would contravene these Guidelines.

1.13 Due consideration shall be given when organising or attending social and other events, which may give the perception of placing oneself in a situation of conflict, undue influence or expectation of gifts, benefits or hospitality that would contravene these Guidelines.

Gifts that are not registrable

1.14 Members should not register gifts, benefits or hospitality which could not reasonably be thought by others to be related to membership of the House or to the Member's parliamentary activities, for example purely personal gifts or benefits from partners or family members. However, both the possible motive of the donor and the use to which the gift is to be put should be considered. If there is any doubt, the gift, benefit or hospitality should be registered.

Part 2: Registration of Interests

Provision of the Code of Ethics

10 REGISTRATION OF INTERESTS

Members shall record in a register to be styled the "Register of Interests" any financial or other interests in accordance with the guidelines issued by the Commissioner for the purpose. The register shall be kept by the Commissioner and shall be open for inspection by the public subject to such restrictions as the Commissioner may prescribe.

2.1 Members shall be required to register in the Register of Interests, held by the Commissioner, all financial and non-financial interests they may have as stipulated in the paragraphs below.

2.2 Members shall record in the Register of Interests, by 31st March of every calendar year, information as at 31st December of the previous year with respect to the following:

- (a) their work or profession, and if they are employed, the identity of their employer;
- (b) their own immovable property, that of their spouse and/or partner, and that of their and their spouses and/or partner's minor children;
- (c) shares in companies/business interests including participation in joint ventures, partnerships, trusts (as a trustee, settlor or beneficiary) or similar structures. A joint venture could be for example a property development with another person/s, company etc.;

- (d) quoted investments, government stocks, treasury bills, deposit certificates and bank balances;
- (e) bank or other debts;
- (f) directorships or other official positions in commercial companies, associations, boards, co-operatives or other groups, even if voluntary associations.

2.3 New members shall be required within 28 (twenty-eight) days of taking their Oath of Allegiance to register all their current financial interests with the Commissioner as provided in paragraph 3.2.

2.4 The registrations in paragraph 2.2 and 2.3 shall be freely accessible to the public.

2.5 After that, Members shall be required to register within 28 (twenty-eight) days any change in the registrable interests under paragraph 2.2 (b), (c) and (f).

2.6 The Commissioner may direct members to submit additional information for the purpose of verification and evaluation of the information registered by them. This additional information shall be kept confidential except in the context of investigations of the registration of interests of the members.

Part 3: Declarations of interests

Provisions of the Code of Ethics

8. CONFLICT OF INTEREST

8.1 *A conflict of interest arises where a personal interest may influence the independent performance of the duties and responsibilities of the members. Personal interests include, but are not limited to, any potential benefit or advantage to the members themselves and their family members. A conflict of interest does not exist where members are only concerned as a member of the general public or of a broad class of persons.*

8.2 *Members who have any interest which is in conflict with the proper exercise of their duties in any proceedings of the House or its committees shall declare that interest in the House at the first opportunity before a vote is taken. Members shall refer to any guidelines that may be issued the Commissioner to determine whether such conflicts exists, and if any doubt remains members shall refer the matter to the Commissioner for negative clearance in terms of article 13 (1)(c) of the Act.*

8.3 *Members who communicate with Ministers, other members, or public officials or authorities about any matter shall disclose any personal interest in that matter.*

3.1 The declaration of interests ensures that members, the public and others are made aware at the appropriate time, in proceedings of the House and on other occasions, of any interest relevant to those proceedings or to the actions or words of a member. The requirement to declare an interest complements the registration requirements and applies from the time the House first sits after the member is elected and to almost every aspect of the member's parliamentary duties. It covers a broader range of interests than registration.

3.2 Declarations must be informative but concise. Members when making a declaration on an interest which is already registered may refer to their registration in the Register of Interests and in addition provide sufficient information to convey the nature of the interest without the need to have recourse to the registration entry itself.

3.3 The requirement for the declaration of interests applies in almost every aspect of the member's activities, in the Chamber, in Committee and in their contacts with others, including Ministers, other members, public officials and public office holders.

3.4 It covers, as well as registrable interests, other financial interests which meet the test of relevance but which do not require registration, including past interests and expected future interests and the indirect financial interests of a spouse, partner or family member.

3.5 Members should also declare non-financial interests if they consider these to meet the same test of relevance.

3.6 The test of relevance is whether those interests might influence, or reasonably be perceived by others to influence, their actions or words as members.

3.7 Members are not required to register or declare benefits available to all members, such as their parliamentary honoraria and allowances, or expenses met from parliamentary sources, or from a scheme for parliamentary expenses. Nor are they required to register or declare benefits provided by their own political party.

Requirements for declaration

3.8 Members are required to declare any financial or non-financial interests which satisfy the test of relevance, including:

- (a) financial interests for the past 12 months;
- (b) indirect financial interests, such as the financial interests of a spouse and/or partner, and children under 18 year of age of the member or member's spouse and/or partner, if the member is aware or could reasonably be expected to be aware of that interest. It is not necessary to identify the person concerned: a formula such as "A member of my family has a financial interest in []" shall suffice.
- (c) expected future interests, if the member's plans have moved beyond vague hopes and aspirations and reached the stage where the member has a reasonable expectation that a financial benefit will accrue;
- (d) financial interests of a sort which do not require registration, including for example blind trusts, and interests which fall below the financial thresholds;
- (e) financial interests which require registration but have not yet appeared in the published Register;
- (f) any registered non-financial interests.

3.9 Members may also declare, if they think it appropriate, non-financial interests which are not registered but which they consider meet the test of relevance. The test of relevance is whether those interests might influence, or reasonably be thought by others to influence, their actions or words as members.

3.10 Members must declare a relevant interest:

- (a) in the Chamber and in committees;
- (b) when tabling any written notice; and
- (c) when approaching others.

4 Proposed Code of Ethics for Ministers and Parliamentary Secretaries

1. INTRODUCTORY PROVISIONS

Definitions

1.1 In this Code, unless otherwise specified:

“Act” means the Standards in Public Life Act (chapter 570 of the laws of Malta);

“Commissioner” means the Commissioner for Standards in Public Life;

“Minister” includes the Prime Minister and Parliamentary Secretaries.

Purpose of this Code

1.2 The purpose of this Code of Ethics is to set out the standards of conduct expected from Ministers with a view to ensuring that the affairs of state are being managed in the public interest.

1.3 Ministers shall uphold the standards of this Code.

Enforcement

1.4 Breaches of this Code shall be investigated by the Commissioner and decided on by the Committee for Standards in Public Life in terms of the Act. Breaches may be sanctioned as provided for in the Act, without prejudice to the powers and prerogatives of the Prime Minister in respect of Cabinet.

2. STANDARDS FOR MINISTERS AS PERSONS WHO OCCUPY AN OFFICE OF STATE

This Code shall be read against the background of the overarching duty of Ministers to comply with the law, maintain the highest standards in public life and protect the integrity of their office. For this purpose, Ministers as persons who occupy an office of state, shall be inspired and guided by the following values:

A sense of service

2.1 Ministers shall be motivated by a sense of service to the community in general and the common good. Ministers shall not be motivated by a spirit of gain for themselves, their families, their friends or persons close to them.

Integrity

2.2 Ministers shall consistently align their conduct to the highest standards in public life and shall adhere to shared ethical values, principles and norms for upholding and prioritising the public interest over private interests.

Diligence

2.3 Ministers shall familiarise themselves with the duties, obligations and powers which arise from the position entrusted to them, with the Standing Orders and other rules on the basis of which Parliament functions, with the rules and procedures governing their work, and with the provisions of this Code and any applicable guidelines and recommendations issued by the Commissioner.

Objectivity

2.4 Ministers shall act and take decisions using the best evidence available and without discrimination or bias.

Accountability

2.5 Ministers shall be accountable to the public for their decisions and actions and submit themselves to whatever scrutiny that is necessary to ensure this.

Transparency

2.6 Ministers shall perform their duties in an open and transparent manner and shall therefore give reasons for their decisions and actions.

Honesty

2.7 Ministers shall be truthful.

Justice and respect

2.8 As persons in public life and persons occupying an office of state, Ministers have a special responsibility to observe the law.

2.9 Ministers shall be professional in all their dealings and shall treat with consideration and respect all those with whom they come into contact. Harassment, bullying, discrimination or other inappropriate behaviour wherever it takes place is not consistent with this Code.

Leadership

2.10 Ministers shall lead by example in embracing, promoting and supporting these values.

3. PRIVATE INTERESTS

Conflicts of interest

3.1 A conflict of interest arises where a personal interest may influence the independent performance of the duties and responsibilities of Ministers. Personal interests include, but are not limited to, any potential benefit or advantage to Ministers themselves, their spouses, partners or direct family members. A conflict of interest does not exist where Ministers are only concerned as members of the general public or of a broad class of persons.

3.2 It is the personal responsibility of every individual Minister to avoid or resolve conflicts of interest, actual or perceived. The general principle is that Ministers may either dispose of the private interest that is causing the actual or perceived conflict or take alternative measures to prevent the conflict or the perception of conflict from arising.

3.3 If during the legislature there is a change in the personal circumstances of the Minister which may give rise to an actual or perceived conflict of interest, the Minister shall inform the Prime Minister and shall take immediate action to resolve the conflict in accordance with the previous paragraph.

3.4 Ministers shall not be involved in the taking of decisions that affect their family members or other persons close to them.

3.5 Ministers shall not be improperly conditioned in their decisions by a conflict of interest of a financial nature or otherwise, whether involving them or persons close to them.

3.6 Ministers who communicate with other Ministers, members of Parliament, public officials and public office holders in relation to any matter shall disclose any personal interest they may have in that matter.

3.7 Any person who is approached in order to be offered ministerial office, shall if a doubt exists as to whether there is a possibility of conflict of interest, before accepting such office, inform the Prime Minister of this fact and of other relevant circumstances and take action to resolve the conflict before taking up office.

Outside activities

3.8 Ministers cannot accept any payment other than their official remuneration for something in connection with their work as Minister.

3.9 Ministerial office is one that occupies the whole working day of a Minister. Upon their appointment, Ministers are expected not to continue with their private work and shall dedicate all their time to Government work. This applies in so far as the Cabinet does not decide otherwise in exceptional cases where the national interest so requires.

Restrictions on activities after departure from office

3.10 Ministers shall upon taking office enter into an undertaking under which they may not, for a period of up to three years following their resignation or the termination of their appointment, have a relationship of profit with any private enterprise or non-government body with which they would have dealt while serving as Ministers during the period of five years immediately preceding their resignation or the termination of their appointment.

3.11 The undertaking shall also prohibit Ministers from lobbying Government for a period of three years following their resignation or the termination of their appointment.

3.12 Such an undertaking shall provide for its enforcement and the penalty that shall apply in the event that it is not honoured, in accordance with any guidelines that may be issued by the Commissioner for the purpose.

Registration of interests

3.13 Ministers shall record their assets and financial and other interests, and those of their spouse and/or partner and minor children, in a register to be styled the Register of Interests. The Commissioner may issue guidelines for this purpose.

3.14 The register shall be kept by the Commissioner and shall be open for inspection by the public, subject to such restrictions as the Commissioner may prescribe.

3.15 Ministers shall record their assets and interests as provided for in the previous paragraph upon being appointed to office and submit a copy to the Cabinet Secretary and the Commissioner. Ministers shall record their assets and interests at such intervals as may be prescribed in the guidelines issued by the Commissioner.

4. GIFTS

4.1 Ministers shall not accept any gifts, benefits or hospitality for themselves, members of their families, or any other persons or bodies, if such gifts:

- (a) would place the Ministers under an inappropriate obligation or compromise their judgement, or may reasonably be seen as having any such effects; or
- (b) are made in consideration of any decision made or action taken by the Ministers, or may reasonably be seen as being so made,

unless such gifts are in accordance with any applicable guidelines that may be set out by the Commissioner.

4.2 Ministers shall not directly or indirectly bestow any gifts, benefits or hospitality to any person or body with a view of influencing that person or body on a matter in which the Ministers have an interest, unless in accordance with such guidelines as may be set out by the Commissioner.

4.3 The Commissioner shall issue guidelines requiring that any gifts, benefits and hospitality, whether received or bestowed, are reported to the Commissioner and recorded in a Register of Gifts, Benefits and Hospitality.

5. COLLECTIVE RESPONSIBILITY – MINISTERS AND THE CABINET

5.1 Since the principle of collective ministerial responsibility is central to the Constitution, whilst discussions in the Cabinet should be as free and open as possible and the opinions of every member of the Cabinet should be heard, at the same time the same discussions and deliberations are classified as confidential. Ministers therefore should not communicate or comment on what has been discussed in Cabinet outside of Cabinet.

5.2 All Ministers are party to decisions taken by the Cabinet, whether or not they were present or they agreed with the decision.

5.3 The decisions of the Cabinet shall be communicated to the Ministers concerned by the Cabinet Secretary, whose role it is to ensure that the decisions are carried out.

5.4 Meetings of the Cabinet shall take precedence over any other ministerial activity apart from official duties abroad.

5.5 Ministers who have any interest which is in conflict with the proper exercise of their duties in connection with a matter discussed by Cabinet shall declare it at the first opportunity and withdraw from the Cabinet meeting.

6. MINISTERS AND PARLIAMENT

6.1 Ministers are answerable to Parliament for their own conduct and for the actions of the departments and other bodies falling under their responsibility.

6.2 Ministers shall provide the most accurate and correct information possible to the House of Representatives and, where necessary, they shall correct any information so given at the first opportunity. Ministers who knowingly mislead Parliament shall offer their resignation to the Prime Minister.

6.3 Ministers shall not obstruct or impede public officials from providing the most complete and accurate information when requested by Parliamentary Committees.

6.4 Ministers shall at the first possible opportunity inform the House of Representatives of important decisions taken by them or the departments and other bodies falling under their responsibility.

6.5 Ministers shall give adequate notice to the Speaker of the House of Representatives and the Leader of the Opposition of any statement they envisage to make in the House, unless this is not possible owing to circumstances beyond Ministers' control.

6.6 Ministers shall show respect to the Speaker and to all other members of the House of Representatives.

6.7 Ministers shall not abuse of the powers and privileges enjoyed by them.

7. OTHER MINISTERIAL DUTIES

Separation of roles

7.1 Ministers shall keep their roles as Ministers, representatives and members of a political party separate.

7.2 Ministers shall ensure that public resources are used for public purposes and in the public interest and shall keep government and party interests separate and distinct.

Ministers and public administration

7.3 Ministers shall respect the impartiality of the public administration and ensure that their influence on the public administration is not abused.

7.4 Prior to coming to a decision, Ministers shall give appropriate consideration to the widest possible range of advice, and they should give weight to the informed and impartial advice of public officials or employees.

7.5 Ministers shall ensure that government departments and entities that fall under their responsibility are managed well and prudently.

7.6 Ministers shall treat staff in a just and equitable manner.

7.7 Ministers shall be inspired by merit and capabilities in the conferment of appointments and offices, and they shall consult the Prime Minister with regard to the appointment of chairpersons and members of boards.

Retention of official records

7.8 Decisions taken shall, as much as possible, be recorded in government files, even if the practicality and reality of current electronic communication also has to be taken into consideration.

7.9 If Ministers hold meetings with persons who have an interest in obtaining permits, authorisations, concessions and other benefits from the state, they should do so in an official setting in the presence of officials, unless this is impractical on account of justifiable circumstances.

7.10 Ministers shall not conduct official business through unofficial email accounts.

Official travel

7.11 Ministers shall ensure that the most efficient arrangements are made for official travel, and that delegations are not larger than necessary

7.12 Spouses or partners may accompany the Ministers only if it is necessary and in the public interest. Travel shall be strictly for the duration of official business. Official travel need not be registered in the Register of Gifts, Benefits and Hospitality unless it is funded by bodies other than the Government of Malta, in which case it shall be registered in accordance with the guidelines issued by the Commissioner on the registration of gifts, benefits and hospitality.

Appointments to ministerial secretariats

7.13 When Ministers approach persons to offer them posts in their secretariats, they shall ensure that such persons are of good conduct. Ministers shall make every reasonable effort to ascertain whether such persons would have any conflicts of interests. Ministers shall ensure that any such conflicts are resolved before persons are engaged as members of their secretariats.

Provision and use of information

7.14 Ministers shall be truthful and transparent with Parliament and the public and shall only withhold information when its disclosure would be prejudicial to the national interest.

7.15 Ministers shall provide factual, complete and correct information to Cabinet, to Parliament and its officers, and shall only withhold information where its disclosure would be prejudicial to the national interest.

7.16 Ministers shall ensure that key policies, policy decisions and directives affecting the public are recorded in an open and easily accessible way using official media.

7.17 If incorrect information is given, it shall be corrected immediately.

7.18 Ministers shall not make improper use of information received in the course of their duties for the purpose of their personal gain or in order to advantage or disadvantage any person or persons.

7.19 Information received in confidence by Ministers in the course of their duties shall not be abused.

7.20 Ministers shall not disclose and make use of confidential information even after the termination of their appointment.

7.21 When Ministers terminate their appointment, they shall return to the Cabinet Secretary all the documents, material and resources that were given and entrusted to them in order to perform their duties. As customary, it is within the Prime Minister's discretion to permit to ex-Ministers reasonable access to documents and material concerning the period during which they held ministerial office.

Attempts at undue influence

7.22 Ministers shall avoid associating with or placing themselves under any obligation to people or organisations that might seek to inappropriately influence them in the performance of their duties.

7.23 Ministers shall avoid putting themselves in situations in their private lives that may expose them to any undue level of pressure or influence in the performance of their duties. If they find themselves in such a situation, they shall declare and resolve it immediately in a truthful and open manner.

7.24 Ministers shall immediately report to the Prime Minister and to the competent authorities any attempt by third parties to influence their conduct as Ministers by means of corruption, pressure or undue influence.

7.25 Ministers shall record all attempts at lobbying in a Transparency Register in accordance with any guidelines that may be issued by the Commissioner for this purpose. The Register shall be kept by the relevant ministry and be fully accessible by the Commissioner at all times and shall be available to the public, subject to such restrictions as the Commissioner may set out.

Foreign awards

7.26 Without prejudice to article 29 of the Ġieħ Ir-Repubblika Act (chapter 251 of the laws of Malta) no Minister may accept an honour, award, decoration, membership or office conferred by another state or sovereign order or any international organisation unless with the written authority of the Prime Minister.

Private legal proceedings

7.27 When Ministers are involved in legal proceedings in their private capacity that may have implications for their ministerial role, they shall inform the Prime Minister of these proceedings. If proceedings are to be instituted by Ministers themselves, they shall inform the Prime Minister beforehand.

Public relations and the press

7.28 Ministers shall inform the public and the media of ministerial activities on a regular basis and in an organized manner.

7.29 For this purpose and for efficient co-ordination, Ministers shall obtain the approval of the Office of the Prime Minister before issuing statements, giving interviews or holding ministerial activities for the media.

7.30 In the public interest, Ministers shall ensure that they have open communication with the media, civil society, non-governmental organizations, professional associations, social partners and the public in general.

7.31 State media shall be the preferred channel for statements of national importance.

7.32 Ministers shall direct public funding to the media on the basis of objective criteria.

8. GUIDELINES AND NEGATIVE CLEARANCE

8.1 The Commissioner may issue guidelines and recommendations on any matter relating to or arising from the provisions of this Code.

8.2 In case of doubt about the application of this Code or any guidelines issued hereunder, Ministers may seek a ruling from the Commissioner through the negative clearance procedure prescribed in article 13(1)(c) of the Act.

5 Proposed Guidelines to the Code of Ethics for Ministers and Parliamentary Secretaries

Purpose of the Guidelines

The Guidelines to the Code of Ethics for Ministers and Parliamentary Secretaries are issued to elaborate on the provisions of the Code and assist them in their obligations and responsibilities on lobbying, gifts, benefits and hospitality, and registration of interests.

The Guidelines are structured as follows:

- Part 1 deals with lobbying;
- Part 2 deals with receiving and bestowing of gifts, benefits and hospitality and their registration in the Register of Gifts, Benefit and Hospitality;
- Part 3 deals with the registration of interests in the Register of Interests and the provision of regular updates on the registrable interests of members;
- Part 4 deals with restrictions on activities after departure from office.

Ministers are expected to behave according to the highest standards in public life. In the performance of their duties they should adhere to the values and principles of integrity, accountability and transparency, and must commit to a level of integrity and ethical standards that matches the status of their office. Their private lives should stand up to scrutiny in relation to these values and principles.

Ministers must not only abide by the law but also avoid giving the perception of not adhering to standards attributed to their office. The current guidelines are not only intended to help them reach these standards but also inform the general public of what is expected from them. Therefore, ministers must be truthful, open and willing to withstand the closest and most rigorous public scrutiny.

Neither the code of ethics nor the guidelines are completely exhaustive. They set the prevailing values and standards that must be observed. Ministers are also expected to rely on common sense and ensure that they are aware of possible conflicts of interests and be critical towards their actions with a view to pre-empt situations of conflict, undue influence or inappropriate behaviour.

In these guidelines unless otherwise stipulated:

“Act” means the Standards in Public Life Act (chapter 570 of the laws of Malta);

“Code” means the Code of Ethics in the Second Schedule of the Standards of Public Life Act;

“Commissioner” means the Commissioner for Standards in Public Life;

“family members” comprise unless stipulated otherwise: a spouse and/or partner (civil or cohabitating), child, parent, sibling, and their respective spouse and/or partner;

“Minister” includes the Prime Minister and Parliamentary Secretaries.

Part 1: Lobbying and the Transparency Register

Provision of the Code of Ethics

7.25 Ministers shall record all attempts at lobbying in a Transparency Register in accordance with any guidelines that may be issued by the Commissioner for the purpose. The Register shall be kept by the relevant ministry and be fully accessible by the Commissioner at all times and shall be available to the public subject to such restrictions as the commissioner may set out.

1.1 Ministers shall compile a Transparency Register setting out their contacts with lobbyists and recording all relevant communications, and shall ensure that the heads and deputy heads of their secretariats do the same.

1.2 A relevant communication is a communication that:

- (a) may be written or oral;
- (b) deals with a relevant matter;
- (c) is made personally (directly or indirectly) to a minister, parliamentary secretary, and the heads and deputy heads of their secretariats.

1.3 Relevant communications can include informal meetings, correspondence using unofficial email accounts, and messages by SMS, WhatsApp, and similar applications.

1.4 A relevant matter means any matter relating to:

- (a) the initiation, development or modification of any public policy, action or programme;
- (b) the preparation or amendment of any enactment, that is to say a law or other instrument having the force of law;
- (c) the award of any grant, loan or other form of financial support, and any contract or other agreement involving public funds, land (including concessions of public land) or other resources;
- (d) the grant of any license, permit or other authorisation; and
- (e) the award of development permits and the zoning of land.

1.5 A relevant matter includes matters relating to the implementation or non-implementation and the enforcement or non-enforcement of a policy or decision that falls within the above-mentioned categories.

1.6 Relevant matters do *not* include:

- (a) communications by or on behalf of an individual concerning his or her own private affairs;
- (b) formal applications for grants, loans, contracts, authorisations, licenses or permits to officials whose duty it is to handle such applications in accordance with normal procedures, and communications with those same officials concerning the applications, once made;
- (c) diplomatic relations (communications by or on behalf of other states and supranational organisations);
- (d) requests for factual information;
- (e) submissions as part of a public consultation process or on summons by a public body in the course of its duties, where such submissions are made public either immediately or on the conclusion of the process;
- (f) trade union negotiations;
- (g) communications which, if disclosed, would pose a risk to the safety of any person or the security of the state;
- (h) communications by public bodies or by public officials (including members of official boards) in their official capacity;
- (i) communications by or on behalf of religious entities and organisations;
- (j) communications by or on behalf of political parties; and
- (k) communications that are already in the public domain.

1.7 All these exceptions, apart from (b), should not include communications concerning development permits, the zoning of land, concessions of public land, and the use of public funds, land and other resources. So, to take an example, if a private individual were to speak to a Minister or the head and deputy head of the Minister's secretariat about a development permit concerning his or her own private property, it would still be considered lobbying. The same applies to religious bodies and political parties. Submitting an application for a development permit through the normal channels does not count as lobbying but speaking to a Minister in the hope of getting the permit approved does.

1.8 Thus if an individual or body holds a meeting on a relevant matter with a Minister or the head or deputy head of the Minister's secretariat, he or she will be obliged to record it in the Transparency Register.

1.9 The record shall be listed within 7 (seven) days of the relevant communication.

1.10 The Transparency Register should be freely accessible to the public. It should include the following details:

- (a) the name of the persons (including legal persons) with whom each relevant communication was held;
- (b) the subject matter of the communication;
- (c) in the case of a meeting, the date and location, the names of those present, and who they were representing; and
- (d) any decisions taken, or commitments made through the communication.

1.11 As noted earlier, relevant communications can include informal meetings, correspondence involving unofficial email accounts, and messages through other applications.

1.12 Meetings with persons who have an interest in obtaining permits, authorisations, concessions or other benefits from the state should be held in an official setting in the presence of officials.

1.13 All meetings and communications should not only be registered in the Transparency Register but also minutes shall be kept for record and audit purposes.

1.14 Ministers shall not conduct official business through unofficial email accounts, and they shall ensure that members of their secretariats too abide by this provision.

1.15 The Commissioner for Standards in Public Life should have the power to direct that corrections should be made, or missing information added, to the Transparency Register.

1.16 The Commissioner may withhold information in the Transparency Register from the public if the publication of any information could have serious adverse effects on the financial interests of the state, the national economy, or the business of any person. If the Commissioner, after consulting any state authority as he deems fit, agrees, he or she may withhold the information in question or else make it available for public viewing.

Part 2: Gifts, Benefits and Hospitality – Received and Bestowed

Provisions of the Code of Ethics

4. GIFTS

4.1 *Ministers shall not accept any gifts, benefits or hospitality for themselves, members of their families, or any other persons or bodies, if such gifts:*

- (a) would place the Ministers under an inappropriate obligation or compromise their judgement, or may reasonably be seen as having any such effects; or*
- (b) are made in consideration of any decision made or action taken by the Ministers, or may reasonably be seen as being so made,*

unless such gifts are in accordance with any applicable guidelines that may be set out by the Commissioner.

4.2 *Ministers shall not directly or indirectly bestow any gifts, benefits or hospitality to any person or body with a view of influencing that person or body on a matter in which the Ministers have an interest, unless in accordance with such guidelines as may be set out by the Commissioner.*

4.3 *The Commissioner shall issue guidelines requiring that any gifts, benefits and hospitality, whether received or bestowed, are reported to the Commissioner and recorded in a Register of Gifts, Benefits and Hospitality.*

7.12 *Spouses or partners accompany the Ministers only if it is necessary and in the public interest. The travel shall be strictly for the duration of official business. Official travel need not be registered in the Register of Gifts, Benefits and Hospitality unless it is funded by bodies other than the Government of Malta, in which case it shall be registered in accordance with the guidelines issued by the Commissioner on the registration of gifts, benefits and hospitality.*

Register of Gifts, Benefits and Hospitality

2.1 The Commissioner shall establish a Register of Gifts, Benefits and Hospitality in which Ministers shall register all gifts, benefits and hospitality received or bestowed by them.

2.2 Ministers shall not accept any gifts, benefits or hospitality for themselves, their family members or any other persons or body if this would place Ministers under an inappropriate obligation or compromise their judgement, or if it may reasonably be seen as doing so. The expression “body” shall include a legal person or other association of

persons whether granted legal personality or not. The non-acceptance of gifts therefore shall include gifts from natural and legal persons.

2.3 In addition to their obligation for registration of gifts, benefits and hospitality under the Code of Ethics for Members of the House of Representatives, Ministers shall register all gifts, benefits and hospitality received by them that are not precluded under paragraph 2.2 and that exceed the threshold for registration.

2.4 Ministers shall register all gifts, benefits and hospitality received by their family members that exceed the threshold for registration.

2.5 Ministers shall also register all gifts, benefits and hospitality bestowed by them or their family members to third parties that exceed the threshold for registration.

2.6 Ministers shall register all gifts, benefits or hospitality bestowed by a third party to another third party, whether or not this accompanied gifts, benefits and hospitality for themselves to further their personal, political or ministerial interests and influence. This provision refers to the provision of gifts, benefits and hospitality in cases when ministers may decide to pass on directly or indirectly all or part of the benefit to a third party with the intention to furthering their personal, political or ministerial interests and influence.

2.7 The Register of Gifts, Benefits and Hospitality shall be freely accessible electronically by the ministers for registration purposes and by the public to view and scrutinise the records at any time.

Threshold for registration

2.8 Ministers shall register all gifts, benefits and hospitality with a value of over €250 which they receive from donors in Malta and abroad in the Register of Gifts, Benefits and Hospitality. They must also register multiple benefits from the same source if taken together these have a value of more than €250 in a calendar year.

2.9 Ministers shall register in the Register of Gifts, Benefits and Hospitality any gifts, benefits and hospitality with a value of over €250 which they bestow on others in Malta and abroad. They must also register multiple benefits from the same source if these have a cumulative value of more than €250 in a calendar year.

Time for registration

2.10 Ministers shall register all gifts, benefits and hospitality received or bestowed within 28 (twenty-eight) days of the receipt or bestowal of same.

Avoidance of conflict of interest

2.11 Ministers must at all times consider whether they have a conflict of interest or they may place themselves in such a conflict of interest. If they do, Ministers must resolve it in accordance with the relevant provisions of the Code.

2.12 Ministers must avoid placing themselves in situations where Ministers themselves or members of their families are expected to receive gifts, benefits or hospitality that would contravene these Guidelines.

2.13 Due consideration shall be given when organising or attending social and other events, which may give the perception of placing oneself in a situation of conflict, undue influence or expectation of gifts, benefits or hospitality that would contravene these Guidelines.

Part 3: Registration of Interests

Provisions of the Code of Ethics

3.13 Ministers shall record their assets and financial and other interests, and those of their spouse and/or partner and minor children, in a register to be styled the Register of Interests. The Commissioner may issue guidelines for this purpose.

3.14 The register shall be kept by the Commissioner and shall be open for inspection by the public, subject to such restrictions as the Commissioner may prescribe.

3.15 Ministers shall record their assets and interests as provided for in the previous paragraph upon being appointed to office and submit a copy to the Cabinet Secretary and the Commissioner. Ministers shall record their assets and interests at such intervals as may be prescribed in the guidelines issued by the Commissioner.

3.1 Without prejudice to their obligation for registration of interests under the Code of Ethics for Members of the House of Representatives, Ministers shall be required to register in the Register of Interests, held by the Commissioner, their assets and interests as stipulated in the paragraphs below. A copy of the assets and interests shall be submitted to the Cabinet Secretary as well.

3.2 Ministers shall record in the Register of Interests, by 31st March of every calendar year, information pertaining to 31st December of the previous year with respect to:

- (a) their own immovable property, that of their spouse and/or partner, and that of their and their spouses and/or partner's minor children;

- (b) shares in companies/business interests including participation in joint ventures, partnerships, trusts (as a trustee, settlor or beneficiary) or similar structures. A joint venture could be for example a property development with another person/s, company etc.;
- (c) quoted investments, government stocks, treasury bills, deposit certificates and bank balances;
- (d) positions of director or others;
- (e) total income;
- (f) total sums of outstanding loans.

3.3 Newly appointed Ministers shall be required within 28 days of taking their Oath of Office to register all their current financial interests with the Commissioner as provided in paragraph 3.2.

3.4 The registrations in paragraph 3.2 and 3.3 shall be accessible freely to the public.

3.5 After that, Ministers shall be required to register within 28 (twenty eight) days any change in the registrable interests under paragraph 3.2 (a), (b), (c) with the exception of bank balances and (d).

3.6 The Commissioner may request ministers to submit additional information for the purpose of verification and evaluation of the information registered by them. This additional information shall be kept confidential except in the context of investigations of the registration of interests by Ministers.

Part 4: Restrictions on Activities after Termination of Appointment

Provisions of the Code of Ethics

Restrictions on activities after departure from office

3.10 Ministers shall upon taking office enter into an undertaking under which they may not, for a period of up to three years following their resignation or the termination of their appointment, have a relationship of profit with any private enterprise or non-government body with which they would have dealt while serving as Ministers during the period of five years immediately preceding their resignation or the termination of their appointment.

3.11 The undertaking shall also prohibit Ministers from lobbying Government for a period of three years following their resignation or the termination of their appointment.

3.12 Such an undertaking shall provide for its enforcement and the penalty that shall apply in the event that it is not honoured, in accordance with any guidelines that may be issued by the Commissioner for the purpose.

4.1 The undertaking to be signed by Ministers shall specify that the penalty to apply if its terms are breached shall be equivalent to three years' salary. The penalty shall be enforceable as a civil debt in favour of the Commissioner, who shall be responsible for monitoring adherence to the undertaking.

4.2 A serving or former Minister may request a ruling from the Commissioner to determine whether entering into a particular relationship of profit after departure from office would constitute a breach of the undertaking, and no penalty shall apply to any breach of the undertaking where the Minister or former Minister has acted in conformity with the Commissioner's ruling.