

DRAFT

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

MEMBERS' CODE OF CONDUCT AND ETHICAL STANDARDS

Preamble

This Code and Standards is established under clause NN of the Legislative Assembly [Members Code of Conduct and Ethical Standards] Act 2002.

The Code and Standards are intended to be read in conjunction with other relevant laws, the Standing Orders of the Assembly, and any other standards governing the conduct in office of Members of the Assembly which may be established by the Assembly from time to time.

In case of doubt or inconsistency, the Act provides that the Assembly's Standing Orders and other Standards are to be interpreted so as to be consistent with the principles established by the Legislative Assembly [Members Code of Conduct and Ethical Standards] Act..

Failure to comply with the Code of Conduct and Ethical Standards may be considered by the Privileges Committee of the Assembly or the Auditor General, as provided by the Act.

As the fundamental objective of the Act is to foster enhanced public confidence in the integrity of the Legislative Assembly and its Members, the Act declares that this objective is not fully satisfied by minimal compliance with the Code.

DRAFT

PART I – GENERAL PRINCIPLES

1 The *Legislative Assembly [Members Code of Conduct and Ethical Standards] Act* establishes general principles of ethical conduct relevant to the duties, functions and obligations of Members in the Legislative Assembly.

2 The Act also requires each Member of the Assembly to ensure that their conduct in office conforms generally to the principles, and is otherwise in accordance with the specific Standards of this Code.

3 The principles established by the Act are –

- **Integrity,**
- **Accountability**
- **Responsibility** and
- **the Public Interest,**

4 The *Members Code of Conduct and Ethical Standards* is intended to assist Members of the Assembly to meet the objectives of the Act, and to inform the public at large about the standards of ethics and conduct in office which generally apply to Members.

5 This Code does not exhaust all possible situations in which the above principles will be relevant to the conduct of Members.

6 To assist Members and the general community, each section of the Code provides a *Commentary*, which explains the major reasons and objectives which underpin each principle, and gives examples of appropriate conduct in particular circumstances. The *Standards* set out specific procedures and forms of conduct in public office which are required to be observed by Members of the Legislative Assembly.

7 Where a situation arises which is not the subject of a specific Standard under this Code, or where the principles established by the Act are in conflict, a Member is required to make a judgement about what conduct or action represents a reasonable and responsible attempt to meet the overall objectives of the Act.

PART II - COMMENTARY AND STANDARDS

1. Integrity

1 Recognising that high standards of personal integrity among elected officials is crucial to the viability of democratic institutions, Members are required to ensure that they act with **integrity** in acting as a

DRAFT

Member of the Assembly, through the lawful, honest exercise of the duties and responsibilities of a Member, uninfluenced by conflicts of interest.

Commentary:

2 The Assembly's primary function is to make laws "for the peace, order and good government of the Territory"¹.

3 Public confidence in the integrity of government decisionmaking is essential to an effective democracy. Especially in a relatively small community, the perception that a Member stands to obtain an improper personal benefit through their position in the Assembly, can compromise that confidence fatally.

4 The Register of Members' Interests is an important mechanism that has evolved as a means of enhancing public trust in the integrity of the Assembly and its decision-making. Declaration and Registration of interests makes available to the public at large information about those private interests which might be thought likely to affect a Member's advocacy or decisionmaking in the Assembly or its Committees.

5 In addition, the public declaration and registration of Members' and related persons' interests provides an objective basis upon which the integrity of Members, and of the Assembly as a whole, may be judged by the community.

6 Members are therefore required to identify relevant pecuniary and other interests, and those of their family members, in an annual process of registration. The Register is accessible to the public. Failure to register a relevant personal interest as required by the Assembly constitutes a contempt of the Assembly ².

7 This Code requires a member to make an oral declaration of a personal interest whenever they propose to speak in a debate or vote on a matter before the Assembly to which their interest is relevant.

Standards

Conflicts of Interest

8 Members are required generally to avoid conflicts between their private interests and the official functions and responsibilities which they have as Members.

9 In particular, any pecuniary or other interests of a Member, must be managed in accordance with these Standards, or disposed of, so as to ensure that no actual or apparent Conflict of Interest arises or continues.

DRAFT

10 Members are required to ensure that they do not come under any financial obligation to individuals or organisations which might appear to a reasonable person likely to influence the Member improperly in the performance of their duties as a Member.

11 Members are required as far as reasonably possible to ensure at all times that they are not seen as being in a position to benefit unfairly or improperly from their official position.

Declaration of Interests

12 While Members are required by law³ to register relevant pecuniary and other interests, this Code requires that a Member shall not vote in any division upon a question in which the Member is aware of an interest which he or she is required to register unless the Member has first declared the interest to the Assembly, irrespective of whether the interest has already been formally registered. The declaration is required to be made:

- (a) at the beginning of their speech if the Member participates in debate on the matter in the Assembly or a Committee of the Assembly; or
- (b) as soon as practicable after a division is called for after debate on the matter if the Member proposes to vote in that division without having participated in the debate.

13 Acting as a consultant, adviser, or advocate for any company or business interest, whether paid or unpaid, shall be regarded as a declarable interest for the purposes of these Standards.

14 In recognition that the representative duties of a Member of the Assembly require a commitment of time and effort at least equivalent to that of full-time employment, and that conflicts of interest are generally to be avoided, Members are required to undertake no other employment or business activity involving them in significant management responsibility or professional effort while they serve as a member of the Assembly.

Honesty

15 Members are expected to act honestly in all their official dealings, and to ensure that they take all reasonable steps in the circumstances to ensure that they do not mislead the public or the Assembly on any matter of significance arising from the performance of their functions as a Member.

Self-dealing

DRAFT

16 Members often receive information which is either confidential or privileged (that is, not available to the general public). In using such information, a Member is required to respect the status of the information and any conditions attached to its provision to the Assembly. A Member is required not to misuse, or to allow others to misuse, any confidential or privileged information which has come to them through their official functions as a Member, for any private purpose including for their personal advantage.

17 Members of the Assembly are required by the *Legislative Assembly [Members Code of Conduct and Ethical Standards] Act 2002*, for a period of one year after ceasing to be a Member, not to represent or take up employment or a Directorship with, nor act as an adviser or consultant to, any company, organization, or other private interest [excluding a Northern Territory public sector agency or government body] with which they had direct and significant involvement in their capacity as a Member of the Assembly in their last twelve months in office.

18 On leaving office a former Member is prohibited by the *Legislative Assembly [Members Code of Conduct and Ethical Standards] Act 2002* from taking improper personal advantage of information provided to or generated by the Assembly, to which they had privileged access as a Member.

Gifts

19 Members, in their official capacity, may accept customary official gifts, hospitality, tokens of appreciation, and similar formal gestures in accordance with normal social custom, but are required not to seek or encourage any form of gift or benefit in their personal capacity.

Contracts and other Business Relationships

20 A Member shall not hold or continue to hold, in their own capacity or through a third party, a contract or like business arrangement for the provision of services to or for any Northern Territory Government body [*as defined*], the NT Public Service, or the Assembly.

21 Where a Member's spouse or partner, or a related person (*as defined*), holds a contract or like business arrangements for the provision of services to or for any Northern Territory Government body [*as defined*], the NT Public Service, or the Assembly such an interest constitutes a declarable interest and is required to be registered and declared by a Member in the prescribed circumstances.

2. Accountability

DRAFT

22 Members are required to observe the principle of **Accountability** in relation to the functions of a Member of the Assembly, in particular by ensuring that their decisions as a Member are open to public scrutiny and justification, and by being prepared at all times to justify their conduct publicly.

Commentary

23 Public office being a public trust, it is a long-established expectation that those public officials who make decisions or exercise powers which affect the welfare, rights or entitlements of the community and individuals are subject to an ethical obligation to ensure that their powers and influence are used lawfully and fairly, and to be prepared to demonstrate in an appropriate way that this obligation has been met.

24 The principle of Accountability, in the context of membership of the Legislative Assembly, recognises that citizens are in principle entitled to be informed of the reasons for a decision or policy which affects them.

25 Accountability, when given effect, fosters integrity and probity of official decisionmaking, good governance, and the prevention and detection of corruption, and thereby encourages public confidence in the organisations and individuals which practise it.

Standards

Public Scrutiny

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

Openness

27 As holders of public office, Members should in general be as open as possible about the decisions that they take in their official capacity.

28 Members are required to be able to demonstrate, in response to a genuine and non-trivial request, that their conduct in office was not arbitrary, unreasonable, without proper justification, lacking in procedural fairness, unreasonable, or an abuse of public office.

3. Responsibility

DRAFT

29 Members are required to ensure that their decisions conform with the principle of responsibility, that is, that they not reckless or negligent, but reflect a proper consideration of all relevant matters, including the reasonably foreseeable consequences for those likely to be affected by them.

Commentary:

30 High standards of responsible conduct in office by public officials do not simply happen of their own accord - they have to be established by institutional and personal effort, and may require courage and self-denial by officials, and community support, to sustain. The role of members of Parliament in providing leadership is a crucial one.

Standards

31 Members are required to act responsibly in upholding the laws of the Northern Territory and Australia, including this Code, and to demonstrate standards of official conduct acceptable to the community at large. These obligations are not fully discharged merely by compliance with the letter of the law or this Code.

32 Members are required to foster by their conduct in office those principles which safeguard democratic rights and freedoms, and good governance, in particular :

- *the independence of the Assembly*
- *the Rule of Law*
- *Recognition of the value of social and cultural diversity*
- *Fairness and integrity in official decisionmaking*
- *Freedom of reporting by media*
- *A non-partisan Public Service*
- *Freedom of speech*
- *Access to justice_*

33 A Member's decisions, directions, work expectations or personal conduct in office should not be such as to induce other public officials, including public servants, to breach the law, or to fail to comply with the relevant code of ethical conduct applicable to them in their official capacity.

34 A Member will be held responsible for proven dishonest use or claim of an allowance or other entitlement.

35 Members are to be responsible for the resources and facilities provided to them and their staff at public expense.

DRAFT

36 Members are required to recognise that the Public Service is expected to function as a non-partisan public resource, and treat public servants in accordance with established conventions of Public Service neutrality. A Member's conduct in office should not be such as to induce other public officials, including public servants, to fail to comply with the relevant professional standards or code of ethical conduct applicable to them in their official capacity⁴.

37 Members are expected to accept responsibility for ensuring that they promote the observance of these Standards by leadership and example. Under this principle, Members are also expected to take the initiative to discourage or prevent corruption and misconduct by officials.

4. The Public Interest

39 Public officials are employed at public expense to serve the community by contributing to good government. In performing their official functions and duties, Members of the Assembly are expected to advance "the public interest".

Commentary:

40 Members of the Assembly are therefore expected to maintain and strengthen the public's trust and confidence in government, by demonstrating the highest standards of professional competence, efficiency and effectiveness, upholding the Constitution and the laws, and seeking to advance the public good at all times.

Standards:

41 When taking official decisions, Members are required to act in **the public interest**, broadly understood.

42 In particular, Members must ensure that their decisions and conduct as a Member are based on honest, reasonable, and properly informed judgement about what will best advance the common good of the people of The Northern Territory.

PART III – IMPLEMENTATION

1 This Code acknowledges the supremacy of the Legislative Assembly in a democratic system of government.

DRAFT

2 The basis of the standards required by this Code is that Members of the Legislative Assembly are selected by and ultimately responsible to their electors in accordance with the law.

3 The provisions of this Code do not limit the authority of the Legislative Assembly to impose standards of conduct on its Members.

References

- 1 Northern Territory (Self Government) Act, s.6
- 2 Legislative Assembly (Registration of Members' Interests) Act, s.10
- 3 Legislative Assembly (Registration of Members' Interests) Act
- 4 For example, the *Code of Conduct* of the Northern Territory Public Service under the *Public Sector Management and Employment Act 1995*

DRAFT

Provisions to be carried in proposed Legislation

The following provisions must be enshrined in law to ensure effectiveness over former Members:

Members of the Assembly are required, for a period of one year after ceasing to be a Member, not to represent or take up employment or a Directorship with, nor act as an adviser or consultant to, any company or business interest with which they had direct contact or involvement in their capacity as a Member of the Assembly in their last twelve months in office.

On leaving office former Members are prohibited by the Ethics in Government Act from taking personal advantage of official information to which they had privileged access as a Member.

A Member shall not hold or continue to hold a contract for the provision of services to or for a government body, the public service, or the Assembly.

The Auditor General may investigate a claim of failure to register a required interest.