



**THE CODE OF CONDUCT
FOR
MEMBERS OF
THE LEGISLATURE**

**November 2021
The House of Assembly**

The Code of Conduct for Members of the Legislature

CONTENTS

	<u>Page Number</u>
Introduction	3
1. Purpose of the Code of Conduct (the Code)	3
2. Scope of the Code	3
3. Duties of Members	4
4. General Principles of Conduct	4
5. Rules of Conduct	6
6. Legislature Standards and Ethics Adviser	8
7. Complaints and Investigations of Breaches	10
8. Sanctions	13
9. Appendices	14

Introduction

Members of the Legislature are public servants. As public servants, they undertake and have imposed on them a public trust and a fiduciary duty which requires them to put the public interest above all others. Their primary responsibility is to uphold and protect the interests of the citizens on whose behalf they act.

1. Purpose of the Code of Conduct (the Code)

The Legislature Code of Conduct prescribes ethical standards of behaviour to guide and assist Members of the Legislature in the discharge of their obligations to the House of Assembly (the House), their constituents and members of the public. In particular, the Code:

- supports systems of risk management that provide assurance against unethical behaviour;
- establishes the standards and principles of conduct expected of all Members in performing their legislative duties;
- establishes the rules of conduct to support these standards and principles to which all Members must adhere; and in so doing
- enhances public trust in the Legislature and in the commitment of the House to upholding these rules.

2. Scope of the Code

2.1 The application of the Code is limited to all aspects of the public life of Members. The Code is not intended to regulate the conduct of Members in their private and personal lives.

2.2 The obligations set out in the Code are complementary to those which apply to all Members, by virtue of the procedural and other rules of the House and the rulings of the Speaker, and to those within the scope of the Ministerial Code which apply to Members.

3. Duties of Members

The Oath, or Affirmation, of Allegiance taken by all Members when they are elected to the Legislature, imposes on them a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.

- 3.1 Members have a fundamental duty to play in serving their constituents, communities and the public interest in accordance with the law.
- 3.2 Members have a general duty to act in the interests of Bermuda as a whole; and a special duty to their constituents.
- 3.3 Members should act on all matters in accordance with the public trust placed in them.

4. General Principles of Conduct

- 4.1 In carrying out their legislative and public duties, Members must observe the following general principles of conduct which reflect international best practices. The principles also form the basis of the Commonwealth Parliamentary Association recommended benchmarks for Codes of Conduct. These principles will be taken into account when considering the investigation and determination of any allegations of breaches of the rules of conduct set out in Part 5 of the Code.

Selflessness

Members of the Legislature must act solely in terms of the public interest.

Integrity

Members should only be responsible for their own behavior and have the fortitude to resist any attempts to be influenced inappropriately by their creditors or anyone else.

Members must not act or make decisions in order to gain financial or other material benefits for themselves or for any other person. (See Sections 15

and 16 of the Parliament Act 1957) Any such interests must be declared and resolved.

Objectivity

In carrying out public business, Members of the Legislature must act impartially and fairly and should make choices on merit. Decisions, including making public appointments and awarding contracts, shall be evidence-based and made without bias or discrimination.

Accountability

Members of the Legislature are ultimately accountable for their decisions and actions to the public who will scrutinize them to ensure that this principle is upheld.

Openness

Members of the Legislature should be open and transparent about their decisions and actions in public office. They should afford the public access to information particularly as regards the reasons for their decisions, restricting information only when the wider public interest clearly demands and where there are lawful reasons for nondisclosure.

Honesty

Members of the Legislature shall declare any private interests relating to their public duties. Members must take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Members of the Legislature should promote and exhibit these principles in their own actions.

- 4.2 Members of the Legislature shall give effect to the ideals of democratic government and abide by the letter and spirit of the Constitution and respect the separation of powers and the rule of law
- 4.3 Members of the Legislature shall act in good conscience and hold themselves accountable for their own conduct.
- 4.4 Members of the Legislature are individually responsible as contributors to the functioning of the Legislature.
- 4.5 Parliamentary privilege protects the rights of Members of the Legislature to speak in the Legislature without fear of prosecution or suit for defamation.
- 4.6 The Legislature has a responsibility to ensure that Cabinet is held accountable.

5. Rules of Conduct

Members of the Legislature are expected to observe the following rules, rulings of the Speaker and any resolutions of the Legislature.

5.1 Disclosure and Publication of Interests

Members of the Legislature shall disclose potential conflicts between their personal interests and the public interest and if the conflict cannot be resolved they must recuse themselves from the conflicted matter unless approved by the Committee on Register of Members' Interest.

5.1.1 Members shall disclose every interest which may create a conflict between a personal interest and their duties and responsibilities and the principles set out in 5.1 above by being fully compliant with the requirements of the Legislature in respect of the registration of interests in the Register of Members' Interests. **(See Appendix I)**

5.1.2 Members shall always be transparent and disclose any relevant interest which may create a conflict in any proceeding of the Legislature or its

Committees, and in communications with Ministers, Members, public officials or public office holders.

5.1.3 Information which Members receive in confidence, in the course of their legislative duties should be used only in connection with those duties. Such information must never be used for the purpose of financial gain or any personal benefit.

5.1.4 Members shall never undertake any action which would cause significant damage to the reputation and integrity of the Legislature or of its Members.

5.2 Use of Public Property

5.2.1 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 and policies prescribed for these matters.

5.2.2 Members' use of public resources should not confer any undue personal or financial benefit on themselves or any other person, or confer undue advantage on a political organization.

5.3 Inducements

5.3.1 Members of the Legislature shall not accept any form of inducement that may influence behaviour or give rise to a conflict of interest or act in contravention of the Bribery Act 2016.

5.3.2 It is unlawful for a Member of the Legislature to accept a bribe to influence his or her conduct as a Member, including any compensation, fee or reward in connection with the promotion of, or opposition to, any Bill, Motion, or other matter submitted, or intended to be submitted to the Legislature, or to any Committee of the Legislature.

5.3.3 Members of the Legislature whose responsibilities and duties relate directly to a specific area of employment shall not use their position to seek or secure future employment, consultancy work or other remuneration or benefit in that area of employment within 1 year from ceasing to be a member

5.3.4 Members of the Legislature shall represent the interests of their constituents on a fair and equitable basis and not on the basis of personal or political affiliations, or inducements.

5.4 Civility

5.4.1 Members of the Legislature shall exercise the privileges and discharge the duties of public office diligently and with civility, dignity and honour.

5.4.2 Members of the Legislature shall respect the roles, independence, rights and responsibilities of parliamentary staff and public officers.

5.5 Behaviour

A Member of the Legislature shall not intimidate, bully or sexually harass another person and shall adhere to the written policy statement against bullying and sexual harassment adopted by the Legislature. **(See Appendix II)**

5.6 Attendance

In accordance with the Official Standing Orders of the House of Assembly and the Senate and practices established by the Legislature, Members shall attend all sittings of the Legislature. Extended absences are governed by the procedural rules prescribed by the Standing Orders.

6. Legislature Standards and Ethics Adviser

6.1 Appointment of Adviser

- 6.1.1 The Adviser shall be appointed upon the recommendation of a bi-partisan Committee of Members of the Legislature (Ethics, Complaints and Investigations Committee) (ECIC) which shall consist of five Members of the House appointed by the Speaker to sit with two Members of the Senate appointed by the President of the Senate for a total of seven Members inclusive of the Chair.
- 6.1.2 Members of the ECIC shall have the ability to contract an independent Standards and Ethics Adviser (the Adviser) on an as needed basis.
- 6.1.3 The Adviser shall provide advice to the ECIC on ethical issues, conflicts of interest, integrity issues and any issue arising from this Code.
- 6.1.4 The contract shall extend the length of a parliamentary session and the Adviser shall be paid for only the period of services provided.
- 6.1.5 The Adviser shall have extensive experience in dealing with professional ethics conflict resolution or law or other comparable qualifications as may be determined by the ECIC and shall possess knowledge, experience, personal attributes and standing within the community suitable to the office.
- 6.1.6 In the exercise of his or her functions, the Adviser shall not be subject to the direction or control of any other person or authority.
- 6.1.7 The Speaker may, after consultation with the ECIC, direct the ECIC to terminate any contract with the Advisor in accordance with the Employment Act 2000.

6.2 Provision of Advice

- 6.2.1 Members are encouraged to discuss ethical dilemmas with the Adviser as a matter of course.

6.2.2 Where Members are unable to discuss ethical dilemmas with the Adviser or, having done so, are unable to resolve the issue, Members should proceed in accordance with this Code or otherwise proceed with caution and make every effort not to engage in compromising activity.

6.2.3 In discharging his or her responsibilities, the Adviser shall:

- apply an evidence-based approach, basing advice on the facts provided by the Member and any other relevant facts of which he or she is aware;
- not disclose the fact that he or she has been consulted, any particulars of the facts provided by the Member or any advice given; and
- maintain the confidentiality of advice sought and given which shall not be accessible under the Public Access to Information Act 2010.

6.2.4 A Member may disclose to the public any advice sought and received in writing from the Adviser.

6.2.5 The Adviser shall not investigate any complaint relating to a breach of the Code.

7. Complaints and Investigations of Breaches – Legislature Complaints Investigator

7.1 Appointment of Investigator

7.1.1 The Investigator shall be appointed upon the recommendation of the Committee of Members of the Legislature (The Ethics, Complaints and Investigations Committee) (ECIC)

7.1.2 The ECIC shall have the ability to contract an independent Investigator (the Investigator) on an as needed basis.

7.1.3 The Investigator shall have extensive investigative skills and shall possess knowledge, experience, personal attributes and standing within the community suitable to the office.

7.2 Ethics Complaints and Investigations Committee (ECIC)

7.2.1 A bipartisan Committee of Members of the Legislature (The Ethics, Complaints and Investigations Committee) shall be established with five Members appointed by the Speaker to sit with two Members of the Senate appointed by the President of the Senate for a total of seven Members inclusive of the Chair.

7.2.2 The ECIC shall be appointed for the duration of the life of Parliament to advise on ethical issues, conflicts of interest, integrity issues and any issue arising from this Code including considering reports of alleged breaches of conduct referred to the ECIC by the Investigator and to make recommendations to the Legislature accordingly.

7.2.3 The Speaker may discharge and replace members of the ECIC

7.3 Legislative Appeals Committee (LAC)

7.3.1 A bipartisan Committee of Members of the Legislature shall be established with five Members appointed by the Speaker to sit with two Members of the Senate appointed by the President of the Senate for a total of seven Members inclusive of the Chair to be known as the Legislative Appeals Committee (LAC).

7.3.2 The LAC shall be appointed for the duration of the life of Parliament to act on appeals made under Section 7.5.

7.3.3 The Speaker may discharge and replace members of the LAC

7.4 Investigation of alleged breaches

7.4.1 An allegation of a breach of the Code by a Member shall be made in writing by any complainant to the Clerk to the Legislature who shall ensure that the complainant agrees to be bound by this Code and then refer the complaint to the ECIC, after which the ECIC may refer it to the Investigator.

- 7.4.2 The course of natural justice will be afforded to the Member being investigated, in that adequate notice and a fair and unbiased hearing will occur before a decision is made by the ECIC
- 7.4.3 The ECIC, the Investigator and all parties shall treat any complaint of an alleged breach of the Code as if it is sub judice (i.e. being considered by a court).
- 7.4.4 Members of the Legislature shall cooperate fully with and assist the Investigator in the investigation of any complaint under the Code. No Member shall lobby the Investigator or a member of the ECIC in a manner intended to influence its consideration of the alleged breach of the Code.
- 7.4.5 Where there is evidence of a breach of the Code, the Investigator shall conduct an investigation and inform the complainant accordingly.
- 7.4.6 When the investigation has been completed, the Investigator must present a report to the ECIC. The ECIC shall consider the report from the Investigator and determine whether a breach of the Code or ethical issue has occurred. The ECIC shall report its conclusions and recommendations to the Legislature for further proceedings in accordance with its rules.
- 7.4.7 The Legislature shall either concur in or reject the report of the ECIC within fifteen days after it is tabled. The findings of the report cannot be amended by the Legislature.
- 7.4.8 If the Legislature concurs with the report of the ECIC, the Legislature shall, by resolution of two-thirds majority vote of Members of the House, decide on the appropriate sanction taking into account any recommendation made by the ECIC .

7.5 Appeal and Review

7.5.1 Appeals can be made against the findings of, or a sanction recommended by the ECIC. Any appeal will be heard by the LAC, the membership of which would not overlap with the ECIC, who made the original decision. The Chair of the LAC is empowered to establish the appeals procedure within this framework. The LAC's ruling shall be final.

8. Sanctions (See also Appendix III)

- Oral or written apology
- warning
- reprimand
- formal admonition to abide by the standards of conduct
- admonition to refrain from presenting in the Legislature for a specified period of time
- forfeiture of the Member's salary for a specified period
- suspension from membership of the Legislature for a specified period (which also involves loss of salary for that period)

8.1 A sanction imposed by the Legislature under section 8 shall be final.

APPENDIX I

BERMUDA LEGISLATURE – REGISTER OF INTERESTS REGISTRATION FORM

The main purpose of the Register of Members' interests is to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member. For the details of the information which is required to be registered, please refer first to the explanatory notes in each section of the form.

Subsequent changes or additions to your entry should be notified to the Registrar within one month of any change occurring.

FULL NAME:

1. DIRECTORSHIPS

(Do you have any remunerated or unremunerated directorships in any company?)

YES – NO

(Please delete as appropriate)

If yes, please list the names of the companies, briefly stating the nature of the business of the company in each case.

Notes:

- (i) If holding office, please name office held
- (ii) You should include directorships which are individually unremunerated but where remuneration is paid through another company in the same group
- (iii) In this category “*remunerated*” should be read as including allowance or benefits
- (iv) “*Any company*” means local, exempted or permit Bermuda Company.

2. REMUNERATED EMPLOYMENT, OFFICE, PROFESSION, ETC.

Do you have any employment, office, trade, profession or vocation – (apart from membership of the House/Senate or ministerial office for which you are remunerated or in which you have any pecuniary interest?)

YES – NO

(Please delete as appropriate)

If yes, please set out the details – name of employer/company, nature of business, position held.

Note: Actual amounts of remuneration need not be stated

3. CLIENTS

Does any of the paid employment registered in categories 1 or 2 entail the provision to clients of services which directly relate to your position as a Member of the Legislature?

YES – NO

(Please delete as appropriate)

If yes, please list all clients to whom you personally provide such services. Please also state in each case the nature of the clients' business

4. SPONSORSHIP

(Have you received any sponsorship for which you are expected to provide a benefit relating to being a Member of the Legislature?)

YES – NO

(Please delete as appropriate)

5. GIFTS, BENEFITS AND HOSPITALITY

Have you, or your spouse to your knowledge, received any gift of a value greater than \$500, or any material advantage of a value greater than 0.5 percent of the current parliamentary salary, from any company, organization or person in Bermuda which in any way relates to your membership of the Legislature?

YES – NO

(Please delete as appropriate)

If yes, please give details

Notes: (i) You should include any hospitality given and services or facilities offered free or at a price below that generally available to members of the public, directly relating to you being a Member of the Legislature and not in any other capacity, for instance by virtue of your employment, except that where the advantage is known to be available to all Members of the Legislature, it need not be registered.

(ii) You should include not only gifts and material advantages received personally by you and your spouse, but also those received by any company or organisation in which you (or your spouse jointly) have a controlling interest.

6. OVERSEAS VISITS

Have you or your spouse made any overseas visits relating to or in any way arising out of your membership in the House/Senate where the cost of the visit was not wholly borne by yourself or out of public funds, or where the visit involves reciprocity of payment between Parliament and the Governments or Parliaments of other countries?

YES – NO

(Please delete as appropriate)

If yes, please list relevant visits in chronological order

Countries Visited	Dates of Visit	Who Paid?

Note: You are not required to register visits undertaken on behalf of the Commonwealth Parliamentary Association, a Select Committee of the House/ Senate, or visits arranged and paid for wholly by a member’s own political party.

7. OVERSEAS BENEFITS AND GIFTS

Have you or your spouse to your knowledge, received any gift of a value greater than \$500 or an material advantage of a value greater than 0.5 percent of the current parliamentary salary for or on behalf of any foreign Government organisation or person which in any way relates to your Membership of the Legislature?

YES – NO

(Please delete as appropriate)

If yes, please give details

Note: Overseas hospitality and travel facilities should be entered under category 6. Otherwise the notes under category 5 apply here also.

8. LAND

Do you have a beneficial interest including trusts in any land in Bermuda, other than any home used solely for the personal residential purposes of you or your family?

YES – NO

(Please delete as appropriate)

If yes, please indicate the nature of the land (e.g. Residential rented/leasehold land, Commercial rented/leasehold land, farmland, undeveloped land) and location.

9. SHAREHOLDINGS

Do you have any beneficial interest including trusts in shareholdings in any company or body (including local, exempt or permit companies) which have (a) a market value greater than \$50,000 or (b) greater than 1% of the issued share capital of the company or body?

YES – NO

(Please delete as appropriate)

If so, please list each company or body, indicating in each case the nature of its business and whether your holding falls under sub-category (a) or (b) above.

I declare that the information contained in this declaration is a complete and accurate description of all the interests that I am liable to declare.

SIGNATURE: _____

DATE: _____

APPENDIX II

The Legislature will provide a policy statement against bullying and sexual harassment.

Definitions:

“bullying” means the habitual display of offensive behaviour intended to harm, intimidate, humiliate, undermine or coerce a person or group of employees and included, but is not limited to, ostracising, ridiculing, shouting at, threatening, and verbally abusing a person or group of employees; and

“sexual harassment” includes any one or more incidences of any of the following-

- (a) the use of sexually suggestive words, comments, jokes, gestures or actions that annoy, alarm or abuse a person;
- (b) the initiation of uninvited physical contact with a person;
- (c) the initiation of unwelcome sexual advances or the requests of sexual favours from a person;
- (d) asking a person intrusive questions that are of a sexual nature pertaining to that person’s private life;
- (e) transmitting sexually offensive writing or material of any kind;
- (f) making sexually offensive telephone or internet calls or messages to a person; or
- (g) any other sexually suggestive conduct in circumstances where a reasonable person would consider the conduct to be offensive.

APPENDIX III

SANCTIONS

Possible Sanction	Action	Decision Making Body
Warning.	Warning given by the Legislature Standards & Ethics Adviser	Ethics, Complaints & Investigations Committee
Oral or written apology on the floor of the House	Letter of apology to be approved by Legislature Standards & Ethics Adviser	Ethics Complaints & Investigations Committee
Formal admonition to abide by standards of conduct	Ethics, Complaints & Investigations Committee to issue.	Ethics, Complaints & Investigations Committee
Admonition to refrain from presenting in the Legislature for a specified period of time.		Ethics, Complaints & Investigations Committee
Forfeiture of the Member's salary for a specified period.	Standards & Ethics Adviser to decide on the sum and time period	Ethics, Complaints & Investigations Committee
*Suspension from membership of the Legislature for a specified period (which also involves loss of salary)		Speaker on recommendation from the Ethics, Complaints & Investigations Committee

* Note: The Ethics, Complaints and Investigations Committee will decide on a case by case basis what rights and privileges will be withdrawn from a member and the duration of withdrawal.

APPENDIX IV
GLOSSARY OF TERMS

Public Life

1. The aspects of social life which occur in public, in the open, as opposed to more private social interaction within families, private clubs, etc.
2. Politics, as in the profession of being a politician.