

3

Updating the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives in Malta

This chapter provides recommendations on strengthening the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives to provide a comprehensive integrity framework for elected and appointed officials. In particular, this chapter addresses the need for revised Codes which contain clear and common definitions, memorable and meaningful values, and clear provisions on the proper use of information, engagement with lobbyists and third parties, management and prevention of conflicts of interest, receipt of gifts and other benefits, and post-public employment restrictions. This chapter also details guidance on implementing and enforcing the Codes.

3.1. Introduction

Public integrity is “the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector” (OECD, 2020^[1]). In other words, public integrity means doing the right things for the right reasons and in the right way. Understanding what is meant by “right” requires setting standards that clarify which behaviours are expected of public officials. These standards – set out in a country’s Constitution, criminal, civil and administrative law, and codes of conduct or ethics – provide a framework to enable ethical behaviour.

As standards for integrity are dispersed throughout different legislative and policy tools, governments use codes of conduct and codes of ethics to collect and clarify in one place the standards that guide their public sector’s behaviours and actions (Bacio Terracino, 2019^[2]). A distinction between codes of ethics and codes of conduct can be made with regards to their content and enforcement mechanisms. In general, codes of ethics identify the principles and values that guide behaviour and decision making, while codes of conduct provide further guidance and clarify expected standards and prohibited situations (OECD, 2020^[1]). However, in practice, many countries have a hybrid type of code that combines public service values with more detailed guidance on how to apply integrity standards (Bacio Terracino, 2019^[2]).

Codes can be designed to be regulatory, educational, or inspirational. Regulatory codes include detailed rules and standards of conduct that are usually enforceable through a monitoring system and the imposition of sanctions. Educational codes seek to familiarise public officials with its provisions through extensive commentaries and guidelines for interpretation. Aspirational codes are a declaration of values to which practitioners should adhere to in their daily decisions. In practice, most codes combine elements of these three aspects (OECD, 2018^[3]).

Independently of the method used, codes should be clear and simple, logically structured, and linked to all other related documents or legislation that make part of the broader legal and regulatory framework of public integrity. Moreover, considering that in practice it is impossible to cover the full range of conceivable situations a public official may face in his/her daily activities, codes should have an appropriate balance between general core values applicable in complex and dynamic situations, and more specific standards to support day-to-day decision making (OECD, 2018^[3]).

In their aim to anticipate and prevent certain types of undesired behaviour (e.g. conflicts of interest, bribery and other inappropriate actions), most codes describe specific actions that are prohibited to public officials (OECD, 2018^[3]). Table 3.1 describes the most common duties and prohibitions contained in codes of conduct in different OECD countries.

Table 3.1. Substantive provisions contained in codes of conduct in OECD countries

Due regard of the law
Integrity
Impartiality
Confidentiality
Honesty
Efficiency
Effectiveness
Serving the public interest
Avoidance of conflict of interest
Declaration of assets, financial interests and outside activities
Prohibition of bribery
Acceptance of gifts and favours
Pre- and post-public employment restrictions
Duty to report suspicious activities
Individual and collective accountability
Refraining from seeking personal benefits or abusing powers granted because of the public office
Proper use of public resources

Source: (OECD, 2018^[3]).

In Malta, integrity standards for elected and appointed officials are set out in the First and Second Schedules of the Standards in Public Life Act (herein “Standards Act”): the *Code of Ethics for Members of the House of Representatives* and the *Code of Ethics for Ministers and Parliamentary Secretaries*, respectively. In July 2020, under the mandate of the Standards Act, the Commissioner for Standards in Public Life (herein “Commissioner”) proposed revisions to both Codes to bring them in line with the modern integrity challenges that elected and appointed officials face in Malta.

This chapter reviews the existing codes of ethics as well as the proposed revisions to the codes of ethics and proposed additional guidelines elaborated by the Commissioner in July 2020, and provides recommendations to improve integrity values and standards for elected and appointed officials. The recommendations are tailored to the specific integrity landscape in Malta and informed by relevant good practices from OECD members and the OECD Recommendations on Public Integrity, on Principles for Transparency and Integrity in Lobbying and on Guidelines for Managing Conflict of Interest in the Public Service.

3.2. Integrity standards for elected and appointed officials in Malta: The current Codes of Ethics

The existing Codes of Ethics have been in place since the early 1990s. The Code of Ethics for Members of the House of Representatives, first adopted in 1995, includes provisions to address some of the most relevant matters for political integrity, including the declaration of assets and interests, acceptance of gifts and honorarium, and registration of sponsored travel. The Code of Ethics for Ministers and Parliamentary Secretaries, which was adopted in 2015 and superseded an earlier code adopted in 1994, sets and defines the values that should guide Ministers and Parliamentary Secretaries’ actions and decisions, and lays out expected standards of behaviour concerning conflicts of interest, asset declaration, and duties concerning Parliament, the press, and the general public.

The current Codes of Ethics for Members of the House of Representatives, and for Ministers and Parliamentary Secretaries however present several shortcomings, including the lack of standards to address some of the key risk areas for corruption and misconduct. Additionally, the codes have been in

place for several years and no significant revision has been approved to ensure their cohesion with today's expectations and challenges. Indeed, codes benefit from being reviewed to test the continuous applicability of the set of rules that they contain, to address contemporary integrity risks that were not a previous priority and to align standards of conduct with the increasing expectations of citizens. The following sections review in detail the current gaps in the two Codes.

3.2.1. Gaps in the Code of Ethics for Members of the House of Representatives

The Code of Ethics for Members of the House of Representatives, although one of the first of its kind globally, is now showing signs of wear, with several critical shortcomings undermining the Code's effectiveness:

- **A lack of common values.** The Code does not include a set of common values to guide the behaviour of Members of Parliament (MPs). A “catch-all” provision is included, whereby each MP is required “at all times, both inside and outside the House, [to] conduct himself in a manner, which reflects the status and dignity of the House of Representatives” (Article 1). Similarly, MPs are required to adhere to the spirit and letter of the rules of the House of Representatives, committees, standing orders and other resolutions passed (Article 2). While these provisions set high expectations of conduct, they do not provide clarity to MPs on what values are expected for all members.
- **Limited scope on asset declarations.** The current provisions in the Code of Ethics require all MPs to disclose information on financial and non-financial interests, but these are narrow in scope. Indeed, the asset declarations system focuses more broadly on financial assets than as a tool to identify real, perceived or potential conflict of interests.
- **Limited scope on managing and preventing conflicts of interest.** The current provisions on conflict of interest in Article 5(2) of the Code of Ethics are limited to an obligation to declare conflict of interest when MPs may have a direct interest in legislation before the House. Subsequent requirements are not included for managing these conflicts of interest, leading to a limited understanding of conflict of interest. Moreover, key risk areas related to incompatibilities, secondary employment and post-public employment are not duly covered.
- **Ambiguous provisions on gifts and voluntary payments.** The Code's provisions concerning gifts and voluntary payments by third parties (e.g. payment of honoraria and foreign travel) are ambiguous and narrow in scope. For instance, the Code establishes that MPs shall not accept gifts from persons, groups or companies that had any direct or indirect intent in legislation before the House of Representatives. However, it does not contain a definition of “gift” nor of “direct or indirect influence”, creating a lack of consistent and common understanding of what constitutes a gift and how it can influence the decision-making process. Additionally, the Code does not require MPs to report gifts offered by third parties, making it difficult to monitor and enforce the prohibition to receive gifts from third parties that had any direct or indirect intent in legislation. Finally, while it is imperative that gifts given with the intent to influence legislation are prohibited, this narrow scope opens the door for potential undue influence. Gifts may be given before any legislation is developed, with the intent to build favour. Moreover, the narrow focus on legislation omits gifts that are given in relation to a public concession or contract, or other type of public decision.
- **Risk of undue influence emerging from honorarium and foreign travel.** The current provisions in the Code allow those with direct interests in legislation to pay MPs honoraria for a speech, writing or publication, as long as it does not exceed the usual and customary value for such services. Moreover, MPs are entitled to accept foreign travel from those with direct interest in legislation, so long as they declare it in a register. These provisions raise reasonable questions about the extent to which these standards outlined in the Code of Ethics protect MPs – and the decision-making processes as a whole – from undue influence risks.

- **No guidance for engaging with lobbyists and third parties.** The Code does not include standards or guidance for MPs on interacting with lobbyists and third parties attempting to influence them, nor requires MPs to disclose information about contacts with lobbyists and third parties, the subject matters discussed with them and the potential links of those third parties to MPs' decisions and actions.
- **No guidance on proper use of confidential information.** The Code does not include a provision on the correct use of information obtained by MPs in their role. This opens up a potential risk area, as throughout the course of their duties, MPs have access to confidential information that could potentially be used for their personal gain or for the benefit of selected individual(s) or group(s) (OECD, 2021^[4]).
- **No guidance on proper use of publicly provided resources:** The Code does not include provisions on the proper use of publicly provided resources. As all public officials are responsible for protecting and conserving publicly provided resources (e.g. public funds, equipment, facilities, etc.), as well as ensuring these resources are used for the public interest, a lack of guidance presents a loophole for misconduct.

In light of these challenges, **the government of Malta could prepare a new Code of Ethics for Members of the House of Representatives to create a comprehensive integrity framework for MPs.** The new Code could build on the Commissioner's proposed revisions, which are analysed in the section below.

3.2.2. Gaps in the Code of Ethics for Ministers and Parliamentary Secretaries

The Code of Ethics for Ministers and Parliamentary Secretaries, while updated more recently in 2015, still contains gaps and potential loopholes that undermine its effectiveness:

- **No guidance for engaging with lobbyists and third parties:** The current Code of Ethics for Ministers and Parliamentary Secretaries does not provide guidance on how Ministers and Parliamentary Secretaries should engage with third parties attempting to influence the policy-making process, nor requires Ministers and Parliamentary Secretaries to disclose information about contacts with lobbyists and third parties and the subject matters discussed with them.
- **No restrictions on post-public employment:** The current Code of Ethics for Ministers and Parliamentary Secretaries does not include restrictions on post-public employment, leaving the door open to undue or unfair advantage. This is particularly important for politically exposed positions such as those filled by Ministers and Parliamentary Secretaries, as they are central in the public decision-making process, set the political agenda and have access to confidential information.
- **Limited provisions on managing and preventing conflicts of interest.** Sections 7 and 8 of the current Code of Ethics cover conflict-of-interest and asset declarations. Section 7 prohibits Ministers and Parliamentary Secretaries from holding a secondary employment, while Section 8 requires Ministers and Parliamentary Secretaries to ensure that "there is no conflict between their public duties and private interests, financial or otherwise" and to inform the Prime Minister of any possibility of conflict of interest. Additionally, the Cabinet Manual provides further guidance on conflict of interest and asset declaration. However, the Code fails to provide further guidelines on what conflict-of-interest situations and private interests are, and offers Ministers and Parliamentary Secretaries limited options for managing their conflicts of interest.
- **Limited scope on asset declarations.** The current provisions on the Code of Ethics require all Ministers and Parliamentary Secretaries to disclose information on financial and non-financial interests, but these are narrow in scope. Although the form used covers relevant assets and interests, the information that Ministers and Parliamentary Secretaries are obliged to provide by law is still limited when it comes to understanding their source of wealth/funds and whether private interests may create potential conflicts of interest. Additionally, although the spouses of Ministers

and Parliamentary Secretaries are expected to provide information, this only applies for a specific matrimonial regime of assets (when property is part of a community of assets).¹

- **Lack of clarity on enforcement provision.** The current Code of Ethics allows the Prime Minister to refer to or consult with a body established by law any potential breach of the Code, but ultimately it is the Prime Minister who makes a decision on a breach when it comes to Ministers and Parliamentary Secretaries. However, the Standards Act states that the Commissioner is responsible for investigating any matter alleged to be in breach of the Codes of Ethics, and that it is up to the Committee for Standards in Public Life to adopt or not the report by the Commissioner and decide on the sanctions in cases of proven misconduct. In this sense, it is necessary to clarify the enforcement provision in the current Code, which is a carry-over from the period before it was incorporated in the Standards Act (Commissioner for Standards in Public Life, 2020^[5]), and ensure that it reflects the current regulatory and enforcement framework for those in public life.

In light of these challenges, **the government of Malta could prepare a new Code of Ethics for Ministers and Parliamentary Secretaries to create a comprehensive integrity framework for high-level elected and appointed officials within the executive branch.** The new Code could build on the Commissioner's proposed revisions, which are analysed in detail below.

3.3. The Commissioner's proposed revisions to the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries

The gaps and loopholes present in the existing Codes of Ethics – both for Members of the House of Representatives and for Ministers and Parliamentary Secretaries – demonstrate a need for a revision. This has been noted both domestically and internationally.

In July 2020, as means of Article 13(g) of the Standards Act,² the Commissioner issued a report proposing revisions to the existing codes of ethics for MPs and for Ministers and Parliamentary Secretaries. The Commissioner's proposal to revise the codes were based on the main weaknesses of the existing codes, as well as international good practice from Australia, Canada, New Zealand and the United Kingdom. Additionally, in line with the enabling provisions included in the Commissioner's proposal to revise the codes, which would (if adopted) empower the Commissioner to issue additional guidelines, both codes were accompanied by a set of guidelines elaborating on specific aspects of the code.

In line with article 3(4) of the Standards Act³, the Commissioner submitted the proposal to revise the codes to the Committee for Standards in Public Life ("the Committee"). However, the Committee concluded its discussion on the Commissioner's proposals with a decision that it would wait for a bill proposing new codes to be presented in the House of Representatives.

The international community has also noted the need to strengthen the codes of ethics for elected and appointed officials. For instance, in its Fourth Evaluation Review, GRECO recommended to conduct a "thorough review of the current provisions of the Code of Ethics for members of parliament and the Standing Orders related to integrity, ethics, financial/activity declarations and conflicts of interest" with the purpose of adopting improvements in terms of coverage, consistency and clarity (GRECO, 2015^[6]). Likewise, in its Fifth Evaluation Review, GRECO recommended to strengthen integrity standards for people with top executive functions, including Ministers and Parliamentary Secretaries. In particular, GRECO recommended to provide further guidance on preventing and managing conflict of interest, set rules to govern contacts between persons with top executive functions and lobbyists/third parties that seek to influence the public decision-making process, and further develop the current regime of assets and interests declarations, amongst others (GRECO, 2019^[7]). More recently, the European Commission's Rule of Law Report recommended improving ethics rules for high-ranking officials, and noted that "the review of the code of conduct for members of Parliament and Ministers that was recommended by the

Commissioner's office in July 2020, remains unaddressed" (European Commission, 2022^[8]). The following analysis reviews the Commissioner's proposal for a revised Code of Ethics for Members of the House of Representatives and additional guidelines, as well as a revised Code of Ethics for Ministers and Parliamentary Secretaries and additional guidelines (see Box 3.1 for an overview of the Commissioner's proposed revisions). It highlights the strengths of the Commissioner's proposed revisions, while also pinpointing areas where further clarification or additional provisions are needed to ensure a robust integrity framework for Ministers, Parliamentary Secretaries and Members of Parliament in Malta.

In line with this analysis, this chapter provides concrete recommendations to the government of Malta on developing a new Code of Ethics for Members of the House of Representatives, as well as a new Code of Ethics for Ministers and Parliamentary Secretaries, in preparation for tabling a single bill proposing changes to the Standards Act and its Schedules.⁴ The recommendations are addressed to the government of Malta, following the Committee for Standards in Public Life's conclusion that it will wait for a bill proposing new codes to be presented in the House of Representatives. The chapter also provides recommendations to the Commissioner on preparing complementary guidelines to the codes, although the preparation of these guidelines is dependent on and should be preceded by the introduction of new codes by the government.

Box 3.1. The Commissioner's proposed revisions to the respective Codes of Ethics and additional guidelines

Code of Ethics for Members of the House of Representatives and additional guidelines

The proposed Code of Ethics for Members of the House of Representatives and additional guidelines aim to strengthen the integrity framework for MPs. In particular, these provisions include:

- the adoption of a set of nine values in common with the Code of Ethics for Ministers and Parliamentary Secretaries
- provisions obliging MPs to register certain gifts, benefits and hospitality received and bestowed by them to third parties
- provisions on the interactions and communication between MPs and third parties/lobbyists
- more clear and comprehensive provisions on disclosing and managing conflicts of interest, including a proposal to establish a Register of Interests for the registration of financial and non-financial interests
- provisions on the proper use of information and public resources.

Code of Ethics for Ministers and Parliamentary Secretaries and additional guidelines

The proposed Code of Ethics for Ministers and Parliamentary Secretaries and additional guidelines introduce important changes including:

- provisions on employment restrictions after departure from office
- provisions obliging Ministers to register certain gifts, benefits and hospitality received and bestowed by them to third parties
- more clear and comprehensive provisions on disclosing and managing conflicts of interest, including a proposal to establish a Register of Interests for the registration of financial and non-financial interests
- provisions on engagement with third parties aiming at influencing the decision-making process, including the obligation to record all relevant communications with lobbyists in a Transparency Register
- provisions on the proper use of public resources

- more clear and comprehensive provisions on the proper use of information
- alignment of the enforcement provisions with the Standards in Public Life Act and provides that breaches of the Code shall be investigated by the Commissioner and decided on by the Committee for Standards in Public Life, without prejudice to the powers and prerogatives of the Prime Minister in respect of his Cabinet.

Source: (Commissioner for Standards in Public Life, 2020^[5]).

3.3.1. Clarifying definitions

Integrity systems include a number of different definitions, rules and standards set out across legislation and policies. Indeed, a coherent and comprehensive integrity system provides common definitions, rules and standards to help inform the different actors about the behaviours and conduct that are expected from them, which can be set out in the Constitution, criminal, civil and administrative law, amongst others. To facilitate coherent implementation of such a variety of integrity standards across government and help public officials understand the values and uphold them, it is can be helpful to have the key definitions in one place, such as in accompanying guidelines (OECD, 2020^[1]).

The government of Malta could include all relevant key terms and definitions in the new Codes of Ethics

In Malta, the integrity framework for elected and appointed officials consists of different mechanisms, including the Standards Act and the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries, the Constitution, relevant Standing Orders, and if approved, the Regulation of Lobbying Act. As a first step to strengthen clarity around these standards, Chapters 2 and 5 recommend to include definitions on ‘abuse of power and privileges’, ‘gift’, ‘benefit’, ‘hospitality’, ‘undue influence’ and ‘misconduct’ in the Standards Act, and ‘lobbying’ and ‘lobbyists’ in the Lobbying Act.

The Commissioner’s proposed revisions to the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries include some additional key integrity definitions. The first Code contains definitions including on the terms ‘family members’, ‘conflict of interest’ and ‘personal interest’. The latter Code contains definitions including on the terms ‘conflict of interest’ and ‘personal interest’.

To further provide clarity and facilitate the application of integrity standards by MPs, Ministers and Parliamentary Secretaries, the **government of Malta could also include the following definitions in the new codes: ‘abuse of power and privileges’, ‘gift’, ‘benefit’, ‘hospitality’, ‘undue influence’ and ‘misconduct’ ‘lobbying’ and ‘lobbyists**. Collecting the key definitions laid out in the different integrity mechanisms in one place may strengthen awareness and understanding of the conduct expected by MPs and Ministers, facilitating their implementation in everyday activities.

3.3.2. Ensuring values are memorable and identified in a consultative way

Standards and guidance for ethical conduct are often derived from a commitment to overarching values (OECD, 2018^[9]). Such values aim to guide ethical judgement when serving the public interest, becoming the frame against which public officials’ everyday choices and actions can be evaluated. This is particularly helpful considering that it is impossible to capture and direct in a code all actions and decisions that public officials should make in the face of diverse ethical issues. In addition, values shape citizens’ expectations about the mission, vision and daily activities of government. To effectively support day-to-day decision making, values should be memorable, clear and meaningful (OECD, 2018^[9]).

The government of Malta could include key values in the new Code of Ethics for Members of the House of Representatives, by means of a participatory process with key stakeholders

The Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives include a set of nine values to guide the behaviour, actions and decisions of MPs. These nine values – i.e. sense of service, integrity, diligence, objectivity, accountability, transparency, honesty, justice and respect, and leadership – are accompanied by a short definition aiming at ensuring values are interpreted in the same way by all stakeholders. Including a set of values and providing common definitions, align with good practice that recognise the need for clear values to safeguard integrity in public service. However, the number of values proposed by the Commissioner surpass the average number recommended by cognitive science. Indeed, evidence suggests that the number of items humans can store in their working memory is limited, so a memorable set of values or key principles ideally has no more than seven elements (Miller, 1955^[10]). To that end, when developing the new Code of Ethics for Members of the House of Representatives, the **government of Malta could reduce the number of values to make them more memorable and facilitate application in daily situations**. Box 3.2 gives the example of Australia, where the Public Service Values were reduced from fifteen rules to five values to make them more memorable for public officials.

Box 3.2. Revision of the Australian Public Service Values

In the past, the Australian Public Service Commission used a statement of values expressed as a list of 15 rules. For example, they stated that the Australian Public Service (APS):

- is apolitical and performs its functions in an impartial and professional manner
- provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves
- is responsive to the government in providing frank, honest, comprehensive, accurate, and timely advice and in implementing the government's policies and programmes
- delivers services fairly, effectively, impartially, and courteously to the Australian public and is sensitive to the diversity of the Australian public.

In 2010, the Advisory Group on Reform of the Australian Government Administration released its report and recommended that the APS values be revised, tightened, and made more memorable for the benefit of all employees and to encourage excellence in public service. It was recommended to revise the APS values to “a smaller set of core values that are meaningful, memorable, and effective in driving change”.

The model follows the acronym “I CARE”. The revised set of values runs as follows:

- **Impartial:** The APS is apolitical and provides the government with advice that is frank, honest, timely, and based on the best available evidence.
- **Commitment to service:** The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the government.
- **Accountable:** The APS is open and accountable to the Australian community under the law and within the framework of ministerial responsibility.
- **Respectful:** The APS respects all people, including their rights and heritage.
- **Ethical:** The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

Sources: Australian Public Service Commission (2011), “Values, performance and conduct”, <https://resources.apsc.gov.au/2011/SOSr1011.pdf>; Australian Public Service Commission, “APS Values”, <https://www.apsc.gov.au/working-aps/information-aps-employment/aps-values>

Additionally, values and standards of conduct should ideally be defined through a participative process to ensure that the result is both meaningful and actionable for those who are expected to follow them (OECD, 2018^[9]). Indeed, to achieve a greater impact, the values and the language used in a code of ethics need to be able to activate and remind the user of their own moral reference point, to create a sense of belonging and facilitate their implementation (OECD, 2018^[9]). To that end, **the government of Malta could consider involving key stakeholders in the process of identifying and defining the values for the Members of the House of Representatives to create ownership, align expectations and ensure a common understanding of values that will guide MPs conduct.** Similar processes have been carried out in other countries, which could be used as examples for Malta to conduct their own participatory process for the identification of MPs' integrity standards (see Box 3.3).

Box 3.3. Examples of participatory processes for the definition of integrity standards

Examples from the legislative branch

In December 2016, the Parliament of **Sweden** (the Riksdag) adopted the Code of Conduct for Members of Parliament. The Code of Conduct was decided through a participatory process led by the First Deputy Speaker of the Parliament – signaling the importance of this work, together with a working group consisting of one member from all of the eight parties in the Riksdag – showing the need to ensure MPs are voluntarily adopting their own Code of Conduct.

In **Canada**, the Standing Committee on Procedure and House Affairs (PROC) is currently undergoing a review of the Code of Interest for Members of the House of Commons. As part of this process, the PROC has held sessions on the review of the Code, where Members of the House of Commons have participated and submitted their comments regarding different proposals to strengthen the existing Code.

Additionally, national and international experts – including the Integrity Commissioner of Ontario, the Ethics Commissioner of the National Assembly of Quebec, and the UK Parliamentary Commissioner for Standards – have been invited to share their views. External stakeholders from relevant civil society organisations and associations have also participated in the process.

Examples from the executive branch

In 2016, the Ministry of Public Administration in **Colombia** initiated a process to define a General Integrity Code. Through a participatory exercise involving more than 25 000 public servants through different mechanisms, five core values were selected: Honesty, Respect, Commitment, Diligence, and Justice. In addition, each public entity has the possibility to integrate up to two additional values or principles to respond to organisational, regional and/or sectorial specificities.

The Professional Code of Conduct for Public Servants of the Office of the Comptroller General of the Union in **Brazil** was developed with input from public officials from the Office of the Comptroller General of the Union during a consultation period of one calendar month, between 1 and 30 June 2009. Following inclusion of the recommendations, the Office of the Comptroller General of the Union Ethics Committee issued the code.

In developing the code, a number of recurring comments were submitted, including:

- the need to clarify the concepts of moral and ethical values: it was felt that the related concepts were too broad in definition and required greater clarification,
- the need for a sample list of conflict-of-interest situations to support public officials in their work,

- the need to clarify provisions barring officials from administering seminars, courses, and other activities, whether remunerated or not, without the authorisation of the competent official.

Note: For more information on the 2021-2022 review of the Canadian Code of Interest for Members of the House of Commons, access PROC's website <https://www.ourcommons.ca/Committees/en/PROC?parl=44&session=1> and the Commissioner's website <https://ciec-cie.parl.gc.ca/en/publications/Pages/PROCsubmissionFeb2022.aspx>

Sources: (Martensson, 2014^[11]; OECD, 2019^[12]; Office of the Conflict of Interest and Ethics Commissioner, 2022^[13])

While values should be identified and defined by the group to whom they apply, the government of Malta could consider the following comments on some of the existing definitions of the values included in the revisions proposed by the Commissioner:

- **'Sense of service'** is defined as "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". However, in the case of MPs, the community in general and the common good may be terms difficult to reconcile with the fact that MPs' sense of service may consist of serving the needs of their constituents. This definition could be strengthened by replacing "the community in general and the common good" by "the public interest".
- **'Diligence'** is defined as "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". However, diligence is not only about knowing the rules but also about implementing them on a daily basis while in duties and outside. This definition could strengthen the point and express the importance not only of understanding and knowing the standards but also, and more importantly, of implementing them.
- **'Leadership'** is defined as "Members shall embrace and be inspired by these values in order to lead by example". However, in addition to leading by example, ethical leaders may also be responsive, credible and trustworthy to integrity ideas, questions and concerns brought forward by their employees, thus encouraging an open organisational culture and a sense of voice, community and belonging amongst the Parliament's staff. This definition could strengthen this point and express the necessity not only of leading by example but also of encouraging an open organisation.

Finally, to further support day-to-day decision making, it is also useful to provide concrete guidance on how values can be translated in public officials' daily activities (OECD, 2018^[3]). Indeed, including practical examples in the code of ethics or complementary guidelines may help specify the generally formulated values and may serve as a practical tool for reaching ethical and lawful decisions under more specific circumstances. **To help MPs better understand how public values are applied in their daily choices and actions, the Commissioner could complement the values laid out in the Code of Ethics for the Members of the House of Representatives by including examples of more concrete expected behaviours in an accompanying handbook.**⁵ Examples from the public sector could serve as inspiration: for example, the Australian Public Service Commissioner's Directions 2022 set out requirements for upholding each value, the Code of Conduct of the Employment and Social Development Department in Canada provides a good example of this approach, by presenting the definition of each value in juxtaposition to expected behaviours, while the Commentary on the Code of Ethics for Civil Servants in the Slovak Republic provides further information on how to read and interpret the rules contained in such Code, by means of examples that illustrate how to deal with situations that civil servants may encounter in practice while carrying out their duties (see Box 3.4).

Box 3.4. Examples of documents detailing expected behaviour from public officials

In **Australia**, the Australian Public Service Commissioner’s Directions 2022 set out the scope and application of the five Australian Public Service (APS) Values. These directions set out requirements for individual APS employees in upholding each value, having regard to an individual’s duties and responsibilities. For example, directions on the ‘Ethical’ value, include, among other things:

- acting in a way that models and promotes the highest standard of ethical behaviour
- following through on commitments made
- having the courage to address difficult issues
- acting in a way that is right and proper, as well as technically and legally correct or preferable
- reporting and addressing misconduct and other unacceptable behaviour by public servants in a fair, timely and effective way

In **Canada**, the Code of Conduct of the Employment and Social Development Department includes the set of five public sector values – respect for democracy, respect for people, integrity, stewardship and excellence – that should guide public servants in everything they do. Additionally, the code includes the definition of each public sector value, along with the expected behaviours that support them:

Table 3.2. Definition of the value “Respect” and associated expected behaviours

Value: Respect for People	Expected Behaviours
<p>Treating all people with respect, dignity and fairness is fundamental to our relationship with the Canadian public and contributes to a safe and healthy work environment that promotes engagement, openness and transparency. The diversity of our people and the ideas they generate are the source of our innovation.</p>	<p>Public servants shall respect human dignity and the value of every person by:</p> <ul style="list-style-type: none"> • treating every person with respect and fairness • valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce • helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination • working together in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication.

Source: (Employment and Social Development Canada, 2016^[14]).

These lists of expected behaviours are further elaborated into practical examples and guidance on how the civil servant should act under certain circumstances. In this way, the code not only encompasses the standards of conduct, but also presents a practical tool for reaching ethical and lawful decisions, safeguarding the integrity of the public service and employees alike.

Table 3.3. Practical examples of the value “Respect”

<p>Public servants shall respect human dignity and the value of every person by:</p> <p>i) Treating every person with respect and fairness.</p> <ul style="list-style-type: none"> • Everyone deserves to work in an environment where they are respected and treated with dignity and fairness. At work, you are expected to be respectful, transparent, candid, and fair with people, whether they are clients, supervisors, colleagues or employees of other government departments. • Authority must be administered with fairness, dignity and respect.
--

Source: (Employment and Social Development Canada, 2016^[14]).

In the **Slovak Republic**, the Civil Service Council developed guidance on how to interpret the rules contained in the Code of Ethics for Public Servants. The guidance provides details on the various provisions included in the Code, and uses examples to illustrate how to deal with situations that civil servants may encounter while conducting their daily activities. For instance, to illustrate how *civil servants shall act impartially by not allowing his/her opinions and beliefs to influence his/her performance as a civil servant*, the Commentary on the Code of Ethics for Civil Servants includes the following examples:

- **Example 1:** As a civil servant, you are processing the results of a questionnaire relating to environmental protection. Because of your inner conviction that much more vigorous protection of nature is needed, you do not include some of the answers in the evaluation.

Guidance: Even if the employee has good intentions, as a civil servant he should not transfer his views to the civil service because he would thereby gain some advantage to advance his opinion and interest, and would undermine confidence in an impartial performance of the civil service. In practical life it would probably be very difficult to prove that an employee's conduct violated a specific provision of the law, but it can clearly be concluded that he has violated the ethical principles.

- **Example 2:** The Chief civil servant repeatedly refuses to allow a certain group of employees to participate in the trainings with certain religious beliefs or ethnic backgrounds, even though they are qualified and competent staff. He claims that this group of people is only one big problem.

Guidance: Such behaviour by the head of a civil servant is unacceptable because it transmits his personal beliefs, or prejudices, into the performance of the civil servant. It also violates the rights of the civil servant to education. It may also violate anti-discrimination law. It is appropriate to ask whether my decision would have been different if it was an applicant or employee whose views were similar to mine, or who belongs to the same ethnic group.

Sources: (Employment and Social Development Canada, 2016^[14]; Civil Service Council, 2019^[15]; Australian Public Service Commissioner, 2022^[16]) (unofficial English translation of the Commentary on the Code of Ethics for Civil Servants, original in Slovak)

The government of Malta could include key values in the new Code of Ethics for Ministers and Parliamentary Secretaries, by means of a participatory process with key stakeholders

The Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries mirror the proposals in the current Code of Ethics for Ministers and Parliamentary Secretaries, with the following values recommended: sense of service, integrity, diligence, objectivity, accountability, transparency, honesty, justice and respect, and leadership. However, the definitions that accompany the set of values have been adjusted to avoid misinterpretation and further detail how these values translate into Ministers' every day activities.

Regarding the number of values, again considering that a set of maximum seven principles is most suitable to achieve remembrance and meaning, **the government of Malta could identify through a participatory process seven or less values for Ministers to make them more memorable and meaningful**. Several OECD countries (including Denmark, New Zealand and the United Kingdom) have defined seven or less values with the aim of ensuring they are more easily applicable by public officials in their day-to-day activities and decision making (see Box 3.5).

Box 3.5. Key values and principles for public officials

In **Denmark**, the Danish Agency for Modernisation under the Ministry of Finance issued the “Kodex VII”, a code of conduct for Danish civil servants in central government. The Kodex VII describes seven key duties (syv centrale pligter) for civil servants in central government –with a focus on the duties of civil servants in relation to the advice and assistance they render to the government and ministers–, as well as the relevance and the implications of each duty for the Danish public sector. The seven key duties are:

- 1. Legality, 2. Truthfulness, 3. Professionalism, 4. Development and co-operation, 5. Responsibility and management, 6. Openness about errors, and 7. Party-political neutrality.

In **New Zealand**, the Code of Conduct for the State Services *Standards of Integrity and Conduct* establishes a set of four principles that those working in State Service organisations must comply with:

- 1. Fairness, 2. Impartiality, 3. Responsibility, and 4. Trustworthiness.

In the **United Kingdom**, the Seven Principles of Public Life outline the ethical standards those working in the public sector are expected to adhere to. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services:

- 1. Selflessness, 2. Integrity, 3. Objectivity, 4. Accountability, 5. Openness, 6. Honesty, and 7. Leadership.

Sources: (Danish Ministry of Finance, 2015^[17]; Committee on Standards in Public Life, 1995^[18]; Public Service Commission of New Zealand, 2007^[19])

Additionally, as noted above, the values and standards of conduct should ideally be defined through a participatory process with key stakeholders in order to ensure that they are both meaningful and actionable. To that end, **the government of Malta could involve key stakeholders in the process of reducing the number of values for Ministers**. As part of this process, key stakeholders could also be invited to build a common understanding of the values by working together in a new definition of those selected to remain in the Code of Ethics. Such definitions could be tailored to the specific challenges of Ministers and clarify, in a few words, what each value means for Ministers.

Finally, as in the case of the Code of Ethics for MPs, in order to further support day-to-day decision making, the Commissioner could elaborate concrete examples in the form of a Handbook to help Ministers to better understand how public values translate into their daily choices and actions, and how they are expected to act under more specific circumstances.⁶

3.3.3. Strengthening provisions on the use of information

During the course of their duties, elected and appointed officials are entrusted with information that is not publicly available. This privileged access can however lead to a potential conflict-of-interest situation, in which the official uses that information to further their own interests or the interests of those close to them.

The proposed Code of Ethics for Ministers and Parliamentary Secretaries clarifies and further develops the existing provisions on the proper use of information. The proposed provisions included in Section 7. *Other Ministerial Duties* expand on the existing provisions in the current Code, and add further guidance, such as:

- encouraging Ministers to be open and transparent with Parliament and the public
- encouraging Ministers to ensure that key policies, policy decisions and directives affecting the public are recorded in open, easily accessible and official formats
- prohibiting Ministers from abusing or making improper use of information, including information received in confidence, for their personal gain or in order to advantage or disadvantage any person(s)
- prohibiting Ministers from disclosing or using confidential information after their term in office
- asking Ministers to return to the Cabinet Secretary, once their appointment is finished, all the documents, material and resources that were given and entrusted to them in order to perform their duties.

The new set of provisions on the proper use of information included in the revised Code of Ethics for Ministers and Parliamentary Secretaries are clear, comprehensive and in line with international good practices found in OECD countries (see Box 3.6). **The government of Malta could include them as such in the revised Code of Ethics.**

Box 3.6. Examples of provisions on the proper use of information by Ministers

In **Australia**, the Code of Conduct for Ministers states that Ministers must not use any information that they gain in the course of their official duties, including in the course of Cabinet discussions, for personal gain or the benefit of any other person. Ministers are also required to undertake that, on leaving office, they will not take personal advantage of information to which they have had access as a Minister, where that information is not generally available to the public

In **Iceland**, the Ministerial Code of Conduct includes an extended and comprehensive list of provisions regarding the proper use of information:

- Ministers are expected to never use their position, nor information to which their position gives them special access, for their own personal benefit or that of parties close to them.
- Ministers shall inform the public and the media of ministry activities in a regular and organised manner, and any incorrect information or misunderstanding about a minister's activities must be corrected as quickly as possible.
- Ministers shall endeavour to render information accessible insofar as legislation permits and make sure that ministry staff operate with the same purpose.
- Ministers are never to conceal any information concerning the public wellbeing unless required by law or otherwise demanded by the public interest. If giving such information is in the public interest, the minister must take initiative in making it public.

In the **United Kingdom**, the Ministerial Code includes provisions encouraging Ministers to be truthful, open and transparent, in line with the Seven Principles of Public Life:

- It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister.
- Ministers should be as open as possible with Parliament and the public, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000.

Sources: (Australian Government, 2022^[20]; Government of Iceland, 2011^[21]; UK Cabinet Office, 2019^[22])

The government of Malta could include clear provisions on the proper use of information in the new Code of Ethics for Members of the House of Representatives

The Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives introduces a section (*Section 6 on Provision and use of information*) that guides MPs in properly using information they receive in the course of their duties. These suggested provisions clarify that MPs are expected not to knowingly mislead or provide inaccurate information to the House of Representatives, and that information received in confidence in the course of their duties shall be used only in connection with those duties and never for personal gain or for the benefit of an individual, group or community close to them. In preparing the new Code of Ethics, the government of Malta could include a provision based on section 6.1 of the Commissioner's proposals, which states that **"Members 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. Members should correct immediately any incorrect information given"**.

The government of Malta could also include an updated version of the Commissioner's proposal in section 6.2, as currently the concept "for the benefit of an individual, group or community close to them" is ambiguous and leaves room for potential loopholes as what is interpreted as "close to them". **To address this ambiguity, the government of Malta could include a revised provision that states "Information received in confidence in the course of a Members' duties shall be used only in connection with those duties and never for personal gain or to advantage or disadvantage any person or persons"**.

Moreover, the Commissioner's proposed revisions do not include specific provisions on improper use of information after leaving office. Although section 6.2 indicates that MPs shall "never" use confidential information for personal gain or in the benefit of selected individual(s) or group(s), considering current integrity risks and the particularities of the Maltese context, MPs would benefit from a clearer provision on this matter. To that end, **the government of Malta could include an additional provision stating that "Members shall not disclose and make use of confidential information even after leaving office"**.

3.3.4. Strengthening provisions on engaging with lobbyists and third parties

Lobbying can have a profound impact on the outcome of public policies and, in turn, on well-being and living standards in societies (OECD, 2021^[4]). Indeed, interest groups can provide governments with valuable insights and data that policy makers can use to better understand options and trade-offs, and ultimately, define better public policies. However, the abuse of lobbying practices by special interest groups poses a risk to inclusiveness in decision making, possibly resulting in suboptimal policies and outcomes and undermining citizens' trust in democratic processes.

To address this tension, governments can enhance the transparency of the policy-making process and strengthen the integrity of both public officials and those who try to influence them (OECD, 2010^[23]). In particular, to strengthen the integrity of public officials, governments can set clear principles, rules, standards and procedures to guide public officials on their communication and interaction with lobbyists and third parties trying to influence them, in a way that bears the closest public scrutiny. This is particularly necessary in the case of politically exposed positions such as members of parliament, ministers, and political advisors, who have a central role in the public decision-making process, set the political agenda and have access to confidential information (OECD, 2021^[4]).

According to international good practices, depending on the type of document in which they are included, standards for public officials on their interaction and communication with lobbyists/third parties may include the following (OECD, 2021^[4]):

- the duty to treat lobbyists equally by granting them fair and equitable access
- the obligation to refuse meetings with unregistered lobbyists, or at a minimum to check that the lobbyist is registered or intends to register within the specified deadlines
- the obligation to report violations to competent authorities
- the duty to register their meetings with lobbyists (through a lobbying registry or open agendas)
- the obligation to refuse accepting gifts and benefits (fully or beyond a certain value), and
- the duty to report gifts and benefits received, amongst others.

The government of Malta could include provisions on the interactions between MPs and third parties/lobbyists in the new Code of Ethics for Members of the House of Representatives

The Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives includes limited provisions on engaging with lobbyists or third parties who are attempting to influence policy making: Currently, section 5.1 includes a provision to protect MPs from improper influence, threats or undue pressure in the course of their duties, section 5.2 prohibits MPs from acting as lobbyists whether paid or otherwise, and section 9 lays out specific provisions on the acceptance, bestowing and registration of gifts, benefits and hospitality – which is further detailed on the additional guidelines.⁷ However, other relevant standards are missing to help MPs engage with lobbyists and third parties aiming at influencing them.

To address these gaps, **the government of Malta could add a specific section on engaging with lobbyists and third parties in the new Code.** The provision could set out the following: “Lobbying is a legitimate activity as long as it is carried out with transparency and integrity. Lobbying is a natural and beneficial part of the democratic process, as it allows different interest groups to inform public policy and decision making, but risks emerge when activities take place without due regard for transparency or integrity.” As lobbying is currently perceived negatively in Malta, including this explanation could help socialise the concept and encourage registration by both public officials and lobbyists in the corresponding registers.

The government of Malta could also include provisions on how Members are expected to engage with lobbyists/third parties, covering the main risk areas of interaction and communication between public officials and lobbyists/third parties. The provisions could state the following:

- Members shall treat lobbyists and third parties equally by granting them fair and equitable access.
- Members shall check that the lobbyist or third party is registered or intends to register in the Register for Lobbyists within the specified deadlines, and report violations to the Commissioner for Standards in Public Life.
- Members shall record all relevant communications (including meetings) with lobbyists/third parties in the Transparency Register. Providing an adequate degree of transparency on the actors who are influencing government policies or engaging in lobbying is a key element to ensure that public officials, citizens and businesses can obtain sufficient information for the public scrutiny of the public decision-making process.

Box 3.7 highlights good practice from Spain in this regard.

Box 3.7. Code of Conduct for members of the Congress and the Senate of Spain

In October 2020, the Boards of both Houses of the Spanish Parliament adopted a Code of Conduct for members of the Congress and the Senate. The Code requires the publication of the senators' and deputies' agendas, including their meetings with lobbyists:

The members of the Chambers (Congress and the Senate) “must publish their institutional agenda in the corresponding Transparency Portal, including in any case the meetings held with the representatives of any entity that has the status of interest group. (...) each parliamentarian will be responsible for the veracity, accuracy and timeliness of the published information”.

Source: (Parliament of Spain, 2020^[24]).

Moreover, to support MPs in assessing the reliability of information they receive from lobbyists, **the government of Malta could also include a provision reminding MPs that while lobbying is legitimate, there is a risk that lobbyists and/or third parties may abuse this legitimate process by providing unreliable or inaccurate information.** For example, lobbyists and/or third parties may highlight selective findings of scientific studies, dismissing any doubts or criticisms in these studies. Likewise, they may support and promote studies that challenge scientific arguments unfavourable to their interests, or highlight the results of studies financed by their own spheres of influence (such as think tanks or industry studies). MPs may not be aware that this input is biased, or may not have the time to assess the credibility of sources (OECD, 2021^[4]). In some countries, like the Netherlands, provisions are included in the Code of Conduct to remind public officials of indirect ways in which they may be influenced by special interest groups (see Box 3.8).

Box 3.8. The Dutch Code of Conduct reminds public officials to consider indirect influence

Dealing with lobbyists

“You may have to deal with lobbyists in your work. These are advocates who try to influence decision making to their advantage. That is allowed. But are you always aware of that? And how do you deal with it? Make sure you can do your work transparently and independently. Be aware of the interests of lobbyists and of the different possibilities of influence. This can be done very directly (for example by a visit or invitation), but also more indirectly (for example by co-financing research that influences policy).

Consult with your colleagues or supervisor where these situations may be present in your work.

Sometimes it is in the public interest to avoid contacts with lobbyists.”

Source: Extracts from the Dutch Code of Conduct on Integrity in Central Government, <https://zoek.officielebekendmakingen.nl/stcrt-2019-71141.html>.

To further guide MPs in their interactions with lobbyists and third parties, the Commissioner could consider strengthening the additional guidelines for MPs by adding a specific section on engaging with lobbyists and third parties, as is done in the additional guidelines for Ministers. This section could provide additional information and details on the provisions included and to be included in the Code of Ethics on engaging with lobbyists and third parties. For instance, the guidelines could provide information on registering relevant communications in the Transparency Register, by including key concepts such as relevant communication and relevant matter, and the timeframes to do so, based on the final provisions of the

Regulation of Lobbying Act. Guidance could also be included on how to assess the reliability of information received from lobbyists/third parties, with examples highlighting the different means lobbyists/third parties could use to provide unreliable or inaccurate information.⁸

The government of Malta could include provisions on the interactions between Ministers and third parties/lobbyists in the new Code of Ethics for Ministers and Parliamentary Secretaries

The Commissioner’s proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries introduce several provisions on the interactions with lobbyists and third parties, specifically in the sections on “Gifts”, “Retention of official records” and “Attempts at undue influence”. **The government of Malta could consider including these provisions in the new Code of Ethics**, as they are aligned with international good practice (see Box 3.9):

- Ministers are expected not to accept any gift, benefit or hospitality for themselves, members of their families, or any other persons or bodies, if such gift could close them under an inappropriate obligation or compromise their judgement – which is further detailed on the additional guidelines.⁹
- Ministers are required to avoid associating with individuals who could place them under any obligation or inappropriate influence in the performance of their duties.
- Ministers are required to record all attempts at lobbying in a Transparency Register, and to keep minutes of meetings and communications with lobbyists.
- Ministers are required to hold meetings with persons who have an interest in obtaining permits, authorisations, concessions and other benefits from the state in an official setting in the presence of officials, unless this is impractical on account of justifiable circumstances.
- Ministers are required not to conduct official business through unofficial email accounts.
- Ministers are required to 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.

Box 3.9. Examples of provisions guiding Ministers’ interactions with lobbyists and third parties

In **Australia**, the Code of Conduct for Ministers states that Ministers are expected to ensure that dealings with lobbyists are conducted consistently with the Lobbying Code of Conduct, so that they do not give rise to a conflict between public duty and private interest.

In **Ireland**, the Code of conduct for Office Holders – which includes Ministers – states that in all cases where meetings are arranged for the purpose of transacting official business, office holders should be accompanied by an official who would act as a note-taker in the office holder’s own interest.

In the **United Kingdom**, the Ministerial Code states that Ministers are expected to hold meetings on official business in the presence of a private secretary or official. If a Minister meets an external organisation or individual and finds themselves discussing official business without an official present – for example, at a social occasion or on holiday, any significant content should be passed back to the department as soon as possible after the event. Additionally, the Ministerial Code requires Ministers to make their ministerial diaries available to the public. The relevant Department publishes them on a quarterly basis. Meetings with newspaper and other media proprietors, editors and senior executives will be published on a quarterly basis regardless of the purpose of the meeting.

Source: (UK Cabinet Office, 2019^[22]; Standards in Public Office Commission, 2003^[25]; Australian Government, 2022^[20]).

However, **the government of Malta could also include a separate section on engaging with lobbyists and third parties**. The provision could set out that “lobbying is a legitimate activity as long as it is carried out with transparency and integrity. It is a natural and beneficial part of the democratic process, as it allows different interest groups to inform public policy and decision making, but risks emerge when activities take place without due regard for transparency or integrity.”

The government of Malta could also include provisions that set out **how Ministers are expected to engage with lobbyists/third parties**. The provisions could specify that:

- Ministers shall treat lobbyists and third parties equally by granting them fair and equitable access.
- Ministers shall check that the lobbyist or third party is registered or intends to register in the Register for Lobbyists within the specified deadlines, and report violations to the Commissioner for Standards in Public Life.

The government of Malta could also include a provision detailing the risk that **lobbyists and/or third parties may abuse the lobbying process by providing unreliable or inaccurate information, and requiring Ministers to ensure that information provided by lobbyists/third parties is accurate**. Finally, the existing provisions on registration in a Transparency Register, currently under “Attempts at undue influence”, and the provisions on open meeting places and use of official email accounts, currently under “Retention of Official records”, could be included under this new section.

Regarding the additional guidelines, the current proposal includes some provisions on engaging with lobbyists or third parties – i.e. Part 1 on Lobbying and the Transparency Register, and Part 2 on receiving and bestowing gifts, benefits and hospitality. However, **the Commissioner could clarify the information included in Part 1 of the additional guidelines in order to ensure coherence with the final Regulation of Lobbying Act**. Indeed, the OECD recommended the Commissioner some changes in the proposed framework, including on the definition of “relevant communication” – to include indirect forms of lobbying – and on the definition of “relevant matter” (OECD, 2022^[26]). If adopted, such changes should be reflected in the additional guidelines for Ministers to ensure coherence with the Lobbying regulation. Additionally, to further guide Ministers in their interactions with lobbyists and third parties, **the Commissioner could consider strengthening the additional guidelines for Ministers by including in Part 1 more detailed information on the assessment of the reliability of information received from lobbyists/third parties** – including examples to create awareness about the different means lobbyists/third parties may use to provide unreliable or inaccurate information.

3.3.5. Strengthening provisions on managing and preventing conflicts of interest

Legislators face unique challenges regarding conflict of interest, as they have several sets of interests that could clash: the interests of their constituents, the interests of their political party, the interests of society, and their private interests. While the first three sets of interests are resolved through dialogue and debate, it is the fourth set of interests – those which are private – which are of concern. This is because legislators – like all public officials – are forbidden from using their public office for furthering private gain. While it is expected that legislator’s private interests will at times compete with the public interest, and in that sense, having “conflicts of interest” are a normal part of public duty, it is imperative that private interests do not improperly influence the performance of official duties and responsibilities (OECD, 2004^[27]). As such, having clear rules and guidelines in place to prevent and manage conflict of interest are essential for legislators to uphold public integrity in their role.

There are two core concepts for “conflict of interest”: 1) real, potential and perceived conflict-of-interest situations, and 2) private interests. As regards the first, a real conflict of interest exists when there is a conflict between the public duty and private interests of an individual, in which their private-capacity interests could improperly influence the performance of their official duties and responsibilities. A *potential* conflict of interest exists when an individual has private interests that could lead to a conflict if they were

to become involved in relevant (e.g. conflicting) responsibilities in the future. A potential conflict of interest rests on the idea of foreseeability – e.g. there is the possibility that the official’s private interest could lead to a conflict should their public duty and private interest collide in the future. A perceived conflict of interest exists when it appears that an individual’s private interests could improperly influence the performance of their public duties but this is not in fact the case (OECD, 2004^[27]).

Regarding the second concept, private interests are not limited to financial or pecuniary interests, nor are they limited to interests which lead to a direct personal benefit to a public official. Conflicts of interest can arise when otherwise legitimate private-capacity activity, personal affiliations and associations, and family interests, could be reasonably considered likely to improperly influence the performance of a legislator’s duties (OECD, 2004^[27]). As such, private interests can include assets, liabilities and debts, personal relationships, family relationships, business interests, external activities and positions (including secondary employment), and gifts, benefits and hospitality (OECD, 2004^[27]).

The government of Malta could include a comprehensive framework on managing and preventing conflicts of interest in the new Code of Ethics for Members of the House of Representatives

The Commissioner’s proposed revisions to the Code of Ethics for Members of the House of Representatives introduce a new definition on conflict of interest to guide MPs in identifying, registering, and disclosing conflict-of-interest situations. The definition considers conflict of interest as arising “...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” (Commissioner for Standards in Public Life, 2020^[5]). Additionally, the proposed revisions require MPs to declare any conflict “at the first opportunity before a vote is taken”.

The accompanying guidelines provide further guidance on this provision, noting that the conflict-of-interest provisions apply from the first time the House sits after the Member is elected to almost every aspects of the Member’s parliamentary duties. Throughout this period, MPs are required to declare any private interests (i) in the Chamber and in committees; (ii) when tabling any written notice; and (iii) when approaching others.

The guidelines also clarify that the declaration of interests is broader than the registration of interests, covering financial and non-financial interests that do not require registration but meet the “test of relevance”. The “test of relevance” is defined as “whether those interests might influence, or reasonably be perceived by others to influence, their actions or words as members”.

To strengthen the framework on managing conflict of interest in the Code of Ethics, the government of Malta could include additional provisions in the new Code of Ethics. First, **the government of Malta could include a new section on incompatibilities in the Code, setting out positions and activities that are incompatible with the role of MPs**. Currently, the proposed revisions to the Code contains only one provision on incompatibilities: section 5.2 notes that “Members shall not act as lobbyists, whether paid or otherwise.” While this is a key incompatibility, good practice in OECD countries suggests including a list of incompatibilities between public functions and other public or private activities in regulation. Such incompatibilities can cover not only lobbying, but secondary employment and voluntary activities, of both the public official and (where necessary) family members.

The current system in Malta, where MPs are engaged in a part-time capacity, presents particular challenges for determining an appropriate range of incompatibilities between public and private activities. Nevertheless, it is possible to adopt a risk-based approach and set clear guidance for MPs on what is

acceptable and what is not when balancing their public duties with their private activities. To that end, the government of Malta could include additional incompatibilities, such as:

- **Preventing MPs from holding secondary employment in government departments, boards and commissions.** As noted in OECD (2022^[28]), MPs play a critical accountability role over the actions of the executive. It is their duty to hold the executive accountable for how public monies are spent and public policies determined. The practice of placing elected officials in the executive therefore fundamentally undermines the accountability role of parliament. To that end, **the government of Malta could consider amendments to the Constitution so as to prohibit elected officials from obtaining secondary employment in all public functions.** A provision could be included in the new Code of Ethics for Members of the House of Representatives to reflect this.
- **Preventing MPs from participating in their “private capacity” in any role that would conflict with their duties as a public official.** Given the different professions MPs hold, there may be situations where their private employment will conflict with their role as a public official. In such cases, the government of Malta could include in the new Code a clear provision prohibiting MPs from participating in their ‘private capacity’ in any role or any file/project/issue that would conflict with their duties as a Member of Parliament.

Other incompatibilities that could be included are preventing MPs (i) from entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties, (ii) having any form of private interest or partnership in a private corporation that is party to a contract with public sector entity, or (iii) holding any asset whose value may directly or indirectly be affected by government decisions or policy.

Second, **the government of Malta could ensure that the new Code provides clear guidance for MPs on when to declare their conflicts of interest, and to whom.** In the Commissioner’s proposed revisions, section 8.2 requires MPs to declare a conflict of interest at the first opportunity before a vote is taken, while the additional guidelines include more detail and require MPs to declare interests (a) in the Chamber and in committees, (b) when tabling any written notice, and (c) when approaching others. This difference between this section and the guidelines could present confusion. To that end, **the government of Malta could include a provision based on a revision of section 8.2 that states that “Members shall declare private interests to the Commissioner that could lead to an actual or potential conflict (i) upon taking up duty as a Member of the House of Representatives and (ii) at the first opportunity thereafter when they realise there is an actual or potential conflict of interest.”**

The new code could also make it **clear that MPs have an obligation to manage their conflicts of interest.** Indeed, the disclosure of a private interest does not in itself resolve a conflict; rather it enables the necessary steps to be taken to determine what measures are needed to resolve or manage the conflict (OECD, 2004^[27]). To that end, the government of Malta could include a provision stating that **“Members shall take the necessary measure (removal, recusal or restriction, reassignment or resignation) to manage actual or potential conflicts of interest”.** Examples of how OECD countries define this obligation are included in Box 3.10 and Box 3.14 elaborates on these measures.

Box 3.10. Obligations to manage conflicts of interest: Examples from OECD countries

In Canada, the Conflict of Interest Act outlines a series of “Conflict of Interest Rules” to ensure that the activities of Public Office Holders (POH) are conducted in a fair and transparent manner. The Act further prescribes obligations for POHs to manage conflict-of-interest situations. These include: a requirement for POHs to “arrange his or her private affairs in a manner that will prevent the public office holder from being in a conflict of interest” and a requirement for POHs to recuse themselves from “any discussion, decision, debate or vote on any matter in respect of which he or she would be in a conflict of interest”.

In the Czech Republic, Section 3 of the Act on Conflict of Interests establishes the obligation to manage potential conflicts of interest by stating that public officials are obliged to refrain from any action in which their personal interests may affect the performance of their duties and that in the cases, where the proper performance of a public function conflicts with a personal interest, a public official may not favour his or her personal interest over the interests which he or she is obliged to promote and defend as a public official.

In Australia, the Australian Public Service Commission’s publication APS Practice Values and Code of Conduct in Practice provides guidance on managing conflicts of interest. In particular, the guidance lists several options, including withdrawing from particular discussions, restricting the flow of information, abstaining from decisions, reassignment of duties, or relinquishing the interest or the position.

Source: (Australian Public Service Commission, 2018^[29]; Government of Canada, 2006^[30]; Government of the Czech Republic, 2006^[31])

In line with the proposed changes on managing conflict of interest in the Code, the **Commissioner could revise the guidelines to state that Members are required to declare interests upon taking up duties and at the first opportunity thereafter.** To further facilitate clarity, the **Commissioner could include in the guidelines a non-exhaustive list of examples of situations where MPs could encounter a conflict of interest**, for example, when legislation is before the House, when participating in a committee, when tabling a written notice, or in administrative matters, such as ordering office equipment or when recruiting staff or interns. The purpose of providing examples would be to raise MPs’ awareness about the different types of situations that could lead to a potential conflict of interest.

The **Commissioner could also include in the guidelines a clarification that conflicts of interest can be real, potential, or perceived.** Box 3.11 provides examples of the definitions that could be included.

Box 3.11. Overview of perceived, potential and real conflict-of-interest situations

- A **perceived (or apparent) conflict of interest** exists where it appears that an official's private interests could improperly influence the performance of their duties but this is not in fact the case. For example, the senior official who owns shares in XYZ corporation may have made formal internal administrative arrangements, which are not known to the public at large but which are satisfactory to the official's organisation, to stand aside from all decision making in relation to the contract for which XYZ corporation is competing, in order to resolve the conflict.
- A **potential conflict of interest** occurs where a public official holds a private interest which would constitute a conflict of interest if the relevant circumstances were to change in the future. For example, where a MP is a practising lawyer, and their firm is employed to provide advisory services to the government, there is a potential conflict if the MP is part of the team providing advisory services.
- A **real (or actual) conflict of interest** involves a situation or relationship which can be current, or may have occurred in the past. For example, an MP personally owns shares in ABC corporation, while that company is in the process of competing for a contract to supply the government with services, can be said to have an 'actual' conflict of interest if the official concerned is involved in any aspect of decision making in relation to the contract.

Source: Adapted from (OECD, 2004^[27]).

Moreover, the **Commissioner could include in Section 3.9 of the guidelines a non-exhaustive list of examples of non-financial interests, including secondary employment, personal affiliations and associations, and family interests** (see Box 3.12). Other examples include private interest that are developed as the result of political activities, such as when an individual has a strategic role in the MPs campaign, organises political fundraising event(s), co-ordinates the gathering or solicitation of donations, acting as an official campaign spokesperson, etc. Currently, the guidelines focus primarily on financial interests, and leave non-financial interests to the discretion of individual MPs to determine. While the intention may be to cast a wide net, additional guidance would help avoid loopholes and different interpretations. Moreover, it would help MPs understand the different types of non-financial interests that could lead to a potential conflict. It should be clear that the list is not exhaustive but meant to support MPs in thinking more broadly about what private interests could lead to a conflict-of-interest situation.

Box 3.12. External activities and positions that could lead to a conflict of interest

OECD countries have considered the following types of external activities and positions as those which could lead to a potential conflict of interest:

- External activities and positions in voluntary organisations
- External activities and positions in NGOs
- External activities and positions in elected public entities
- External activities and positions in trade unions
- External activities and positions in a political party
- Secondary employment in the public sector
- External activities and positions in an entity with relationships with the government,
- Positions in the private sector
- Secondary employment in the private sector.

Source: (OECD, 2003^[32]).

The **Commissioner could also update the guidelines to include guidance on the types of measures available to MPs to prevent and manage conflict-of-interest situations, to align with the code.** Measures could include options for eliminating or mitigating the influence of a private interest on the MP, as well as options for limiting the influence of the MP with a conflict on the decision-making process (see Box 3.13).

Box 3.13. Measures for managing conflicts of interest

When a public official has a potential or real conflict of interest, there are a number of different measures that can be taken to manage the conflict and reduce the risk of undue influence. These measures can be categorised into “strategies that focus on the private interest” and “strategies that focus on the public official”.

Strategies that focus on the private interest aim to eliminate or mitigate the influence a private interest can exert on a public official and include:

- **Divestiture:** the public official relinquishes their external interest entirely – for example, by selling shares or stocks. Transferring the private interest to a family member does not equal divestiture.
- **Resignation:** the public official resigns from their external employment position that is causing the conflict of interest.
- **Waiver:** the public official waives their involvement in particular activities of their external employment that could lead to a conflict of interest.
- **Establishing a blind management trust** to manage the financial interests (e.g. stocks, shares, other investments) of the public official while holding public office: the interests are transferred to a third party, who manages them independently. The official remains the beneficiary, but cannot interfere in the management of the assets, issue instructions, or know how the assets are being invested/used.

Strategies that focus on limiting the influence of the public official on the decision-making process include:

- **Recusal or restriction:** where a particular conflict is not likely to recur frequently, it may be appropriate for the public official concerned to maintain their current position but not participate in decision making on the affected matters, for example by having an affected decision made by an independent third party, or by abstaining from voting on decisions. Particular care must be taken to protect the integrity of the decision-making process where recusal is adopted. Likewise, an option to restrict access by the affected public official to particular information, by prohibiting them from receiving relevant documents and other information relating to their private interest, could be adopted.
- **Reassignment:** The public official is reassigned to a different set of functions, tasks or portfolios.
- **Resignation:** in some cases, the conflict of interest may be so difficult to manage and the potential negative consequences may be so serious, that resignation or termination may be the only feasible strategy to uphold the public trust. In the event of resignation of the public official from their public office, the conflict-of-interest policy (together with the relevant employment law and/or employment contract provisions) should provide the possibility that the official can be terminated in accordance with a defined procedure in such circumstances.

Source: Adapted from (OECD, 2004^[27]; World Bank, OECD, UNODOC, 2020^[33]).

The guidance could also direct MPs to the Commissioner for advice and guidance in case of doubt (see below for further details). Moreover, to keep track that the situation has been resolved or is being managed and allow further monitoring, the **Commissioner could keep a record of both declared conflicts of interest and the measures taken in the specific personnel file of the MP kept in the Commissioner's office.**¹⁰

The government of Malta could include a comprehensive framework on managing and preventing conflict of interest in the new Code of Ethics for Ministers and Parliamentary Secretaries

Section 3 of the Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries on managing and preventing conflicts of interest in the proposed contain a number of strengths, including providing clear parameters for when and to whom Ministers should declare conflicts of interest and clarifying that Ministers are responsible for resolving conflicts of interest when they arise. To that end, **the government of Malta could include a comprehensive framework on managing and preventing conflicts of interest in the new Code of Ethics for Ministers and Parliamentary Secretaries informed by Section 3 of the Commissioner's proposed revisions**, with several additional clarifications as laid out below.

The government of Malta could also include a section on incompatibilities in the new Code. The current provisions proposed by the Commissioner prohibit Ministers from continuing their private work, unless under exceptional cases where the national interest so requires. The government of Malta could include additional incompatibilities, such as a prohibition on (i) acting as a lobbyist, paid or otherwise, (ii) entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties, (iii) having any form of private interest or partnership in a private corporation that is party to a contract with public sector entity, or (iv) holding any asset whose value may directly or indirectly be affected by government decisions or policy.

Moreover, **the government of Malta could clarify the proposed definition on conflict of interest to strengthen understanding of "private interests"**. Currently, the definition included in the Commissioner's proposals note that a conflict of interest may arise "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 the Ministers themselves, their spouses, partners or direct family members" (Commissioner for Standards in Public Life, 2020^[5]). It is not clear what would be considered as "any potential benefit or advantage" to the Ministers or their family members, which may limit the different interests that could be considered as leading to a potential or real conflict of interest. **The government of Malta could therefore revise the definition to clarify that (a) personal interests may include legitimate private-capacity interests which (b) cover financial interests, personal affiliations and associations, and family interests.**

Similar to the recommendations made above to strengthen the guidelines for MPs, **the Commissioner could strengthen the guidelines for Ministers to facilitate understanding and implementation of the Code.** Specific areas that could be strengthened include (i) clarifying that conflicts of interest can be real, potential or perceived, (ii) including examples of the types of private interests and situations that could lead to a conflict of interest, and (iii) including examples of the types of measures Ministers could take to manage or resolve a conflict of interest.

3.3.6. Strengthening provisions on declaration of assets and interests

Historically, many financial disclosure systems were designed for detecting illicit enrichment while overlooking the potential for using information reported on disclosures as a way of detecting and managing conflicts of interest (World Bank, OECD, UNODOC, 2020^[33]). Information regarding non-financial interests,

such as outside activities or positions, was sometimes included with the disclosure of financial interests, was sometimes the subject of a separate disclosure, or was never requested (World Bank, OECD, UNODOC, 2020^[33]). Experience has shown that when creating a new system or enhancing an existing one, gathering relevant information for conflicts-of-interest purposes should be strongly considered (World Bank, OECD, UNODOC, 2020^[33]). Moreover, financial disclosure forms that focus strictly on financial interests and do not contain information on activities, gifts and relationships may have a limited use for the prevention and management of conflicts of interest.

The government of Malta could expand the scope of assets and interests to be declared and broaden the categories of persons whose data are to be disclosed in the new Code of Ethics for Members of the House of Representatives

The Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives require MPs to register their financial or other interests in a "Register of Interests", which will be publicly available. The additional guidelines go into more detail and present both the type of financial and non-financial interests that should be registered and the different moments in which interests should be registered by MPs:

- New MPs are expected to register all their current financial interests with the Commissioner within 28 days of taking their Oath of Allegiance.
- MPs are required to record their financial and non-financial interests in the *Register of Interests*, by 31 March of every calendar year. Information shall be recorded as of 31 December of the previous year, with respect to the following private interests: (a) work or profession, and if they are employed, the identity of their employer; (b) immovable property;¹¹ (c) shares in companies/business interests; (d) quoted investments, government stocks, treasury bills, deposit certificates and bank balances; (e) bank or other debts; and (f) directorships or other official positions in commercial companies, associations, boards, co-operatives or other groups, even if voluntary associations.
- MPs are required to register in the Register of Interests within 28 days, any change in the registrable interests (b), (c) and (f) of the previous paragraph.

In this sense, the revisions proposed by the Commissioner, along with the additional guidelines, amend a number of previous gaps including the recurrence of the reporting and ensuring that declarations are public and easily accessible. However, the proposals do not address other outstanding issues, including:

- The categories of persons whose data are to be disclosed is not broad enough to detect illicit enrichment.
- The scope of the information reported is limited, with intangible assets (cars, antiques, etc.), outside sources and amounts of income not included. This poses limitations for detecting illicit enrichment and potential conflicts of interest, but also misses an opportunity to strengthen the integrity of public officials. The act of completing a disclosure form should help strengthen the integrity of public officials. When filling out a form as part of a conflict-of-interest management regime, an official has to take stock of his or her interests and the interests of his or her family members, evaluate these interests in light of the duties performed and decide whether any additional steps need to be taken to manage conflict of interest (World Bank, OECD, UNODOC, 2020^[33]). This initial self-identification and evaluation process can and should generate requests for assistance to those who provide advice and guidance on managing conflicts of interest.
- There is no guidance on the information to be reported that could help MPs clarify what the different categories of private interests mean and what is the scope of their interpretation.
- Third parties should have access to some of the information declared by MPs in a redacted manner, to allow a balance between privacy and access to information.

To that end, the government of Malta could consider expanding the scope of assets and interests to be declared and the persons whose data are to be disclosed in the Code of Ethics for Members of the House of Representatives, as laid out in Chapter 4.

The government of Malta could expand the scope of assets and interests to be declared and broaden the categories of persons whose data are to be disclosed in the new Code of Ethics for Ministers and Parliamentary Secretaries

Similarly to MPs, the Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries require Ministers to register their assets and financial and other interests as well as those of their spouses and/or partners and minor children in the "Register of Interests", which should be open for inspection by the public. Ministers are also expected to record the aforementioned interests upon being appointed to office and submit a copy to the Cabinet Secretary.

The additional guidelines go into more detail and present both the type of assets, financial and other interests that should be registered and the different moments in which interests should be registered by Ministers:

- Newly appointed Ministers are expected to register all their current financial interests within 28 days of taking their Oath of Office.
- Ministers are required to record in the Register of Interests, by 31 March of every calendar year, information pertaining to 31 December of the previous year with respect to: (a) immovable property;¹² (b) shares in companies/business interests; (c) quoted investments, government stocks, treasury bills, deposit certificates and bank balances; (d) positions of director or others; (e) total income; and (f) total sums of outstanding loans.
- Ministers are required to register in the Register of Interests within 28 days, any change in the registrable interests (a), (b) and (c) of the previous paragraph.

In this sense, the Commissioner's proposed revisions and additional guidelines intend to amend previous weakness, including the recurrence of the reporting. However, the proposed revisions do not address other outstanding issues, including:

- The categories of persons whose data are to be disclosed is not broad enough to detect illicit enrichment.
- The scope of the information reported is limited (e.g. intangible assets (cars, antiques, etc.) are not included).
- The scope of information to be declared when changes happen is limited (e.g. Ministers are not expected to record changes to their positions of director or others, their total income nor their outstanding loans should changes occur).
- There is no guidance on the information to be reported that could help Ministers clarify what the different categories of private interests mean and what is the scope of their interpretation.
- Third parties should have access to some of the information declared by MPs in a redacted manner, to allow a balance between privacy and access to information.

To that end, the government of Malta could consider expanding the scope of assets and interests to be declared and the persons whose data are to be disclosed in the new Code of Ethics for Ministers and Parliamentary Secretaries, as laid out in Chapter 4.

3.3.7. Strengthening provisions on receiving and bestowing gifts and other benefits

Conflicts of interest, or the perception of a conflict of interest, can also arise from different forms of gifts and benefits (OECD, 2004_[27]). This strategy involves receiving gifts and benefits offered by third parties,

bestowing gifts and benefits to third parties, and creating opportunities for public officials and third parties to engage with each other, for example, by inviting decision makers to participate in seminars and conferences.

The government of Malta could include clear provisions on receiving and giving gifts and other benefits in the new Code of Ethics for Members of the House of Representatives

The Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives introduce provisions on the acceptance and giving of gifts and benefits. These proposals state that MPs are expected not to accept any gifts, benefits or hospitality for themselves, members of their families, or any other persons or bodies. MPs are also expected not to directly or indirectly give any gift to any person or body with a view to influencing that person or body on a matter in which the MPs have an interest. Both provisions indicate that there may be exceptions "in accordance with guidelines set up by the Commissioner".

The additional guidelines proposed by the Commissioner introduce more details on accepting and bestowing gifts and benefits:

- MPs are expected to register in the *Register for Gifts, Benefits and Hospitality* those gifts, benefits and hospitality received by them or their family members or bestowed by them or their family members to third parties if these have a value of more than EUR 250 (each or taken together in a calendar year coming or targeted from/to the same source) and are not aimed to influence the recipient.
- MPs are also expected to register all gifts, benefits or hospitality given by a third party to another third party (this, when an MP decides to pass on all or part of the benefit to a third party with the intention of furthering their personal interest) if the threshold for registration is exceeded.

Together, these proposed provisions aim to prevent gifts, benefits and hospitality from becoming means of undue influence. However, the government of Malta could simplify the provisions in the new Code on receiving and giving gifts and other benefits to encourage compliance, facilitate enforcement and allow public scrutiny. For instance, while the Commissioner's proposed revisions state that MPs are expected not to accept any gifts, benefits or hospitality for themselves, their family members, or any other persons or bodies, unless in accordance with such guidelines as may be set out for this purpose by the Commissioner, the additional guidelines are more straightforward and clarify that MPs are expected not to accept gifts, benefits or hospitality for themselves, their family members or any other persons or bodies if those "would place them under an obligation in the performance of their duties or may reasonably be seen to do so".

This lack of alignment may lead to confusion. Moreover, by fairly universal social norm, all gifts create some sort of obligation on the part of the recipient – which may start in a verbal expression of gratitude but could include a more significant expression such as changing a decision to benefit the donor (World Bank, OECD, UNODOC, 2020^[33]), meaning that all gifts, benefits or hospitality offered to MPs, if accepted, could be considered as placing them under an obligation. To avoid loopholes and encourage transparency, **the government of Malta could include in the new Code a provision which states that "Members are required to register in the Register for Gifts, Benefits and Hospitality all gifts, benefits and hospitality offered to them and their family members – whether they accepted them or not – and given by them and their family members"**.

The government of Malta could include a threshold for the value of gifts, benefits and hospitality that can be accepted. This threshold should prevent MPs (and their family members) from accepting gifts and other benefits that might reasonably be seen as attempts to influence them. Indeed, the acceptance of gifts can create a sense of obligation on the part of the recipient, and concerns about the official's impartiality in current or future decisions. As such, good practice suggests regulating

the acceptance of gifts by including limitations on the value of acceptable gifts and/or the disclosure of certain gifts (World Bank, OECD, UNODOC, 2020^[33]). Although values for acceptable gifts may differ by country – according to their particular context and risks (see Box 3.14), the chosen value should close the door to any concerns of undue influence.

Box 3.14. Guidelines on accepting gifts and benefits

Spain

The Code of Conduct of the *Cortes Generales* in Spain establishes that the Members shall refrain from accepting, for their own benefit or that of their families, gifts of value, favours, services, invitations or trips that are offered to them for reasons of their position or which could reasonably be perceived as an attempt to influence their conduct as parliamentarians. Gifts with a value greater than EUR 150 are understood as an attempt to influence Members' conduct as parliamentarians.

Gifts and presents received by Members on official trips or when acting on behalf of the Parliament must be delivered to the General Secretariat of the corresponding Chamber, provided that they are offered for reasons of their position and not a personal title and have an estimated value of more than EUR 150. These gifts will be inventoried and published on the website of the corresponding Chamber.

United States

The US House of Representatives Ethics Manual explicitly prohibits gifts offered by lobbyists. A Member, officer or employee of the House of Representatives may not accept any gift from a registered lobbyist, agent or a foreign principal, or a private entity that retains or employs such individuals.

Additionally, Members, officers and employees may accept virtually any gift below USD 50 from other sources, with a limitation of less than USD 100 in gifts from any single source in a calendar year. Invitations to travel, both in their official and personal capacities, are considered as gifts to Members, officers and employees, and are thus subject to the same prohibitions as other gifts.

Portugal

The Government Code of Conduct indicates that Members of Government are expected to refrain from accepting gifts from national or foreign private individuals and organisations and from foreign public legal entities, with a value equal to or greater than EUR 150. This value includes all the offers that come from the same natural or legal person within a calendar year. Whenever the refusal to accept a gift with a value equal to or greater than EUR 150 constitutes or could be interpreted as a breach of inter-institutional respect, namely in the context of relations between States, Ministers may accept the gift on behalf of the State. In such cases, Ministers must deliver the gift to the respective Secretary-General, where there should exist a public access record of gifts.

Sources: (Parliament of Spain, 2020^[24]; OECD, 2021^[4]; Government of Portugal, 2016^[34])

Finally, considering that the acceptance of gifts, benefits and hospitality by a public official can create concern about that official's impartiality (World Bank, OECD, UNODOC, 2020^[33]), it may be necessary to further regulate the acceptance of gifts by empowering an independent third party to verify whether the gifts, benefits and hospitality accepted by MPs and their family members may be seen to compromise their personal judgment or integrity. To that end, **the government of Malta could include a provision in the Standards Act that assigns responsibility to the Commissioner for reviewing gifts, benefits and hospitality accepted by MPs and their family members and having a final say on whether they**

should be donated or kept. To do so, the Commissioner could use the information registered by MPs in the *Register for Gifts, Benefits and Hospitality*.

The government of Malta could include clear provisions on receiving and giving gifts and other benefits in the new Code of Ethics for Ministers and Parliamentary Secretaries

The Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries introduce provisions on the acceptance and giving of gifts and benefits. These provisions state that Ministers are expected not to accept any gifts, benefits or hospitality for themselves, their family members or any other persons or body if this would place them under an inappropriate obligation or compromise their judgement, or if it may reasonably be seen as doing so. Ministers are also prohibited from giving any gifts, benefits or hospitality to any person or body with the aim of influencing them on a matter in which they have an interest.

The proposed additional guidelines introduce more details on accepting and bestowing gifts and benefits:

- Ministers are expected to record in the *Register for Gifts, Benefits and Hospitality* those gifts, benefits and hospitality received by them or their family members or bestowed by them or their family members to third parties if these have a value of more than EUR 250 (each or taken together in a calendar year coming or targeted from/to the same source) and are not aimed to influence the recipient.
- Ministers are expected to register all gifts, benefits or hospitality bestowed by a third party to another third party (this, when a Minister decides to pass on all or part of the benefit to a third party with the intention of furthering their personal interest).

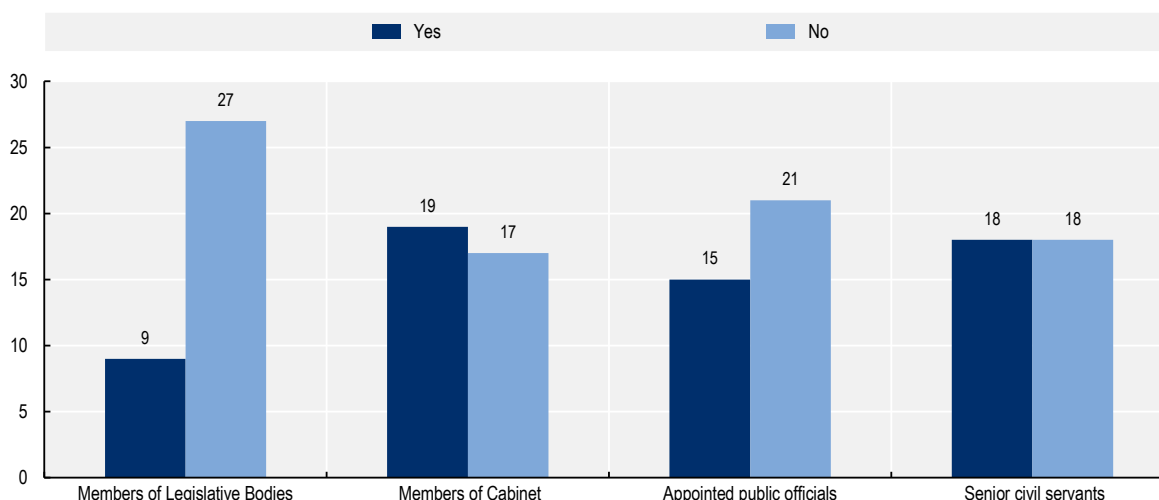
The set of provisions proposed by the Commissioner aim to prevent potential and actual conflicts of interest from arising. However, the government of Malta could simplify the provisions on receiving and bestowing gifts and other benefits to encourage compliance, facilitate enforcement and allow public scrutiny. To do so and further encourage transparency, **the government of Malta could include a provision that states that “Ministers are required to register in the Register for Gifts, Benefits and Hospitality all gifts, benefits and hospitality offered to them and their family members – whether they accepted them or not – and bestowed by them and their family members”.**

Additionally, as for MPs, **the government of Malta could set a threshold for the value of acceptable gifts to prevent Ministers (and their family members) from accepting gifts that might reasonably be seen as aimed to influence them.** Finally, an amendment to the Standards Act could assign responsibility to **the Commissioner for reviewing gifts, benefits and hospitality accepted by Ministers and their family members and having a final say on whether they should be donated or kept.**

3.3.8. Strengthening provisions on post-public employment

A key conflict-of-interest risk is the revolving-door – i.e. the movement between the public and private sectors. The revolving door can undermine the integrity of the decision-making process, exposing legislators to the risk of making decisions in the interest of future private employers before leaving public office or using confidential information obtained in their role as public officials for their personal gain or for the benefit of their new employee once in the private sector. Establishing rules of procedure for joining the public sector from the private sector and vice versa, and setting proportionate cooling-off periods can help prevent potential and real conflicts of interest (OECD, 2021^[41]). Aware of the conflict-of-interest risks that the revolving door poses to the integrity of the decision-making process, OECD countries have been establishing cooling-off periods after leaving office in their national regulation for different categories of public officials (see Figure 3.1).

Figure 3.1. In your country, is there a national regulation establishing a cooling-off period after leaving office for different categories of public officials?



Note: data not available for the United Kingdom and for the United States at the national level.
Source: OECD PMR Economy Wide Database 2018.

The government of Malta could include post-public employment restrictions for MPs in the new Code of Ethics for Members of the House of Representatives

The fact that MPs in Malta are part-time, with many retaining secondary employment while serving in office, presents a particular challenge for post-public employment measures. Nevertheless, provisions could be introduced in the Code of Ethics for Members of the House of Representatives to address potential conflict-of-interest situations emerging from post-public employment. First, as noted in the section on proper use of information, **the government of Malta could include a provision in the new Code of Ethics for Members of the House of Representatives prohibiting MPs from using or disclosing confidential information after leaving office**, as the first step to mitigate post-public employment risks of undue influence.

Second, in the specific case of lobbying, the Commissioner's proposals on lobbying include a one-year ban on MP's for carrying out lobbying activities after their term ends. To ensure coherence with other integrity standards that apply to MPs, **the government of Malta could include this provision in the new Code of Ethics for Members of the House of Representatives**. The provision could state that "Members are not permitted to carry out lobbying activities for a period of one year after they cease to hold office". Such a restriction is aligned with international good practice that regulates movement between the public and private sectors by establishing cooling-off period for elected officials in at-risk positions, such as MPs – for instance, Canada, Israel, Korea, Latvia, Lithuania, the Slovak Republic, Slovenia and the United States have implemented cooling-off period for members of their legislative bodies (see Table 3.4).

Table 3.4. Duration of cooling-off period for members of the legislative branch in OECD countries

Country	Duration of the cooling-off period for members of the Legislative branch
Canada	Five years for parliamentarians
Israel	One year for Members of the Knesset
Korea	Two years for members of the Legislative branch
Latvia	Two years for members of the Legislative branch
Lithuania	One year for members of legislative bodies
Slovak Republic	Two years for members of the Legislative branch
Slovenia	One to two years for members of parliament (depending on the activity)
United States	One year for members of the Legislative branch

Source: (OECD, 2021^[4]).

The government of Malta could include an obligation for Ministers to inform the Commissioner about their post-public employment plans and receive his clearance in the new Code of Ethics for Ministers and Parliamentary Secretaries

The Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries introduces some restrictions on activities after departure from office and cooling-off periods. In particular, the following provisions are proposed:

- For a period of up to three years following their resignation or the termination of their appointment, Ministers must not 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 (section 3.10).
- For a period of three years following their resignation or the termination of their appointment, lobby Government (section 3.11).

Both the three-year ban to lobby government after Ministers' resignation or the termination of their appointment and the three-year ban to have a relationship of profit with a private enterprise or non-government body with which Ministers had a relationship while in office aligns with good practices that aim to regulate movement between the public and private sectors. Indeed, several OECD countries prohibit Ministers from engaging in lobbying activities for between 1 to 5 years after they cease to hold office, while Spain offers an example of a two-year ban on Ministers to provide services in private entities that have been affected by decisions in which they participated (see Box 3.15). **To that end, the government of Malta could include these two provisions in the new Code of Ethics for Ministers and Parliamentary Secretaries.**

Box 3.15. Restrictions on post-public employment for Ministers

Ban on lobbying government

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

In **Canada**, the Canadian Lobbying Act prohibits former designated public office holders from engaging in any consultant lobbying activities during the five-year period after they cease to hold office. Similarly, former designated public office holders who are employed by an organisation are also prohibited from engaging in any in-house lobbying activities for this same five-year period.

In **Ireland**, the Irish Lobbying Act prohibits Ministers from (a) carrying on lobbying activities in circumstances to which this section applies, or (b) being employed by, or provide services to, a person carrying on lobbying activities in such circumstances, for one year after ceasing to be a Minister, except with the consent of the Commission.

In the **Netherlands**, a circular adopted in October 2020 – “Lobbying ban on former ministries” – prohibits ministers and any officials employed in ministries to take up employment as lobbyists, mediators or intermediaries in business contacts with a ministry representing a policy area for which they previously had public responsibilities. The length of the lobbying ban is two years.

Ban on having a relationship of profit with private enterprises

In **Spain**, Article 15 of Law 3/2015 prohibits senior officials to provide services in private entities that have been affected by decisions in which they participated, during the two years after they cease to hold office. This prohibition extends both to the affected private entities and to those that belong to the same corporate group.

Sources: (Australian Government, 2022^[20]; Government of Ireland, 2015^[35]; OECD, 2021^[4]; Government of Spain, 2015^[36])

Moreover, the additional guidelines include a provision that serving or former Ministers 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 Code. However, to effectively implement cooling-off periods and facilitate monitoring, some countries require public officials to disclose future employment plans and seek approval from the dedicated advisory body before taking new jobs (see Box 3.16). To that end, the government of Malta could include a provision stating that “**Ministers shall inform the Commissioner for Standards in Public Life about their post-public employment plans and receive clearance prior to taking up any post-public employment activity**”. Such a provision will support awareness raising about potential conflicts of interest as well as to facilitate monitoring and enforcement.

Box 3.16. Control of post-public employment restrictions in other jurisdictions

The new Code of Conduct for Members of the **European Commission** adopted in 2018 sets clearer rules and higher ethical standards and introduces greater transparency in a number of areas. Regarding post-office activities, the new Code of Conduct extends the “cooling-off” period from currently 18 months to two years for former Commissioners and to three years for the President of the Commission. During the cooling-off period, former Members of the Commission need to inform the Commission before taking up a new job and are also subject to restrictions in certain activities, such as lobbying members or staff of the Commission.

In **France**, the High Authority for Transparency in Public Life monitors the revolving door of certain public officials and civil servants between the public and private sectors. According to article 23 of Law 2013-907, for a period of three years, former ministers, local executive chairmen and members of an Independent Administrative Authority (AAI) / Independent Public Authorities (API) must refer to the High Authority to examine whether the new private activities that they plan to exercise are compatible with their former functions. The High Authority verifies whether the envisaged activity poses difficulties of a criminal or ethical nature. When it identifies such difficulties, it can issue an opinion of incompatibility, which prevents the person from carrying out the envisaged activity, or of compatibility with reservations, in which it imposes precautionary measures likely to prevent the criminal and ethical risk.

Sources: (High Authority for Transparency in Public Life, n.d.^[37]; European Commission, 2018^[38]).

Additionally, to alleviate the burden that post-public employment restrictions may have on Ministers and Parliamentary Secretaries, **the Ministry for Justice could introduce a provision in the new Code of Ethics that requires Ministers to be provided a stipend — a proportionate arrangement such as indemnities, allowances or compensations involving all or part of the former salary – for a proportion of the three-year cooling-off period introduced in the proposed Code of Ethics.** Indeed, in cases where public officials who choose to seek private employment face a period of inactivity as a result of the cooling-off restrictions, some OECD countries provide proportionate arrangements to public officials. For instance, in France, members of the government receive an allowance for three months after termination of their public functions; the allowance is equivalent to their former monthly salary if they filed their end-of-function asset declaration to the relevant authority (OECD, 2021^[41]).

To implement the post-public employment measures, the Commissioner could communicate post-public employment restrictions to all affected parties and the government of Malta could include relevant sanctions for breaches of the measures in the Standards Act

To facilitate implementation of cooling-off periods, public officials and prospective employers need to understand and follow the post-public employment rules (World Bank, OECD, UNODOC, 2020^[33]). In Malta, efforts to strengthen the post-public employment system could be further enhanced by implementing communication actions and strengthening the enforcement system.

The **Commissioner could develop and deliver training on post-public employment restrictions for MPs, Ministers and Parliamentary Secretaries.** The training material could clarify what the post-public framework entails (e.g. what the rules are, to whom they apply and for how long, and sanctions for breaches), and why post-public employment measures are a key tool for preventing conflict of interest and corruption. Australia’s Public Service Commission has prepared guidance on post-separation employment to support employees who are leaving the public service in understanding what their obligations are to prevent conflict-of-interest risks associated with post-public employment (Australian Public Service Commission, 2018^[29]).

Moreover, to support the private sector in understanding and upholding the rules on post-public employment, the **Commissioner could develop a guidance document based on the training that explains the post-public employment framework, consequences for private sector employers for breaching the rules, and why such rules uphold the public interest.** The guidance could be shared with relevant chambers of commerce and industry associations.

While awareness raising and capacity building help facilitate observance of the rules, specific sanctions for breaches are needed to strengthen deterrence and support enforcement of the rules. Under the current system, the Commissioner is empowered to investigate and recommend sanctions to the Committee for Standards in cases of breaches of the Code of Ethics, including of post-public employment restrictions. However, **the government of Malta could further strengthen this enforcement function by including additional sanctions in the Standards Act in cases of breaches of post-public employment restrictions.** Potential sanctions for violating post-public employment restrictions could include reduction on the public pension of public officials breaching post-public employment restrictions and/or blacklisting the private sector employer from government contracts for a specific period of time.

3.3.9. Clarifying enforcement mechanisms for the respective Codes of Ethics

Enforcement mechanisms foster effective accountability, and are the principal means by which societies can ensure compliance with integrity standards and deter misconduct. Enforcing integrity rules and standards promote confidence in public governance by demonstrating that governments are committed to upholding standards and that public officials cannot act with impunity.

The government of Malta could clarify in the new Code of Ethics for Members of the House of Representatives the applicable enforcement mechanisms in case of breaches of the code

The Commissioner's proposed revisions to the Code of Ethics for Ministers and Parliamentary Secretaries clarifies the enforcement mechanisms in place. Indeed, Section 1.4 states that the Commissioner is responsible for investigating cases of breaches of the Code, and that the Committee for Standards in Public Life is responsible for deciding on them as provided for in the Standards Act, without prejudice to the powers and prerogatives of the Prime Minister in respect of Cabinet. **The government of Malta could include this proposed revision in the new Code of Ethics for Ministers and Parliamentary Secretaries.**

However, the Commissioner's proposed revisions to the Code of Ethics for Members of the House of Representatives does not include an equivalent provision clarifying the enforcement mechanisms that would apply in case of a breach. Although the Standards Act clearly states that the Commissioner is responsible for investigating cases of breaches of the Code (Article 13(1) (b)) while the Committee for Standards in Public Life decides on them and on the corresponding sanction (Articles 27(3) and 28), having these provisions in one place can help public officials understand the consequences of breaching the Code, encouraging transparency as well as compliance with public integrity rules. To that end, **the government of Malta could clarify the applicable enforcement mechanisms in the case of breaches in the new Code of Ethics for Members of the House of Representatives.** This could be done by including a short and clear subsection "Enforcement" within the introductory section that clarifies the responsibilities of the Commissioner and the Committee for Standards in Public Life in terms of investigating and deciding on potential breaches to the Code.

3.4. Supporting implementation of the Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries

Developing a code of ethics is not an end in itself. Effective implementation requires raising awareness about the standards in the code, building capacity to implement the standards, and ensuring channels for guidance are available when public officials have doubts or questions about applying the standards in the course of their work (OECD, 2018^[3]).

Awareness raising can take the form of internal information portals, e-mails, discussion forums, and electronic newsletters. Ideally, these platforms should provide a fast and two-way communication, although the simple action of diffusing integrity standards may have an impact if it is embedded within the broader integrity system (OECD, 2018^[3]). Capacity building can take the form of lectures, online courses, coaching and mentoring, and ethical dilemma training. However, research has shown that training activities should not only focus on familiarising employees with the relevant rules and laws, so as to minimise the risk of engaging in unethical behaviours, but also provide decision tools to manage challenging ethical dilemmas (Menzel, 2015^[39]). Channels of guidance may be institutionalised in different ways: within a central government body, through an independent or semi-independent specialised body, or through integrity units or advisors integrated within line ministries. Regardless of the institutional makeup, the purpose of having such channels is to support public officials in understanding the rules and ethical principles that should guide them (OECD, 2020^[1]).

3.4.1. Strengthening awareness raising, capacity building and guidance

In Malta, measures to raise awareness on integrity standards amongst elected and appointed officials have been growing since the introduction of the Commissioner and his office in 2018. Awareness raising actions have included issuing guidelines on the proper use of public funds for advertising and promotional material and having direct communication with MPs on their declarations of assets. However, more is needed to develop an open organisational culture, effectively build capacity and systematically raise awareness amongst elected and appointed officials on key integrity areas, including conflicts of interest (including those raised by outside employment) and acceptance of gifts (GRECO, 2015^[6]; GRECO, 2019^[7]).

The Commissioner could consider developing and implementing systematic awareness-raising measures for MPs, Ministers and Parliamentary Secretaries

To further strengthen awareness raising and capacity building, **the Commissioner could develop and systematically implement integrity awareness-raising measures for MPs, Ministers and Parliamentary Secretaries**. This may include sending MPs, Ministers and Parliamentary Secretaries a copy of their corresponding code of ethics and presenting the Codes content upon assuming the exercise of their duties, as well as asking them to sign, upon entry, a statement that they have read, understood and agree to adhere to their code of ethics. Moreover, **the Commissioner could also consider approaches inspired by behavioural insights to promote ideas and discussions on integrity, such as e-mail reminders or references to core public values in the workplace** (see Box 3.17).

Box 3.17. Moral reminders

One straightforward strategy to induce ethical behaviour is to remind decision makers of moral standards. In **Mexico**, the Public Function Secretary in co-operation with the research centre CIDE applied behavioural insights to their gift registration policy, in order to enhance compliance. The Secretary sent out reminder emails to public employees required to register their received gifts. They randomly varied the text of the message. Five different types of reminder messages were sent:

- Legal: *It is your legal obligation to register received gifts.*
- Honesty: *We recognise your honesty as a public official. You are required to register gifts. Show your honesty.*
- Impartiality: *Receiving gifts can compromise your impartiality. When you receive a gift, register it.*
- Social: *More than 1 000 registrations per year are made by your colleagues. Do the same!*
- Sanction: *If you receive a gift and you do not inform us, someone else might. Don't get yourself punished. Register your gifts.*

The study then observed the number of gifts registered around the Christmas period (peak season for gifts), and compared this with previous years and against a control group who did not receive any of the messages. The study demonstrated that receiving a reminder email increased the number of gifts registered. However, some messages were more effective than others: reminding public officials of their legal obligations and appealing to their impartiality and honesty encouraged more people to register gifts than referring to sanctions or registrations made by colleagues.

In **New Zealand**, the poster of the Standards of Integrity and Conduct, which is displayed both within public organisations and publicly for citizens, reminds public officials of what the values mean by providing concrete examples.

Note: To access the Standards of Integrity and Conduct: <https://www.publicservice.govt.nz/resources/code/>.

Source: (OECD, 2018^[9]).

The Commissioner could consider developing and implementing a series of trainings for MPs, Ministers and Parliamentary Secretaries, which could focus on the core values and standards of conduct outlined in their respective codes of ethics

In Malta, discussions with key stakeholders highlighted the need to continue strengthening integrity awareness and building capacities amongst those covered by the Standards Act. Indeed, stakeholders agreed on the lack of consensus on the core integrity values and standards in Malta and the difficulties to translate such standards into day-to-day actions. These challenges demonstrate the need to develop a more proactive role of the Commissioner and his office, including developing and implementing integrity trainings that help building awareness and capacities on public integrity.

The Commissioner could consider providing MPs, Ministers and Parliamentary Secretaries induction training on the standards of conduct established by their respective Code of Ethics. Induction training provides an opportunity to set the tone regarding integrity from the beginning of the working relationship, and familiarise public officials with the specific conduct and behaviour that is expected from them in their day-to-day activities (OECD, 2018^[3]). For instance, after the 2019 General Election, the UK Parliamentary Commissioner for Standards organised workshops to introduce the values, the Code of

Conduct and the Guide to the Rules of the Parliament and invited each of the new 140 MPs to an individual briefing to advise them on, amongst others, the Code of Conduct (UK House of Commons, 2020^[40]).

Additionally, for sustainable capacity building, training needs to be repeated over time, and may be adjusted to the needs of specific target groups such as at-risk positions or management (OECD, 2018^[9]). Although ethical training may include lectures, online courses, coaching and mentoring, research shows that interactive components where participants are confronted with realistic situations are more likely to generate a personal mental commitment to integrity than mere presentations by trainers (OECD, 2018^[9]). In this sense, **the Commissioner could consider developing and implementing ‘ethical dilemma’ training, whereby participants are presented with practical situations in which they face an ethical choice with no clear path to resolving the situation, and discuss in small groups what actions they would take to resolve those dilemmas.** Examples can be found in other jurisdictions, where ethical dilemma training has been used to support delivery of integrity training to public officials (see Box 3.18).

Box 3.18. Training to guide public officials in handling ethical dilemmas

Flemish Region, Belgium

To raise awareness and capacities on public integrity, the Agency for Government Personnel of the Flemish Region developed a series of guidelines for integrity actors to discuss ethical dilemmas and organise ethical dilemma training among employees within their own departments or agencies. Ethical dilemma training provides participants with practical situations in which they face an ethical choice with no clear path to resolving the situation in a good, moral way. In such training, the facilitator encourages discussion between the participants about how to resolve the situation and helps them explore the different choices. The focus of the ethical dilemma training is the debate rather than possible solutions, as the objective is to help participants identify how different values might act in opposition to one other.

Examples of ethical dilemma situations include the following:

Situation 1: *“I am a policy officer. The Minister needs a briefing within the next hour. I have been working on this matter for the last two weeks and should have already been finished. However, the information is not complete. I am still waiting for a contribution from another department to verify the data. My boss asks me to submit the briefing urgently as the Chief of Cabinet has already called. What should I do?”*

1. *I send the briefing and do not mention the missing information.*
2. *I send the briefing, but mention that no decisions should be made based on it.*
3. *I do not send the briefing. If anyone asks about it, I will blame the other department.*
4. *I do not send the information and come up with a pretext, and promise to send the briefing tomorrow.”*

Situation 2: *“I am head of a department. My senior official asks me to carry out an interesting assignment that will help my department score well. We need that after the recent blunders of my department. The content of that assignment actually belongs to another department. What am I doing?”*

1. *After I have notified the other department of the assignment, my department will carry out the job.*
2. *I inform the other department that I have received the assignment and ask them for input.*
3. *I refuse the assignment because I don't think I can do it in front of the other department.*
4. *I carry out the assignment and do not inform the other department myself: after all, this is the task of my senior official.”*

Source: (Flemish government, n.d.^[41]) (unofficial English translation, original in Dutch).

The Commissioner could strengthen proactive guidance for MPs, Ministers and Parliamentary Secretaries on implementing the standards of the Codes of Ethics

To date, the Commissioner has focused on giving recommendations on whether an action or conduct is prohibited by the applicable Code of Ethics or by any other particular statutory if a person subject to the Act requests such an opinion ('negative clearance' role). However, the Commissioner could also provide proactive guidance to support those covered by the Standards Act, particularly – but not exclusively – if a new version of the codes of ethics for MPs, Ministers and Parliamentary Secretaries is approved.

Indeed, although integrity is ultimately the responsibility of all public officials, having a dedicated integrity body in place to support public officials in understanding the rules and ethical principles and providing advice on solving ethical dilemmas is fundamental for shaping integrity (OECD, 2020^[1]). To that end, **the Commissioner could prepare guidance on the values and behaviours expected by elected and appointed officials regarding the following key integrity issues:**

- on conflict-of-interest management measures;
- on receiving and bestowing gifts;
- on post-public employment; and
- on any other key integrity issue as it comes up.

Moreover, the Commissioner and his office could provide regular communications and guidelines drawn from advice requested by public officials over a period of time ('negative clearance') or from recurring systemic or sector-specific issues (e.g. parliamentary ethics, proper use of publicly provided resources, etc.). Such regular communications and guidelines should always be done respecting confidentiality of the exchanges between the Commissioner and those requesting advice.

3.5. Summary of recommendations

The following provides a detailed summary of the recommendations to the government of Malta for preparing a new Code of Ethics for Members of the House of Representatives, as well as a new Code of Ethics for Ministers and Parliamentary Secretaries. The recommendations contained herein mirror those contained in the analysis above.

Recommendations are also provided for the Commissioner for Standards in Public Life concerning the accompanying guidelines to support understanding and implementation of the new Codes.

3.5.1. Recommendations to the government of Malta on the current Codes of Ethics for Members of the House of Representatives and for Ministers and Parliamentary Secretaries

Issue	Recommendations
Code of Ethics for Members of the House of Representatives	To create a comprehensive integrity framework for MPs, the government of Malta could prepare a new Code of Ethics for Members of the House of Representatives that replaces the current Code in Schedule I of the Standards in Public Life Act, and table it in the House of Representatives for approval. The new Code prepared by the government could build on the Commissioner's proposed revisions.
Code of Ethics for Ministers and Parliamentary Secretaries	To create a comprehensive integrity framework for Ministers and Parliamentary Secretaries, the government of Malta could prepare a new Code of Ethics for Ministers and Parliamentary Secretaries that replaces the current Code in Schedule II of the Standards in Public Life Act and table it in the House of Representatives for approval. The new Code prepared by the government could build on the Commissioner's proposed revisions.

3.5.2. Recommendations to the government of Malta on the new Code of Ethics for Members of the House of Representatives

Issue	Recommendations
Including clear and common definitions	The government of Malta could include all relevant key terms and definitions (e.g. abuse of power and privileges, gift, benefit, hospitality, undue influence, misconduct, family members, conflict of interest, personal interest, lobbying, and lobbyists) in the new Code of Ethics for Members of the House of Representatives.
Assigning memorable and meaningful values	The government of Malta could include key values in the new Code of Ethics for Members of the House of Representatives by means of a participatory process with key stakeholders. If values such as sense of service, diligence and leadership, as proposed by the Commissioner, are included in the new Code, the government of Malta could consider clarifying the existing definitions.
Ensuring proper use of information	The government of Malta could include clear provisions on the proper use of information in the new Code of Ethics for Members of the House of Representatives. The provisions could state that: <ul style="list-style-type: none"> “Members 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. Members should correct immediately any incorrect information given.” “Information received in confidence in the course of a Member's duties shall be used only in connection with those duties and never for personal gain or to advantage or disadvantage any person or persons.” “Members shall not disclose and make use of confidential information even after leaving office.”
Engaging with lobbyists and third parties	The Government of Malta could include provisions on the interactions between MPs and third parties/lobbyists in a specific section on lobbying in the new Code of Ethics for Members of the House of Representatives, such as: <ul style="list-style-type: none"> “Lobbying is a legitimate activity as long as it is carried out with transparency and integrity. Lobbying is a natural and beneficial part of the democratic process, as it allows different interest groups to inform public policy and decision making, but risks emerge when activities take place without due regard for transparency or integrity.” “Members shall treat lobbyists and third parties equally by granting them fair and equitable access.” “Members shall check that the lobbyist or third party is registered or intends to register in the Register for Lobbyists within the specified deadlines, and report violations to the Commissioner for Standards in Public Life.” “Members shall record all relevant communications (including meetings) with lobbyists/third parties in the Transparency Register. Providing an adequate degree of transparency on the actors who are influencing government policies or engaging in lobbying is a key element to ensure that public officials, citizens and business can obtain sufficient information for the public scrutiny of the public decision-making process.” <p>The government of Malta could include a provision reminding MPs that while lobbying is legitimate, there is a risk that lobbyists and/or third parties may abuse this legitimate process by providing unreliable or inaccurate information.</p>

Managing and preventing conflicts of interest	<p>The government of Malta could include a comprehensive framework on managing and preventing conflicts of interest in the new Code of Ethics for Members of the House of Representatives, with provisions such as:</p> <ul style="list-style-type: none"> • a section on incompatibilities that sets out positions and activities that are incompatible with the role of MP, including: <ul style="list-style-type: none"> ○ not acting as a lobbyist. ○ not holding secondary employment in government departments, boards or commissions. ○ not participating in their private capacity in any role that would conflict with their duties as a public official. ○ not entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties. ○ not having any form of private interest or partnership in a corporation that is party to a contract with a public sector entity. • not holding any asset whose value may directly or indirectly be affected by government decisions or policy. <ul style="list-style-type: none"> ○ a section detailing when and to whom MPs should declare their conflicts of interest, including: ○ “Members shall declare private interests to the Commissioner for Standards in Public Life that could lead to an actual or potential conflict (i) upon taking up duty as a Member of the House of Representatives and (ii) at the first opportunity thereafter when they realise there is an actual or potential conflict of interest.” ○ “Members shall take the necessary measure (removal, recusal or restriction, reassignment or resignation) to manage actual or potential conflicts of interest.” <p>The government of Malta could consider amendments to the Constitution so as to prohibit elected officials from obtaining secondary employment in all public functions.</p>
Declaring assets and interests	<p>The government of Malta could expand the scope of assets and interests to be declared and broaden the categories of persons whose data are to be disclosed in the new Code of Ethics for Members of the House of Representatives. Detailed recommendations will be provided in the forthcoming OECD report on asset and interest declarations.</p>
Receiving and bestowing gifts and other benefits	<p>The government of Malta could include a clear provision on receiving and giving gifts and other benefits in the new Code of Ethics for Members of the House of Representatives. The provision could state that “Members are required to register in the Register for Gifts, Benefits and Hospitality all gifts, benefits and hospitality offered to them and their family members whether they accepted them or not and given by them and their family members.”</p> <p>The government of Malta could include a threshold for the value of gifts, benefits and hospitality that can be accepted.</p> <p>The government of Malta could include a provision in the Standards Act that assigns the responsibility to the Commissioner for Standards in Public Life for reviewing gifts, benefits and hospitality accepted by MPs and their family members and having a final say on whether they should be donated or kept.</p>
Managing post-public employment	<p>The government of Malta could include post-public employment restrictions for MPs in the new Code of Ethics as follows:</p> <ul style="list-style-type: none"> • A provision that prohibits MPs from using or disclosing confidential information after leaving office. • A provision stating that “Members are not permitted to carry out lobbying activities for a period of one year after they cease to hold office”. <p>The government of Malta could further strengthen the enforcement function by including additional sanctions in the Standards in Public Life Act in case of breaches of post-public employment restrictions.</p>
Enforcing the code	<p>The government of Malta could clarify the new Code of Ethics for Members of the House of Representatives the applicable enforcement mechanisms in case of breaches of the code. This could be done by including a short and clear subsection “Enforcement” within the introductory section that clarifies the responsibilities of the Commissioner and the Committee for Standards in Public Life in terms of investigating and deciding on potential breaches to the Code.</p>

3.5.3. Recommendations to the government of Malta on the new Code of Ethics for Ministers and Parliamentary Secretaries

Issue	Recommendations
Including clear and common definitions	<p>The government of Malta could include all relevant key terms and definitions (e.g. abuse of power and privileges, gift, benefit, hospitality, undue influence, misconduct, family members, conflict of interest, personal interest, lobbying, and lobbyists) in the new Code of Ethics for Ministers and Parliamentary Secretaries.</p>
Assigning memorable and meaningful values	<p>The government of Malta could include key values in the new Code of Ethics for Ministers and Parliamentary Secretaries, by means of a participatory process with key stakeholders.</p> <p>If values such as sense of service, diligence and leadership, as proposed by the Commissioner, are included in the new Code, the government of Malta could consider clarifying the existing definitions.</p>
Ensuring proper use of information	<p>The government of Malta could include the Commissioner’s proposed revisions on use of information, as set out in Section 7, in the new Code of Ethics for Ministers and Parliamentary Secretaries.</p>
Engaging with lobbyists and third parties	<p>The government of Malta could include provisions on the interactions between Ministers and third parties/lobbyists in the new Code of Ethics for Ministers and Parliamentary Secretaries, such as:</p> <ul style="list-style-type: none"> • “Lobbying is a legitimate activity as long as it is carried out with transparency and integrity. It is a natural and

	<p>beneficial part of the democratic process, as it allows different interest groups to inform public policy and decision making, but risks emerge when activities take place without due regard for transparency or integrity.”</p> <ul style="list-style-type: none"> • “Ministers shall treat lobbyists and third parties equally by granting them fair and equitable access.” • “Ministers shall check that the lobbyist or third party is registered or intends to register in the Register for Lobbyists within the specified deadlines, and report violations to the Commissioner for Standards in Public Life.” <p>The government of Malta could include a provision detailing the risk that lobbyists and/or third parties may abuse the lobbying process by providing unreliable or inaccurate information, and requiring Ministers to ensure that information provided by lobbyists/third parties is accurate.</p>
Managing and preventing conflicts of interest	<p>The government of Malta could include a comprehensive framework on managing and preventing conflicts of interest in the new Code of Ethics for Ministers and Parliamentary Secretaries as laid out in Section 3 of the Commissioner’s proposed revisions, with several revisions as detailed in the following recommendations.</p> <p>The government of Malta could include a section on incompatibilities in the new Code of Ethics for Ministers and Parliamentary Secretaries, including:</p> <ul style="list-style-type: none"> • Not continuing their private work, unless under exceptional cases where the national interest so requires. • Not acting as a lobbyist, paid or otherwise. • Not entering into a contract or employment relationship with their spouse, partner, children, siblings or parents in the exercise of their official duties. • Not having any form of private interest or partnership in a private corporation that is party to a contract with a public sector entity. • Not holding any asset whose value may directly or indirectly be affected by government decisions or policy. <p>The government of Malta could clarify the definition on conflict of interest in section 3.1 of the Commissioner’s proposed revisions to strengthen understanding of personal interest. In particular, the government of Malta could revise the definition to clarify that (a) personal interests may include legitimate private-capacity interests which (b) cover financial interests, personal affiliations and associations, and family interests.</p>
Declaring assets and interests	<p>The government of Malta could expand the scope of assets and interests to be declared and broaden the categories of persons whose data are to be disclosed in the new Code of Ethics for Ministers and Parliamentary Secretaries. Detailed recommendations will be provided in the forthcoming OECD report on asset and interest declarations.</p>
Receiving and bestowing gifts and other benefits	<p>The government of Malta could include a clear provision on receiving and giving gifts and other benefits in the new Code of Ethics for Ministers and Parliamentary Secretaries. The provision could state that “Ministers are required to register in the Register for Gifts, Benefits and Hospitality all gifts, benefits and hospitality offered to them and their family members whether they accepted them or not and given by them and their family members”.</p> <p>The government of Malta could set a threshold for the value of acceptable gifts to prevent Ministers (and their family members) from accepting gifts that might reasonably be seen as aimed to influence them.</p> <p>The government of Malta could amend the Standards Act to assign responsibility to the Commissioner for Standards in Public Life for reviewing gifts, benefits and hospitality accepted by Ministers and their family members and having a final say on whether they should be donated or kept.</p>
Managing post-public employment	<p>The government of Malta could include provisions 3.10 and 3.11 as proposed in the Commissioner’s revisions in the new Code of Ethics for Ministers and Parliamentary Secretaries.</p> <p>The government of Malta could include a provision stating that Ministers shall inform the Commissioner for Standards in Public Life about their post-public employment plans and receive clearance prior to taking up any post-public employment activity.</p> <p>The government of Malta could introduce a provision in the Code of Ethics that requires Ministers to be provided a stipend for a proportion of the three-year cooling-off period introduced in the proposed Code of Ethics.</p> <p>The government of Malta could further strengthen the enforcement function by including additional sanctions in the Standards Act in cases of breaches of post-public employment restrictions.</p>
Enforcing the code	<p>The government of Malta could include the proposed revision by the Commissioner, as laid out in Section 1.4, in the new Code of Ethics for Ministers and Parliamentary Secretaries.</p>

3.5.4. Recommendations to the Commissioner for Standards in Public Life on the Guidelines to accompany the new Code of Ethics for Members of the House of Representatives

Issue	Recommendations
Memorable and meaningful values	To help MPs better understand how public values are applied in their daily choices and actions, the Commissioner could complement the values laid out in the Code of Ethics for the Members of the House of Representatives by including examples of more concrete expected behaviours in an accompanying handbook.
Engagement with lobbyists and third parties	The Commissioner could strengthen the additional guidelines for MPs by adding a specific section on engaging with lobbyists and third parties with information on (i) the registration of relevant communications on the Transparency Register and (ii) on the assessment of the reliability of information received from lobbyists/third parties.

Managing and preventing conflicts of interest	The Commissioner could revise the guidelines to state that Members are required to declare interests upon taking up duties and at the first opportunity thereafter.
	The Commissioner could include in the guidelines a non-exhaustive list of examples of situations where MPs could encounter a conflict of interest.
	The Commissioner could include in the guidelines a clarification that conflicts of interest can be real, potential, or perceived.
	The Commissioner could include in Section 3.9 of the guidelines a non-exhaustive list of examples of non-financial interests, including secondary employment, personal affiliations and associations, and family interests.
	The Commissioner could update the guidelines to include guidance on the types of measures available to MPs to prevent and manage conflict-of-interest situations, to align with the code.
Post-public employment	The Commissioner could keep a record both declared conflicts of interest and the measures taken in the specific personnel file of the MP kept in the Commissioner's office.
	The Commissioner could develop and deliver training on post-public employment restrictions for MPs.
	The Commissioner could develop a guidance document based on the training for MPs that explains the post-public employment framework, consequences for private sector employers for breaching the rules, and why such rules uphold the public interest.

3.5.5. Recommendations to the Commissioner for Standards in Public Life on the Guidelines to accompany the new Code of Ethics for Ministers and Parliamentary Secretaries

Issue	Recommendations
Memorable and meaningful values	The Commissioner could elaborate concrete examples in the form of a handbook to help Ministers better understand how public values translate into their daily choices and actions, and how they are expected to act under specific circumstances.
Engagement with lobbyists and third parties	<p>The Commissioner could strengthen the additional guidelines for Ministers by clarifying the information included in Part 1 in order to ensure coherence with the final Regulation of Lobbying Act.</p> <p>The Commissioner could strengthen the additional guidelines for Ministers by adding in Part 1 more information on the assessment of the reliability of information received from lobbyists/third parties and including guidelines on the assessment of the reliability of information received from lobbyists/third parties.</p>
Managing and preventing conflicts of interest	<p>The Commissioner could strengthen the guidelines for Ministers to facilitate implementation of the Code, in particular by strengthening the following areas:</p> <ul style="list-style-type: none"> clarifying that conflicts of interest can be real, potential or perceived. including examples of the types of private interests and situations that could lead to a conflict of interest. including examples of the types of measures Ministers could take to manage or resolve a conflict of interest.
Post-public employment	The Commissioner could develop and deliver training on post-public employment restrictions for Ministers and Parliamentary Secretaries.
	The Commissioner could develop a guidance document based on the training for Ministers and Parliamentary Secretaries that explains the post-public employment framework, consequences for private sector employers for breaching the rules, and why such rules uphold the public interest.

3.5.6. Recommendations to the Commissioner for Standards in Public Life to support implementation of the new Codes of Ethics

Issue	Recommendations
Awareness raising	The Commissioner could develop and systematically implement integrity awareness-raising measures for MPs, Ministers and Parliamentary Secretaries.
Capacity building	The Commissioner could provide MPs, Ministers and Parliamentary Secretaries induction training on the standards of conduct established by their respective Code of Ethics.
	The Commissioner could consider developing and implementing ethical dilemma training, whereby participants are presented with practical situations in which they face an ethical choice with no clear path to resolving the situation, and discuss in small groups what actions they would take to resolve those dilemmas.
Guidance	<p>The Commissioner could prepare guidance on the values and behaviours expected by elected and appointed officials regarding the following key integrity issues:</p> <ul style="list-style-type: none"> on conflict-of-interest management measures. on receiving and bestowing gifts. on post-public employment. on any other key integrity issue as it comes up.

References

- Australian Government (2022), *Code of Conduct for Ministers*, [20]
<https://www.pmc.gov.au/sites/default/files/publications/code-of-conduct-for-ministers.pdf>
 (accessed on 1 August 2022).
- Australian Public Service Commission (2018), *APS Values and Code of Conduct in practice*, [29]
<https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest>.
- Australian Public Service Commissioner (2022), *Australian Public Service Commissioner's Directions 2022*, <https://www.legislation.gov.au/Details/F2022L00088> (accessed on [16]
 1 August 2022).
- Civil Service Council (2019), *Commentary on the Code of Ethics of a civil servants*, [15]
<https://radaprestatnuzbu.vlada.gov.sk/eticky-kodex-statneho-zamestnanca/> (accessed on
 4 May 2022).
- Commissioner for Standards in Public Life (2020), *Revising the Codes of Ethics for Members of [5]
 the House of Representatives and for Ministers and Parliamentary Secretaries*.
- Committee on Standards in Public Life (1995), *The Seven Principles of Public Life*, [18]
<https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2> (accessed on 26 April 2022).
- Danish Ministry of Finance (2015), *Seven key duties for civil servants in central government – [17]
 Code VII*, https://modst.dk/media/17483/kodex_vii_english_version.pdf (accessed on
 2 March 2022).
- Employment and Social Development Canada (2016), *Employment and Social Development [14]
 Canada's Code of Conduct*, https://publications.gc.ca/collections/collection_2016/edsc-esdc/Em4-7-2016-eng.pdf (accessed on 15 April 2022).
- European Commission (2022), *2022 Rule of Law Report Country Chapter on the rule of law [8]
 situation in Malta*, European Commission, Brussels,
https://ec.europa.eu/info/sites/default/files/42_1_193996_coun_chap_malta_en.pdf (accessed
 on 10 August 2022).
- European Commission (2018), *New Code of Conduct strengthening ethical rules for Members of [38]
 the European Commission enters into force*,
https://ec.europa.eu/commission/presscorner/detail/en/IP_18_504 (accessed on 6 July 2022).
- Flemish government (n.d.), *Dealing with integrity dilemmas*, [41]
<https://overheid.vlaanderen.be/personeel/integriteit/omgaan-met-integriteitsdilemmas>.
- Government of Canada (2006), *Conflict of Interest Act*, [https://laws-lois.justice.gc.ca/eng/acts/c- \[30\]
 36.65/](https://laws-lois.justice.gc.ca/eng/acts/c-36.65/).
- Government of Iceland (2011), *Ministerial Code of Conduct*, [21]
<https://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Icel>
 (accessed on 23 April 2022).
- Government of Ireland (2015), *Regulation of Lobbying Act*, [35]
<https://www.irishstatutebook.ie/eli/2015/act/5/enacted/en/html> (accessed on 19 April 2022).

- Government of Portugal (2016), *Resolução do Conselho de Ministros n.º 53/2016*, [34]
<https://files.dre.pt/1s/2016/09/18200/0327603278.pdf> (accessed on 25 April 2022).
- Government of Spain (2015), *Ley 3/2015, de 30 de marzo, reguladora del ejercicio del alto cargo de la Administración General del Estado*, [36]
<https://www.boe.es/buscar/act.php?id=BOE-A-2015-3444#:~:text=La%20presente%20ley%20tiene%20por,y%20los%20Secretarios%20de%20Estado.> (accessed on 17 June 2022).
- Government of the Czech Republic (2006), *Act on Conflict of Interest (Act No. 159/2006 Coll)*. [31]
- GRECO (2019), *Fifth Evaluation Report Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies Malta*, [7]
<https://rm.coe.int/grecoeval5rep-2018-6-fifth-evaluation-round-preventing-corruption-and-168093bda3>.
- GRECO (2015), *Fourth Evaluation Round Corruption prevention in respect of members of parliament, judges and prosecutors Malta*, [6]
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c8abe>.
- High Authority for Transparency in Public Life (n.d.), *Monitoring revolving doors between the public and private sectors*, [37]
<https://www.hatvp.fr/en/high-authority/ethics-of-public-officials/list/#monitoring-revolving-doors-between-the-public-and-private-sectors> (accessed on 6 July 2022).
- Martensson, M. (2014), *Communication from MR. C Martensson on a Code of Conduct for MPs*. [11]
- Menzel, D. (2015), *Research on Ethics and Integrity in Public Administration: Moving Forward, Looking Back*, pp. 343-370, [39]
<https://doi.org/10.1080/10999922.2015.1060824>.
- Miller, G. (1955), "The magical number seven, plus or minus two: Some limits on our capacity for processing information", *Psychological Review*, Vol. 101/2, pp. 343-352, [10]
<http://www.psych.utoronto.ca/users/peterson/psy430s2001/Miller%20GA%20Magical%20Seven>.
- OECD (2022), *Review of the Lobbying Framework in Malta*, OECD, Paris, [26]
[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)10/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)10/FINAL&docLanguage=en) (accessed on 10 August 2022).
- OECD (2022), *Review of the Standards in Public Life Act*, OECD, Paris, [28]
[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT\(2022\)9/FINAL&docLanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/INT(2022)9/FINAL&docLanguage=en) (accessed on 10 August 2022).
- OECD (2021), *Lobbying in the 21st Century: Transparency, Integrity and Access*, OECD Publishing, Paris, [4]
<https://doi.org/10.1787/c6d8eff8-en>.
- OECD (2020), *OECD Public Integrity Handbook*, OECD Publishing, Paris, [1]
<https://doi.org/10.1787/ac8ed8e8-en>.
- OECD (2019), *OECD Integrity Review of Argentina: Achieving Systemic and Sustained Change*, [12]
 OECD Public Governance Reviews, OECD Publishing, Paris,
<https://doi.org/10.1787/g2g98ec3-en>.

- OECD (2018), *Behavioural Insights for Public Integrity: Harnessing the Human Factor to Counter Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264297067-en>. [9]
- OECD (2018), *Developing a Code of Conduct for public officials: Insights based on OECD Experiences*. [3]
- OECD (2010), *Recommendation of the Council on Principles for Transparency and Integrity in Lobbying*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0379> (accessed on 6 April 2022). [23]
- OECD (2004), “OECD Guidelines for Managing Conflict of Interest in the Public Service”, in *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264104938-2-en>. [27]
- OECD (2003), *Managing Conflict of Interest in the Public Service: OECD guidelines and country experiences*, OECD, Paris, <https://www.oecd.org/gov/ethics/48994419.pdf>. [32]
- Office of the Conflict of Interest and Ethics Commissioner (2022), *Standing Committee on Procedure and House Affairs: Section 33 Comprehensive Review of the Conflict Of Interest Code for Members of the House of Commons*, <https://ciec-cicie.parl.gc.ca/en/publications/Pages/PROCsubmissionFeb2022.aspx>. [13]
- Parliament of Spain (2020), *Código de Conducta de las Cortes Generales*, https://www.congreso.es/public_oficiales/L14/CORT/BOCG/A/BOCG-14-CG-A-70.PDF (accessed on 22 April 2022). [24]
- Public Service Commission of New Zealand (2007), *Standards of Integrity and Conduct*, <https://www.publicservice.govt.nz/resources/code/> (accessed on 26 April 2022). [19]
- Rose, C. (ed.) (2019), “Article 8. Codes of conduct for public officials”, *The United Nations Convention against Corruption: A Commentary*, <https://global.oup.com/academic/product/the-united-nations-convention-against-corruption-9780198803959?cc=fr&lang=en&> (accessed on 10 February 2022). [2]
- Standards in Public Office Commission (2003), *Code of Conduct for Office Holders*, <https://www.sipo.ie/documents/english/Code-of-Conduct-for-Office-Holders-.pdf> (accessed on 6 May 2022). [25]
- UK Cabinet Office (2019), *Ministerial Code*, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf (accessed on 23 April 2022). [22]
- UK House of Commons (2020), *Annual Report 2019–20*, <https://www.parliament.uk/globalassets/documents/pcfs/eighteenth-annual-report-2019-20.pdf> (accessed on 28 April 2022). [40]
- World Bank, OECD, UNODOC (2020), *Preventing and Managing Conflicts of Interest in the Public Sector*, <https://www.unodc.org/documents/corruption/Publications/2020/Preventing-and-Managing-Conflicts-of-Interest-in-the-Public-Sector-Good-Practices-Guide.pdf>. [33]

Notes

¹ The gaps concerning registration of assets are explored in chapter 4.

² Article 13(g) of the Standards Act empowers the Commissioner for Standards in Public Life to make recommendations for the improvement of any code of ethics applicable to persons covered by the Standards Act and on several integrity topics.

³ Article 3(4) of the Standards Act provides for the amendment of the schedules containing the two codes by means of an order in the Government Gazette issued by the Minister for Justice upon a recommendation of the Committee and with the support of a resolution of the House of Representatives.

⁴ It is worth noting that a number of provisions in the Commissioner's proposals could be included "as is" by the government of Malta in the respective new Codes. To that end, unless otherwise stated in this chapter, the government of Malta could adopt the provisions in the Commissioner's respective proposed codes "as is".

⁵ Under the project "*Improving the integrity and transparency framework in Malta*", in consultation with the Commissioner and his team, the OECD will elaborate a handbook to the Code of Ethics and Guidelines for Members of Parliament containing practical examples adapted to the Maltese context. The examples proposed in this recommendation could be taken from the corresponding handbook.

⁶ Under the project "*Improving the integrity and transparency framework in Malta*", in consultation with the Commissioner and his team, the OECD will elaborate a handbook to the Code of Ethics and Guidelines for Ministers and Parliamentary Secretaries containing practical examples adapted to the Maltese context. The examples proposed in this recommendation could be taken from the corresponding handbook.

⁷ The new provisions on the acceptance, bestowing and registration of gifts, benefits and hospitality will be further analysed in a following section on receiving and bestowing gifts and other benefits.

⁸ Under the project "*Improving the integrity and transparency framework in Malta*", in consultation with the Commissioner and his team, the OECD will elaborate a handbook to the Code of Ethics and Guidelines for Members of Parliament containing practical examples adapted to the Maltese context. The examples proposed in this recommendation could be taken from the corresponding handbook.

⁹ The new provisions on the acceptance, bestowing and registration of gifts, benefits and hospitality will be further analysed in a following section on receiving and bestowing gifts and other benefits.

¹⁰ This issue is further addressed in chapter 4.

¹¹ MPs shall also record the immovable property of their spouse and/or partner, and that of their and their spouses and/or partner's minor children.

¹² Ministers shall also record the immovable property of their spouse and/or partner, and that of their and their spouses and/or partner's minor children.



From:

Public Integrity in Malta

Improving the Integrity and Transparency Framework for Elected and Appointed Officials

Access the complete publication at:

<https://doi.org/10.1787/0ecc469e-en>

Please cite this chapter as:

OECD (2023), “Updating the Codes of Ethics for Ministers, Parliamentary Secretaries and Members of the House of Representatives in Malta”, in *Public Integrity in Malta: Improving the Integrity and Transparency Framework for Elected and Appointed Officials*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/c5b76843-en>

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.