

# bijlage

## Self-assessment and risk analysis of the integrity of candidate members of government

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### **Self-assessment of integrity:**

As a candidate member of government, you are entirely responsible for your own integrity. The interview with the government formateur is central and is therefore the most important moment and opportunity for you as a candidate member of government to openly discuss any integrity risks and vulnerabilities, and to undertake any further necessary control measures prior to your appointment. At the end of the interview, the government formateur will ask whether there are any further facts from the candidate's past or present of which he should be aware, because at some point they could have a negative influence on the performance of the candidate as a member of government or could place the Cabinet in a difficult situation.<sup>1</sup> The questions below serve as a useful tool in identifying potential risks and vulnerabilities, to answer the government formateur's central question.

1. Has a representative of your political party spoken to you about possible integrity risks (of whatever kind, for example an integrity test)? If yes, are there any outcomes relevant for your intended office?
2. Have you made any public statements (in media, including social media) which (could) form a risk in relation to your intended office or the government (for example in interviews, publications, reactions, cooperation provided)?
3. In your working past, has a complaint or integrity procedure ever been submitted against you, relating to your performance. If yes, what was the outcome? Is that outcome (still) relevant for your intended office and if yes, how?
4. Have you in any other way been called to account for dishonest behaviour? If yes, how?
5. Is your CV complete and fully correct?
6. Does your CV match any other CVs or information from CVs issued by you, in public circulation?

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<sup>1</sup> Handbook for Ministers and State Secretaries, the Blue Book, Ministry of General Affairs, page 12.

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7. Do you have any people in your network who to your knowledge at this moment could represent an integrity risk for your office<sup>2</sup>?
8. Do you satisfy the requirements on (ancillary) positions and financial and business interests as outlined in the letter of 20 December 2002 regarding 'Assessment of candidate Ministers and State Secretaries' (Parliamentary Papers II 2002-2003, 28 754, no. 1)? It is advisable to provide transparency about all solutions, solutions still to be implemented and any exceptions.
9. Do you have any other further financial or business interests? Provide a (specified) description.
10. Have you in the past been involved in relevant non-criminal legal proceedings and/or are you involved in current or imminent legal proceedings of whatever kind? In relation to the potential risk of (the appearance of) influencing your performance in office.

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<sup>2</sup> This could relate to the integrity of the person themselves or the fact that these persons have information about you or a relevant case in which you are (were) involved, on which basis this person could attempt to abuse the information.

## Supporting documents to the self-assessment of integrity

### *Own risk analysis for integrity, an introduction*

It is important that the selection, presentation and appointment of candidate members of government be a clear and carefully conducted process, that contributes to an honest and stable administration. An honest, transparent and non-corrupt government where the spending of public funds is in good hands, and abuses are punished, is crucial for the trust of citizens and businesses in the rule of law. Attention for integrity in the current environment is also reflected in the degree to which the administration and people's representatives are and must be resilient to undermining.

Against that background, it is advisable for candidate members of government to assess potential (political) vulnerabilities, before entering the Cabinet. This own risk analysis is primarily in your own interest and serves to promote awareness and alertness to warn you of risks, and to identify vulnerabilities. Those vulnerabilities can often be eradicated through management measures. The government formateur will assist you. It is possible that these management measures will be made public. The self-assessment is limited in its scope and therefore offers no guarantee that all aspects of integrity are covered.

Certainly for people with a rich career history, network and life experience, risks are almost unavoidable. They can however often be mitigated. Integrity is often complex, rarely unequivocal and features coloured and grey areas, and must almost always be viewed against a dynamic, political-administrative reality. As a consequence: 'Integrity is not a question of ownership; it is a constant task and challenge'<sup>3</sup>.

Integrity dilemmas will undoubtedly play a role in your office, but are not always immediately recognised. Even ahead of a next period of office, a self-analysis is advisable and valuable. After all, circumstances constantly change.

### *A good interview*

The primary objective is not the self-assessment itself, but more a good interview on the basis of self-analysis. The self-assessment facilitates the interview about vulnerabilities and management measures, and helps reinforce your own resilience and the stability of the Cabinet.

It is your responsibility to reveal all relevant facts and circumstances, at your own initiative. The accompanying questionnaire is a useful tool and not intended as an exhaustive list of questions. Your privacy is guaranteed in the regular procedure with the government formateur. All material remains your property and any contribution to the questionnaire will be on a voluntary basis.

After the interview with the government formateur, you must however issue a written statement to the formateur, according to the example appearing on page 79 of the Handbook for Ministers and State Secretaries.

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<sup>3</sup> Grey, study into backgrounds and risk factors for administrative integrity; study commissioned by the Ministry of the Interior and Kingdom Relations, 2012.

### *Knowledge*

You are at least assumed to be fully cognisant with the letter dated 20 December 2002 Assessment of candidate Ministers and State Secretaries (Parliamentary Papers II 2002-2003, 28 754, no. 1).

You are also assumed to be cognisant with the following sources, before you take up office:

1. The Handbook for Ministers and State Secretaries, the so-called Blue Book.
2. The Code for Good public administration
3. Code of Conduct for Integrity in the Central Public Administration (GIR)<sup>4</sup>.
4. Instructions for national service in relation to protocol (no.3884909) in particular instructions 1, 3 and 4.<sup>5</sup>

### *(Ancillary) positions and financial and business interests*

Because the issue of (ancillary) positions and financial and business interests is complex, below a number of passages on these issues are reproduced from the Handbook for Ministers and State Secretaries.

A candidate member of government must set aside all paid and unpaid positions, ancillary positions and other ancillary activities, prior to the swearing in of the Cabinet. Only under special circumstances and subject to express permission from the government formateur can a specific position be continued, whether or not for a specified period. In addition, in the interview between the government formateur and the candidate, a systematic examination will be conducted into whether the affected person has controlling rights in relation to relevant financial or business interests.

Where this is the case, the candidate must either fully distance himself from these interests, or take (preparations) for a provision whereby throughout the period of office, he is unable to exercise these controlling rights, during the period of office. It must be remembered that in this framework, paid and unpaid positions, ancillary positions, ancillary activities and controlling rights of partners and family members of candidate members of government can become items of public interest. In the interview with the government formateur, the candidate must fully and faithfully report all relevant facts (see also section 5.4.4).<sup>6</sup>

### *Positions, ancillary positions and other ancillary activities*

During the interview, the government formateur will inform the candidate that he/she must set aside all paid and unpaid positions and ancillary positions and other ancillary activities, prior to the swearing in of the Cabinet. The aim is to

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<sup>4</sup> In its recommendation, GRECO calls for a code of conduct for Minister and State Secretaries, in which frameworks are laid down for honest task performance. These frameworks can be derived from the Code of Conduct for Integrity in the Central Public Administration (GIR). Although this code of conduct does not apply directly to members of government, it does contain clear principles for their task performance, Parliamentary Papers 2018-2019; 35.000 VII, no. 9.

<sup>5</sup> Regulations from the Prime Minister, Minister of General Affairs, dated 13 July 2016, no. 3884909, regarding the adoption of Instructions for Protocol, Netherlands Government Gazette 2016, 38170, 21 July 2016.

<sup>6</sup> Handbook for Ministers and State Secretaries, the Blue Book, Ministry of General Affairs, page 11.

avoid any possible appearance that ancillary positions or other ancillary activities could detract from objective decision making. Moreover, the office of the member of government is so demanding and important that it requires the total dedication of the persons in question. The terms (ancillary) position and ancillary activity must thereby be interpreted as broadly as possible. In other words, also volunteer positions in clubs or associations, part-time professorships, editorial positions and memberships of committees of recommendation. The 'dormant' continuation of a position by means of a so-called zero-hours contract is not permitted. Simple membership of an association (i.e. not in a board position) is not covered by this ruling.

If the candidate nonetheless sees a reason for continuing a specific position, whether or not for a specified period, this is only possible subject to the express permission of the government formateur. It has for example been the case in the past that a candidate member of government was permitted to supervise a small number of post-doctoral students, whose research was almost completed. This behaviour line also implies that once in position, a member of government may only accept an ancillary position in exceptional circumstances, and even then only following written permission from the Prime Minister. In the same way, a member of government must submit any intention to enter into negotiations about a future post to the Prime Minister, for approval, in advance.

#### *Financial and business interests*

In respect of financial and business interests of the members of government, here too, any appearance must be avoided of any limitation of objective decision making. In that connection, not only the policy field for which the member of government is directly responsible is relevant. As a member of the Cabinet, after all, a member of government is involved in the decision making on all subjects discussed in the Council of Ministers. For that reason, over the years, very strict rules of conduct have been drawn up to which candidate members of government must commit themselves. In the interview between the government formateur and the candidate, a systematic examination will be therefore conducted into whether the affected person has controlling rights in relation to relevant financial or business interests.

Where this is the case, the person involved must either fully distance himself from these interests, or make a provision whereby throughout the period of office, he/she can/will not exercise the controlling rights, during the period of office.

The appendix contains a non-exhaustive list of the guidelines employed in relation to financial or business interests and possible solutions accepted to date in the event of the risk of apparent conflict of interests. I would therefore draw your attention to the fact that the underlying principle is that financial and business interests of a partner, adult children and other family members are as a rule not considered relevant. The motivation for this is that in the current society, people are viewed as independent individuals who are considered as being economically independent. It is therefore inappropriate to demand of the partner or family members of a candidate member of government to make far-reaching financial or business changes to their life, in order to enable the candidacy of the person in question. It is also undesirable that the office of member of government

be made inaccessible for a large group of suitable candidates, merely because of the social position of their partner or relatives. The limit for relevant financial and business interests relevant during the formation is therefore placed with the interests over which the candidate member of government has personal (joint) control. For that reason, the financial and business interests of minor children and of a partner in a marriage subject to a community of property are considered relevant. This demarcation is without prejudice to the fact that during a period of office, a member of government him or herself bears responsibility for not participating in a decision-making process about matters which affect his or her partner, children, other family, business relations, (former) interests or past positions, in as much as such participation could be in contravention of the correct fulfilment of the office. Specifically also in relation to financial and business interests, it is essential that the sharing of responsibility between government formateur and candidate be closely monitored. It is the responsibility of the government formateur to systematically deal with this subject in the interview with the candidate. It is the responsibility of the candidate to fully and truthfully and completely report all relevant facts. If during the interview potentially incompatible financial and/or business interests are discovered, it is the responsibility of the candidate member of government to make appropriate adequate provisions, in a timely manner, taking account of the guidelines in the appendix. The government formateur will take note in outline of this situation, and is merely required to indicate, in the case in question, whether the selected solution appears plausible to him.

It goes without saying that the government formateur can never independently acquire a complete picture of the business interests of the person in question, and their legal nature. In assessing the business interests and the chosen proposed solution, the government formateur must rely on the information provided by the candidate member of government. As a consequence, the only option he has is to assess in outline whether the person in question has selected an adequate solution for the observed problem points. The government formateur is also unable to check whether the person in question has subsequently correctly implemented the agreements. The responsibility for the chosen proposed solution and its correct implementation therefore remain fully with the candidate member of government. This applies all the more because major personal financial interests may be affected, such that only the person involved can balance the advantages and disadvantages for him or herself, of the possible proposed solutions.

Also during the period of office, the member of government is naturally not permitted to create any financial or business interest that violates the above described guidelines.<sup>7</sup>

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<sup>7</sup> Handbook for Ministers and State Secretaries, the Blue Book, Ministry of General Affairs, page 74-75.