



GUIDELINES FOR THE DEVELOPMENT OF A CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICERS

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1 INTRODUCTION

The Public Officer Ethics Act (POEA) requires that each Commission created under the Act establishes a specific Code of Conduct and Ethics for public officers for which it is responsible. The specific Code established by a Commission must include all the requirements in the general Code of Conduct and Ethics under Part III of POEA. Some public institutions do not have specific Codes of Conduct and Ethics for their employees in accordance with the Act. This is a guide to such institutions. It provides an outline of the format and the minimum requirements expected in a Code of Conduct and Ethics.

1.1 DEFINITION OF A CODE OF CONDUCT AND ETHICS

A Code of Conduct can be defined as generally accepted rules that govern and regulate behaviour, relationships and actions of members of an organization/institution.. The word Ethics is derived from the Greek word – “Ethika”, from ethos; character; custom; principles of human conduct, sometimes called morals (Latin mores, customs). Thus, a Code of Conduct and Ethics lays down the standards of what is acceptable and unacceptable in an institution. The standards can be value-based or rule-based (or a combination of both).The Code also provides for penalties in case of breach.

A distinction should be made between a Code of Conduct and Ethics and a Code of Regulations. The latter spells out procedures, rules and guidelines on how employees should carry out their day to day duties. It also provides responsibilities and rights of employees, limitations on the exercise of the rights as well as remedies for breaches.

1.1.1 THE PURPOSE OF A CODE OF CONDUCT AND ETHICS

- The Code is intended to be a central guide and reference on the conduct of employees in support of day-to-day decision making.
- It is also intended to clarify an organization’s vision, mission, values and principles, linking them with standards of professional conduct.
- It provides visible guidelines to regulate behavior.
- It serves as a tool to encourage discussion of ethics and to guide employees when dealing with ethical dilemmas, prejudices and gray areas that are encountered in everyday work and life encounters.

- It compliments standards, policies and rules of an organization.
- It helps create a positive institutional identity

The Public Officer Ethics Act recognizes that each organization is unique in its set up and it would be unrealistic to impose a uniform Code of Conduct and Ethics for all the organizations. In the absence of a specific Code, the general Code of Conduct and Ethics under Part III of Act applies to all Public Officers.

1.2 FORMULATION OF AN EFFECTIVE CODE OF CONDUCT

A Code of Conduct should:

- Include values, beliefs and expectations rather than facts.
- Be based on the organization's values which are the foundation upon which the Code of Conduct will grow. It should express what a group of people drawn together as an organization believe to be right, good, and fair.
- Be simple and precise
- Provide what constitutes acceptable and unacceptable conduct.
- Give examples when it is appropriate to do so. If there is any doubt about the meaning of a provision, an example may help to provide clarity.
- Incorporate opinions from members of the organization so as to ensure ownership of the document.

Management should ensure that all employees get a copy of the Code.

1.3 COMMON PROVISIONS FOR CODES OF CONDUCT AND ETHICS

Guiding Principles

A Code of Conduct can be brief or comprehensive depending on the objective; It should address a wide variety of issues. The choice of topics to be included in a Code will be influenced by three factors:

- What are the principal laws and regulations applicable to the organization?
- What guidance do we need to offer our intended users?
- What values and principles do we want to impart?

There is need to identify ethical principles that are most relevant to the organization or institution. Some of the values that need to be considered in drafting the Code are:

- Integrity
- Professionalism
- Service delivery
- Respect
- Accountability
- Transparency
- Justice
- Selflessness
- Objectivity
- Honesty
- loyalty
- Leadership
- Decency

The content of a Code can vary substantially across organizations depending on their core business, regulations and requirements. Some of the common provisions found in organizational Codes are set out below. They include:.

- Abuse of office
- Work place harassment
- Equal opportunity
- Discrimination
- Use of organization property
- Maintaining records and information
- Privacy and confidentiality
- Disclosure of information

- Conflict of interest-provision or policy which clarifies a conflict of interest is what staff should do in case of conflict and declaration of interest.
- Gifts and Gratuities-provision or policy which clarifies when it is acceptable to receive gifts or when it is not. How staff must declare gifts in a gift register.
- Outside employment and free or voluntary service
- Indebtedness
- Dress Code
- Social associations
- Employee Health safety
- Political associations
- Handling complaints
- Punctuality / absenteeism /desertion
- Punishment
- Taking illegal instructions
- General conduct and behaviour

In principle, the ethical rules should not:

- Constitute a breach of Human Rights legislation
- Create an arbitrary interference with the employees privacy
- Go to the extent that would not pass the test of reasonableness

The above list is by no means exhaustive. An organization can provide other rules to suit its needs and unique circumstances.

1.4 FORM AND CONTENT OF THE CODE

The purpose of a Code is to capture the spirit and ethos of the organization and attempt to define and protect its culture. It may be an inspirational document aimed at exhorting management and employees to high principles of conduct.

1. Memorable Title

The title should communicate the content clearly while at the same time being memorable enough to grab the attention of its readers. (E.g. "Code of Conduct and Ethics for...")

2. Leadership Letter

This should highlight the intent of the Code i.e why a Code is needed

3. Table of Contents

Looking at the Code may be cumbersome, making it difficult for users to refer to the provisions of the Code. It's therefore necessary to have a well arranged table of contents.

4. Introduction

The Introduction should be clear about the objective that the Code is intended to accomplish. It answers the following key questions:

- Why is the Code important?
- Will it be enforced?
- Is it mandatory for everyone?
- Is it meant to provide guidelines for decision making in areas of managerial/officer's discretion?
- Is it value based or rule based or a combination of both?

Scope of the Code

This should be stated clearly. For example-*The Code applies to all employees of the organization*

5. Statements of Values

This part of the Code should identify and define organizational values. The values should be explained and meanings of the values reinforced. Employees require the definition of the organizational values in order to understand and apply them.

6. Information and Resources

This clause will direct the intended users to other resources in case they have a question or need further clarification or information on the provisions of the Code.

7. Penalty for Breach

This clause should clearly spell out the punishment for violation of any provisions of the Code.

8. Enforcement of the Code

The Code should have a provision for enforcement.

9. Reviews:

A Code of Conduct and Ethics is a living document that must be revisited and revised from time to time to ensure it reflects the latest developments in the organization or institution. The ultimate goal for the employees in the organization is to internalize the document.

10. Gazettement

The Code must be gazetted as provided for under Section.6 (1) of the Public Officer Ethics Act. All employees must be provided with a copy. Provision should be made for them to acknowledge receipt. It is recommended that the organization should sensitize its stakeholders about the Code. It is important that the Code be published to inform the public about its content.

1.4.1 FORMAT OF A TYPICAL CODE OF CONDUCT AND ETHICS

TITLE:

THE CODE OF CONDUCT AND ETHICS OF THE MINISTRY OF MAADILI

PREAMBLE:

The Ministry of MAADILI deals with ...This Code is intended to set out standards of conduct and ethical behavior for officers etc of the Ministry. (Include mission, vision and core values)

PART 1 -PRELIMINARY

Citation /definition and interpretation of the key words

1. This Code may be cited as the Code of Conduct and Ethics for staff etc of Ministry of Maadili

Interpretation

2. In this Code unless the context otherwise requires:-

“The Act” means The Public Officer Ethics Act, 2003”

“Staff” means an employee of the Ministry of Maadili.”

“Public officer-as defined in Section 2 of the Public Officer Ethics Act, 2003” etc

Application

3. This Code applies to staff etc of the Ministry of Maadili .

PART 11 - REQUIREMENTS

Compliance with the Code

4: Staff etc of Maadili shall comply with all the requirements in the general Code of Conduct and Ethics set out in part III of the Public Officer Ethics Act which shall form part of this Code.

Integrity

5: A public officer etc shall be a person of integrity. He/she shall carry out his duties with honesty and impartiality.

Gifts, Benefits, Favors

6: A public officer should not accept gifts, benefits or favours where these may influence or may be seen to influence his or her decisions e.g. accepting a gift from the contractor engaged by the company.

(Define gifts to include the amount and nature of the gift. A provision on acceptable gifts can be accompanied by a form or a register which the officer is required to sign. See an example of such a form in the Appendix to these guidelines)

Conflict of Interest

7: A public officer shall avoid being in a position in which his/her personal interest conflict with his/her official duties.

(An Officer may be advised to declare his/her interest on a prescribed form. See an example of such a form in the Appendix to these guidelines)

Nepotism/Favoritism

8: A public officer shall not favor relatives, friends or associates in decision making or provision of services.

Outside Employment/ Business

9: A public officer shall not engage in any other business or part-time employment which is in conflict with his/her employment.

Conduct in Public

10: A public officer shall conduct himself/herself with dignity both in public and private.

Respect

11: A public officer will treat his/ her fellow officers and the public with courtesy and respect

Non-discrimination

12: A public officer shall not discriminate directly or indirectly individuals on the ground of age, gender, race, disability.

Sexual Harassment

13. A public officer shall not sexually harass a member of the public or a fellow public officer

Workplace Harassment

14. A public officer shall avoid unwelcome, abusive, belittling or threatening behavior to his/her fellow employees.

Confidentiality

15. The Code should define areas of confidentiality.

Dress Code

15. The dress Code will depend on the set up of the organization but the ultimate goal should be decency.

Political Associations

16: Address issue of officers' involvement in politics etc.

Social Associations and Recreation

17. Some social associations might not be in keeping with the dignity of a public officer. E.g. company which may be conducive to corrupt practices. The Code can address such an issue in order to advise an officer to be selective in the company he/ she keeps or places he/she patronizes.

Reporting

18: Provide the structure for reporting breach of the Code.

Penalty

19: Penalty-may include suspension, dismissal, reprimand etc.

Enforcement of the Code

20: Specify who is responsible for enforcement of the Code e.g. the Chief Executive, who can also be provided with authority to delegate as appropriate

Review

21. Make provision for reviewing the Code from time to time or when deemed necessary.

1.4.2 CONCLUSION

The guidelines have made an attempt to address what is expected in specific Codes of Conduct and Ethics for various public organizations. It is the responsibility of each organization to address ethical issues that are peculiar to it.

A format of report of gift(s) received and declaration of conflict of interest are appended to these guidelines.

(Form A)

Report of Gifts Received

To: (approving Authority) _____

Description of Offeror _____

Name and title: _____

Company: _____

Relationship (Business/personal) _____

Occasion on which the gift was/is to be received _____

Description & (assessed) value of gift _____

Suggested Method of Disposal

- o Retained by receiving staff
- o Retained for display/ as a souvenir in the office
- o Shared among the officers
- o Reserve as luck draw prize at staff function
- o Donate to charitable organization
- o Return to offeror
- o Others (please specify)

Date

Name of receiving staff
Title/Department

Part B -Acknowledgment (to be completed by approving authority)

To (receiving staff) _____

The recommended method of disposal is *Approved/Not Approved

The gift(s) concerned should be disposed of by way of: _____

Date

Name of approving Authority
Title/Department

***Please delete as appropriate**

(Form B)

Declaration of conflict of interest

Part A-Declaration (to be completed by declaring staff)

To: (Approving Authority)

I would like to report the following **existing/potential*** conflict of interest situation arising during the discharge of my official duties:

Persons/companies with whom/which I have official dealings and /or personal interest

- 1.
- 2
- 3

Brief description of my duties which involve the persons/companies mentioned above and these are the areas of real/possible conflict of interest.

- 1
- 2
- 3

Date

Name of declaring staff
Title/Department

Part B-acknowledgment (to be completed by approving authority)

To: declaring staff

The information contained in your declaration for.....is noted. It has been decided that:

You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to conflict of interest.

You should continue to handle the work as described in Part A, provided that there is no change in the information declared above.

Other conditions (please specify) -----

Date

Name of approving authority
Title/Department