




COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE
JUSTICE

Code of Conduct
For
Public Officers of Ghana

And

Guidelines

- 1. On Conflict of interest to*
- 2. Assist public officials identity, manage and resolve conflict of interest*



Code of Conduct For Public Officers

Published by the Commission on Human Rights and Administrative Justice

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The Code is also available on: www.chraj.gov.gh

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And

Administrative Justice

Design and Layout: Minipack Press Ltd.

Printing : Minipack Press Ltd

Acknowledgment

The Commission acknowledges with gratitude the collaboration of the following institution/agencies: the Office of the President, Office of Parliament, Public Services Commission, Judicial Service of Ghana, Office of the Head of Civil Service, National Commission for Civic Education Audit Service; Attorney-General's Department, National Security, Ghana Armed Forces, Ministry of Finance, Police Service and State Enterprises Commission.

The Commission appreciates the assistance provided by Mrs. Janet Fofie, Public Service Commission, Mr. Baffour Williams, State Enterprises Commission, Mr. Gallant Akorley, Auditor General's Department and Mr. Kwame Bosompem, CHRAJ, all members of the small group that compiled the Code.

The Code could not have been successfully compiled without the able facilitation of Mr. Ayamdoo Charles, Director Anti-Corruption, CHRAJ.

Of course the Commission indebted to the Deputy Commissioner, Public Education and Anti-Corruption Mr. Richard Quayson for the leadership role he played in the development of the Code, and DANIDA for the funding support.

Mr. Emile Francis Short
Commissioner
CHRAJ

Introduction

Code of conduct for public officers typically set out values, principles and standards of acceptable ethical behavior and conduct. Such codes are important pillars for the entrenchment of good governance principles and are used to combat corruption, enhance public confidence, public accountability and integrity in the Public Service.

Chapter 24 of the 1992 Constitution of the Republic of Ghana requires public officers to avoid unethical behavior or conduct, such as conflicts of interest, illicit enrichment and other improper conduct.

The 1992 Constitution further prescribes certain oaths of office for public officers which should further entrench the said values and standards for public officers. To ensure that these values are adhered to, specific guidelines for implementation and appropriate sanctions are also provided. Art 287 of the Constitution, in particular, grants the Commissioner for the Commission on Human Rights and Administrative Justice (CHRAJ) the authority to investigate and take appropriate action(s) for the contravention or non-compliance of these values and standards embodied in the Code.

SCOPE AND PURPOSE

This Code of Conduct (the Code) forms part of continuing efforts to develop systems and strategies to promote integrity, probity and accountability, dedicated and faithful service to the Republic of Ghana, as well as build and sustain public capacity to combat corruption and related misconduct.

The Code is a generic one. Thus, it is developed to apply to all public agencies, bodies and institutions. It states the general principles only. Public agencies, bodies and other public institutions, using it as a “minimum standard document”, shall develop their in-house codes elaborating on the principles of this Code. They may, in doing so, provide exceptions to the general principles where warranted.

The Code applies to all public officers, including elected, non-elected, or appointed, who are to ensure that the basic values and principles provided in the Code are adhered to.

The Code seeks to promote integrity, probity and accountability, dedicated and faithfully service to the Republic of Ghana. It assists and guides public officers to handle ethical dilemmas that they may encounter through their official and private activities.

1.0 GENERAL PRINCIPLES AND VALUES

- 1.1 PUBLIC OFFICERS SHALL HONOUR AND ABIDE BY THE CONSTITUTION AND LAWS OF GHANA IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES WITH DIGNITY, INTEGRITY, AND PROFESSIONALISM.**
- 1.2 PUBLIC OFFICERS SHALL PERFORM THEIR OFFICIAL DUTIES WITH HONESTY AND EFFICIENCY, ADHERING TO APPROPRIATE STANDARDS.**
- 1.3 PUBLIC OFFICERS SHALL NOT BRING THE PUBLIC SERVICE INTO DISREPUTE THROUGH THEIR OFFICIAL OR PRIVATE ACTIVITIES**
- 1.4 PUBLIC OFFICERS SHALL NOT PUT THEMSELVES IN POSITIONS WHERE THEIR PERSONAL INTERESTS CONFLICT OR ARE LIKELY TO CONFLICT WITH THE PERFORMANCE OF THE FUNCTIONS OF THEIR OFFICES.**
- 1.5 PUBLIC OFFICERS SHALL MAINTAIN POLITICAL NEUTRALITY IN THE PERFORMANCE OF THEIR FUNCTIONS.**

PRINCIPLE 1.1

PUBLIC OFFICERS SHALL HONOUR AND ABIDE BY THE CONSTITUTION AND LAWS OF GHANA IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES WITH DIGNITY, INTEGRITY AND PROFESSIONALISM

- 1.1.1 Public officers in the performance of their official duties shall act with professionalism and integrity
- 1.1.2 Public officers shall serve the State with honesty, fairness, integrity, neutrality and impartiality.
- 1.1.3 Public officers shall ensure that their personal interests or activities do not interfere with or appear to interfere with their obligations to serve the state

PRINCIPLE 1.2

PUBLIC OFFICER SHALL PERFORM THEIR OFFICIAL DUTIES WITH HONESTY AND EFFICIENCY, ADHERING TO APPROPRIATE STANDARDS

- 1.2.1 Public officers shall at all times have the public interest in mind.
- 1.2.2 Public officers shall protect non-public confidential and or classified information at all times
- 1.2.3 Public officers shall protect non-public confidential and/or classified information without written authority.
- 1.2.4 Public officer shall not seek or obtain personal or private benefit from the use of information acquired in the course of their official duties.
- 1.2.5 Public officers shall serve the public in an unbiased and impartial manner

PRINCIPLE 1.3

PUBLIC OFFICERS SHALL NOT BRING THE PUBLIC SERVICE INTO DISREPUTE THROUGH THEIR OFFICIAL OR PRIVATE ACTIVITIES AND CONDUCT.

- 1.3.1 Public officers shall not allow their personal interest, activities or conduct to interfere with or appear to interfere with the performance of their duties/functions.
- 1.3.2 Public officers shall not engage in any activity that may influence or give the appearance of impropriety in the exercise of official duties.
- 1.3.3 Public officers shall not conduct themselves in a manner that undermined the integrity of the public service.

PRINCIPLE 1.4

PUBLIC OFFICERS SHALL NOT PUT THEMSELVES IN A POSITION WHERE THEIR PERSONAL INTEREST CONFLICTS OR IS LIKELY TO CONFLICT WITH THE PERFORMANCE OF THEIR FUNCTIONS/DUTIES

- 1.4.1 Public officer shall not use public office directly or indirectly for private gain
- 1.4.2 Public officers shall not solicit gifts or favours directly or indirectly from any person.
- 1.4.3 Public Officers shall not accept gifts or favours directly or indirectly from any person when such gifts or favours may compromise the objective performance of official functions.
- 1.4.4 Public officers shall not use, or permit the use of, state property for activities not associated with the performance of their official duties.
- 1.4.5 A public officer shall not, on termination of employment, take improper advantage of the public officer's previous office.

PRINCIPLE 1.5

PUBLIC OFFICERS SHALL MAINTAIN POLITICAL NEUTRALITY IN THE PERFORMANCE OF THEIR OFFICIAL FUNCTIONS.

- 1.2.1 Public Officers shall maintain political neutrality in the performance of public functions/duties.
- 1.2.2 Public Officers shall not, in or in connection with the performance of their official functions, act as an agent for or further the interest of a political party.
- 1.2.3 Public Officers shall not engage in political activity that may compromise or be seen to compromise the political neutrality of the public officer's office.

2.0 RESPONSIBILITY FOR IMPLEMENTATION

- 2.1 Heads of Ministries, Departments, Agencies (MDAs) and other public institutions shall develop codes of conduct specific to their agencies (in-house codes) within the framework of this Code.
- 2.2 Heads of Ministries, Department, Agencies and other public institutions shall:
 - a. Ensure that the Code is widely published among staff;
 - b. Ensure that staff knowledge about the Code is regularly updated;
 - c. Ensure that public officers know their personal responsibilities under the Code
 - d. Ensure that up-to-date information about the Code and the relevant policies, rules and administrative procedures of the MDA are available;
 - e. Provide periodic training in ethics and standards of conduct to staff, including mandatory induction courses for all new employees,

- f. Designate an officers to assist in the implantation of the Code
- g. Ensure the establishment of a committee to implement the Code and handle other related matters,
- h. Review the objectives , programmes and plans of the committee with the MDA
- i. Educate monitor and evaluate the performance of the Committees;
- j. Prepare and submit to CHRAJ within four (4) weeks after the end of every six months, a Code of Conduct Compliance Report in a form to be recommended by CHRAJ, and
- k. Submit a copy of the Compliance Report to the National Ethics Advisory Committee established under this Code.

3.0. REPORTING MECHANISM

3.1. Where there is a breach of this Code, a report or complaint may be lodged with the following as appropriate:

- a. Immediate supervisor
- b. Head of Department/Agency/Institution
- c. The Head of Civil Service
- d. The Chairman, Public Services Commission;
- e. Commission on Human Rights and Administration Justice or
- f. Any other body or authority as by law provided.

4.0. DEALING WITH REPORTS/COMPLAINTS

- 4.1. Report of breaches of the Code received shall be kept confidential
- 4.2. All complaints received shall be dealt with promptly and objectively.

5.0. NATIONAL ETHICS ADVISORY COMMITTEE

5.1. A National Ethics Advisory Committee (the Committee) shall be established to promote high ethical standards among public officers. The functions of the Committee shall include the following:

- a. formulate a long-term plan for promoting high ethical standards public service,
- b. monitor and evaluate the plan for promoting high ethical standards in the public service
- c. co-ordinate training programmes relating to the promotion of high ethical standards in public service;
- d. review existing departmental measures relating to the promotion of high ethical standards including the in-house codes and
- e. perform any other functions which are incidental to the objects of the Committee

5.2. The Committee shall consist of the following:

- a. Commissioner for the Commission on Human Rights and Administrative Justice (CHRAJ)
- b. A representative of CHRAJ
- c. Chairman, Public Service Commission or Representative not below commissioner;
- d. Executive Chairman, State Enterprises Commission or Representative of senior rank
- e. A representative of the Attorney-General, not below, Chief State Attorney,

- f. The Head of Civil Service or Representative not below Director
 - g. A representative of the Office of the President, not below Director;
 - h. A representative of the Judicial Service, not below a Justice of the High Court
 - i. One representative not below Director or Equivalent position from each of the following:
 - a. Ghana Education Service
 - b. Ghana Health Service
 - c. Local government Service
 - d. Ministry of Interior
 - e. Ministry of Defence
- 5.3. The Committee may establish subcommittees consisting of members of the Committee or non-members or both to perform a function the Committee may determine.

6.0 WHERE TO GET HELP

- a. The Advisory Committees of MDAs/Institutions
- b. Heads of MDAs/Institutions
- c. Public Service Commission
- d. The Commission on Human rights and Administration Justice (CHRAJ)
- e. National Ethics Advisory Committee

6.1. DEFINITIONS OF KEY TERMS

“Advantage” includes gift, loan, reward, commission, employment or contract, service or favour and exercise of right of power.

“Classified Information” –includes information marked or determined as “top secret”, “secret” “confidential” and restricted which when disclosed to an unauthorized person may cause harm to the nation or institution.

“Confidential Information”- information and material the unauthorized disclosure of which would be prejudicial to the interest of the nation or an institution.

“Conflict of Interest” –refers to a situation where a public officer’s personal interest conflicts with or is likely to conflict with the functions of his/her office

“Gift”- something of value given without the expectation of receiving something in return.

“Non-Public information” information that a public officer gains by reason of the public officer’s employment and which the public officer knows or reasonable ought to know has not been made available to the general public nor has been authorized to be made available to the public no request.

“Private interest” is financial or other interest of the public officer and those of

- i. Family members, relatives
- ii. Personal friends
- iii. Clubs and associations
- iv. Persons to whom the public officer owes a favour or is obligated.

“Professionalism” – high standard (performance) expected from a person well trained in a particular job.

“Public interest” – includes any right or advantage which ensures or is intended to ensure to the benefit generally of the whole of the people of Ghana.

“Public Officer” a person who holds Public Office.

“Public Office.”-includes an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of monies provided by Parliament and an office in a public corporation established entirely out of public funds or moneys provided by Parliament.

ISSUED, THEDAY OF2009

**GUIDELINES ON CONFLICT OF
INTEREST
TO
ASSIST PUBLIC OFFICIALS IDENTIFY, MANAGE
AND RESOLVE CONFLICT OF INTEREST**

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Acknowledgement

The Commission is indebted to all those who gave their time and expertise to the development of the Guidelines. In developing these Guidelines, the Commission benefited from literature on the subject matter from some institutions and organizations. In particular, the following were consulted and the Commission is grateful for it:

City of Chicago (Governmental Ethics Ordinance);US State Department (Ethic Handbook);US Office of Governmental Ethic(standards of Ethical Conduct of Employees of the Executive Branch); Organization of Economic Cooperation and Development (OECD) (Recommendations of the OECD Council on Guidelines for Managing conflict of interest in Public Service); Transparency International (TI) (Working Papers on Conflict of Interest Policy); State University of New York (policy on Conflict of interest); British Columbia Civil Liberties Association (Position Paper Conflict of interest and Public Sector Interests); Parliament of Latvia (Law on Prevention of conflict of interest in Activities of Public Officials.

The Commission expresses its gratitude to the Ghana Anticorruption Coalition, Chief direct of Ministries Departments and Agencies, the Labour Unions of Ghana, Ghana Political Parties, the Media and the entire staff of the Commission for making useful suggestions towards the development of the Guidelines

The Commission commends the Anticorruption Department of the Commission for working tirelessly to produce the Guidelines.

Without financial support it would have been extremely difficult for the Guidelines to see the light of day. The Commission extends its appreciation and special thanks to DANIDA/Danish Ombudsman for the support.

Ms. Anna Bossman
(Ag. Commissioner)

ARRANGEMENT OF SECTIONS

SECTION

i. ACKNOWLEDGEMENT

II. PREAMBLE

1.0. GENERAL PRINCIPLES

2.0. DEFINING CONFLICT OF INTEREST

3.0. IDENTIFYING CONFLICT OF INTEREST SITUATIONS

3.1.0 Conflicting Financial Interest

3.2.0 Self-dealing

3.3.0 Impartiality in Performing Official duties

3.4.0. Recruitment, Employment and Moonlighting

3.4.1 Procedures for Recruitment and Employment

3.4.2 Recruitment and Employment of Spouses and Relatives or other Relations

3.4.3. Out of Office Employment t Activities or Moonlighting

3.5.0. Abuse/Misuse of Office

3.5.1. Use of Public Office for Private Benefit

3.5.2. Inducement or Coercion of Benefit

3.5.3. Use of Non-Public or Confidential Information

3.5.4. Use of Public Property

3.5.5. Use of Official time

3.5.6. Use of a Subordinate's Time

3.5.7. Influence Peddling

3.6.0. Post-Employment Activities

3.7.0. Gifts, Gratuities and Other Benefits

3.7.1. Accepting Gifts

3.7.2. Non Prohibited Gifts

3.7.3. Gifts and Gratuities Check List

3.7.4. Disposal of Prohibited Gifts

4.0: DEALING WITH CONFLICT OF INTEREST SITUATIONS

4.1. Assessment and Evaluation of the Situation

4.2 Disclosure of Conflicting Interests

4.3 Resolution and Management of Conflict of Interests

5. 0. IMPLEMENTATION OF THE GUIDELINES

5.1. The Role of the leadership or management of Public Offices

5.2. The Role of the Individual Public Official

5.3. The Role of the Commission

5.0. DEFINITIONS OF TERMS USED

Preamble

Public office is a trust, which every officer occupying such office must serve in the interest of the general public. Increasingly, the Ghanaian public expects and demands that public official must perform their duties with integrity, in a fair and unbiased manner. Public officials are therefore expected not to allow their private interest and affiliations to compromise official decision making and public management. When public officials breach the duties of the trust, a conflict of interest situation arises.

Chapter 24 (Articles 284-288) of the 1992 Constitution of Ghana (the Constitution) provides a code of conduct for public official. Article 284 of the Constitution provides that: “A public officer shall not put himself in a position where his personal interest conflict or is likely to conflict with the performance of the functions of his office”.

Article 285 states that no person shall be appointed to act as the Chairman of the governing body of a public corporation or authority while he holds a position in the service of that corporation or authority.

Article 286 requires some category of public officials to submit to the Auditor-General written declarations of all assets, property owned by or liabilities owed by them, whether directly or indirectly on assumption of office, after every four years and after they have served their terms of office.

The Commission on Human rights and Administrative Justice (the Commission) was established to investigate complaints of fundamental human rights and freedoms, administrative injustices, corruption and abuse of power, among others. It is also entrusted with the responsibility of ensuring that public official do not allow their private interest to compromise their official decision-making and in public management, and where a conflict occurs, to investigate the conflict and take appropriate action.

Article 287 of the Constitution mandates the Commission to investigate allegations of contravention or non-compliance of the code of conduct for public officers, including conflict of interest, non-declaration of assets and illegal acquisition of wealth by public officers. The Article also provides that after

investigations, the Commissioner for Human Rights and Administrative Justice may take such action, as the Commissioner considers appropriate in respect of the results of the investigation or the admission.

However, the Constitution does not define in detail the situations which constitute conflict of interest, neither is there a document providing for the codes of conduct for the several public officers there are in Ghana, which the Commission could fall on in determining complaints of conflict of interest made against public officials. The absence of such a definition of conflict of interest, and a unified code of conduct for public officers makes the procession of allegations “... That a public officer has contravened or has not complied with a provision of this Chapter.... [Chapter 24 of the Constitution]...” before the Commission, an uneasy task, for both the Commission and the public officer against whom the allegation has been made.

Moreover, as public officials have legitimate interests, which arise out of their capacity as private citizens, conflict of interest cannot be avoided or prohibited altogether. The requires that conflicts of interest should be defined, identified and managed.

It has been found that many corruption cases that the Commission has had to investigate arose because of conflicts between the public interest and private, professional or commercial interest. This makes understanding, identifying and managing conflicts of interest one of the most important strategies for combating corruption.

The lack of sufficient clarity in matters of conflict of interest and code of conduct for public officers has helped to lower the trust that people have in public institutions in Ghana

Determined to revive this trust and resort the best of Ghanaian traditions while at the same time responding to the challenges presented to our continent by a rapidly-changing and increasingly competitive world; and

Dedicated to building a Ghanaian society characterized by fairness and in which those who are placed in positions of leadership are facilitated in the discharge of their duties by the existence of clear guidelines for the conduct expected of them

by their people, these Guidelines are issued to assist public officers identify and deal with conflict of interest situations in their work as people entrusted to administer the affairs of State on behalf of the people of Ghana.

The Guidelines adopt a simple explanatory approach and are made practical to assist effective identification and management of conflict of interest situations.

The main objective of providing these Guidelines is to improve the efficiency, effectiveness, professionalism, and fairness in implementing the mandate of the Commission as provided for under Chapter 24 of the Constitution. The Guidelines would be useful to private persons who deal with public official in their official capacities.

The specific objectives of the Guidelines include:

- i. providing a general framework for determining conflict of interest situation;
- ii. guiding public officials in the conduct of public business to address unethical behavior in all public offices;
- iii. ensuring public confidence and the integrity of the public service;
- iv. serving as a sign post/benchmark for the Commission in the exercise of its mandate under Chapter 24 of the Constitution;
- v. promoting a public service culture where conflicts of interest are properly identified and resolved or managed; and
- iv. Educating the public and increasing awareness of conflict of interest situations.

The Guidelines do not attempt to cover every possible situation in which conflicts of interest may occur. Instead the Guidelines are designed as a general policy and practice reference that is relevant to a rapidly changing social environment of the country.

Section 1 discusses General Principle's underlying conflicts of interest. Section 2 provides the definition of conflicts of interest and Section 3 deals with identification of conflict of interest situations. The section covers conflicting financial interest, impartiality in performing official functions, rules regarding recruitment and employment, misuse or abuse of office or position for private benefits, and many others.

Section 4 offers suggestions to the public officer as to what to do when confronted with a conflict of interest situation, be it real, potential or apparent. Section 5 provides for implementation of the Guidelines.

Definitions of key terms and words used in the Guidelines are found in Section 6. Where legislation has provided definitions for certain words that have been used in the Guidelines, such legislative definitions have been adopted within the context of the Guidelines.

Chapters 18 and 24 of the 1992 Constitution of Ghana, the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) and the Commission on Human Rights and Administrative Justice (Complaints Procedure) Regulations, Constitutional Instrument No 7 (C.I.7) have been annexed to the Guidelines. These are found in Section 7.

GUIDELINES

Issued by the Commission on Human Rights and Administrative Justice (CHRAJ), Ghana, Entitled Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflict of Interest.

Date Issued: 6th December, 2006

1.0 GENERAL PRINCIPLES

Public service is a public trust. Public Officials should not engage in any business or transaction or have any financial, personal or other interest that is , or may appear to be , or has the potential to be incompatible with the performance of the official duties.

In the performance of their official duties, Public Officials should not seek or accept personal or private benefit by granting preferential treatment to any persons.

Public Officials should not solicit gifts and favors from persons with whom they have contact in their official capacity.

Public Officials should not accept gifts and favors of economic value from persons with whom they have contact in their official capacity, unless duly authorized.

Public officials should not use, or permit the use of government property for activities not associated with the performance of their official duties.

Public officials should not seek or obtain personal or private benefit from the use of information acquired during the course of their official duties, which is not generally or immediately available to the public.

Though personal Conduct and the exercise of individual freedom are substantially matters of personal choice, the exercise of such freedom should not:

- i. make the public official vulnerable to pressure to use his or her public office improperly (such as with alcohol addiction);
- ii. bring significant discredit to the government, State or a particular Ministry, Department of Agency (MDA); and
- iii. Undermine the integrity of the public office.

2.0. DEFINITION OF CONFLICT OF INTEREST

A “Conflict of Interest”, refers to a situation where a public official’s personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.

In other words, a conflict of interest includes:

- i. any interest or benefit, financial or otherwise, direct or indirect;
- ii. participation in any business transaction or professional activity;
- iii. an incurring of any obligation of any nature, or an act or omission;
- iv. an act or omission

Which is or appears or has the potential to be in conflict with the proper discharge of a public official’s duties in the public interest.

Conflict of interest occurs when a public official attempts to promote or promotes a private or personal interest for himself/herself or for some other person, and the promotion of the private interest then results or is intended to result or appears to be or has the potential to result in the following,

- i. an interference with the objective exercise of the person’s duties; and
- ii. an improper benefit or an advantage by virtue of his/her position

3.0 Identification of Conflict of interest situation.

3.1 Conflicting Financial Interest

This section covers financial interest of a public official which may conflict with his/her official duties. It provides for conflict of interest situation in award of

contracts for goods and services, procurement of goods and services, self-dealing and other related matters.

General Rule: A public official shall not participate in an official capacity in any particular matter which to his knowledge

- .i. he/she has a financial interest; and
- ii. any person whose interest are imputed to his in any way has a financial interest; if the particular matter will have a direct effect on that interest.

3.2 Self-dealing:

A public official shall not take an action in an official capacity which involves dealing with him/herself in a private capacity and which confers a benefit on himself/herself.

An example of self-dealing is the practice where tender board members bid for public contracts, which the board manages.

3.3 Impartiality in Performing Official Duties

This section deals with personal as well as business relationships and situations where the public official's conduct is likely to result in the loss of impartiality in performance of official duties.

3.3.1 General Rule

A public official shall not participate in a matter involving specific parties, which he /she knows is likely to affect the interest of a member of his/her family, friend or partner if a reasonable person with knowledge of the facts would question his/her impartiality in the matter.

3.4 Recruitment, Employment and Moonlighting

This section focuses on procedures for recruitment, employment and moonlighting or out-of-office employment activities.

3.4.1 Procedures for Recruitment and Employment

General Rule: A public official shall comply with procedures established for recruitment or employment into public service.

3.4.2 Recruitment and Employment of Spouses and Relatives or other Relations

General Rule: Public officials are prohibited from recruiting and employing spouses, relatives and other close associates based on those relative for example, old boys and girls, membership of association, etc.

3.4.3 Out of Office Employment Activities or Moonlighting

General Rule: A public official should not engage in, solicit, negotiate for, or accept private employment or render services for private interests or conduct a private business when such employment, service or business creates a conflict with or impairs the proper discharge of the official's duties.

3.5. Abuse/Misuse of Office

This section contains provisions relating to the improper use of public office, official time and authority, information and resources to which a public official has access because of his position in employment, such as the following:

- .i. Use of public office for private benefit,
- ii. inducement and coercion of benefits;
- iii. use of non-public information
- iv. use of public /government property,
- v. use of official time ,and
- vi. influence peddling

3.5.1 Use of Public Office for Private Benefit

General Rule: A public official shall not use his public office for his/her own private benefit, for the endorsement of any product, service or enterprise, or for the private benefit of friends, relatives, or persons with whom the public official is affiliated in a private capacity, including political parties, non-profit organizations of which he/she is an officer or member, and persons with whom the public official has to seek employment or business relations.

3.5.2. Inducement or Coercion of Benefit

General rule: A public official shall not use or permit the use of his/her position or title or any authority associated with his/her public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself/herself or to friends, relatives, or person with whom the public official is affiliated in a private capacity.

3.5.3 Use of Non-Public or Confidential Information

General Rule: Public officials owe it a duty it a duty to respect and protect non-public or confidential information to which they have access in the course or their official duties. As such public officials should not disclose to others, or use to further their personal interest, such information acquired by them in the course of their official duties.

3.5.4 Use of Public Property

General Rule: A public official has a duty to protect and conserve public property and shall not use such property, or allow its use, other than for authorized purposes, and shall exercise reasonable care when using such property and assets.

A common violation of this rule includes using government telephones for private calls, taking pencils meant for office use home for the use of ones school children, significant private use of government vehicles, fuel coupons, accommodation, computers or reams of paper.

3.5.5 Use of Official Time

Use of a Public Official's Own Time

General Rule: Unless authorized in accordance with law or regulations to use such time for other purposes, a public official shall use official time in an honest effort to perform official duties.

3.5.6. Use of a Subordinate's Time:

General Rule: A Public official shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or duties authorized in accordance with law or regulation.

3.5.7 Influence Peddling

General Rule: No public official may use his/her office to seek to influence a decision to be made by another person to further his/her private interest.

3.6. Post- Employment Activities

Post –Employment covers situations where public office holders act after they leave public office in such a manner as to take improper advantage of their previous office

General Rule: Public officials ought not to conduct themselves after leaving office in such a manner as to take improper advantage of their previous public office. Therefore, no public official shall, for a minimum of two years after termination of the public official's term of office or employment, assist or represent any person in any business transaction involving his/her former office or the State if the public official participated personally or supervised the subject matter of the transaction during his/her term of office or employment.

This rule raises the issue of how to strike an appropriate balance between the right of public officials to move between public and private sector employment and the need to prevent abuse of confidential information and preserve public trust and the integrity of public officials. It is advisable that in order not to fall into a conflict of interest situation, a public official who wishes to engage in post-employment activities should consider the following:

- i. are there any prohibitions general on the official engaging in employment after leaving public service that conflict with his/her official duties; and

- ii. are there any organization-specific requirements, which should be satisfied prior to taking up the employment?

At no time should a retired public official or an official who has left public service make use of official information gained whilst in public office to further his/her private interests.

3.7. Gifts, Gratuities and Other Benefits

3.7.1 Accepting Gifts

General Rule: A public official shall not:

- i. solicit gifts, tangible or intangible, directly or indirectly from persons with whom they come into contact in relation to official duties.
- ii. accept gifts, tangible or intangible , that may or appear or have the potential to influence the exercise of their official functions, proper discharge of their duties or their judgment , indirectly from a person with whom they come into contact in relation to official duties and;
- iii. accept cash of any amount.

3.7.2. Non-Prohibited Gifts

A public official may accept the following gifts where it will not appear to influence or result in influencing the performance of official duties.

- i. unsolicited gifts of Souvenirs
- ii. Gifts from family members on the basis only of that relationship.
- iii. Reduced Membership or other Fee/Dues for being members of professional organizations/activities offered generally to members of the organization known to the public.

- iv. Gifts/Benefits from the business or employment of a spouse if such gift/benefit is being extended to families and which has not been offered on the basis of the public official's position.
- v. Social invitations from person other than prohibited sources
- vi. Awards, Honorary Degree and Honoraria if such gifts are bona fide awards or incident to the bona fide awards or honoraria given for meritorious public service or professional achievement by the public official provided that the award, degree or honorarium is made as part of an established program of recognition and is funded wholly or in part to ensure its continuation on a regular basis and the selection of recipients is made pursuant to a transparent criteria.

3.7.3 Gifts and Gratuities Check List

A public official should consider the following checklist when offered a gift:

- i. Is this gift in appreciation for something I have done in my role as a public official, and not Sought or encourage by me?
- ii. If I accepted this gift, would a reasonable person have any doubt that I would be independent in doing my job in the future, when the person responsible for this gift is involved or affected?
- iii. If I accepted this gift, would I feel free or any obligation to do something in return for the person responsible for the gift, or for his/her family or friends/associates?
- iv. Am I prepared to declare this gift and its source, transparently to my organization and its clients, to my professional colleagues, and to the Internal Revenue Service?
- v. Will donor expect something substantial from me in return?

- vi. Is an attempt being made to persuade me to do something that is prohibited by law, or contrary to regulations or my organization's policy?
- vii. Is an attempt being made to gain an unfair competitive advantage by influencing my discretionary decisions?

3.7.4 Disposal of Prohibited Gifts

Gifts offered/accepted in violation of the exceptions must be politely but firmly declined or immediately returned to the sender if delivered without prior notice. Alternatively, the official should pay the market value for the gift. When it is not practicable to return tangible items because it is perishable, the item should be given to an appropriate charity.

4.0: Dealing with conflict of interest situations

As soon as conflict of interest situation is foreseeable, the public official must take all appropriate steps to extricate himself/herself from the situation. Such steps may include:

- i. Reporting the conflict of interest situation and its circumstance to his/her superior officer or
- ii. Removing himself/herself from the conflict of interest situation

4.1 Assessment and Evaluation of the Situation

As private and personal interest can cloud a person's objectivity, it requires good judgment to recognize that one is in a conflict in interest situation. As such, it may be a lot easier to recognise when others are in a conflict that when one is. Therefore, it would be useful to talk to your head of department or an authorized officer and seek advice when one is in doubt. Better still, when in doubt the official should go through one or more of the following:

- i. is all the relevant information available to ensure proper assessment of the situation?

- ii. what is the nature of the relationship or association that could give rise to the conflict?
- iii. is legal advice needed
- iv. What are the laws governing the situation?
- v. is the matter one of public interest?
- vi. could the individual's involvement cast doubt on the organization's integrity?
- vii. how would it look to a member of the public or to a potential contractor or supplier to the organization?
- viii. what is the best option to ensure impartiality and fairness and to protect the public interest?

4.2. Disclosure of Conflicting Interest

Whenever a conflict of interest situation occurs or is likely to occur, the public official must make a disclosure of the situation as provided by law or as follows:

What to disclose: assets and liabilities, gifts, conflicting interest, outside employment; and NGO activities

How to disclose: in writing, verbal and surrendering the item

When to disclose: as soon as a conflict of interest situation occurs or likely to occur; and when in doubt.

To Whom: CHRAJ; superior officer/head of institution; and ethic committee or compliance officer or a similar set up within the institution.

4.3 Resolution and Management of Conflict of Interest

Conflict of interest may be resolved or managed by one or more of several ways, including the following:

- i. Divestment or liquidation of the interest by the public official'
- ii. detachment of the public official from involvement in an affected decision-making process;
- iii. restriction of access by the affected public official to particular information;
- iv. transfer of the public official to duty in a non-conflicting function;
- v. re-arrangement of the public official's duties and responsibilities;
- vi. resignation of the public official from the conflicting private –capacity function; and
- vii. Resignation of the public official from the public office.

5. Implementation of the Guidelines

A successful prevention and management of conflict of interest situations depend on effective implementation of the Guidelines. Accordingly, public officers, the Management of the Public Offices, and the Commission have been assigned specific roles in these Guidelines.

5.1 The Role of the leadership or management of Public Offices

The role of the leadership or management of public offices includes:

- i. developing in-house or organisational conflict of interest policies (in-house policies) in conformity with the Guidelines,

- ii. ensuring that the in-house policies are widely publicized among staff.
- iii. providing orientation on the Guidelines and the in-house policies for new entrants into public service, as well as serving staff and ensuring that all the new entrants upon initial appointment or on taking up their positions or functions, are given copies of the Guidelines and in-house conflict of interest policy'
- iv. providing clear orientation on conflict of interest prevention and management
- v. providing staff working in the office, copies of the in-house organisation's policy statements on conflict of interest which they would sign for;
- vi. regularly reminding public officials of the application of the policy in changing circumstances, and in particular ensure that public officials know how the rules are applied in the organization and what personal responsibilities they bear in the endorsement of the rules;
- vii. providing up-to-date information about the organisation's policy, rules and administrative procedures relevant to conflicts of interest, and clearly establish any additional requirements specific to the organization;
- viii. supporting staff with information and advice, including real-world examples of, and discussions on , how specific conflict of interest situations have been handled in the past and are expected to be handled in the future. In particular, consult with staff on the application of the policy, and ensure that both the rationale and content of the policy are understood and accepted.
- ix. establishing ethics committees or officers to among other duties , promote observance and compliance with these Guidelines and the in-house policies, and ensure that breaches of the Guidelines are dealt with in accordance with the Guidelines compliance with these Guidelines and the in-house policies and ensure that braches of the Guidelines are dealt with in accordance with the Guidelines,

- x. advising customers of the organization and others, including contractors, agents, and partnering bodies on the in-house policies.
- xi. involving staff, their representatives and other interested parties in reviewing in-house policies and consulting them on future prevention measures;
- xii. providing periodic training in ethics and decision making staff in order to help them better appreciate the importance of ethics in public administration and to help them improve decision-making skills in their day to day functions.

5.2 The Role of the Individual Public Official

The primary responsibility for implementing these Guidelines rests with the individual public official who must know and comply with the letter and spirit of the Guidelines.

5.3. The Role of Commission

In pursuance of its constitutional obligations, the Commission would,

- i. ensure the effective enforcement of the Guidelines,
- ii. assist public offices comply with the Guidelines and to submit periodic reports on the implementation of the Guidelines;
- iii. work towards a harmonization of existing laws and regulations with the Guidelines;
- iv. ensure that public official complete declaration of assets forms and submit same to the Auditor-General;
- v. where requested, provide technical assistance to institutions and organisations in developing their in-house policies .

6.0 Definitions of terms used

- 1). Advantage-includes:
 - i. Gift, loan reward, commission
 - ii. Employment or contract
 - iii. Service or favour
 - iv. Exercise of right or power

2). **Confidential or Non-public Information-**

Information that a public officer gains by reason of the public official's employment and which he/she knows or reasonably ought to know has been made available to the public nor been authorized to be made available to the public on request.

3. **Conflict of Interest:** refers to a situation where a public official's personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.
4. **Emolument** - includes salary, overtime or leave pay, commission, fee bonus gratuity, benefit, advantage, whether or not that advantage is capable of being turned into money or money's worth given or granted in respect of any employment or office.
5. **Gift** something of value given gratis or something of value given without the expectation of receiving something in return.
6. Honorarium Payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price.
7. **Incompatible-** business or transaction or financial interest is incompatible if done in violation of these Guidelines or any other law relating to conflict of interest.

8. **Imputed Interest** –interest of specified persons, which would be considered as if they were the public official’s own interests: spouse; child, business partner’ an organization where the public official serves as officer; director, trustee or partner.
9. **Influence Peddling**- the practice of soliciting some form of benefit in exchange for the exercise of one’s official authority or influence.
10. **Private Person** – A person who does not hold public office and includes a corporate body that is not state-owned.
11. **Public/Government property** – includes any form of real or a personal property in which the government/State has an ownership, leasehold, or other proprietary interest, as well as, any right or other intangible interest that is purchased with government funds. The terms includes office supplies, telephones, accommodation, furniture, telecommunications equipment and services, Government mails, printing and reproduction facilities, Government records and government vehicles.
12. **Public Office** –includes on office the emoluments attached to which are paid directly from the consolidated Fund or directly out of moneys provided by Parliament
13. **Public Official** – a person who holds public office
14. **Private interest** – is financial or other interests and covers:
 - i. Family members, relatives
 - ii. Personal friends
 - iii. Clubs and associations
 - iv. Persons to whom one owes a favour or is obligated
15. **Relative** - a person who is related to an official as spouse or as any of the following whether by blood or by adoption: parent, child, brother or sister, aunt or uncle; niece or nephew, grand parent, grandchild’ father in law,

mother –in-law, step father, or step mother, step daughter, step brother or sister, half-brother or half-sister.

16. **Self-dealing** – a situation where one takes an action in an official capacity which involves dealing with oneself in a private capacity and which confers or is likely to confer a benefit on oneself.
17. **Social Invitations** –includes invitations to birthday parties, weddings, outdoorings, end of year get together and funeral ceremonies, dinners and lunches.
18. **Taxable gift** – includes money, including foreign currency, building or a permanent or temporary nature, land, shares, bonds and other securities, business and business assets.

Ms. Anna Bossman
(Ag. Commissioner)