MISSION STATEMENT
We are committed to fighting corruption through effective investigation, detection and prevention of corrupt practices for a corruption free Seychelles.

VISION
To be a robust institution that fosters a corruption free society in an environment of integrity, accountability and transparency.

MANDATE
To investigate, detect and prevent corrupt practices in the government sector as stipulated in The Anti-Corruption Act, 2016.

CORE VALUES
Integrity
Good governance
Transparency
Accountability
Teamwork
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FOREWORD

Managing conflict of interests has gained prominence on both the local and international arena with the coming in force of key anti-corruption drivers such as the Anti-Corruption Act, 2016 (ACA, 2016) and the United Nations Convention Against Corruption (UNCAC).

Article 7 sub-section 4 of the UNCAC states that: “Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest”.

Therefore, signatories of the UNCAC, including Seychelles, are bound by its provisions to adopt, maintain and strengthen systems that promote transparency and prevent conflict of interests. On the domestic level, the ACA, 2016, as subsequently amended, makes conflict of interests a criminal offence. The Code of Conduct and Ethics, 2009, incorporates measures introduced by the Public Officers Ethics Act, 2008 by providing an ethics framework designed to, among other things, deter conflict of interest in the management of public affairs. In Seychelles, which is a small island state, conflict of interests is an issue of concern since everyone seems to be acquainted to each other thus making public officials more vulnerable. To date, the Anti-Corruption Commission Seychelles (ACCS) has received a few cases pertaining to Conflict of Interest (COI) which are yet to be fully investigated.

Managing conflict of interests is an important component of an organisation’s integrity management system. As such, public institutions are called upon to identify and establish proper mechanisms comprising procedures for disclosing COI in writing, prohibiting participation in decision-making processes relating to such decisions and allowing proper recording of the disclosed interest and monitoring.

The absence of an established conflict of interest mechanism often results in inconsistent practices that can create and sustain a perception of malpractice in the public sector. Thus, in view of gauging the existence and effectiveness of conflict of interest mechanisms, the ACCS will be conducting a survey to establish whether the public sector organisations have an established mechanism for managing COI.

Pursuant to our statutory mandate to exercise vigilance and superintendence over integrity systems, it is expected that this handbook will support public sector organisations in establishing and reinforcing a culture of integrity. It should be noted that this handbook focuses mainly on the provisions of the ACA, 2016 relating to conflict of interests. Also, included, is ACCS’s Conflict of Interest Policy (see Appendix 1).
We trust you will find this handbook useful in your endeavour to identify and manage conflict of interests and ensure that public affairs are conducted in line with the highest legal and ethical standards.

United Against Corruption!

--------------------------------------------------------------------------

Hon Justice Duncan Gaswaga

CHAIRMAN

Date: 09th April 2019
<table>
<thead>
<tr>
<th>ACRONYMS</th>
<th>EXPLANATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACA, 2016</td>
<td>Anti-Corruption Act, 2016</td>
</tr>
<tr>
<td>ACCS</td>
<td>Anti-Corruption Commission Seychelles</td>
</tr>
<tr>
<td>AG</td>
<td>Attorney General</td>
</tr>
<tr>
<td>ANB</td>
<td>Anti-Narcotics Bureau</td>
</tr>
<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>CEPS</td>
<td>Citizens Engagement Platform of Seychelles</td>
</tr>
<tr>
<td>COI</td>
<td>Conflict of Interest</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
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<td>FIU</td>
<td>Financial Intelligence Unit</td>
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<td>GMI</td>
<td>Guy Morel Institute</td>
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<tr>
<td>MDA</td>
<td>Ministries, Departments and Agencies</td>
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<td>MDG</td>
<td>Millennium Development Goals</td>
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<tr>
<td>MER</td>
<td>Monitoring and Evaluation Reports</td>
</tr>
<tr>
<td>MNA</td>
<td>Member of the National Assembly</td>
</tr>
<tr>
<td>NA</td>
<td>National Assembly</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>PESTLE</td>
<td>Political, Economic, Social, Technological, Legal, Environmental</td>
</tr>
<tr>
<td>POEA, 2008</td>
<td>Public Officers' Ethics Act, 2008</td>
</tr>
<tr>
<td>POEC</td>
<td>Public Officers Ethics Commission</td>
</tr>
<tr>
<td>PPBB</td>
<td>Programme Performance Based Budgeting</td>
</tr>
<tr>
<td>SDG</td>
<td>Sustainable Development Goals</td>
</tr>
<tr>
<td>SIM</td>
<td>Seychelles Institute of Management</td>
</tr>
<tr>
<td>SWOT</td>
<td>Strengths, Weaknesses, Opportunities, Threats</td>
</tr>
<tr>
<td>UniSey</td>
<td>University of Seychelles</td>
</tr>
</tbody>
</table>
CHAPTER 1: UNDERSTANDING CONFLICT OF INTEREST

1.1 Conflict of Interest
The Organisation for Economic Co-operation and Development Guidelines for Managing Conflict of Interest, 2003 define conflict of interest as:

‘A “conflict of interest” involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interest which could improperly influence the performance of their official duties and responsibilities.’ (OECD, 2003)

A conflict of interest situation may be current, or it may be found to have existed at some time in the past. The OECD Guidelines for managing conflict of interest in the Public Service set four core principles (see Figure 1 below) for public officials to follow in dealing with conflict-of-interest situations in order to maintain trust in public institutions. These include:

(i) serving the public interest;
(ii) supporting transparency;
(iii) promoting individual responsibility; and
(iv) creating an organisational culture that does not tolerate conflict of interest.

Figure 1: Managing Conflicts of interest; Core principles.

A conflict of interest may further be described as a situation in which a public official, while in the exercise of his public duties, has a personal/direct or indirect
interest or where his relative or an associate of his has a direct or indirect interest in a decision that he or the public body has to take and which can improperly influence the public official in discharging his functions. Such direct or indirect interest could be termed as the private interest.

1.2 Seychelles Regulatory Framework

Section 13 of the ACA, 2016 on ‘Declaration of Interests’, contains provisions that guide the conduct of staff of the Commission with regard to situations of conflict of interest. Namely:

1) A person who is present at a meeting of the Commission or any committee at which any matter is the subject of consideration, and in which matter that person or spouse of that person, his or her relative, friend or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall, unless the Commission or the committee otherwise directs, recuse him or herself from the meeting.

2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

Furthermore, in Section 31 of the ACA, 2016 on ‘Disclosure of interest’:

1) Where a public body in which a public officer is a member, director, employee or is otherwise engaged, proposed to deal with any person or company, partnership or other undertaking in which that public officer has a direct or indirect private or personal interest, that public officer shall forthwith disclose, in writing to that public body, the nature of such interest and shall not take part in any proceedings or process of that public body relating to such decision.

2) Where a public officer or a relative or associate of such public officer has a personal interest in a decision to be taken by a public body, that public officer shall forthwith disclose, in writing to that public body, the nature of such interest and shall not vote or take part in any proceeding or process of that public body relating to such decision.

3) A public officer who contravenes the provisions of this section commits an offence.

The Public Officers’ Ethics Act, 2008 (POEA, 2008) sets out a general Code of Conduct and Ethics for public officers. In Section 8 of POEA, 2008, the following responsibilities are expected of a public officer with regard to conflict of interest:

1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any interest in a corporation, partnership or other body, directly or through another person, if holding those shares
or having that interest would result in the public officer’s personal interests conflicting with his official duties.

3) A public officer whose personal interests conflict with his official duties shall –
   a. declare the personal interests to his superior and comply with any directions to avoid the conflict and;
   b. refrain from participating in any deliberations with respect to any matter where his personal interests may conflict with his official duties.

The ‘Public Officers Ethics Commission’ (POEC) ‘Code of Conduct and Ethics. Handbook for Public Officers, 2009’ section ‘2.1.2’ on Integrity states:

“e. Public Officers shall guard against conflict of interest or its appearance and avoid any undertaking that could directly or indirectly compromise their performance or the standing of their organisation.”

This is one of the core values underpinning the Code. Furthermore: the Code, in section 3.1.3, lists ‘avoiding conflict of interest’ as one of the characteristics a public officer should aspire to in achieving a high standard of probity.

1.3 Key Factors Making up a Situation of Conflict of Interest

There are two key factors in a situation of conflict of interests:

I. Private Interest of the public official or his relative or associate
II. Conflict between private and public interests

1.3.1 Private Interest of the Public Official

Private interest refers to the interest /advantage / gain / benefit of the public official (or of his relative* or associate*) in the decision that he or a public body* proposes to take. This interest may influence the objective and impartial judgment of the public official.

Examples of such interests include:

I. property;
II. commercial interests or shares;
III. benefits such as fees, awards of contracts, rewards, premium, concessions, discounts, loans, gifts, hospitality, promotions and appointments, amongst others.

1.3.2 Conflict between Private and Public Interest

All individuals, including public officials, have private interests. Society expects public officials to be objective and independent in the discharge of their functions. Conflict of interests involves a conflict between private interests of the public official and the interests of the public body in which he/she is an employee. The conflict arises when
the public official is confronted with a situation where he/she has a private, direct or indirect, interest in the exercise of his/her functions.
CHAPTER 2: IDENTIFYING SITUATIONS OF CONFLICTS OF INTEREST

2.1. Introduction
It is imperative that ACCS is able to quickly detect and defuse conflicts of interest situations before any impropriety can take place. Situations that may arise into conflicts of interest should be promptly identified and managed adequately so that public officials do not take ‘advantage of their positions to pursue private advantage at the expense of the public interest’ (Transparency International, 2015). In this Chapter, reference will be made to the broad areas that should be subject to regulation and the key risk areas likely to lead to conflicts of interest situation. A few examples are included to demonstrate a practical approach to identifying conflicts of interest situations.

2.2. Approaches to Managing Conflicts of Interest Situations
Three broad approaches including: prohibition, interest disclosure and resolution of conflicts of interest may be employed in managing conflicts of interest situation (see figure 2 below).

Figure 2: Managing Conflicts of Interests approaches

<table>
<thead>
<tr>
<th>Prohibition</th>
<th>Interest Disclosure</th>
<th>Resolution Procedures</th>
</tr>
</thead>
<tbody>
<tr>
<td>holding another post/office in a different branch of government</td>
<td>regularly declare past and present interests</td>
<td>recusal (voluntary or forced) from decision making or participation in discussions</td>
</tr>
<tr>
<td>private sector employment</td>
<td>disclosure of financial assets and other interests</td>
<td>divestment or liquidation of relevant interest</td>
</tr>
<tr>
<td>ownership stake in a private legal entity doing business with government</td>
<td>disclosure of spouses’ and childrens’ interests</td>
<td>restriction of access to information</td>
</tr>
<tr>
<td>accepting certain kinds of employment within a specified time period after leaving office</td>
<td></td>
<td>transfer to another alternative duty/office</td>
</tr>
</tbody>
</table>

The three broad approaches, outlined in figure 2 above, will guide in the effective oversight and enforcement of actions to minimise opportunities that may result into conflicts of interest situations detrimental to the good image of ACCS as a public office. Within the regulatory framework, referred to in Chapter 1, namely: the ACA, 2016 and the POEA, 2008, ACCS expects that its public officers will adhere to specific behavioural standards more relevant to its operations and as included in each
employee’s employment contract. It is against these criteria that any disciplinary proceedings will be facilitated when necessary.

2.3. Conflicts of Interest Key Risk Areas
Situations of conflicts of interests may arise in any public body. However, certain areas may be more prone to risks of conflicts of interest than others. Some of the high risk areas include (TI, 2015):

a. Secondary Employment
   - one of the most obvious conflicts of interest in public office
   - undermines the independence and autonomy of administrative and regulative decision making

b. Procurement
   - can arise at various stages of the procurement process
   - threatens the integrity of the selection outcome
   - risk of outright bribery
   - greatest opportunities of corruption are at the evaluation of bids and awarding of contracts
   - attention should be given to the constitution of bid evaluation committees and the external audit function

c. The Revolving door
   - the promise of future employment, consultancies and board membership can skew an official’s decision making
   - regulate the amount of time an official takes before taking up private sector employment related to their former duties

These risk areas should be carefully managed to avoid any bias or perception of bias in decision taking. Thus, ACCS needs to be proactive and set up appropriate mechanisms to identify and effectively manage situations of conflicts of interests. Please refer to ‘Appendix 4’ for examples of the occurrence of conflicts of interest.
3.1. Why Conflicts of Interest are a matter of concern
The community has a right to expect that all public officials perform their duties in a fair and impartial manner and that the decisions they take are not influenced by self-interest, private affiliations or the likelihood of personal gain.

Conflicts of interest are also an ethical issue. In a situation of a conflict of interest, public officials are in a dilemma. They have to choose between serving their private interest and their duty to serve public interest. In such a situation, very often they fail to take a decision in the public interest when their own private interest is at stake. Even the most ethical person may succumb to temptation when the potential gains or benefits are large.

Therefore, when conflicts of interest situations are not addressed properly, it leads to biased or corrupt behaviour. If a person acts in his personal interest while performing his public duty, he will be acting with bias. Personal interests make it difficult to fulfil one’s duties impartially.

**Scenario**

The Board of a statutory body is deciding upon the recruitment of a consultant. Mike, who is a Board Member, is keen on getting his father appointed to this particular post.

Does it constitute a conflict of interest situation?

It is the duty of public officials to take decisions based on the principles of fairness, impartiality and meritocracy. When a public official has a personal interest in a decision which is to be taken, he must abstain from voting or taking part in any proceedings related to such decision, as the decision may be biased on account of the private interest thus compromising good governance principles.

In the above scenario, Mike, as a public official, will be committing an offence if he participates in a decision where he is having a personal interest. He should not be part of the decision-making process. Specifically, Mike would be in breach of the provisions of the ACA, 2016; Section 13(1) and Section 31.

Conflict of interests situations, if not managed properly undermine:

- meritocracy and fairness;
- public trust; and
- organisations’ reputation and credibility.
3.2. Handling Situations of Conflict of Interest

Managing conflict of interests situations is no longer just an option since, if left unchecked, such situations can breed corruption or a general perception of corruption in public sector organisations. Thus, public bodies have a responsibility to set proper mechanisms to deal with conflict of interests effectively.

The best way to handle conflict of interests is to abide by the principles set out under the ACA, 2016 and POEA, 2008. The legislation sets forth the conduct to be adopted to avoid situations of conflict of interests. Sections 13. (1); 31(1)(2)(3) of the ACA, 2016 and section 8 of POEA, 2008 make it mandatory for public officials in situations of conflict of interests to declare forthwith the interest in writing to that public body and not vote or take part in any proceedings of that public body relating to the decision. A public officer who contravenes the provisions of these sections commits an offence.

To deal with situations of conflicts of interest the law requires that public officials that are members, directors, employees or are otherwise engaged:

I. disclose in writing to the relevant public body the nature of the interest
II. do not take part in any proceedings or process of that public body relating to the decision and
III. where they or their relatives or associates have a personal interest in a decision to be taken by a public body, do not vote or take part in any proceedings or process of that public body relating to such a decision.

It is important to highlight that management of conflicts of interest situations is a shared responsibility of both the public official and ACCS as a public body.

1.3.3 Responsibility of ACCS

Setting up of appropriate systems to manage conflicts of interest

ACCS has the prime responsibility to declare a policy (see Appendix 1) and put in place systems that enable effective management of situations of conflicts of interest. To ensure that its affairs are conducted in line with the legal provisions and the highest ethical standards as obtains in Seychelles, ACCS has established mechanisms which:

- empower public officials to easily identify situations of conflicts of interest through awareness and training sessions;
- allow disclosure of conflicts of interest in writing in a consistent manner;
- exclude public officials, in conflicts of interest situations, from the decision making and voting processes pertaining to a decision;
- keep a record of the outcomes; and
- enable effective monitoring.
The following steps guide ACCS approach to managing conflicts of interest:

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Policy Statement <em>(see Appendix 1)</em></td>
</tr>
<tr>
<td>2.</td>
<td>Adoption of Conflict of Interests Declaration Form and Conflict of Interests Disclosure Register</td>
</tr>
<tr>
<td>3.</td>
<td>Recording</td>
</tr>
<tr>
<td>4.</td>
<td>Replacement of officers</td>
</tr>
<tr>
<td>5.</td>
<td>Advice</td>
</tr>
<tr>
<td>6.</td>
<td>Training</td>
</tr>
<tr>
<td>7.</td>
<td>Monitoring</td>
</tr>
</tbody>
</table>

1.3.4 Responsibility of a Public Officer (ACCS Staff)

In situations of conflict of interests, Section 13(1) of the ACA, 2016 provides for the public officer:

I. to declare their interest or those of their spouse, relative, friend or associate in a matter that is subject for discussion by the Commission or any committee at which the matter is the subject of discussion; and
II. shall, unless the Commission or the committee otherwise directs, recuse themselves from the meeting at which the matter is subject for discussion.

Section 31(1), (2), (3) further demands that the public officer:

I. disclose, in writing to a public body, the nature of private or personal interest that they have with a person, company or other undertaking that the public body is proposing to deal with;
II. disclose, in writing to a public body, the nature of personal interest of the public officer or their relative or associate in a decision to be taken by the public body; and
III. does not vote or take part in any proceeding or process of that public body relating to a decision on a matter where the public officer has a direct or indirect private or personal interest. Contravention of the provision of this section is tantamount to committing an offence.

Moreover, Section 8 of POEA, 2008 expects the public officer to:

I. use his/her best efforts to avoid being in a position in which his/her personal interests conflict with his/her official duties;
II. not to hold share or have any interest in a corporation, partnership or other body, directly or through another person, if holding those share or having an interest would result in his/her personal interest conflicting with his/her official duties;
III. to declare his/her personal interest to his/her superior and comply with any directions to avoid conflict;
IV. to refrain from participating in any deliberations with respect to any matter where his/her personal interest may conflict with his/her official duties.

In most, if not all circumstances, situations of conflict of interests are known only to the public official, in the first instance. Therefore, the public official must take personal responsibility for identifying such situations. It is the prime responsibility of the public official to declare in writing the nature of the interest to the public body when he (or his relative or his associate) has a direct or indirect or personal interest in a decision which a public body proposes to take. He needs to apply ‘self-exclusion’, that is, to withdraw from the matter in hand.

The table below describes the behaviour that must be adopted by the public officials to uphold personal and organisational integrity.
<table>
<thead>
<tr>
<th>STEP I</th>
<th>Expected Actions / Ethical Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disclose forthwith the nature of the interest in writing.</strong></td>
<td><strong>Declare publicly, fully, appropriately and immediately in writing the nature of the private interest to the head.</strong></td>
</tr>
<tr>
<td><strong>The declaration shall be made, in writing, by using a Conflict of Interests Declaration Form and recording the same in a Conflict of Interests Disclosure Register.</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STEP II</th>
<th>Expected Actions / Ethical Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Shall not take part or vote in any proceedings in relation to that decision.</strong></td>
<td><strong>Whilst participating in a meeting or as a member of a panel (Board or Commission):</strong></td>
</tr>
<tr>
<td><strong>● Leave the meeting or the panel / apply self-exclusion.</strong></td>
<td><strong>● Ensure a record of such conduct is kept.</strong></td>
</tr>
<tr>
<td><strong>● Do not influence, in any way, the decision to be taken.</strong></td>
<td><strong>● Abstain from accessing any document relating to that decision.</strong></td>
</tr>
<tr>
<td><strong>● Do not inquire into the proceedings or outcome of the meeting.</strong></td>
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</tr>
</tbody>
</table>

Disclosure of conflict of interests helps to maintain fairness, objectivity and transparency. It should be noted that any public official who fails to disclose a conflict of interests commits an offence under the ACA, 2016 and POEA, 2008.

1.3.5 Code of Conduct and Ethics

The ‘Code of Conduct and Ethics for Public Officers’ was released by the Public Officers’ Ethics Commission (POEC) in 2009. This was done within the ambit of the ‘Public Officers’ Ethics Act, 2008’ (POEA, 2008). The POEA, 2008 and the Code of Conduct and Ethics provide an ethics framework which is designed to, among other things; deter conflicts of interest in the management of public affairs in Seychelles. The Code guides all public officers in the discharge of their duties. It, among other things, helps deter conflict of interest. It is expected that all public officers should familiarise themselves thoroughly with the guidelines set out in the Code. All Chief Executive Officers are expected to ensure that the Code is upheld in their organisations and they, in turn, observe it leading by example.

Specifically, the code demands that public officers:

**a) guard against conflict of interest in order to demonstrate integrity as failure to do this could directly or indirectly compromise their performance or the standing of their organisation (section ’2.1.2 Integrity; part e’)**
b) demonstrate the highest standards of probity by, among other things, avoiding conflict of interest (section ‘3.1.3 Highest standards of probity: part c’)

1.3.6 Possible Rewards and Sanctions
Subject to consideration of the Commission, from time to time, due recognition may be given to ACCS staff or any other public official that exemplify conduct contributing positively in dealing with conflict of interest. Similarly, ACCS staff found to be in breach of the provisions of the law, with regard to conflict of interest, will be subject to a range of sanctions as determined by the Commission or the law. A list of possible rewards and sanction is attached in Appendix 6.
CHAPTER 4: PERSONAL RESPONSIBILITIES IN CONFLICT OF INTEREST SITUATIONS

4.1. Am I in a Situation of Conflict of Interest?
Recognising whether you are in a situation of conflict of interests is your responsibility. The checklist below contains some general questions which will guide you. If you tick “YES” to any one of the boxes, you may be facing a potential situation of conflict of interests. Note that this is not an exhaustive list. You are advised to refer to Sections 13 and 31 of the ACA, 2016 for further information. Additional information may be accessed from POEA, 2008 and more specifically from the ‘Code of Conduct and Ethics for Public Officers, 2009’ handbook.

<table>
<thead>
<tr>
<th>DO I:</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>➢ have a direct or indirect interest in a private capacity in a matter that is the subject of consideration at a meeting of the Commission or any Committee of the Commission?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ have a direct or indirect private or personal interest with any person or company, partnership or other undertaking that the Commission proposes to deal with?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ hold shares or have any interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having an interest would result in your personal interest conflicting with your official duties?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ have a personal interest in a decision that ACCS is to take?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DOES MY SPOUSE, RELATIVE, FRIEND OR ASSOCIATE:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ have a direct or indirect interest in a private capacity in a matter that is the subject of consideration at a meeting of the Commission or any Committee of the Commission?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ have a direct or indirect private or personal interest with any person or company, partnership or other undertaking that the Commission proposes to deal with?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ hold shares or have any interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having an interest would result in your personal interest conflicting with your official duties?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>➢ have a personal interest in a decision that ACCS is to take?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.2. What to do when faced with a situation of conflict of interest

**CAUTION:**

*Do not wait for others to report/complain about your conflict of interest situations.*

*Protect yourself by abiding by the legislation, conflict of interest policy (where available) and other regulations.*

**Public Official**

- **Conflict of Interest**
  - Disclose the nature of the interest in writing:
    - via a Conflict of Interest Declaration form
    - have it recorded in a Conflict of Interest Disclosure Register
  - Stop and Step Down
  - Do not vote or participate in the proceedings of any related decisions
  - Ensure this is recorded

**No**

**Continue**
### CHAPTER 5: FREQUENTLY ASKED QUESTIONS

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Why should I worry about conflict of interests?</strong></td>
<td>It is a corruption offence. As a public official, one has been entrusted with power and resources to carry out a number of duties, without any bias, for the welfare of the public. However, one’s private interests may make it difficult to fulfill one’s public duties impartially.</td>
</tr>
<tr>
<td><strong>What if I don’t disclose a conflict of interests?</strong></td>
<td>Things kept behind closed doors are more likely to attract suspicion and allegations of possible suspicion and allegations of possible misconduct. Bear in mind that a hidden malpractice will, sooner or later, be revealed. Under the ACA, 2016, not declaring a situation of conflict of interests is a breach of the law.</td>
</tr>
<tr>
<td><strong>What should I do when faced with a situation of conflict of interests?</strong></td>
<td>According to Section 13 and 31 of the ACA, 2016 and Section 8 of POEA, 2008, I have to disclose the nature of the interest in writing to the organisation and must not take part or vote in any proceedings in relation to that decision.</td>
</tr>
<tr>
<td><strong>Do I still need to disclose a conflict of interests even when there is neither financial benefit nor loss involved?</strong></td>
<td>Yes. The nature of a conflict of interests may extend beyond financial benefits.</td>
</tr>
<tr>
<td><strong>What should I do if I suspect that another public official is in a situation of conflict of interest and has not declared it?</strong></td>
<td>File a complaint to the Ethics Committee</td>
</tr>
<tr>
<td><strong>I am on a panel of interview and my close cousin comes in the interview. Is this a conflict of interest, if yes, what do I do?</strong></td>
<td>Whenever a public official finds himself in a situation where his close family members are involved; as a matter of principle, he should not participate in that process. This would avoid any bias or perception of bias or favouritism in decision making. Please refer to ACA, 2016 Section 13 and 31 and POEA, 2008 section 8.</td>
</tr>
</tbody>
</table>
CHAPTER 6: APPENDICES

6.1. Appendix 1: ACCS Conflict of Interest Policy

Conflict of Interest Policy

Approved by the Commission, 9\textsuperscript{th} April, 2019

1. Introduction and Applicability

The ACCS’s efforts to investigate, detect and prevent corrupt practices could be compromised by any ethical lapses on the part of individuals working for or representing it. It is essential that every person associated with ACCS be highly sensitive to potential conflicts of interest. This conflict of interest policy is designed to help all public officers working for ACCS identify situations that present potential conflicts of interest and to provide ACCS with a procedure that, if observed, will validate an action by dealing with a conflict of interest situation surrounding it.

Conflicts of interest may arise from time to time in the course of the performance of a person’s activities and decisions on behalf of the ACCS. They may arise in their work for the ACCS with regard to pecuniary or financial interests, or interests that impede the person in their duty to act in the best interest of the ACCS.

Definition of Conflict of Interest

For purposes of this policy, a conflict of interest is a situation in which any person, working for the ACCS or any other public office or representing it, has a private interest that can influence the objective and impartial exercise of his or her official duties. Furthermore, a conflict of interest situation includes a situation where the person working for or representing the ACCS has a relative or an associate, with whom they have a close personal relationship, that has a direct or indirect interest in a decision that the ACCS has to take and which can improperly influence the person working for or representing the ACCS in discharging his or her functions.
2. General Policy
   a) Every person associated with the ACCS (according to paragraph 1) must avoid or manage any potential real or perceived conflict of interest (inter alia by declaring their interest in a matter and recusing themselves, in writing, from the meeting or process at which the matter is to be discussed and decided). All potential or actual conflicts of interest in the knowledge of a person associated with the ACCS should be openly acknowledged. Please refer to ‘Declaration of Interest’ Section 13 (1) and (2) of the Anti-Corruption Act, 2016 and also Section 8 of the Public Officers Ethics Act, 2008.

b) There shall be established at ACCS a ‘Conflict of Interest Declaration Form’ and a ‘Conflict of Interest Disclosure Register’ to enable the actualisation of ‘Disclosure of interest’ Section 31(1), (2) and (3) of the Anti-Corruption Act, 2016 and Section 8 of the Public Officers Ethics Act, 2008. These will be fundamental instruments of transparency which will keep track of declarations made by persons working for or representing ACCS in matters under consideration by the ACCS. These instruments will be maintained and submitted to the Chairperson of the ACCS Ethics Committee who shall hold them, and act upon them as appropriate, in confidence. The ACCS shall demonstrate that due processes are in place for robust conflict of interest management.

c) All public officers in the employment of the ACCS are expected to familiarise themselves with the contents of this Conflict of Interest policy and the ACCS ‘Managing Conflict of Interest Handbook’ that provides a detailed approach on identifying and managing conflict of interest situations.

3. Disclosure of interest

Within the spirit of Section 31 of the Anti-Corruption Act, 2016 and Section 8 of the Public Officers Ethics Act, 2008; ACCS will expect its officers to undertake the following with regard to disclosure of interest:

a) Where ACCS proposes to deal with any person or company, partnership or other undertaking in which an ACCS officer has a direct or indirect private on personal interest, the ACCS officer shall forthwith disclose, in writing to the ACCS, the nature of such interest and shall not take part in any proceedings or process of the ACCS relating to such decision.

b) Where an ACCS officer or a relative or associate of the ACCS officer has a personal interest in a decision to be taken by the ACCS, the ACCS officer shall forthwith disclose, in writing to the ACCS, the nature of such interest and shall not vote or take part in any proceeding or process of the ACCS relating to such a decision.
c) An ACCS officer who contravenes the provision of (a) and (b) above commits an offence.

4. Code of Conduct and Ethics

All ACCS officers are encouraged to familiarise themselves with the guidelines of the ‘Code of Conduct and Ethics. Handbook for Public Officers. 2009’. The Code provides an important ethical framework that buttresses the efforts in place to deal with conflicts of interest within ACCS.

5. How to deal with a possible Conflict of Interest

a) Potential conflicts of interest should be identified and declared by the person in potential conflict, or reported by other persons, as soon as they become aware of such potential conflicts of interest.

b) Such disclosures or reports should be made in writing to the Chairperson of the Ethics Committee of ACCS or to another suitable senior official of the ACCS designated by the Commission.

c) Disclosures should be made using the ‘Conflict of Interest Declaration Form’ and entered into the ‘Conflict of Interest Declaration Register’.

d) The evaluation of a potential conflict of interest must be made by the Ethics Committee of the ACCS. The evaluation may determine the absence of a conflict of interest, or it may lead to the conclusion that:
   I. the respective person should not go ahead with the evaluated activity or that;
   II. he/she should recuse themselves from participating in decision making or process on the relevant matter in conflict by the ACCS.

e) The Commission is responsible for ensuring that all persons associated with the activities of the ACCS are made aware of the policy and procedures regarding conflict of interest. In addition, this policy and related procedures should be made available to the ACCS staff through relevant channels.

6. The Commissions Ethics Committee

The Commission has established an Ethics Committee for the purpose of providing advice and guidance on ethical questions to anybody associated with the ACCS. The Ethics Committee’s composition, Terms of Reference and contact details can be obtained at the ACCS offices.
7. Scope of this Policy

This policy sets the minimum standards on managing conflict of interest to be observed by all ACCS staff and all persons that are associated with its work.
### 6.2. Appendix 2: Conflict of Interest Declaration Form

#### 1. PERSONAL DETAILS

<table>
<thead>
<tr>
<th>Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Designation:</td>
<td></td>
</tr>
<tr>
<td>Organisation:</td>
<td></td>
</tr>
</tbody>
</table>

#### 2. THE SITUATION

<table>
<thead>
<tr>
<th>Matter under consideration:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Your expected roles/duties to be performed in dealing with this matter:</td>
<td></td>
</tr>
<tr>
<td>Are you required to vote or take part in any proceedings of the ACCS relating to such decision?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

#### 3. PRIVATE INTERESTS

<table>
<thead>
<tr>
<th>a. Do you or your spouse, relative, friend or associate have a direct or indirect interest in a private capacity in a matter which is the subject of consideration at a meeting of the Commission or any Committee of the Commission?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>If “YES,” please provide full information below.</td>
<td></td>
</tr>
</tbody>
</table>

| b. Do you have a direct or indirect private or personal interest with any person or company, partnership or other undertaking that the ACCS proposes to deal with? | Yes | No |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| If “Yes,” please provide full information below. |          |

| c. Do you hold shares or have any interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having an interest would result in your personal interest conflicting with your official duties? | Yes | No |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| If “Yes” please provide full information below. |          |
4. **CERTIFICATION**

The above is an accurate and current statement of all my reportable interests to the best of my knowledge. I make this declaration in good faith and further state that I am aware of the consequences of any false or incorrect information given by me.

<table>
<thead>
<tr>
<th>Date: ___________</th>
<th>Signature: __________________________</th>
</tr>
</thead>
</table>

Please return this form to the Ethics Committee

I have declared my interests and hereby abstain from participation in the above.

<table>
<thead>
<tr>
<th>Date: ___________</th>
<th>Signature: __________________________</th>
</tr>
</thead>
</table>

5. **STATEMENT / ACTION TAKEN**

<table>
<thead>
<tr>
<th>Date: ___________</th>
<th>Signature: __________________________</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Name: ___________</th>
<th>Designation: __________________________</th>
</tr>
</thead>
</table>
6.3. Appendix 3: Conflict of Interest Declaration Register

<table>
<thead>
<tr>
<th>S/n</th>
<th>Name of Public Officer</th>
<th>Nature of Interest</th>
<th>Issue Date</th>
<th>File ref:</th>
<th>Actions Taken by ACCS</th>
<th>Date</th>
<th>Received by</th>
<th>Name of officer</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
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<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
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<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
6.4. Appendix 4: Definition of Terms as per ACA, 2016 and POEA, 2008.

Associate

“associate”, in relation to a person, means –

a) a person who is a nominee or an employee of that person;
b) a person who manages the affairs of that person;
c) a former spouse or conjugal partner of that person;
d) a firm of which that person, or that person’s nominee, is a partner or a person in charge or in control of its business or affairs;
e) a company in which that person or that person’s nominee, is a director or is in charge or in control of its business or affairs, or in which that person, alone or together with that person’s nominee, holds a controlling interest or share; or
f) the trustee of a trust, where –
   i. the trust has been created by that person; or
   ii. the total value of the assets contributed by that person before or after the creating of the trust, amounts, at any time, to not less than twenty percent of the total value of the assets of the trust;’

Public body

“public body” means the Government, any Ministry or department of the Government, the National Assembly, the Judiciary, a local authority, board, council, author, commission or other body appointed by the Government, or established by, or under, any written law;’

Public officer

“public officer” has the same meaning assigned to it under section 2 of the Public Officers’ Ethics Act;’ as follows:

“public officer” mean an officer, employee or member, including an unpaid, part-time or temporary employee or member, of any of the following –

a) the Government of any department, service or undertaking of the Government;
b) the Judiciary;
c) the National Assembly;
d) any corporation, council, board, commission or other body which has power to act under and for the purposes of any written law relating to governmental functions, or otherwise to administer funds belonging to or granted by the Government or money raised by rate, taxes or changes in pursuance of any such law;
e) any other body prescribed by regulation for the purposes of this paragraph;’
6.5. Appendix 5: Examples of Conflicts of Interest situations

Example 1

Mr Brown is a director of a public body. The public body is proposing to deal with Lite Company Ltd for the re-designing and development of its website.

The son of Mr. Brown is the director of Lite Company Ltd in which he holds more than 10% equity participation. Mr. Brown does not disclose in writing to the public body the interest his son has in the said Company.

Is it a situation of conflict of interests?

Points to Note:

Assuming that he has prior knowledge of the situation, Mr. Brown committed the offence of conflict of interests by not declaring the interest his son had (the latter held more than 10% equity participation) in Lite Company Ltd whilst the public body in which he is a director is proposing to deal with the latter.

Thus, the offence of conflict of interests is established since a public body in which a public official (Mr. Brown) is a director proposes to deal with a company (Lite Co. Ltd) in which a relative (his son) has a direct interest; and his relative (his son) holds more than 10 per cent of the total equity participation in such company (Lite Co. Ltd) by not disclosing in writing the nature of his interest.

Example 2

Mr Black is the Chairman of the Board of Directors of a statutory corporation. The corporation has ten vacancies for support staff. As part of the recruitment procedure, the Board meets to consider the recommendations of the sub-committee on recruitment.

The Board unanimously approves the recommendations of the sub-committee. However, the Chairman fails to inform the Board that two of the persons from the approved list are his brothers.

Is the Chairman in a situation of conflict of interests?

Points to Note:

I. The above situation involves a public body;
II. Mr. Black is the Chairman of a public body thus, he is a public official;
III. However, at no point in time does Mr. Black disclose the nature of his interest and he takes part in the proceedings relating to that decision.

Therefore, Mr. Black commits an offence in terms of Section 31 of the ACA, 2016.

Example 3:

Mr Grey is a Board member of a parastatal body. The Board meets to consider the recommendations of an Ad Hoc Committee for the allocation of permits for the production of tobacco. The wife of Mr Grey happens to be one of the applicants.

The Board unanimously approves the allocation of permits to all applicants.

Is there a conflict of interests?

Points to Note:

It should be noted that Mr. Grey is a public official and he takes part in the proceedings of a public body whilst his wife has a personal interest in a decision of that public body. This scenario depicts an offence of conflict of interests since Section 31(2) clearly spells out that: where a public official’s relative (wife) has a personal interest in a decision which a public body is to take, that public official (Mr. Grey) shall forthwith disclose in writing to the public body the nature of the interest and shall not vote or take part in any proceedings of that public body relating to such decision.

Example 4:

Mrs. White is the Mayor of the town of Whitting. At a given council meeting, the allocation of market stalls is on the agenda. The report of a sub-committee which considered the applications together with appropriate recommendations are being tabled at the meeting.

The town council unanimously approves the decision of the sub-committee. One of the market stalls is allocated to the Mayor’s brother. However, the Mayor does not disclose her interest during the council meeting.

Is there a conflict of interests?
Points to Note:

In the above scenario, Mrs. White is a public official and her relative (brother) has an interest in a decision which the public body is to take and she takes part in the proceedings of that public body relating to such a decision. It is clearly a situation of conflict of interests.

It is to be noted that conflict of interests is an offence which mostly applies to situations where decisions have to be taken. Thus, it is of prime concern to decision-takers, that is, persons holding positions of responsibility.
6.6. Appendix 6: List of Possible Rewards and Sanctions

Possible Rewards

May include but not limited to:

- a. Words of recognition for good performance
- b. Open praise
- c. Challenging work assignments normally done by seniors
- d. Letter of commendation
- e. Presents
- f. Mementos
- g. Certificate of Merit
- h. Bonuses
- i. Salary increment
- j. Award of medals

Possible Sanctions

Depending on the gravity of the offence or misconduct, the following penalties to be considered may include but not limited to:

- a. Verbal reprimand
- b. Written warning
- c. Suspension of increment
- d. Stoppage of increment
- e. Transfer to another unit of the organisation
- f. Surcharge
- g. Refund
- h. Making good of the loss or damage of public property/assets
- i. Interdiction from duty with half pay
- j. Reduction in rank
- k. Removal from the Public Service in public interest
- l. Suspension from duty for a specified period of time with or without pay
- m. Dismissal
6.7. Disclaimer

This handbook is for general guidance only. It does not include all possible situations and it cannot substitute the law or take the place of legal advice. Readers are advised to consult the Anti-Corruption Act, 2016 (with amendments) and the Public Officers’ Act, 2008 (with amendments) and to seek legal advice in case of doubt.

The ACCS will not bear any responsibility for any legal damages arising from action or absence of action of any person on account of the contents of this handbook.