

Code of Ethics for Persons of Trust (pre-March 2019)

The Standards in Public Life Act (chapter 570 of the laws of Malta) obliges persons of trust – meaning persons who are engaged in the private secretariats of ministers and parliamentary secretaries, and who serve in an advisory, consultative or executive capacity – to abide by the code of ethics set out in the first schedule of the Public Administration Act.

Malta has enacted two Public Administration Acts – one in 2009 (chapter 497) and one in 2019 (chapter 595). The Act of 2019 superseded the previous Act and introduced a new code of ethics. The code reproduced here is that of the 2009 Act. This code ceased to have effect on 1 March 2019, the date on which the new Public Administration Act came into force.

A. Principles

1. This Code of Ethics is adopted within a framework of principles which are fundamental to the ethos governing behaviour. These have been identified as public trust; serving the public and the business community; responsibility to the Government of the day; productivity and flexibility; and public employees' rights.
2. The public has a right to expect that public sector organisations and their employees are of the highest integrity and competence and serve all citizens fairly, reasonably, equitably and efficiently.
3. Public employees shall provide impartial and accurate advice to the Government of the day and shall implement its policies promptly, efficiently and effectively.
4. The public and the business community have a right to expect that public employees will seek to meet their legitimate needs promptly and courteously.
5. The nation expects public employees to be committed to a constant quest for innovation, improved productivity, and the simplification of procedures, so as to contribute to national economic growth and competitiveness.
6. Public employees shall make full use of information and communication technology as an essential tool in the improvement of public administration and the delivery of better services, and they shall ensure that they possess the necessary skills to this end.
7. Public employees' rights are all the rights of employees, within the provisions of legislation and regulations.

B. Conflicts of Interest

8. A conflict of interest may be defined as a situation in which a public employee has a private or personal interest sufficient to influence or appear to influence the objective exercise of his or her official duties.

9. Public employees shall avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of their duties.

10. In many cases only the individual employee will be aware of the potential for conflict. Therefore, the onus is on the employee to disclose to his or her senior if a potential or actual conflict of interest arises.

11. This includes the notification of all relevant personal, financial, business or other interests, in particular:

- (a) any directorship, partnership, agency or any shareholding;
- (b) any interest in any activity or business in which or with which the organisation is engaged;
- (c) any interest in goods or services recommended or supplied to the organisation.

12. Public employees shall notify the head of the organisation in writing within a week whenever any of the above interests arise namely, upon assuming office, change in duties or due to a change in circumstances.

C. Acceptance of Gifts or Benefits

13. No public employee or any member of his household shall accept gifts or services such as might be deemed to create an obligation, real or imagined.

14. A gift can be interpreted as an inducement or a reward simply because of its intrinsic value and therefore only token gifts may be accepted.

D. Personal and Professional Behaviour

15. Public employees shall perform any duties associated with their positions diligently, impartially and conscientiously, to the best of their ability.

16. In the performance of their duties, public employees shall:

- (a) keep up to date with advances and changes in their area of expertise;
- (b) comply with any relevant legislative or administrative requirements;
- (c) treat members of the public and other staff members with courtesy and sensitivity to their rights;
- (d) provide all necessary and appropriate assistance to members of the public;
- (e) maintain adequate documentation to support any decisions made;
- (f) strive to obtain value for public money spent and avoid waste and extravagance in the use of public resources;
- (g) not take or seek to take improper advantage of any official information gained in the course of employment;
- (h) not wilfully supply incorrect or misleading information;

- (i) not indulge in favouritism or nepotism.

17. At all times the behaviour of a public employee shall be in such a way as not to discredit his or her position and not to reflect adversely on the public service.

18. Public employees shall be expected to give full support to the Government of the day regardless of which political party or parties are in office. When implementing Government policy, public employees' own values and beliefs shall not take precedence over those explicit or implicit in Government policy.

19. Public employees shall not harass or discriminate in work practices on the ground of sex, marital status, pregnancy, age, race, colour, nationality, physical or intellectual impairment, sexual preference, or religious, political or other convictions/allegiances when dealing with their colleagues and members of the public.

20. Public employees have a duty to report to a senior employee any unethical behaviour or wrongdoing by any other public employee during the course of his or her duties.

E. Fairness and Equity

21. Issues or cases being considered by public employees shall be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, without discrimination on any grounds. There is an obligation to treat each issue reasonably and with a view to meeting the principles of natural justice.

22. When using any discretionary powers public employees shall ensure that they take all relevant facts into consideration and have regard to the particular merits of each case.

F. Use of Official Information

23. A public employee shall only disclose official information or documents acquired in the course of his or her employment when required to do so by law, in the course of duty, or when proper authority has been given. In such cases, comments made by public employees shall be confined to factual information and shall not express opinion on official policy or practice.

24. A public employee as defined in article 2 of the Public Administration Act shall not accept employment in the private sector if he will be placed in a position to make use of "insider information" if such information came to his knowledge as a direct result of his public employment.

G. Use of Official Facilities and Equipment

25. It is expected that public employees shall:

- (a) be efficient and economical in the use and management of public resources;
- (b) be scrupulous in their use of public property and services and not permit their abuse by others.

26. Official facilities and equipment shall not be used for private purposes unless prior official permission has been given.

H. Outside Employment and Termination

27. The prior approval of the Permanent Secretary of the Ministry concerned or the Chairperson/Chief Executive Officer is required before public employees may engage in any form of business or employment outside their official duties.

28. In all cases when outside employment is considered, public employees shall give their public sector employment first consideration and avoid situations which could give rise to, or the appearance of, a conflict of interest. In particular, they must consider whether the company or organisation concerned is in, or entering into, a contractual relationship with the Government, whether its primary purpose is to lobby government organisations or members of Parliament, or whether it is in a regulatory relationship with the organisation.

29. Former public employees shall ensure that they do not accept employment or engage in activities which may cast doubts on their own integrity or that of the organisation in which they were previously employed or of the Public Service generally.

I. Political Participation and Comment

30. It is of the greatest importance that public confidence in the impartiality of the public administration shall not be impaired in any way. Public employees need to ensure that their participation in political activities does not bring them into conflict with their primary duty to serve the Government of the day. This is important in order to maintain ministerial and public trust in the impartiality of the advice given, and actions taken, by public employees.

31. Likewise public employees need to ensure that the spirit of paragraph 30 hereof is respected whenever they are asked to make a public comment. Public comment includes public speaking engagements, comments on radio and television and expressing views in letters to the newspapers or in books, journals or notices or where it might be expected that the publication or circulation of the comment will spread to the community at large.

32. Determining what is appropriate in any particular case will depend on the extent of the participation of the individual, the nature of the issue, the position held by the individual and existing regulations within the organisation concerned.

33. If a public employee becomes aware that a potential conflict, whether real or apparent, has arisen or is likely to arise, the public employee shall immediately inform the head of his or her organisation.

34. If a conflict of interest does arise, the public employee may have to stop participating in political activity or withdraw from areas of his or her duties giving rise to the conflict of interest.

J. Sanctions

35. Sanctions may be applied if public employees are involved in breaches of this Code of Ethics.

36. The sanctions applied shall depend on the seriousness and nature of the breaches and may entail formal disciplinary and, or criminal action as applicable.

37. Whenever appropriate, counselling by a supervisor or member of senior staff may also be given.