MAURITIUS (EIGHTH MEETING)

Establish or strengthen existing disciplinary procedures and mechanisms to enforce codes of conduct or ethics, standards of professional conduct and conflict of interest legislation; and

**Code of Ethics for the Judiciary**

The Guidelines for Judicial Conduct (G.N 2077 of 2002) hereinafter referred to as the ‘Guidelines’ intends to establish standards of ethical conduct of Judges. The ‘Judge’ includes a Magistrate or any person exercising judicial office however designated.

The principles applicable to judicial conduct have three main objectives:

- To uphold public confidence in the administration of justice
- To enhance public respect for the institution of the judiciary
- To protect the reputation of the individual Judges and of the Judiciary

The values which the Guidelines uphold and against which judicial conduct should be tested are:

- Propriety
- Independence
- Integrity
- Impartiality
- Equality
- Competence and diligence

The Guidelines provides that as Magistrates, being a constant subject of public scrutiny, should freely and willingly accept personal restrictions that might be viewed as burdensome by the ordinary citizen.

Detect and prevent possible conflicts of interest, such as systems requiring members of criminal justice institutions to make declarations to appropriate authorities regarding, *inter alia*, their outside activities, employment, investments, income, assets and substantial gifts or benefits from which a conflict of interest may result, including as they take office and regularly during the performance of their public functions.
a) Conflict of Interests is criminalised under the Prevention of Corruption Act 2002

The Prevention of Corruption Act 2002 as amended defines and criminalises the offence of conflict of interests. The Code of Ethics for Public Officials urges public officers to declare in writing any conflict of interests. Most of the Corruption Prevention Reports of the ICAC recommend the setting up of a mechanism along with a declaration form to disclose any conflict of interests.

Conflict of interests is a criminal offence in Mauritius punishable under Section 13 of the Prevention of Corruption Act 2002 to penal servitude not exceeding 10 years. The offence is defined under the PoCA as follows:

(1) Where-

(a) a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of him has a direct or indirect interest; and

(b) that public official and/or his relative or associate of him hold more than 10 per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,

that public official shall forthwith disclose, in writing, to that public body the nature of such interest.

(2) Where a public official or a relation or associate of his has a personal interest in a decision which a public body is to take, that public official shall not vote or take part in any proceedings of that public body relating to such decision.

(3) Any public official who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

b) Code of Ethics for Public Officials

The Code of Ethics for public officers which sets out the standards of correct conduct expected of Public Officers deal with the issue of conflict of interests as follows:

“Public Officers shall avoid situations in which their private interests conflict, or might reasonably be perceived to conflict, with the impartial fulfilment of their official duties and the public interest. Thus, they shall avoid having any financial or other interests or embark on any undertaking that could directly or indirectly compromise the performance of their duties.”

In many circumstances, the conflict, or potential conflict, is known only to the Public Officer. Therefore, in case a conflict of interests arises, the onus is on the Public Officer to disclose promptly, fully and appropriately any actual or potential conflict of interests, he may have in a matter that is the subject of a consideration.

“Any Public Officer who fails to disclose his direct or indirect interest in a company, partnership or other undertaking with which the public body (which employs the Public Officer) proposes to deal, shall commit an offence under the Prevention of Corruption Act 2002.”

The Code of Ethics complements existing legislations and rules and its guiding principles are
designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers. It applies to all Public Officers - permanent, part-time, casual, temporary and contractual employees of the Civil Service, the Local Government Service and the Rodrigues Regional Assembly - irrespective of gender, grade and rank.

(c) Mauritius Police Force

The Mauritius Police Force has already developed both a code of ethics and a code of conduct for law enforcement officers, which have been disseminated in the organization in the Police Instructions Manual, a copy of which has been issued to each and every Police Officer.

Code of Conduct for Law Enforcement Officials

Every member of the Force shall:-

(i) at all times, fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession;

(ii) in the performance of their duty, respect and protect human dignity and maintain and uphold the human rights of all persons;

(iii) use force only when strictly necessary and to the extent required for the performance of their duty;

(iv) keep matters of confidential nature in their possession confidential, unless the performance of the duty or the needs of justice required otherwise;

(v) not inflict, instigate or tolerate any act of torture or other cruel, inhumane or degrading treatment or punishment, nor invoke superior orders or exceptional circumstances such as state of war or threat of war, a threat to internal security, internal political instability and any other public emergency as a justification of torture or other cruel, inhumane or degrading treatment or punishment;

(vi) ensure full protection of the health of persons in their custody and in particular, shall take immediate action to secure medical attention whenever required;

(vii) not commit any act of corruption and rigorously oppose and combat all such acts;

(viii) respect the law and the present code and also, to the best of their capability prevent and rigorously oppose any violation of them;

(ix) behave in a trustworthy manner and avoid any conduct that might compromise integrity and thus undercut the public confidence in a Police Force/Service;

(x) ensure that they treat all persons in a courteous manner and that their conduct is exemplary and consistent with the demands of the profession and the community they serve; and

(xi) respect and protect all property rights, this include the economical use of public resources.
Principles of Police Ethics

Every member of the Police Force will:-

(i) act with fairness, carrying out his responsibilities with integrity and impartiality;
(ii) perform his duties with diligence and a proper use of discretion
(iii) display self-control, tolerance, understanding, and courtesy appropriate to the circumstances in his dealings with all individuals, both outside and inside the Police Force;
(iv) uphold fundamental human rights, treating every person as an individual and display respect and compassion towards him;
(v) support all his colleagues in the performance of their lawful duties and, in doing so, actively oppose and draw attention to any malpractice by any person;
(vi) respect the fact that much of the information received is confidential and may only be divulged when his duty requires him to do so;
(vii) exercise force only when justified and then only use the minimum amount of force necessary to effect his lawful purpose and restore the peace;
(viii) act only within the law, in the understanding that he has no authority to depart from due legal process and that no one may place a requirement on him to do so;
(ix) use resources entrusted to him to the maximum benefit of the public;
(x) accept responsibility for his oneself development, continually seeking to improve the way in which he serves the community; and
(xi) accept personal accountability for his own acts and omissions.

Code of Professional Conduct of the Mauritius Prisons Service

It is a comprehensive statement of the guiding principles of conduct the Mauritius Prisons Service expects from its staff when carrying their duties. It sets the standards of behaviour expected of officers and defines acceptable and unacceptable behaviours. It provides staff with a guide to maintain high level of public trust, self-discipline and self-pride to positively shapes the culture and reputation of the Mauritius Prisons Service.
MAURITIUS (SECOND SESSION)

Article 8: Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

1.1 Promotion of Integrity, Honesty and Responsibility among its Public Officials
Integrity, honesty and responsibility are promoted among public official by the ICAC through an array of anti-corruption activities like workshops, seminars, talks, forums, etc. These activities are conducted throughout the year.

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

2.1 Code of Ethics for Public Officers:
The standards of correct conduct expected of public officers are dealt with in the Code of Ethics for Public Officers developed by the Ministry of Civil Service Affairs and Administrative Reforms. The code was reviewed in 2009 and the ICAC assisted in the review and development of additional provisions of the Code. Provisions dealing with the conduct of public officers during electoral campaign were added. The Code of Ethics for Public officers sets out the standards of correct conduct expected of Public Officers. It emphasizes the importance of a responsible, responsive and caring Civil Service and is intended to promote effective administration and responsible behaviour. The Code of Ethics complements existing legislation and rules and its guiding principles are designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers.

2.2 Model Code of Conduct for Parastatal Bodies: The model code has been developed to provide Parastatal Bodies with the basic principles that need to be observed in the development of their own code of conduct.

2.3 Code of Conduct for Public Officials Involved in Procurement: The code has been developed in collaboration with the Procurement Policy Office with a view to exercise vigilance and superintendence in public institutions.
2.4 Code of Conduct for District Councillors: The ICAC in collaboration with the Ministry of Local Government developed a code of conduct for councilors to promote high standards in public life. The Code sets the standards of behaviour that councillors are committed to uphold in the discharge of their functions. Ethics Committees are being set up in local authorities to monitor implementation of the code of conduct.

2.5 Specific Codes of Conduct: The ICAC also assists public bodies in developing their own codes of conduct.

3. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

3.1 Reporting of Acts of Corruption the ICAC
The ICAC has set up in accordance with the provisions of the PoCA 2002 as amended, a Report Centre (Complaints and Advice Processing Unit –CAPU) where acts of corruption could be reported. The Report Centre is situated on the ground floor of the ICAC’s Headquarters and is open during office hours (8.00 a.m to 5.00 p.m). Complaints can be in the form of letters, phone calls, fax, email or people coming in person. The complainant can also choose to remain anonymous. Communications equipment capable of receiving complaints by fax, e-mail, or toll free hotline are also available on a 24-hour basis.

3.2 Complaints Received at ICAC
The increasing number of complaints being registered at the ICAC shows effectiveness of our campaigns and the confidence of the public in the anti-corruption agency.

<table>
<thead>
<tr>
<th>Year</th>
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<tr>
<td>2002-2003</td>
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<td>2003-2004</td>
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<td>2011 (Jan-April)</td>
<td>572</td>
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</tbody>
</table>

3.3 Section 43 of PoCA - Notification of Corruption Offences
Section 43 of the Prevention of Corruption Act provides for the notification of corruption offences as follows:
(1) Any person may-

(a) without disclosing his identity; and

(b) orally or in writing, notify the Commission or an officer of the existence or possible existence of a corruption offence.

(2) The Commission shall take all steps that may be necessary to facilitate the notification to the Commission of the possible existence of an act of corruption.

Furthermore Section 44 of the PoCA provides for the duty to report acts of corruption offences as follows:

(1) Where an officer of a public body suspects that an act of corruption has been committed within or in relation to that public body, he shall forthwith make a written report to the Commission.

(2) The Commission shall issue such guidelines as it considers appropriate to ensure compliance with subsection (1).

3.4 Section 45 of PoCA - Referrals to the Commission

Section 45 of PoCA deals with Referrals to the Commission as follows:

(1) Notwithstanding sections 43 and 44, where in the exercise of his functions-

(a) a Judge or Magistrate;
(b) the Ombudsman;
(c) the Director of Public Prosecutions;
(d) the Director of Audit; or
(e) the chief executive of a public body, is of the opinion that an act of corruption may have occurred, he may refer the matter to the Commission for investigation.

(2) Where in the course of a Police enquiry –

(a) it is suspected that an act of corruption has been committed; and
(b) the Commissioner of Police is of the opinion that the matter ought to be investigated by the Commission, the Commissioner of Police may refer the matter to the Commission for investigation.

3.5 Section 45 of PoCA - Protection of witnesses

To encourage reporting of acts of corruption, the PoCA (Section 49) also provides for the protection of witnesses as follows:

(1) Subject to subsection (6), where a person-
(a) discloses to a member of the Board or an officer that a person, public official, body corporate or public body is or has been involved in an act of corruption; and
(b) at the time he makes the disclosure, believes on reasonable grounds that the information he discloses may be true and is of such a nature as to warrant an investigation under this Act, he shall incur no civil or criminal liability as a result of such disclosure.

(2) Subject to subsection (6), where a public official-

(a) discloses to his responsible officer or to the Director-General that an act of corruption may have occurred within the public body in which he is employed; and
(b) believes on reasonable grounds that the information is true, he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be started against him by reason only of such disclosure.

(3) A person who makes a disclosure under subsection (1) or (2) shall assist the Commission in any investigation which the Commission may make in relation to the matters disclosed by him.

(4) A person to whom a disclosure is made under subsection (1) or (2) shall not, without the consent of the person making the disclosure, divulge the identity of that person except where it is necessary to ensure that the matters to which the information relates are properly investigated.

(5) A person who commits an act of victimisation against a person who has made a disclosure under subsection (1) or (2) shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(6) A person who makes a false disclosure under subsection (1) or (2) knowing it to be false shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(7) In this section, "victimisation" means an act–

(a) which causes injury, damage or loss;
(b) of intimidation or harassment;
(c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or
(d) amounting to threats of reprisals.

4. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial
gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

4.1 Declaration of Interests

Conflict of Interests
Conflict of interests is a criminal offence, punishable under Section 13 of the Prevention of Corruption Act 2002 (PoCA) as amended to penal servitude not exceeding 10 years. The PoCA makes it mandatory for the public official in situations of conflict of interests to declare forthwith the nature of the interest in writing to that public body and not to vote or take part in any proceedings of that public body relating to the decision. Public sector organizations have a prime responsibility of creating an environment that supports the identification, disclosure and management of conflict of interests.

Declaration of Assets
As disclosure reduces the opportunity for corruption, declaration of Assets has become mandatory for members of the National assembly in Mauritius as well as officers of several pillar institutions like the Mauritius Revenue Authority, the Financial Intelligence Unit and the Independent Commission against Corruption. To further enhance the structure of governance in the public sector, the Declaration of Assets Act provides powers to the Prime Minister to extend the application of this Act to such categories of public officers and officers at any statutory body as he may designate.