



ETHICS POLICY

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1. DEFINITIONS AND TERMS

i. Accounting officer	Means the Accounting Officer of a Department or Provincial Government in terms of Public Finance Management Act No 1 of 1999 as amended.
ii Code of conduct	means the Code of Conduct contained in chapter 2 of the Public Service Regulations
iii. Department	The Eastern Cape Department of Social Development
Employees	means an official of Government Department including National and Provincial Government
iv. Executive authority	Member of the Executive Council (MEC) who is the Political Head of the Department.
v. Family member	In relation to any person, means employee's parent, sister, brother, child or spouse including: (a) A life partner (b) Any other relative who reside permanently with that person
vii. Public service act	means the Public Service Act, 1994 (Proclamation 103 published in Government Gazette 15791 of 3 June 1994) as amended
Remunerative	has its ordinary meaning to include "earning money or rewards, gainfully and money-making" and "work" has its ordinary meaning that includes "something that one is doing, making or performing a duty or task"
viii. Public interest	means the public's interest to see and/ or perceive transparent, clean and corruption free
Public service regulations	Mean the Public Service Regulations, approved in 2016. (The Minister is permitted in terms of section 41(3) of the Public Service

	Amendment Act, 2007 to elucidate or supplement any regulation by way of directive)
ix. SMS	Senior Management Service as contained in Chapter 9 of the Public Service Regulations.
x. Supply chain management employee	An employee employed in Supply Management Unit irrespective of their salary level.
xii. OSD	Occupation Specific Dispensation determined by the Minister in terms of Regulation 42 of PSR 2016 which includes: <ul style="list-style-type: none"> (a) A unique salary scale (b) Centrally determined grades and job descriptions; and (c) Career progression opportunities based on competences, experience and performance.
xiii. Finance official	An employee employed in finance unit irrespective of their salary level.
xiv. Trade	means conducting business with the Government, including, but not limited to the provisioning of goods and services and the submission of tenders and/or quotations for the provisioning of goods and service
xiv. King Vi	The King Code Corporate Governance for South A

LEGISLATIVE FRAMEWORK

- i.** Public Finance Management Act ,
- ii.** Public Services Regulations 2016,
- iii.** National Treasury Instruction note dated 31 May 2011
- iv.** Public Service Act, Section 30
- v.** The Prevention and Combating of Corrupt Activities Act, No 12 of 2004
- vi.** King IV
- vii.** Code of Conduct for Public Service

1. PREAMBLE

The Department of Public Services and Administration has issued a Code of Conduct to enforce ethical behaviour of all employees in the public service. The Code of Conduct stipulates the expected behaviour of officials serving in government. During 2016/2017 Financial year, the Department of Public Services and Administration issued new Public Services Regulation 2016, that regulates employees in conducting business with the organ of state and performing remunerative work outside employment.

Section 38(1)(a) of the Public Finance Management Act (PFMA), states that the Accounting Officer must ensure that the department has and maintains effective, efficient and transparent systems of financial, risk management, and internal control.

Public Service Regulations, 2016 requires the Accounting Officer of the Department to, analyze ethics and corruption risks as part of the department's system of risk management and develop and implement an ethics management strategy that prevents and deters unethical conduct and acts of corruption

Also King IV on Corporate Governance emphasis the following best practice on the promotion of ethical culture in an organization:

- 1.1.1. Principle 1: The governing body should lead **ethically and efficiently**.
- 1.1.2. Principle 2: The governing body should **govern the ethics of the organisation** in a way that supports establishment of ethical culture.
- 1.1.3. Principle 11: The governing body should **govern risk** in a way that supports the organisation in setting and achieving its strategic goals.

2. PURPOSE

The purpose of this policy is:

- (a) To promote ethical behaviour of all employees in the Department.
- (b) To regulate remunerative work outside employment in such a way that the values and principles enshrined in the Constitution are not compromised.
- (c) To regulate Financial Disclosures of SMS members, MMS and other categories of employees as prescribed by Public Regulations, 2016.
- (d) To further regulate the acceptance of gifts by officials in line with existing Acts and relevant Regulations.

- (e) Provide for regular reporting on the compliance with and implementation of relevant legislative and policy provision.
- (f) Provide for consequences for non-implementation or non-compliance with the relevant legislative and policy provision.

3. OBJECTIVES

This objective of this policy is to set an ethical standard for conduct of employees in the Department and to assist all Departmental Stakeholders with their ethical deliberations, choices, decision and conduct.

4. SCOPE OF APPLICABILITY

This policy is applicable to all employees of the Department of Social Development

5. PRINCIPLES AND VALUES

Section 195 (a) of the Constitution of the Republic of South Africa requires that administration of the Department of Social Development must be governed by the democratic values and principles enshrined in the Constitution, including the following principle:

- (a) A high standard of professional ethics must be promoted and maintained.
- (b) Economic, efficient and effective use of resources must be promoted
- (c) Public administration must be development- orientated.
- (d) Service must be provided impartially, fairly, equitable and without bias.
- (e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.

6. POLICY STATEMENT

The Department of Social Development enforce highly ethical standards to all employees in the Department. These ethical behaviour standards stipulated in this policy must be adhered by all employees in the Department of Social Development.

6.1. Prohibition on trade by employees with organ of the state

- (a) No Departmental official as a person, a director, a shareholder or a partner of business may trade, do business with, or enter into a contract with any organ of state whilst in the employ of the state.
- (b) No Departmental official as a person, a director, a shareholder or a partner of business, may tender or quote to provide any goods or services to any organ of state whilst in the employ of the state.

- (c) No company, with Director that is employed by the state may be registered in the supplier database of any organ of state.

6.2. Performing remunerative work outside employment

No employee may perform remunerative work outside his/her employment in relevant Department; unless a written permission to perform such work has been obtained from the Executive Authority (MEC).

In terms of the Code of Conduct, an employee who does remunerative work outside employment without approval –

- (a) Does not put the public interest first in execution of his or her duties
- (b) Does not serve the public in an unbiased and impartial manner
- (c) Might engage in transaction or action that is in conflict with or infringes on execution of his or her official duties

6.2.1. Application for permission to perform remunerative work outside employment

An employee intending to perform remunerative work outside his or her employment must, prior to performing such work submit a written request for permission to the Executive Authority. The DPSA's developed form must be utilised for application. **[Form attached as ANNEXURE A]**

The form entails the following information:

- (a) Name and PERSAL number
- (b) Employee's official job title
- (c) Employee's key performance areas
- (d) A clear description of outside work or business interest including areas of business
- (e) The nature and extent of any adverse financial, operational and other circumstances for the state, the employee concerned or members of the public if permission is not granted.
- (f) If work performed will amount to conflict of interest in relation to the constitutional mandate or programme of the Department.
- (g) Any current or potential performance of remunerative work outside his or her employment.

6.2.2. The Executive Authority of the Department may not grant written permission if:

- (a) Remunerative work outside employment could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions in the department.
- (b) The remunerative work outside employment would constitute a contravention of the code of conduct
- (c) The employee has access to confidential information which may be abused in the process of outside work
- (d) Activities will be conducted within work hours; or
- (e) Departmental resources other than personal tools of trade will be used for such outside interest.

When considering an employee's request of intending to perform remunerative work outside his or her employment in the Department, the Executive Authority must have due regard to section 30 of the Public Service Act that provides that every employee within the public service shall commit all his or her time to the Public Service.

The Executive Authority must record his or her decision to grant or refuse permission in writing and may add conditions to the permission, if granted and advise the employee accordingly.

The Executive Authority must advise the employee within 30 days in writing whether the request is approved or not, and if no response from Executive Authority after 30 days the application is deemed approved. The decision of the Executive Authority shall be final.

6.3 Declaration by new employees of existing trade with an organ of state:

- a) An employee who joins the Public services and trades with an organ of state or has an interest in a business, company or entity that trades with an organ of state must, within 30 days of accepting appointment, declare in writing to the Accounting officer of the Department:
 - That he/she, or a business, company or entity in which he or she has an interest, trades with an organ of state;
 - Particulars of such trade; and
 - The value of such trade
- b) After disclosure, within 60 days, the newly appointed employee must:
 - Ceases conducting business with an organ of state, resign as a director of a company that conduct business with an organ of state or resign as an employee.
 - Submit proof to the departments Ethics Officer that, the employee has ceased conducting business or has resigned as a director of a company that conducts business with an organ of the state or resigned as an employee of the state.

An employee who trades with the organ of state, acts in contravention of the provision of the regulations and Code of Conduct and is guilty of misconduct.

6.4. Family member's interest

An employee whose family member, or a business, company or entity in which family member has an interest or trade with an organ of state or has an interest in a business, company or entity that trades with an organ of state must, declare in writing to the Ethics Officer the following:

- (a) That his or her family member, or a business, company or entity in which a family member has an interest, trades with an organ of states and
- (b) Particulars of such trade

The attached form as ANNEXURE B must be utilised to declare family members' interest.

6.5. Gifts

An employee must not use his or her official position to obtain private gifts or benefits for his or herself in relation to performance of his or her official duties and/or whilst performing his or her official duties.

Employee must not accept any gifts or benefits from potential service providers, relevant stakeholders, clients or potential clients in relation to performance of his or her official duties, as the acceptance may be construed as a bribe as defined by Prevention and Combating of Criminal Activities Act

An employee must not receive or accept any gift from any person in the course of his/her employment to the accumulative value of R350.00 (Three Hundred and Fifty Rand) per year unless approval is obtained from Executive Authority.

The official must declare such gift in writing within seven (7) days of receipt to the supervisor and each Programme and Sub-Programme to maintain a gift register for all employees under such programme.

The gift register attached as ANNEXURE C must be utilised by all programmes.

6.6. Financial disclosure

6.6.1 SMS and other Categories of employees

The Accounting Officer/ Head of Department must ensure that all the categories stipulated below as per Public Service Regulation, 2016, must submit their financial disclosures in a DPSA website E-Disclosure link before or on the due date:

- (a) SMS members 1-30 April of the year in question
- (b) OSD/ personal notches (level 13 & above) 1-30 June of the year in question
- (c) Level 12 (including OSD/personal notches) 1-30 June of the year in question
- (d) Ethics / PSC officials 1-30 June of the year in question
- (e) All Supply Chain and Financial management unit officials irrespective of their salary level 1-31 July of the year in question.

- (f) New employees in all categories 30 days after assumption of duty.

Non adherence to financial disclosure constitutes misconduct by the officials.

6.6.2. Verification of Financial Interest

Verifications of financial interests submitted by officials are to be verified by Ethics Officers at the end of the month following the disclosure of financial interests per category and submitted to the Accounting officer. The Accounting Officer then submits the report to Public Service Commission.

6.3. Disregard of bids and quotations

The Department may, in the public interest, and to ensure compliance with this policy, the Public Service Regulations and Code of Conduct, refuse to trade with an entity in which an employee, or a family member of an employee, has financial or operational interest.

The Accounting Officer may disregard a bid or quotation if that bidder, or business submitting a quotation, or any of its directors is an employee, or a family member of an employee of the Department and employee failed to declare that:

- (a) A family member of him or her, or a business, company or entity in which a family member has an interest, trade with an organ of state, or tender or quotes for the provision of goods and services to an organ of state.

6.4. Supply chain management requirements

The Accounting Officer of Social Development must ensure that:

- (a) The Department comply fully with the instruction Note of National Treasury, entitled National Treasury Instruction Note on Enhancing Compliance Monitoring and Improving Transparency and Accountability in SCM, dated 31 May 2011 (as amended from time to time);
- (b) All necessary action is taken in the event of non-compliance;
- (c) No bid or quotation is awarded or accepted, unless a completed form (SBD 4) "Declaration of interest" is submitted with a bid or quote; and
- (d) The Department comply fully with Provincial Treasury Circular, ECSCM Circular 11 of 2009/10: Declaration of Interest – Amendment and Augmentation of Standard Bidding Document (SBD 4) relating to the signing of Code Of Conduct by SCM Practitioners, Completing of Confidentiality and Declarations of Interest Forms by SCM Practitioners and Bid Committee Members and the vetting of SCM practitioners and Bid Committee Members, including any further amendments of augmentation thereof.

An employee must recuse herself or himself from any official action or decision making process which may result in improper personal gain and must declare the situation immediately in writing to Head of department.

The Accounting officer must, on a regular basis, verify that employees who resigned from the Department are not partners, directors or employees of business whom tenders are awarded and where such official was involved in the tender process. This is for a period of 12 (twelve months) after the employee has resigned from the Department (cooling period) To this end the Accounting Officer must ensure that:

- (a) The CIPC database is scrutinized on a regular basis;
- (b) A clause is included in all contracts flowing from tenders that the contract will be cancelled immediately such an employee has any direct or indirect interest in the successful tender

6.5 Ethic Implementation Plan and Ethic assessment

The Ethics Officer shall develop an Ethic Implementation Plan that is aligned with ethics assessment register of the Department. This plan must be submitted to the Risk, Ethic & Anti-Corruption Committee for recommendation and approval by the Accounting Officer. The plan must be reviewed annually.

6.6 Reporting

The Ethics Officer shall report on a quarterly basis to the established Risk, Ethics & Anti-Corruption Committee on ethics related matters according to this policy

7. APPROVING AUTHORITY

The Head of Department will recommend this policy to MEC for approval and the Executive Authority shall be responsible for the approval of this policy.

8. ADMINISTRATION OF THE POLICY

The Accounting Officer together with Risk Management & Anti-Corruption unit shall be responsible for the admiration of this policy.

9. ACCOUNTABILITIES AND RESPONSIBILITIES

9.1. Executive Authority

- a. The MEC shall be accountable to the legislature and the executive in terms of the achievement of the goals and objectives of the Department. As Ethics Management is an important management tool to support the achievement of this goal, it is important that the MEC must provide strategic political leadership as to governance and ethics management.
- b. By virtue of being involved in accounting officer's recruitment processes, The Executive Authority has a major role in defining what it expects in integrity and ethical values and can confirm its expectations through oversight activities.

9.2. Accounting Officer

- a. More than any other individual, the Accounting Officer sets the tone at the high strategic level that affects integrity and ethics and other factors of the control environment.
- b. Accounting Officer shall be legally accountable for Department's ethics management obligations, responsible for and must assume "ownership" for Departmental ethics management.
- c. The Accounting Officer must ensure that the responsibility for ethics management vests at all levels of management and that it is not only limited to the Accounting Officer.

9.3. Audit Committee

The Audit Committee shall be responsible for providing the Accounting Officer with independent counsel, advice and direction in respect of ethics management.

9.4. Risk, Ethics & Anti – Corruption Committee

- a. The committee shall be formally appointed in writing by the Accounting Officer. Members must possess skills, expertise and knowledge of the Department, including familiarity with the concepts, principles and practice of ethics management.
- b. The committee shall be responsible for assisting the Accounting Officer addressing his/her oversight requirements of ethics management and evaluating and monitoring the Department's performance with regards to ethics management. The role of the committee is to formulate, promote and review the Department's ethics management objectives, strategy and policy and monitor the process at all applicable levels.

9.5. Ethics Officer

- a. Develop ethics management policy and strategy that prevents and deters unethical conduct and acts of corruption
- b. Analyse ethics risks in the department and maintain ethic risk register thereof
- c. Establish a system that encourages and allows employees and citizens to report allegations of unethical conduct.
- d. Ensure timeous disclosure of financial interest of Senior Management Services officials and other categories of employees as determined by DPSA.
- e. Monitor implementation of Ethic Management Plan quarterly.

9.6. Internal Audit Services

The responsibility of Internal Audit on Ethics Management is to "Evaluate the Ethical Culture of the Department against the set standards or policies and report accordingly".

9.7. Departmental Employees

- a. Ethics management shall be the responsibility of everyone in the Department.
- b. Employees shall be responsible for communicating ethics such as non-compliance with acceptable behaviour outlined in applicable laws, regulations, policies etc.

10. EFFECTIVE DATE OF THE POLICY

This policy shall be effective from the date of approval by the executive authority

11. PROCEDURES FOR IMPLEMENTATION

- a) Conduct ethic risk assessment
- b) Develop ethics implementation plan
- c) Maintain gift register

12. MONITORING MECHANISM

- Reporting on ethics register and implementation plan.

13. REVIEW OF THE POLICY

This policy will be reviewed after three (3) years and whenever a need arises e.g. change in legislation, new directives or national mandates had been given.

14. POLICY RECOMMENDATION & APPROVAL

RECOMMENDED / NOT RECOMMENDED

Head of Department: Dept. of Social Development **DATE**

Approved/ Not Approved

MEC: Dept. of Social Development **Date**