



Province of the
EASTERN CAPE
SOCIAL DEVELOPMENT

ETHICS MANAGEMENT & FINANCIAL DISCLOSURE POLICY

POLICY REGISTRATION NO: 2018-12

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DEFINITIONS AND TERMS

1.	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.
2.	Code of conduct	means the Code of Conduct contained in chapter 2 of the Public Service Regulations
3.	Department	The Eastern Cape Department of Social Development
4.	Employees	means an official of Government Department including National and Provincial Government
5.	Executive authority	Member of the Executive Council (MEC) who is the Political Head of the Department.
6.	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
7.	Public service act	means the Public Service Act, 1994 (Proclamation 103 published in Government Gazette 15791 of 3 June 1994) as amended
8.	Remunerative work	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"
9.	Public interest	means the public's interest to see and/ or perceive transparent, clean and corruption free
10.	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)
11.	Senior Management Services member	Senior Management Service as contained in Chapter 9 of the Public Service Regulations 2016
12.	Supply chain management employee	An employee employed in Supply Management Unit irrespective of their salary level.
13.	Occupational Specific Dispensation	Occupation Specific Dispensation determined by the Minister in terms of Regulation 42 of PSR 2016 which includes: (a) A unique salary scale

		(b) Centrally determined grades and job descriptions; and (c) Career progression opportunities based on competences, experience and performance.
14.	Finance official	An employee employed in finance unit irrespective of their salary level.
15.	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
16.	King VI	The King Code Corporate Governance for South Africa
17.	Director	Is the member of the Board of Directors of a company/Non-Profit Organization
18.	Board of Director	Is the collective of directors (non-executive and executive directors) that services on the Board.
19.	Company	Any entity that engages in business
20.	Ex-officio member	Is the member of the board of directors who is part of it by virtue of holding another office.
21.	Non-remunerative and part-time activity	Any activity performed by an employee without receiving/gaining remuneration and performed adhoc and seasonal. The employee must only be reimbursed costs incurred.
22.	Ethics	Means how an employee ought to live, treat others, make decisions, run or manage the lives of the organisations beyond the demands of laws and regulations i.e. doing the right thing.
23.	Financial disclosure	Means electronic disclosure of financial interest and other categories of employees as stipulated in Public Service Regulation , 2016

ACRONYM

DPSA	Department of Public Services and Administration
PFMA	Public Finance Management Act
PSR	Public Service Regulations 2016
SMS	Senior Management Services
MMS	Middle Management Services
NPO	Non-Profit Organisation
MEC	Member of Executive Committee
EO	Ethics Officer
OSD	Occupational Specific Dispensation
PSC	Public Service Commission
SCM	Supply Chain Management

LEGISLATIVE FRAMEWORK

- 1. Constitution of Republic of South Africa**
- 2. Code of Conduct for Public Service 1997**
- 3. Companies Act No 71 of 2008**
- 4. King IV Code of Good Governance, 2017**
- 5. Labour Relations Act 66 of 1995**
- 6. National Treasury Instruction note 2 dated 31 May 2011**
- 7. National Practice Note 7 of 2009 and 2010**
- 8. National Anti-Corruption Strategy 2017**
- 9. Public Finance Management Act, No 1 of 1999**
- 10. Public Services Regulations 2016,**
- 11. Public Service Act, Section 30**
- 12. Prevention and Combating of Corrupt Activities Act, No 12 of 2004**
- 13. Public Administration Management Act of 2014**
- 14. Promotion of Access to Information Act 2 of 2000**
- 15. Promotion of Administrative Justice Act 3 of 2000**
- 16. Public Administration Management Act 11 of 2014**
- 17. Public Protector Act 22 of 2003**
- 18. Public Service Act 103 of 1994**
- 19. South African Police Service Act 68 1995**

1. PREAMBLE

- 1.1. The Department of Public Services and Administration has issued a Code of Conduct to enforce ethical behavior of all employees in the public service. The Code of Conduct stipulates the expected behavior 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.
- 1.2. 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.
- 1.3. 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
- 1.4. Also King IV on Corporate Governance emphasis the following best practice on the promotion of ethical culture in an organization:
 - 1.4.1. Principle 1: The governing body should lead **ethically and efficiently**.
 - 1.4.2. Principle 2: The governing body should **govern the ethics of the organisation** in a way that supports establishment of ethical culture.
 - 1.4.3. Principle 11: The governing body should **govern risk** in a way that supports the organisation in setting and achieving its strategic goals.
 - 1.4.4. Principle 13: The governing body should govern compliance with applicable laws and adopted, non-binding rules, code and standards in a way that support the organisation being ethical and good corporate citizen.

2. PURPOSE

The purpose of this policy is to provide a policy guiding framework and procedures on ethics and financial disclosure management in the Department

3. OBJECTIVES

- a) To promote ethical behaviour of all employees in the Department.
- b) To regulate Financial Disclosures of SMS members, MMS and other categories of employees as prescribed by Public Service Regulations, 2016.
- c) To regulate remunerative work outside public service in such a way that the values and principles enshrined in the Constitution are not compromised.
- d) To institute consequence management on transgression to Public Service Regulations 2016.

4. SCOPE OF APPLICABILITY

This policy is applicable to all employees of the Department of Social Development and must be read in conjunction with the code of conduct of relevant professional bodies applicable to the department (For example; South African Council for Social Service Professionals, Institute of Internal Auditor South Africa, etc).

5. PRINCIPLES AND VALUES

Section 195 (1) 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.
- f) Public administration must be accountable
- g) Transparency must be fostered by providing public with timely, accessible, and accurate information
- h) Good human resource management and career development practices to maximise human potential must be cultivated.
- i) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalance of the past to achieve broad representation.

6. POLICY STATEMENT

The Department of Social Development enforces highly ethical standards to all its employees and they must be adhered by all in the Department. Employees are required to execute their duties in a loyal, lawful, honest, respectful and integral manner in compliance with Public Service Regulations 2016 (PSR).

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

- (a) No officials of the Department as a person, a director, a shareholder or a partner or ex-officio member of company/NPO may trade, do business with, or enter into a contract with any organ of state whilst in the employ of the state.
- (b) No officials of the Department 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/Ex-officio Member that is employed by the state may be registered in the supplier database of any organ of state.
- (d) An employee who trades with the organ of state, acts in contravention of the provisions of the PSR and shall be guilty of misconduct.

6.2. Performing Remunerative Work Outside Public Service.

- a) No employee may perform remunerative work outside his/her employment; unless a written permission to perform such work has been obtained from the Executive Authority (MEC).
- b) In terms of the Code of Conduct, an employee who does remunerative work outside employment without approval –
 - i. Does not put the public interest first in execution of his or her duties
 - ii. Does not serve the public in an unbiased and impartial manner
 - iii. 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

- a) 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 Ethics Officer (Risk Management & Anti-Corruption unit) for the approval of the Executive Authority.
- b) If no response from Executive Authority (MEC) after 30 days, the application is deemed approved and shall be valid for period of 12 months from the date of signature of the Executive Authority.

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.

6.3. Non- remunerative and part-time activity performed by employees.

- (a) An official, who wishes to perform a non-remunerative or part-time activity, must declare such activity in a prescribed format and signed by the supervisor, recommended by the Ethics Officer and approved by the Accounting Officer.

6.4 Declaration by new employees.

- a) An employee who joins the Department through new appointment, secondment and transfer 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 that:
 - i. That he/she, or a business, company or entity in which he or she has an interest, trades with an organ of state;
 - ii. Particulars of such trade; and
 - iii. The value of such trade
- b) After such disclosure, the newly appointed employee must within 60 days:
 - i. 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.
 - ii. Submit proof to the Departmental 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.

6.5 Disregarding of Bids and Quotations

- a) The Department may, in the public interest, use its discretion to refuse trading with a company whose Director or Member is a family member of an employee.
- b) 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 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.

- c) The bid shall be rejected or refused at any stage of procurement processes where a conflict of interest with an employee is detected.

6.6. Family member's Interest

- (a) 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 Accounting Officer the following:
 - i. 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
 - ii. Particulars of such trade.

6.7. Gifts and Hospitality

- a) An employee must not use his or her official position to obtain or solicit 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.
- b) In terms of Prevention and Combating of Criminal Activities Act (PRECCA), employees are prohibited to 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 in section 1 of PRECCA.
- c) However, employee may accept any gift from any person in the course of his/her employment to the accumulative value of Three Hundred and Fifty Rand only (R350.00) per year.
- d) Gifts must be declared to the Supervisor and record in the Departmental gift register within two (2) working days of receipt, in writing.
- e) All gifts received by the Department must be declared in the Annual Report of the Department.

6.8 Donations

- a) Donations are acceptable to the department and must registered through the office of the Accounting Officer in the Provincial Office and District Directors in Districts.

6.9 FINANCIAL DISCLOSURE

6.9.1 SMS and other Categories of employees

- a) The Accounting Officer must ensure that all the categories stipulated below as per Public Service Regulation, 2016, submit their financial disclosures to Public Service Commission (PSC) in a prescribed format.
- (b) The periods of disclosure for financial interests are as follows:
 - i. Senior Management Services (SMS) members 1-30 April of the year
 - ii. OSD/ personal notches (level 13 & above) 1-30 June of the year
 - iii. Level 11-12 (including OSD/personal notches) 1-30 June of the year.
 - iv. Ethics / PSC officials 1-30 June of the year
 - v. Supply Chain and Finance officials 1-31 July of the year.
 - vi. New employees in all categories 30 days after assumption of duty.
- (c) Non adherence to financial disclosure constitutes misconduct by the officials.

6.10 Verification of Financial Disclosure

- (a) Verifications of financial disclosure submitted by officials shall be verified by Ethics Officers and submit the Accounting Officer.
- (b) The Accounting Officer shall submit the SMS disclosures to Public Service Commission by 31 May each year.

6.11 Supply chain management requirements on Declarations

- (a) The Accounting Officer must ensure that:
 - i. The Department complies fully with the National Treasury Instruction Note 2 of 2011, 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.
 - ii. Consequence management must be instituted in the event of non-compliance;
 - iii. No bid or quotation must be awarded or accepted, unless a completed form (SBD 4) "Declaration of interest" is submitted with a bid or quote.
- (b) 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 conflict of interest in writing to the Accounting Officer.

6.12 Establishment of an ethics committee

The Departmental Ethics Committee must comprise of officials of the Department, representing the various programmes. The representatives must be at Senior Management level and the committee must be structured as follows. Chairperson of the committee to be Deputy Director-General and secretariat must be the Ethics Officer.

The function of the Committee shall be as follows:

- (a) Provide strategic advice, direction and oversight on ethics management of the department.
- (b) Ensure that the department's ethics risks are assessed and that the department has an understanding on their ethics risk profile.
- (c) Approve a strategy and plan for the management of ethics in the department
- (d) Ensure that the department's code of ethics and relevant policies, are developed or revised to address ethics risks:
- (e) Monitor and report on department's ethics performance including:
 - i. The implementation of the ethics management strategy.
 - ii. The ethical culture of the department
 - iii. Fairness, effectiveness and timeous of disciplinary processes
 - iv. Being custodians of organizational values and ensuring that these are consistently applied. This shall include ensuring that departmental decisions and actions are substantively in line with the spirit of the department's code of ethics and policies.
- (f) The Ethics Committee shall keep Executive Management informed of the ethics performance of the Department and will formally report to the Accounting Officer through the Ethics Champion.
- (g) The committee shall also prepare a report on Department's ethics performance to the relevant portfolio committee. This submission must be included in the Department's annual report submission.

6.13 Designation of Ethics Champion

The Accounting Officer must designate an ethics champion at an executive level with the delegated authority to drive ethics and anti-corruption initiatives. Ethics champions are responsible for Departmental ethics performance and the following:

- (a) Drive Departmental ethics management programme and ensure that it remains momentum.
- (b) Advocate the interest of the ethics office
- (c) Chair the Ethics Committee (where applicable)
- (d) Ensure the co-ordination and integration of departmental ethics initiative with other related initiatives (such as anti-corruption, policy development, compliance, risk management and service delivery plans)
- (e) Ensure that procedures are in place to investigate misconduct.
- (f) Elevate significant ethics issues to the Accounting Officer, and
- (g) Promote discussion of ethics issues at executive level.

6.14 Ethics Implementation Plan and assessment

- (a) The Ethics Officer must develop an Ethic Implementation Plan that is aligned with ethics risk assessment of the Department.
- (b) The plan must be submitted to the Ethic Committee for recommendation and approval by the Accounting Officer and be reviewed annually.

6.15 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 Accounting Officer and Member of Executive Council (MEC) shall approve this policy.

8. EXCEPTION / EXEMPTIONS

There are no exceptions and exemptions.

9. ADMINISTRATION OF THE POLICY

The custodian of this policy is the Accounting Officer who is supported in its implementation by Risk Management & Anti-Corruption Unit.

10. ACCOUNTABILITIES AND RESPONSIBILITIES

10.1 Executive Authority

- (a) The MEC oversees the ethical conduct instilled in the Department.
- (b) The MEC shall be accountable to the legislature and the executive in terms of the achievement of the goals and objectives of the Department.

10.2 Accounting Officer

- (a) The Accounting Officer must establish an ethics committee or designate an existing committee, chaired by Deputy Director-General.
- (b) The Accounting Officer must set the tone at strategic level that affects integrity, ethics and other factors of the control environment.
- (c) Accounting Officer shall be accountable for Departmental ethics management.
- (d) 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.

10.3 Audit Committee

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

10.4 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.

10.5 Internal Audit Services

- (a) The responsibility of Internal Audit on Ethics Management is to evaluate the Ethical Culture in the Department against the set standards or policies and report accordingly.

10.6 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.

11. EFFECTIVE DATE OF THE POLICY

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

12. PROCEDURES FOR IMPLEMENTATION

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

13. MONITORING MECHANISM

- (a) Reporting quarterly on ethics register and implementation plan.
- (b) Consolidation of gift and donations register on quarterly basis.
- (c) Monitoring of disclosures on quarterly basis.
- (d) Monitoring applications on remunerative work outside public service on monthly basis.

14. ENFORCEMENT

Non-adherence to this policy will constitute a misconduct and shall be dealt with in accordance with Public Service Act, section 16A and B.

15. POLICY REVIEW

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.

16. POLICY APPROVAL



**HEAD OF DEPARTMENT
DEPT. OF SOCIAL DEVELOPMENT**

15/10/18

DATE

APPROVED/ NOT APPROVED



**MEMBER OF EXECUTIVE COUNCIL
DEPT. OF SOCIAL DEVELOPMENT**

15/10/18

DATE

