



DEPARTMENT OF TRADE AND INDUSTRY

ETHICS MANAGEMENT FRAMEWORK

The logo for the South African History Archive (SAHA) is a circular emblem. It features a central illustration of a person and a dog. The text 'south african history archive' is written in a circular path around the top, and 'SAHA' is written at the bottom. Two small dots are positioned on the left and right sides of the circle.

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1. INTRODUCTION

- 1.1 **the dti** is committed to upholding the highest standard of professionalism by promoting ethical behaviour, good conduct that inspires loyalty, and integrity in every employee. This is emphasised by clause 4.1(a) of **the dti** Fraud Prevention Policy, which states that **the dti** has a *zero tolerance* attitude to fraud.
- 1.2 In accordance with the Code of Conduct for the Public Service as issued by the Public Service Commission (PSC) and section 195 (1) in Chapter 10 of the Constitution of South Africa, 1996, it is required of each employee in the performance of their duties to reflect high personal standards including honesty, courtesy, objectivity, high professional standards of ethics, propriety and probity.
- 1.3 These high standards will allow **the dti** to maintain public confidence and trust, whilst ensuring proper public administration.

2. PURPOSE AND APPLICABILITY

- 2.1 The purpose of this framework is to:-
 - a) reflect the values and principles of **the dti** to outline the minimum standard of behaviour every employee and official is expected to follow;
 - b) maintain a reasonable balance between the competing interests of employees in their commitment and dedication towards **the dti** and their entrepreneurial drive to enhance their experience and income through external activities; and
 - c) provide clear rules, regulations and steps that employees and officials must submit to for openness, loyalty and integrity in their conduct.
- 2.2 The framework applies to all employees of **the dti** irrespective of rank or appointment type, inclusive of temporary, contract workers and interns, and in accordance with the policies of **the dti**.
- 2.3 This framework addresses business ethics in **the dti** in the context of the concept of civil society and in the light of attitudes and habits ingrained in cultural values and traditions that each employee as an individual brings with them to **the dti**. Without undermining the cultural rights of any employee, **the dti** must seek to establish, maintain and promote a common set of ethical values, which will inform and guide both employer and employee throughout the course of business.

3. VALUES, ETHICS AND INTEGRITY

- 3.1 The values of **the dti** are described as delivery, trust, and integrity. This reflects the commitment of **the dti** to ensure that it delivers on its promises in providing its service in terms of its objectives, in a manner that demonstrates integrity, and inspires trust.
- 3.2 The values of **the dti** are to be applied in the context of the 8 *Batho Pele* principles that were developed to serve as an acceptable policy and legislative framework regarding service delivery in the public service. These principles are aligned with the Constitutional ideals of:
 - Promoting and maintaining high standards of professional ethics;
 - Providing service impartially, fairly, equitably and without bias;

- Utilising resources efficiently and effectively;
- Responding to people's needs; and
- Rendering an accountable, transparent, and development-oriented public administration.

The *Batho Pele* principles are:

- Consultation
- Setting service standards
- Increasing access
- Ensuring courtesy
- Providing information
- Openness and transparency
- Redress
- Value for money

3.3 **Ethics** may be defined as the study of principles relating to right and wrong conduct. It also speaks to morality, and standards that govern the conduct of a person, in the context of a community or profession. In simple terms, ethics provides a evaluation mechanism, based on which a particular action is adjudged as right or wrong, or as good deed or bad deed.

3.4 **Integrity** relates to consistency of actions, values, methods, measures, principles, expectations, and outcomes. As a holistic concept, it judges the quality of a system in terms of its ability to achieve its own goals. It may also be seen as the quality of having a sense of honesty and truthfulness concerning the motivations for one's actions.

4. ETHICS MANAGEMENT APPROACH

Ethics Management involves mandatory employee training and the adoption of organisational rules that promote a conducive ethical working environment.

4.1 EMBEDDING AN ETHICAL CULTURE

To embed an ethical culture, and in accordance with the Explanatory Manual on the Code of Conduct from the PSC, the following:

4.1.1 Lead by example

In order to instil a culture of ethical conduct amongst employees, it is critical that management leads by example by "walking the talk". This means that management must be fair, consistent and transparent in all management actions, including and with emphasis on the treatment of fraud and other misconduct. Management must be held to account for any failure to act when so required, with no exceptions.

4.1.2 Consistently communicate all relevant decisions affecting employees taken at top management committees

All decisions made by the Executive Board (Exbo) and its sub-committees that affect employees will be communicated to all employees subsequent to the relevant meeting. This information will include, but will not be limited to, amendments of policies, decisions regarding key decisions etc. With due regard to the need to secure and preserve information that is by nature sensitive, it is important for a culture of transparency in governance that decision-making be communicated. This would not only promote administrative justice, but would enhance employee confidence in its management and leadership.

4.1.3 Provide training and awareness on promotion of ethical behaviour

4.1.3.1 **the dti** employees will be encouraged in the form of trainings and awareness campaigns to think and behave ethically and to promote a high standard of professional ethics in the workplace. Training and awareness campaigns will be conducted at least twice in 12 months by the Corporate Governance Directorate, and all employees are expected to attend trainings provided.

4.1.3.2 Training sessions and awareness campaigns will address:-

- a) The upholding of the values of **the dti** by its employees;
- b) How employees are to conduct themselves in their dealings with stakeholders and the public at large;
- c) The minimum acceptable conduct in the workplace;
- d) Conflicts of interest and fraud-related issues that will assist **the dti** to maintain its "zero tolerance" commitment to fraud prevention; and
- e) An understanding of **the dti** policies that are approved and must be complied with.

4.2 FORMALISING ETHICS MANAGEMENT

4.2.1 Structures

4.2.1.1 The primary governance committee of **the dti** is the Executive Board (Exbo), and to enable Exbo to fulfil its corporate governance responsibilities, Exbo has in place sub-committees known as the Risk Management Committee (RMC), the Audit Committee (AC) and the Operations Committee (Opscom). The RMC is the sub-committee with the specific oversight of ethics, and this oversight is formalised in the RMC Charter. This does not detract from the over-arching responsibility of Exbo as a collective to oversee the management of ethics in the department, and to make decisions in this regard as may be deemed necessary.

4.2.1.2 The Group Systems and Support Services Division (GSSSD), which provides department-wide support to **the dti**, also has in place an Ethics Working Group, comprising representatives of Finance, Corporate Governance and Legal Services, to further strengthen the formalising of ethics oversight in terms of structures.

4.2.2 Compliance with regulatory prescripts:

4.2.2.1 As a national department, **the dti** will subscribe to all laws and public service prescripts that relate to ethical public administration. These include, but are not limited to:

- a) Public Finance Management Act, No. 1 of 1999, as amended
- b) Corruption Act, No. 94 of 1992
- c) Prevention and Combating of Corrupt Activities Act, No. 12 of 2004
- d) Promotion of Access to Information Act, No. 2 of 2000
- e) Promotion of Administrative Justice Act, No. 3 of 2000
- f) Protected Disclosure Act, No. 26 of 2000
- g) Public Service Act, No. 103 of 1994
- h) National Treasury Regulations
- i) Code of Conduct for the Public Service, 1997
- j) King Report on Corporate Governance (King II)
- k) King Report on Governance (King III) – draft
- l) Constitution of the Republic of South Africa, No. 108 of 1996

4.2.2.2 With specific reference to the Public Finance Management Act (PFMA) due its super-ordinate nature, the following are to be noted:

Chapter 5, Section 38 of the PFMA stipulates, *inter alia*, that the Accounting Officer of a department must ensure:

- a) an effective, efficient and transparent system of financial and risk management and internal control;
- b) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
- c) that effective and appropriate steps are taken to collect all monies due to the department;
- d) the prevention of unauthorised, irregular and fruitless expenditure, and losses resulting from criminal conduct;
- e) that the department complies with legislation and taxes;
- f) that effective and appropriate actions are taken against any officials that contravenes or fail to comply with any provision of the PFMA, or who commits an act that undermines the financial management and internal control system of the department, or who makes or permits any unauthorised, irregular or fruitless expenditure.

Chapter 5, Section 45 of the PFMA requires that officials in a department:

- a) must ensure that the system of financial management and internal control for the department is carried out within their area of responsibility;
- b) are responsible for the effective, efficient, economical and transparent use of financial and other resources within their area of responsibility; and
- c) are responsible for the management, including the safeguarding of the assets, and the management of liabilities, within their areas of control.

Chapter 10, Section 32 of the PFMA indicates that an official of the department to whom powers are delegated, commits an act of financial misconduct if that official wilfully or negligently fails to exercise such powers or to perform such duties.

Section 84 furthermore states that any charge of financial misconduct against such an official must be investigated, heard and disposed of in terms of statutory or other conditions of employment.

Although regulatory in nature, the above provisions of the PFMA contribute to an ethical framework by setting minimum compliance requirements required for sound financial management. With emphasis on the principles of accountability and value for money, the PFMA also gives affect to the *Batho Pele*-principles, whilst financial management as an outcome of this legislation directs the management of financial and other resources.

4.2.2.3 The following business functions will assist to ensure compliance thereto:

- a) Corporate Governance
- b) Internal Audit
- c) Human Resources
- d) Finance
- e) Legal Services

4.2.3 Ethics embedded in terms of various policies:

To further embed ethical compliance, **the dti** will subscribe to all public service prescripts as a minimum standard, but will also develop internal policies to further strengthen its control environment. With regard to ethics management, there must be various policies to manage issues that involve ethical decision-making, such as, but not limited to, the:

- a) Fraud Prevention Policy and Strategy
- b) Risk Management Policy
- c) Risk Management Strategy
- d) Conflicts of Interests Policy
- e) Policy on Gifts, Sponsorships and Donations
- f) Gifts Registry

4.2.4 Help-desk advice and reporting

The Corporate Governance Directorate will provide a help-desk type of advisory service, for any questions or concerns that anyone may have regarding ethical conduct. This will enable officials to avoid conducting themselves in a manner that could be perceived as unethical.

Should an employee suspect the occurrence of fraud or any corrupt activity, then the employee must be able to report such suspicion. It will be the responsibility of the Corporate Governance Directorate to ensure that all staff members are made aware of the reporting mechanisms available, and also of their right to protection against victimisation in terms of the Protected Disclosures Act.

4.3 IDENTIFYING THE RESPONSIBILITIES OF THE EMPLOYER AND EMPLOYEE

4.3.1. Employer

It is the responsibility of the employer, namely management at all levels, to create an appropriate environment in which values are established and exemplary models are set for all employees.

4.3.1.1 In order to give effect to section 195(1)(a) of the Constitution, which requires that "a high standard of professional ethics must be promoted and maintained" in public administration, **the dti** through its management must ensure that instruments are put in place to promote professional ethics, and must further monitor the adequacy and effectiveness of such instruments to maintain a standard that is acceptable.

4.3.1.2 Section 20(t) of the Public Service Act, 1994, charges all employees appointed in terms of the said Act with the responsibility to comply with the prescribed Code of Conduct. As this forms the main basis on which pro-active, corrective and even disciplinary action rests, the employer must be responsible for ensuring that the contents of the Code of Conduct are known to all employees.

4.3.2 Employee

4.3.2.1 The Explanatory Manual on the Code of Conduct for the Public Service establishes ethics principles that are essential for good public administration, and these include guidelines for the conduct of a public service employee.

4.3.2.2 The manual sets out the standards of good conduct for an employee in his /her relationship with the Legislature and the Executive, the public, and amongst employees.

4.3.2.3 The key principles to be followed are that an employee must –

- a) put the public interest first in the execution of his or her duties and serve the public in an unbiased and impartial manner in order to create confidence in the Public Service;
- b) be loyal and strive to be familiar with and abide by all statutory and other instructions applicable to his or her conduct and duties;
- c) not abuse his or her position in the Public Service to promote or prejudice the interest of any political party or interest group, favour relatives and friends in work-related activities, or abuse his or her authority or influence another employee, nor is influenced to abuse his or her authority;
- d) recognise the public's right of access to information, excluding information that is specifically protected by law, as well as right to fair administrative justice;
- e) deal fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;
- f) not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties;
- g) recuse himself or herself from any official action or decision-making process which may result in improper personal gain and this should be properly declared by the employee;
- h) be honest and accountable in dealing with public funds and use the dti's property and other resources effectively, efficiently, and only for authorised official purposes;
- i) report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence, or which is prejudicial to the public interest;
- j) not use his or her official position to obtain private gifts, hospitalities or benefits for himself or herself during the performance of his or her official duties as these may be construed as bribes;
- k) not use or disclose any official information for personal gain or the gain of others; and
- l) not undertake remunerative work outside his or her official duties or use office equipment for such work, unless approval is granted in writing for such work.

5. CONSEQUENCES FOR NON-ADHERENCE

In the event of non-compliance with the precepts of this Framework, appropriate action must be taken in accordance with the Disciplinary Code and Procedure that is applicable in the dti. Particular emphasis must be placed on action in instances where the official is in a managerial position, as the dti must reflect commitment to good business ethics by applying the same standard to all officials, without fear, favour or prejudice.

6. CONCLUSION

This Ethics Management Framework shall serve as the over-arching commitment of the dti in ensuring that good ethics are integrated into the work-life of employees as well as into the management principles by which the department conducts its business.



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