

DIRECTIVE NO: 16

GOVERNING FRAMEWORK FOR PREVENTING AND MANAGING CONFLICTS OF INTEREST IN THE PUBLIC ADMINISTRATION

Issued on 27th November 2023 by the Principal Permanent Secretary in terms of the Public Administration Act (CAP 595).

1. PURPOSE AND APPLICABILITY OF THIS DIRECTIVE

- 1.1 Identifying and managing conflict of interest situations remains a priority issue for the Government of Malta and is a crucial component of good governance and for building and maintaining trust in public institutions. If conflicts of interest are not identified and managed appropriately this may give rise to improper conduct undermining the reputation of and trust in public institutions.
- 1.2 For this purpose, a Framework for Preventing and Managing Conflicts of Interest in the Public Sector is being introduced designed to:
 - promote high ethical standards in the public administration;
 - ensure integrity and transparency in the public administration; and to
 - provide public employees and board members with guidelines, policies, and procedures to ensure the effective identification, reporting and management of conflict of interest situations.
- 1.3 The Framework attached to this directive is intended to further support the relevant provisions provided in the Public Administration Act (CAP 595), which incorporates the Code of Ethics (First Schedule to the Public Administration Act).
- 1.4 This Directive and Framework applies to 'Public Employees' and 'Board Members' within the Public Administration.
 - 1.4.1 The term 'Public Employees' as defined by the Framework includes:
 - a) Public officers and employees of state agencies, and other entities of Government to which the Public Administration Act applies;
 - b) Public officers seconded to bodies outside the Public Administration of Malta;
 - c) Persons on a contract of employment within the Public Administration; and
 - d) Employees and officials of companies where the Government of Malta holds a majority shareholding and a controlling interest.
 - 1.4.2 The term 'Board Members' as defined by the Framework includes chairpersons and members of standing boards and commissions within the Public Administration including the governing boards of state

entities and companies where the Government of Malta holds a majority shareholding and a controlling interest.

2. GENERAL PRINCIPLES

- 2.1 A conflict of interest arises when a public employee or a board member's ability to faithfully discharge his / her duties, is or can reasonably be, called into question on account of occupations, activities or interests that they or their close relations may have, including instances where the public employee or board member is placed in a position to be biased or is seen as potentially being biased.
- 2.2 A conflict of interest may be driven from financial and / or non-financial interests of the public employees / board members or their close relations, which result in an actual, potential or apparent conflict of interest, as defined within Section 4 of the Framework attached to this Directive.
- 2.3 In many cases, only the individual public employee or board member is aware of actual, potential or apparent conflict of interest situations arising from their private capacity interests or the private capacity interests of their close relations which may directly or indirectly influence their objectivity in performing their respective official duties and responsibilities.
- 2.4 Public employees and board members are required to exercise careful judgement in assessing which relations/situations may give rise to an actual, potential, or apparent conflict of interest.
- 2.5 It is the responsibility of the individual public employee or board member to report any actual, potential, or apparent conflict of interest so as to allow the proper management of such conflict of interest situations, following the reporting lines as set out in Section 5 of the Framework and making use of the Conflict of Interest Notification form.
- 2.6 Current and prospective public employees or board members are to report any known actual, potential or apparent conflicts of interest **prior to assuming office or accepting an appointment.**
- 2.7 Once a public employee or board member assumes office or accepts an appointment, any actual, potential or apparent conflicts of interest arising from subsequent change in duties, responsibilities or circumstances, are to be reported by the public employee or board member, immediately as soon as such conflicts of interest are known.
- 2.8 Public employees and board members have a duty to report any matters pertaining to other public employees or board members which occurred or are likely to occur and which may result in an actual, potential or apparent conflict of interest. Such reporting is to be undertaken in line with the provisions provided within the Whistleblower Act.

3. MANAGEMENT OF CONFLICT OF INTERESTS

- 3.1 The effective management of conflict of interest matters is key to safeguard the integrity, reputation and trust in the public administration.
- 3.2 Each Permanent Secretary must ensure that when a conflict of interest is identified, pertaining to a public employee or board member within a Ministry, Government directorate / department, state agency and Government entity falling under his / her remit, appropriate action is taken to avoid, or otherwise mitigate the associated risks.
- 3.3 Similarly, the Principal Permanent Secretary must ensure that when a conflict of interest is identified, pertaining to a Permanent Secretary, appropriate action is taken to avoid, or otherwise mitigate the associated risks.
- 3.4 The action taken to manage identified conflicts of interest depends on the nature, severity, and associated risks of the identified conflict. The possible management strategies that may be applied to manage conflicts of interest are outlined in Section 6 of the Framework, designed to provide guidance in determining the most appropriate management strategy for managing a conflict of interest situation.

4. CONFLICT OF INTEREST COMMITTEE

- 4.1 In the case of high-risk, or complex conflict of interest matters, or otherwise where the Principal Permanent Secretary or Permanent Secretary feels that he / she may, or may be perceived not to be able to manage the matter in an objective manner, the conflict of interest matter shall be escalated to the Conflicts of Interest Committee.
- 4.2 The Conflicts of Interest Committee shall be composed of Permanent Secretaries, in Office or Retired, as follows:
- A Chairperson
 - A Deputy Chairperson
 - 2 Members
 - 2 Substitute Members
- 4.3 The Conflict of Interest Committee shall be responsible for:
- reviewing conflict of interest matters referred to it by the Principal Permanent Secretary and / or the respective Permanent Secretaries; and
 - providing recommendations to the Principal Permanent Secretary or the respective Permanent Secretaries, as applicable, on how to manage any conflict of interest matters identified.
- 4.4 If the matter being reviewed by the Conflicts of Interest Committee pertains or affects a member of the same Committee, such member shall be recused from taking part in the discussion.

5. OTHER PROVISIONS

5.1 Section 7 of the Framework provides for additional standards to be observed by public employees and board members, as applicable, designed to prevent and manage conflicts of interest, pertaining to the following key areas:

- Gifts, hospitality and other benefits;
- Political participation;
- Pre-public employment and post-public employment; and
- Private work.

6. IMPLEMENTATION

6.1 This Directive shall come into force on 1 February 2024. All public employees and board members are required to comply with the requirements set out in this Directive and the attached Framework.

6.2 Ministries, Government directorates / departments, state agencies and other entities of the Government are responsible for putting in place arrangements to manage conflicts of interest.

6.3 Each Ministry, Government directorate / department, state agency or Government entity shall ensure that public employees or board members are aware of their obligation to:

- report any actual, potential, or apparent conflict of interest; and
- report any suspected conflict of interest regarding another public employee or board member.

6.4 Each Ministry, Government directorate / department, state agency or Government entity shall ensure they have appropriate systems in place to facilitate the reporting and management of conflict of interest situations in a transparent and timely manner.

6.5 Permanent Secretaries are responsible for ensuring that each Ministry, Government directorate / department, state agency or Government entity maintains a 'Register of Conflicts of Interest' to enhance transparency and provide the respective organisation with an effective tool to monitor and manage conflict of interest situations.

6.6 The Principal Permanent Secretary is responsible to ensure that a 'Register of Conflicts of Interest' is maintained for recording the interests pertaining to Permanent Secretaries.

6.7 The Permanent Secretaries or Principal Permanent Secretary, as applicable, are responsible for ensuring that the 'Register of Conflicts of Interest' is maintained up to date and includes the minimum disclosure requirements as provided within Section 6 of the Framework.

- 6.8 Each Ministry, Government directorate / department, state agency or Government entity is to maintain a register listing all reportable gifts, as set out in Section 7 of the Framework.
- 6.9 Failure to abide by this Directive and the provisions within the attached Framework is to be regarded as grounds for disciplinary measures.
- 6.10 This Directive and the provisions within the Framework apply indefinitely unless specifically revoked or amended by the Office of the Principal Permanent Secretary.

Tony Sultana
Principal Permanent Secretary

Attachment: Framework for Preventing and Managing COI in the Public Sector.pdf