

Guidelines for Officers of Public Bodies

In addition to the sensitization and empowerment sessions conducted for officers of public bodies, this guideline is issued under Section 44 (2) of the Prevention of Corruption Act 2002, as amended.

1. Objectives of the Guidelines




The objectives of the Guidelines, amongst others, are to:

- sensitise officers of public bodies on their rights and responsibilities;
- provide pertinent information relating to the Prevention of Corruption Act 2002, as amended;
- encourage officers of public bodies to report acts of corruption in good faith and provide handy information on the various channels for reporting corruption;
- help officers of public bodies to improve service delivery and operate in a corrupt-free environment;
- encourage officers of public bodies to resist, reject and report corruption and build corruption resistance in public bodies; and
- assist officers of public bodies to reinforce public sector integrity.

2. A Word about the ICAC

The Independent Commission Against Corruption (ICAC) is established as a corporate body under the Prevention of Corruption Act (PoCA) 2002, as amended, to lead, implement and administer prevention, education and enforcement elements in the national strategy to fight corruption within the established legal parameters.

ICAC adopts a three pronged strategy to fulfill its mandate namely through:

-  Investigation
-  Prevention
-  Education

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3. Act of Corruption

The Prevention of Corruption Act 2002, as subsequently amended, defines an act of corruption as:

- (i) any conduct whereby, in return for a gratification, a person does or neglects from doing an act in contravention of his public duties;
- (ii) the offer, promise, soliciting or receipt of a gratification as an inducement or reward to a person to do or not to do any act, with a corrupt intention;
- (iii) the abuse of a public or private office for private gain;
- (iv) an agreement between 2 or more persons to act or refrain from acting in violation of a person's duties in the private or public sector for profit or gain;
- (v) any conduct whereby a person accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification for inducing a public official, by corrupt or illegal means, or by exercise of personal influence, to do or abstain from doing an act in the exercise of his duties to show favour or disfavour to any person

4. Corruption Offences

The Prevention of Corruption Act 2002, as amended, describes the various corruption offences under Sections 4 to 17, as indicated in the table below:

Section 4	Bribery by Public Official
Section 5	Bribery of Public Official
Section 6	Taking gratification to screen offender from punishment
Section 7	Public Official using his office for gratification
Section 8	Bribery of or by public official to influence the decision of a public body
Section 9	Influencing Public Official
Section 10	"Trafic d'Influence"
Section 11	Public Official taking gratification
Section 12	Bribery for procuring contracts

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Section 13	Conflict of interests
Section 14	Treating of Public Official
Section 15	Receiving gift for a corrupt purpose
Section 16	Corruption of agent
Section 17	Corruption to provoke a serious offence

For more information, you may refer to the Prevention of Corruption Act 2002, as amended, which can be downloaded from our website www.icac.mu.

5. Who is a Public Official?

Section 2 of the Prevention of Corruption Act 2002, as amended, defines a “public official” as:

- a Minister
- a member of the National Assembly
- a public officer
- a local government officer
- an employee or a member of a local authority
- a member of a commission set up under the Constitution
- an employee or member of a statutory corporation
- an employee or director of any Government company
- includes a Judge, an arbitrator, an assessor or a member of a jury, an official of the International Criminal Court referred to in the International Criminal Court Act 2011

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6. Meaning of a Gratification

Gratification means:

- (a) a gift, reward, discount, premium or other advantage, other than lawful remuneration; and
- (b) includes –
 - (i) a loan, fee or commission consisting of money or of any valuable security or of other property or interest in property of any description;
 - (ii) the offer of an office, employment or other contract;
 - (iii) the payment, release or discharge of a loan, obligation or other liability; and
 - (iv) the payment of inadequate consideration for goods or services;
- (c) the offer or promise, whether conditional or unconditional, of a gratification

7. Penalty for Corruption Offences

The PoCA 2002, as amended, provides that anyone committing a corruption offence shall on conviction be liable to a penal servitude for a term not exceeding 10 years.

8. Why Should We Fight Corruption?

Corruption is a socially detestable, ethically wrong and economically harmful behaviour. It is a significant financial crime estimated by the World Economic Forum (2013) to cost about \$2.6 trillion per year, about 5 percent of global GDP, with about \$1 trillion paid annually in bribes. The World Bank Institute gives an estimate for annual worldwide bribery of about US \$1 trillion dollars (US \$1,000 billion).

Fighting corruption is everybody's business. Every officer of a public body should understand that corruption is harmful not only to the individual but to society at large. It can have

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disastrous consequences. Corruption tarnishes the image and credibility of the public sector. It leads to the diversion of funds and sub-standard services. Thus, everyone, sooner or later, suffers directly or indirectly.

To eliminate the perception of corruption in the public service, the promotion of public service excellence and 'value for money' services become imperative.

9. Duty to Report Corruption Offences

Section 44 of the PoCA 2002, as amended, imposes a duty on officers of public bodies to report any suspected case of corruption that they come across within the public body.

"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."

10. Reporting Corruption

The ICAC encourages officers of public bodies and the general public to report acts of corruption by:

-  Phoning on our Hotline 142
-  Calling in person at our office, 68 Harbour Area, Port Louis
-  Writing to the ICAC
-  Emailing us at icacoffice@intnet.mu
-  Accessing our website www.icac.mu

The ICAC handles all complaints in strict confidence according to the law.

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11. Notification of Corruption Offence

Section 43 of the PoCA 2002, as amended, makes provision for anonymous reporting of suspected corruption cases. But these should be done in good faith.

12. False Disclosure

It is an offence to willfully make a false disclosure. Any person making a false disclosure is liable, on conviction, to a fine not exceeding Rs 50, 000 and imprisonment not exceeding one year.

13. Protection of Informers

By law, the information received and the identity of an informer of an act of corruption shall be kept secret and can only be revealed by the consent of the informer.

All information received is treated in strict confidentiality, in line with the law.

14. Protection Offered to Witnesses

Section 49 (5) of the Prevention of Corruption Act 2002, as amended, states that a person who commits an act of victimisation against a person who has made a disclosure 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.

“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 amounting to threats of reprisals.

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15. Successful Fight Against Corruption

All officers of public bodies should be able to:

- **recognize, resist, reject** and **report** corruption.
- take cognizance of their Code of Ethics, understand, internalise and live the Code on a daily basis.

In this context, the ICAC is empowering all officers of public bodies with the aim of building a cleaner Mauritian society where fairness, equity and justice prevail. Under the PoCA 2002, as amended, an officer of a public body does not only have certain rights but responsibilities as well.

Officers of public bodies need to be well informed about:

- relevant legislations, regulations and policies governing their areas of activity;
- the code of ethics /conduct; and
- internal procedures.

Officers of public bodies need to stand guided by the above to ensure that their actions and decisions are legal, ethical and do not cause prejudice to anyone.

It is the responsibility of every officer of a public body to denounce all forms of corruption and contribute in the promotion of a culture of integrity for a corrupt-free Mauritius.

With the support and collaboration of officers of public bodies, we can make a difference.