

# CODE OF ETHICS

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# Code of Ethics



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## ACKNOWLEDGEMENTS

The development of this Code of Ethics would not have been possible without the dedication and support of all NPA staff members. Various meetings and workshops, during which extremely useful suggestions were made, have taken place throughout all the regions. We therefore acknowledge the invaluable contribution of workshop and meeting participants in the development of this Code. It is important to note that this Code of Ethics complements the following documents:

- Ethics: A practical guide to ethical code of conduct for members of the National Prosecuting Authority
- The Code of Conduct for members of the National Prosecuting Authority
- Code of Conduct for the public service
- Public Service Act and Regulations
- Public Service Integrity Management Framework
- South African Constitution (section 195) SMS Handbook
- King III report

## DISCLAIMER

While every effort has been made to ensure that the information in this document is correct, it remains the responsibility of every staff member to stay abreast with developments and ensure that the information contained in this Code of Ethics is correctly applied.

# ABBREVIATIONS

CEO	Chief Executive Officer
DPSA	Department of Public Service and Administration
NDPP	National Director of Public Prosecutions
NPA	National Prosecuting Authority
The Constitution	The Constitution of the Republic of South Africa 1996 (Act No 108 of 1996)

# LEADERSHIP PLEDGE

Dear Colleagues

Members of NPA must serve impartially and exercise, carry out or perform their powers, duties and functions in good faith and without fear, favour or prejudice, subject only to the Constitution and the law. We are committed to the highest ethical and integrity standards in delivering justice to the people we serve, to the extent that we are known to be an organisation of integrity. This code is our solemn promise to live the values that we have adopted as an organisation and adhere to the standards we have set ourselves for every action and decision we make at both organisational and individual level. To earn and maintain the public's confidence in the NPA, it is of vital importance that members of our organisation conduct their duties in an ethical and professional manner.

We know that the majority of NPA employees and stakeholders always strive to conduct themselves with integrity. As such, this code serves to reaffirm our commitment to what can be expected from us and what we expect from our stakeholders.

This Code, together with other organisational-specific policies, presents a guide to help us understand how we can all contribute to building the ethical organisation which we strive to be known as by all our stakeholders, and how to live the NPA values.

It also obliges all of us who witness any conduct that compromises or could compromise the integrity of the NPA to speak out. We ask that we all become familiar with the meaning and the significance of this Code of Ethics.

As employees, stakeholders, partners and clients, we all share the responsibility to operate within a common understanding of the core values on which our decisions and actions are based.

We urge all to have a clear conscience that to guide us in doing what is right and to continually choose right over wrong. Our consciences must guide us to be truthful and honest in all our decisions, thoughts, and actions, so as not to tarnish the image of the NPA.

I believe that personal commitment to live up to these values with passion and enthusiasm will lead to a better organisation as well as personal fulfillment. I have high expectations of all NPA officials in matters of integrity. I have even higher expectations for the leadership of the organisation. I want them to be exemplary, the embodiment of honesty and credibility. Leadership ethics must take priority.

We must all uphold the utmost ethical principles. I commit myself to the NPA's core organisational values and integrity standards and appeal for each one of us to commit yourselves likewise.

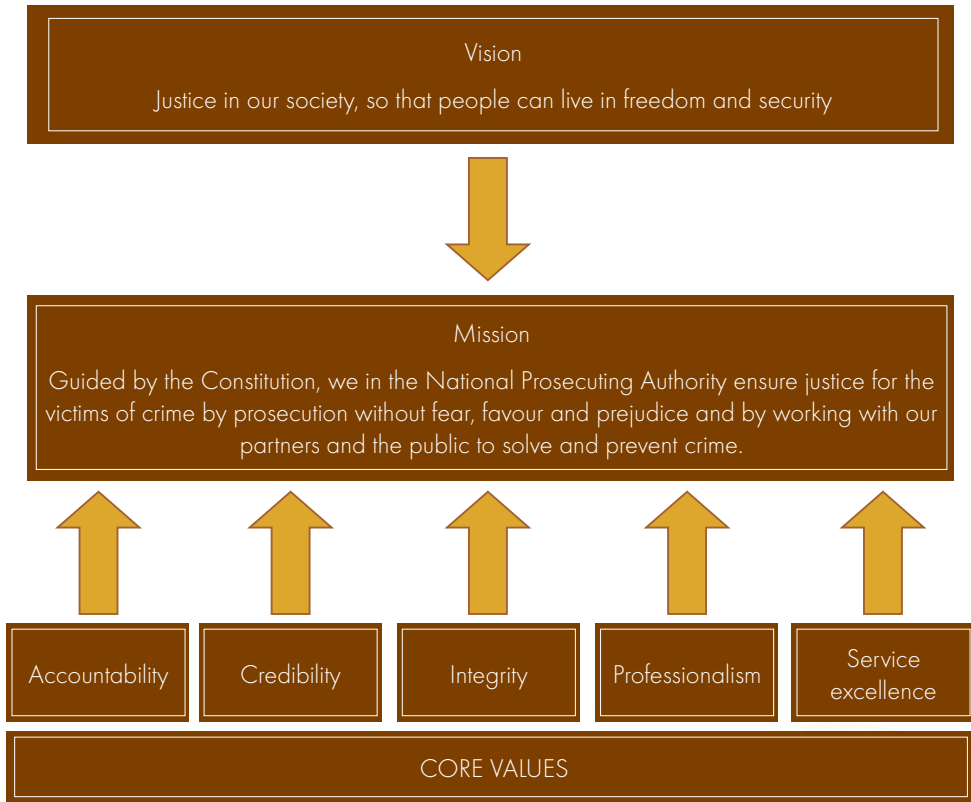
National Director of Public Prosecutions



# 1. OUR VISION, MISSION AND CORE VALUES

Our vision provides us with purpose and direction. It indicates desired outcome of our efforts. Our mission is the road map to arrive at our vision and emphasizes our commitment to be proactive and preventative in handling crime.

Our core values of accountability, credibility, integrity, professionalism and service excellence guide our behaviour and directly support our vision and mission. Our core values form the basis of our culture and reflect the standards of acceptable conduct in the NPA. They therefore form the foundation of what our stakeholders should expect of us and what we should expect of them.



## 2. PURPOSE AND SCOPE OF OUR CODE

This code is aimed at guiding our employees, stakeholders, partners and clients in maintaining high standards of integrity. This Code of Ethics seeks to raise ethical awareness and minimise or eliminate ethical risk. It should be seen as a day to day guide to responsible personal and business decisions.

At the NPA we are driven by our core values of accountability, credibility, integrity, professionalism and service excellence in all our organisational activities and transactions. These core values determine our organisational culture and reflect and support our commitment to live up to our vision. They provide guidelines for all our stakeholders and lay down the boundaries for responsible conduct so that all stakeholders know what to expect of the NPA and vice versa.

It is the responsibility of each one of us to ensure that ethical decision-making becomes part of our day to day dealings with the people we serve and our fellow employees. This will in turn enable us to maintain public confidence in the integrity of the NPA.

## 3. To whom does the Code apply?

This Code of Ethics applies to all NPA employees, stakeholders, partners and clients. It gives a clear indication of what is expected of us, both by the organisation and other stakeholders. We expect our suppliers and contractors to become aware of our Code, comply with the values and principles in our Code and thereby help us to live up to these values.

This Code of Ethics does not operate in isolation. This Code incorporates the principles enshrined in the South African Constitution, as well as all relevant statutes, corporate governance best practices, regulations, policies and procedures.

It is the responsibility of all employees and other stakeholders to understand how to apply our core values to issues and decisions in the workplace. This Code of Ethics provides clear principles and conduct provisions (do's and don'ts) to assist you with this. Should you be uncertain about what to do in any situation, you should ask for guidance or assistance through the appropriate channels and, where applicable, by referring to specific NPA policies and procedures (refer to section 6.1 of this document).

## 4. ENFORCEMENT OF OUR CODE

Because we take our values seriously, we will take action against employees who do not abide by the provisions for conduct in this Code. As NPA employees, we need to ensure that we are familiar with this Code of Ethics. Failure to comply with the Code or to report or take action in respect of unethical or illegal actions will be dealt with in accordance with the applicable disciplinary rules and procedures for bringing the NPA into disrepute. In cases of serious infringements, this may lead to termination of employment.

Furthermore, if we encounter a supplier, contractor, customer or other stakeholder who fails to embrace the principles and values contained in this Code of Ethics, we will carefully evaluate whether a relationship with that party should be maintained.

Evaluation, monitoring and enforcement of ethics are crucial to sustain an ethical culture in the NPA. This set of principles serves as a framework against which we can benchmark behaviour to achieve higher standards of ethical practice by means of self-evaluation. Monitoring of the NPA's ethical organisational culture will be based on these principles. Compliance with the provisions for conduct in these principles will be monitored. Training will be provided, policies and procedures will be revised, and transgressors will be reprimanded to ensure that ethical behaviour is enforced and maintained.

## 5. OUR VALUES

Values cannot remain theoretical. We must embrace and live our values and express them in the actions and decisions that we take. In the following section, NPA values are clarified and specified through defined principles and provisions for conduct.

### 5.1. Accountability

Accountability means that we are prepared to take responsibility for our own work, make commitments, find solutions and be accountable for results by:

- Complying with all applicable laws, rules, regulations, policies and this Code of Ethics;
- Ensuring accurate reporting;
- Accepting personal responsibility for our actions;
- Protecting the NPA's assets and records.

#### 5.1.1. Complying with all applicable laws, rules, regulations and policies

We will:

- Observe the letter and spirit of these documents;
- Observe and know all relevant national laws applicable to the mandate of the NPA;
- Follow all internal policies and procedures, including the standards of conduct and performance as set out in this Code of Ethics.

#### 5.1.2. Ensuring accurate reporting

We will:

- Report accurately and honestly on our performance, achievements and prospects.

### 5.1.3. Accepting personal responsibility for our actions

We will:

- Assume personal and professional ownership of our individual decisions and actions;
- Not blame others for our poor decisions and actions;
- Not make commitments on behalf of the NPA for which we cannot assume personal responsibility or on which we cannot personally deliver.

### 5.1.4. Protecting the NPA's assets and records

We will:

- Avoid using the NPA's property, assets or equipment in an improper or wasteful manner, or for personal gain;
- Treat assets such as vehicles or equipment with care and respect;
- Treat the assets of our clients, suppliers, contractors and employees with care and respect;
- Store the NPA's records in accordance with prescribed procedures;
- Report immediately the theft, misuse or waste of company assets, equipment or records.

## 5.2. Credibility

Credibility means being reliable, sincere and transparent in the manner we conduct ourselves by:

- Giving honest and impartial advice;
- Maintaining the confidentiality of information; and
- Protecting the NPA's name and reputation.

### 5.2.1. Giving honest and impartial advice

We will:

- Base our opinions on all available relevant information;
- Evaluate information objectively;
- Not make assumptions based on gossip and rumours;
- Evaluate only factual information.

### 5.2.2. Maintaining the confidentiality of information

We will:

- Refrain from disclosing any confidential, secret or top secret information belonging to the NPA;
- Maintain confidentiality of information received, for example, from informants; and
- Refrain from disclosing any information relating to personnel, such as employee salaries, medical status or personal circumstances, unless there is proper authorisation from the employee or other legitimate parties.

### 5.2.3. Protecting the NPA's name and reputation

We will:

- Avoid using the NPA's name or our status as an employee for purposes outside of work (for example, seeking preferential treatment, such as to gain access to sporting or other informal social events or obtaining a discount from an NPA supplier, when purchasing something for personal use, unless previously negotiated by the NPA on behalf of its employees);
- Avoid creating an impression that we are acting on the NPA's behalf when this is not the case;
- Refrain from speaking to the media unless explicitly mandated to do so; and
- Conduct ourselves in the manner as set out in Public Service policies and regulations pertaining to behavioural conduct.

## 5.3. Integrity

Integrity means that we are honest, trustworthy, truthful and open in our conduct and decision making and consistent in:

- Treating others fairly and equally;
- Avoiding actual and perceived conflicts of interest;
- Responsibly conducting ourselves with regard to accepting and giving gifts and entertainment; and
- Avoiding and combating dishonest and criminal conduct within our working environment.

### 5.3.1. Treating others fairly and equally

We will:

- Respect the human rights, dignity and interests of colleagues, clients and suppliers;
- Promote and maintain fair labour practice through providing a healthy and safe environment;
- Refrain from engaging in business practices that are discriminatory in terms of race, gender, religion, marital status, sexual orientation and disabilities;
- Prevent employees from experiencing victimisation in the workplace; and
- Provide accurate and objective evaluations of the performance of subordinates.

### 5.3.2. Being honest

We will:

- Always tell the truth, and tell it in such a manner that it does not create false impressions, mislead or deceive;
- Make every effort to keep promises made to fellow employees, the NPA, suppliers, customers and other stakeholders;
- Avoid making any false or misleading statements to others who may rely on the accuracy and truthfulness of the information being provided;
- Conduct business with all stakeholders in a transparent manner; and
- Not commit any crimes or illegal practices or actions.

### 5.3.3. Avoiding actual and perceived conflicts of interest

We will:

- Declare any potential conflict of interest (such a conflict of interest could include directorships, significant shareholdings, part-time employment or the employment of family members);
- Refrain from having any interests which constitute a conflict of interest with the NPA and its business, for example, involvement in the day to day operation and decision-making of a business or undertaking which supplies the NPA with goods or services;
- First seek approval from the Executive Authority before conducting business with government;
- Inform the NPA that our spouse/partner and/or immediate family is involved in the day to day operation and decision-making of a business or undertaking which supplies the NPA with goods or services;
- Refrain from tendering, in any capacity, for NPA business;
- Refrain from using our positions for personal gain or to advance the interests of family members, friends, or others with whom we have a personal relationship;
- Refrain from taking full-time or part-time outside employment without the prior, written approval of the executing authority of the NPA, ie the CEO or NDPP;
- Refrain from having or holding business interests outside the NPA that:
  - create, or appear to create, a conflict of interest;
  - create, or appear to create, an excessive demand on an employee's time and that would deprive the NPA of an employee's best efforts in performing his or her daily tasks;
  - would interfere, or appear to interfere, with an employee's objectivity;
  - would negatively impact on the reputation of the NPA; and
  - would constitute the misuse of NPA equipment or facilities.

For a detailed description of conflict of interest situations and disclosure mechanisms, please consult the NPA Guidelines on Remunerative Work and the Public Service Integrity Management Framework.



#### 5.3.4. Responsible conduct with regard to accepting and giving gifts and entertainment

- NPA officials are prohibited from directly or indirectly soliciting or accepting gifts, hospitality or private benefits of any value from any person (natural and juristic) that is contracted to the department to which the public servant is an employee;
- Any person, when rendering service to the NPA is prohibited from offering gifts, hospitality or private benefits to employees or their immediate families and relatives;
- NPA officials are prohibited from accepting or soliciting any gifts, hospitality and private benefits from any person in return for performing or not performing his or her official duties;
- Prohibition of gifts excludes all tokens that may be offered or accepted within normal standards of courtesy or protocol by any entity. This will include tokens such as conference packages (pens, bags, t-shirts, etc) and any promotional materials or gifts that are often offered at functions and events;
- In instances where the NPA official cannot decline a token of appreciation because it might be considered culturally disrespectful, such tokens must be declared and registered in the departmental gift register.

#### 5.3.5. Avoiding and combating dishonest and criminal conduct within the working environment

We will:

- Refrain from committing crime and illegal activities;
- Refrain from fraudulent conduct (wilful misrepresentation yielding undue gain) and report observed fraud;
- Refrain from corrupt conduct (such as bribery or giving/receiving kickbacks) and report observed corruption;
- Create a climate and opportunity to report irregularities without fear of victimisation or retribution;
- Report all violations of laws, rules, regulations, policies and this Code;

- Honour the whistle-blowing policy;
- Take steps against criminals as guided by the Government's regulatory framework.

For a detailed description of "gifts", please consult the NPA policy on Prevention and Combating of Corruption and the Public Service Integrity Management Framework.

## 5.4. Professionalism

Professionalism means we deliver professional services and comply with the highest standards of service delivery by:

- Executing our duties to the best of our abilities;
- Working in unity as a team;
- Valuing diversity; and
- Refraining from any form of harassment, intimidation and discrimination.

### 5.4.1. Executing our duties to the best of our abilities

We will:

- Conduct our business according to appropriate and accepted professional standards of accuracy and completeness;
- Continually seek better and more efficient ways of performing our work;
- Carry out our duties with due skill and care to the best of our ability;
- Take personal responsibility for improving our own skills;
- Provide speedy feedback to partners, stakeholders and affected members of the public such as victims of crime and witnesses.

#### 5.4.2. Working in unity as a team

We will:

- Promote interdepartmental, interdivisional and interpersonal cooperation;
- Not get involved in workplace politics or hidden agendas;
- Share successful means of enhancing efficiency or service quality with managers and fellow employees in order to improve the benefits derived from their use;
- Be punctual and reliable in order not to disappoint or embarrass our employer and fellow-employees;
- Apply our knowledge and skills in the best interests of the NPA and proper service delivery;
- Assist fellow employees and other stakeholders to meet their obligations;
- Refrain from any form of unfair discrimination based on gender, race, ethnicity, physical abilities, religion and language.

#### 5.4.3 Valuing diversity

We will:

- Respect the cultures and traditions of all people;
- Respect the right to freedom of social, religious and political association; irrespective of social, political, racial, gender, sexual preference, ethnic or religious considerations, economic status or physical characteristics;
- Respect the inherent dignity of all people, deal justly, fairly and impartially with each individual;
- Provide fair access to employment opportunities as governed by applicable regulatory requirements both in letter and spirit.

#### 5.4.4 Refraining from any form of harassment, intimidation and discrimination

We will:

- Remain courteous and respectful in all our dealings;
- Refrain from any form of conduct (including, among others, sexual conduct) that may be understood as intimidation or harassment or the tacit approval of these;
- Refrain from any form of victimisation;
- Refrain from any form of unfair discrimination;
- Refrain from using offensive language, including profanity, blasphemy and other insensitive communications;
- Create opportunities for and a climate in which genuine concerns about behaviours and decisions perceived to be intimidating, harassing and generally unethical may be voiced;
- Refrain from victimising and intimidating whistle blowers.

For a detailed description of "sexual harassment", please consult the NPA Sexual Harassment Policy.

You may also refer to the NPA Whistle Blowing Policy as well as Protected Disclosures Act (Act No 26 of 2000) for more information on responsible and safe reporting of unethical conduct.

## 5.5 Service Excellence

Service excellence means we are passionate about our work and do everything in our power to provide our clients with the best possible service by:

- Building a results-oriented culture; and
- Providing exceptional client service.

### 5.5.1 Building a result-oriented culture

We will:

- Demonstrate commitment and passion in our work;
- Act proactively to address challenges creatively and with confidence;
- Create and maintain an enabling environment for creativity and innovation;
- Set results orientated goals for ourselves;
- Perform our duties to the best of our ability;
- Be accessible to our clients.

### 5.5.2 Providing exceptional client service

We will:

- Seek long-term, mutually beneficial relationships with our clients;
- Responsibly consult with clients to determine their needs;
- Conduct ourselves with the highest levels of integrity;
- Treat all clients objectively, politely and without any prejudice;
- Provide recourse for any poor service.

## 6. ORGANISATIONAL RESPONSIBILITY

In line with our values, the principles and provisions of this Code, the NPA is committed to being loyal to every employee, stakeholders, partners, suppliers and citizens of this country.

The NPA is also committed to protecting their rights and interests by:

- Respecting the dignity of every employee and other stakeholders;
- Respecting the traditions and cultures of all our employees;
- Respecting employees' right to freedom of social, religious and political association;
- Consistently acting in a just, fair and impartial manner;
- Honouring the confidentiality of employee records;
- Recruiting and promoting fairly and in accordance with established labour laws and practices;
- Developing employees' skills and competencies in accordance with organisational needs;
- Creating a learning environment that will build the capacity of our employees to deliver excellent service;
- Communicating in an open, transparent, honest and timely manner;
- Prohibiting any form of unfair discrimination, intimidation, harassment or victimisation based on race, religion, gender, political conviction, sexual orientation or disability;
- Creating a climate and opportunity to report irregularities and misconduct without fear of victimisation or retribution;
- Maintaining sound and fair labour practices;
- Providing a safe and healthy working environment; and
- Observing the letter and spirit of the principles enshrined in the Constitution.

## 7. USING THE NPA CODE OF ETHICS

There will be times when you are:

- Uncertain whether actions or decisions you are considering are consistent with both the letter and spirit of this Code of Ethics;
- When you suspect or believe you have observed unethical or illegal conduct.

In both these instances the NPA provides mechanisms for you and other stakeholders that are both safe and effective.

The Whistle Blowing Policy and Protected Disclosures Act protects you against any form of victimisation in respect of grievances and complaints.

You may refer to the NPA Whistle Blowing Policy as well as Protected Disclosures Act 26 of 2000 for more information on responsible and safe reporting of unethical conduct.

### 7.1 Seeking guidance confidentially

There are many ways to obtain guidance:

1. Approach a colleague or an Ethics Champion. He or she knows your work situation well and may be able to assist you confidentially.

If you feel that you cannot do this for any reason, then:

2. Approach your line manager. He or she also knows your work situation well and may be able to assist you confidentially.

If you feel that you cannot do this for any reason, then:

3. Approach another manager. All managers are required to maintain the highest ethical standards and, as part of their responsibility, to guide employees in the application of this Code of Ethics.

If you feel that you cannot do this for any reason, then:

4. Speak to an NPA Ethics Officer

**Important points:**

- In case of uncertainty, ask for advice
- All managers and staff members are required to exercise strict confidentiality when dealing with ethical matters.

Confidentiality means that the person providing advice will not disclose any information without your permission, unless there is an overriding legal or ethical obligation to do otherwise.

## 7.2 Report theft, fraud, corruption or unethical conduct confidentially or anonymously

In terms of the Whistle Blowing Policy, every NPA employee is obliged to report on acts of corruption, theft and maladministration. Failure to do so is a chargeable offence.

If the issue involves theft, fraud or corruption:

1. You may report issues to the ethics officer;

If you feel that you cannot do this for any reason, then:



2. Report the issue via the NPA Service Delivery Hotline at 0800 212 580. This Service Delivery Hotline operates 24 hours per day and 365 days a year. All calls remain anonymous and confidentiality is also guaranteed.

**Important points:**

- You may report incidences of ethical lapses either confidentially or anonymously;
- When reporting, clearly state:
  - **Which** alleged wrongdoing are you reporting;
  - **Where** and **when** (dates and times, if available) the alleged wrongdoing took place;
  - **Who** was involved in the alleged wrongdoing;
  - **How** the individual or firm committed the act;
  - **Why** you believe the activity to be improper.
- All personnel are required to deal with reports of unethical conduct with strict confidentiality;
- Honesty and truthfulness should be exercised when reporting any incidence of ethical lapse. Any malicious reporting will result in disciplinary action being instituted against the perpetrator;
- Anonymity means that you must not reveal your identity when reporting unethical conduct. The person who is reporting anonymously is responsible for protecting his or her anonymity.

You may refer to the Protected Disclosures Act (Act No 26 of 2000) and the NPA Whistle Blowing Policy for more information on responsible and safe reporting of unethical conduct.

### 7.3 Reporting of unethical conduct not related to theft, fraud or corruption confidentially or anonymously

Anonymity means that you must not reveal your identity when reporting unethical conduct. The person who is reporting anonymously is responsible for protecting his or her anonymity.

You should report observed conduct that is inconsistent with the letter and spirit of the NPA Code of Ethics by following the suggested processes below:

If the issue involves conduct that is contrary to our values, principles and rules, and if it is not related to theft, fraud or corruption: Report the issue confidentially to your line manager.

1. Report the issue confidentially to another manager.

If you feel that you cannot do this for any reason, then:

2. Report the issue confidentially to another manager.

If you feel that you cannot do this for any reason, then:

3. Report the issue via the NPA Service Delivery Hotline at 0800 212 580. This Service Delivery Hotline operates 24 hours per day and 365 days a year. All calls remain anonymous and confidentiality is guaranteed.

#### Important points:

- You are encouraged, but not obliged, to report confidentially rather than anonymously, to enable the NPA to deal with your report in the best possible way;

- Please note that it may be much more difficult to achieve successful on anonymously reported cases;
- You may refer to the NPA Whistle Blowing Policy and Protected Disclosures Act;
- All personnel are required to deal with reports of unethical conduct with strict confidentiality.

You may refer to the Protected Disclosures Act (Act No 26 of 2000) and the NPA Whistle Blowing Policy for more information on responsible and safe reporting of unethical conduct.

## 7.4 Creating an enabling environment to seek advice or to report

The NPA will ensure that safe and effectively managed processes are in place for employees to seek advice or report unethical conduct. In turn, all employees of the NPA should report unethical and illegal conduct, or seek advice in cases of uncertainty.

## 8. MAKING ETHICAL DECISIONS – THE PLUS FILTER

Whenever you make a decision, ask yourself the following four questions. If you can answer yes to all four questions, your decision is probably ethical and compliant with the core values, principles, rules and guidelines contained in this Code of Ethics.

**Question 1: P = Policy and procedures**

Do the conduct provisions in the Code and other policies or procedures applicable to the situation permit the behaviour that I am considering?

**Question 2: L = Laws and regulations**

Do national laws and regulations permit the behaviour that I am considering?

**Question 3: U = NPA values**

Would my actions be acceptable to all?

**Question 4: S = Self**

Do my personal values, my own sense of trustworthiness and excellence permit me to do these actions?

If you cannot answer “yes” to all four questions, there is probably an ethical dilemma related to your course of action. In this instance it would be advisable to seek guidance.



## CODE OF CONDUCT FOR PROSECUTORS ANNEXURE



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**GOVERNMENT NOTICE**

Justice and Constitutional Development, Department of  
Government Notice

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## GOVERNMENT NOTICE

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### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 1257

29 December 2010

#### **CODE OF CONDUCT FOR MEMBERS OF THE NATIONAL PROSECUTING AUTHORITY UNDER SECTION 22(6) OF THE NATIONAL PROSECUTING AUTHORITY ACT, 1998.**

I, **Menzi Simelane**, National Director of Public Prosecutions, acting under section 22(6) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), and in consultation with the Minister for Justice and Constitutional Development and after consultation with the Deputy National Directors and Directors of Public Prosecutions, framed the attached code of conduct which shall be complied with by members of the National Prosecuting Authority with effect from 18 October 2010, which is published for general information.

**ADV MENZI SIMELANE**  
**NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**



## THE CODE OF CONDUCT FOR MEMBERS OF NATIONAL PROSECUTING AUTHORITY

### PREAMBLE

Section 22(6)(a) of the *National Prosecuting Authority Act, 1998 (Act No. 32 of 1998)* (hereinafter referred to as 'the Act'), provides for a Code of Conduct to be framed by the National Director of Public Prosecutions, which should be complied with by all members of the Prosecuting Authority.

In framing this Code, the Minister, Deputy National Directors of Public Prosecutions and Directors of Public Prosecutions were consulted as prescribed by the Act. Due account was taken, *inter alia*, of the values and principles enshrined in the *Constitution of the Republic of South Africa, 1996* ("the Constitution"), the aims to be achieved as set out in the Act, the "*United Nations Guidelines on the Role of Prosecutors*" as well as the "*Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*" developed by the International Association of Prosecutors as tabled at the 17<sup>th</sup> session of the UN Commission on Crime Prevention and Criminal Justice.

This Code acknowledges the crucial role of prosecutors in the administration of criminal justice. It emphasises the essential need for prosecutions to be fair and effective and for prosecutors to act without fear, favour or prejudice.

Furthermore, it serves to inform the public of what is expected of prosecutors and is aimed at ensuring public confidence in the integrity of the criminal justice process.

Above all, this Code requires all prosecutors to respect human dignity and human rights, and to perform their professional duties with full recognition of the supremacy of the Constitution and the rule of law.

## CODE OF CONDUCT

### A. PROFESSIONAL CONDUCT

Prosecutors must—

- (a) be individuals of integrity whose conduct is objective, honest and sincere;
- (b) respect, protect and uphold justice, human dignity and fundamental rights as entrenched in the Constitution;
- (c) protect the public interest;
- (d) strive to be and to be seen to be consistent, independent and impartial;
- (e) conduct themselves professionally, with courtesy and respect to all and in accordance with the law and the recognised standards and ethics of their profession;
- (f) strive to be well-informed and to keep abreast of relevant legal developments; and
- (g) at all times maintain the honour and dignity of their profession and dress and act in a manner befitting their status and upholding the decorum of the court.

### B. INDEPENDENCE

The prosecutorial discretion to institute and to stop criminal proceedings should be exercised independently, in accordance with the Prosecution Policy and the Policy Directives, and be free from political, public and judicial interference.

### C. IMPARTIALITY

Prosecutors should perform their duties without fear, favour or prejudice. In particular, they should—

- (a) carry out their functions impartially and not become personally, as opposed to professionally, involved in any matter;
- (b) avoid taking decisions or involving themselves in matters where a conflict of interest exists or might possibly exist;
- (c) take into consideration the public interest as distinct from media or partisan interests and concerns, however vociferously these may be presented;
- (d) avoid participation in political or other activities which may prejudice or be perceived to prejudice their independence and impartiality;
- (e) not seek or receive gifts, donations, favours or sponsorships that may compromise, or may be perceived to compromise, their professional integrity;
- (f) act with objectivity and pay due attention to the constitutional right to equality;
- (g) take into account all relevant circumstances and ensure that reasonable enquiries are made about evidence, irrespective of whether these enquiries are to the advantage or disadvantage of the alleged offender;
- (h) be sensitive to the needs of victims and do justice between the victim, the accused and the community, according to the law and the dictates of fairness and equity; and
- (i) assist the court to arrive at a just verdict and, in the event of a conviction, an appropriate sentence based on the evidence presented.

**D. ROLE IN ADMINISTRATION OF JUSTICE**

1. Prosecutors should perform their duties fairly, consistently and expeditiously and—
  - (a) perform their duties fearlessly and vigorously in accordance with the highest standards of the legal profession;
  - (b) where legally authorised to participate or assist in the investigation of crime, they should do so objectively, impartially and professionally, also insisting that the investigating agencies respect legal precepts and fundamental human rights;
  - (c) give due consideration to declining to prosecute, discontinuing criminal proceedings conditionally or unconditionally or diverting criminal cases from the formal justice system, particularly those involving young persons, with due respect for the rights of suspects and victims, where such action is appropriate;
  - (d) in the institution of criminal proceedings, proceed when a case is well-founded upon evidence reasonably believed to be reliable and admissible, and not continue a prosecution in the absence of such evidence; and
  - (e) throughout the course of the proceedings the case should be firmly but fairly and objectively prosecuted.
  
2. Prosecutors should, furthermore—
  - (a) preserve professional confidentiality;
  - (b) refrain from making inappropriate media statements and other public communications or comments about criminal cases which are still pending or cases in which the time for appeal has not expired;
  - (c) consider the views, legitimate interests and possible concerns of victims and witnesses when their personal interests are, or might be, affected, and endeavour to ensure that victims and witnesses are informed of their rights, especially with reference to the possibility, if any, of victim compensation and witness protection;
  - (d) if requested by interested parties, supply reasons for the exercise of prosecutorial discretion, unless the individual rights of persons such as victims, witnesses or accused persons might be prejudiced, or where it might not be in the public interest to do so;
  - (e) in the case of child victims and child witnesses, always ensure that their best interests are taken into account;
  - (f) safeguard the rights of accused persons, in line with the law and applicable international instruments as required in a fair trial;
  - (g) as soon as is reasonably possible, disclose to the accused person relevant prejudicial and beneficial information, in accordance with the law or the requirements of a fair trial;
  - (h) examine proposed evidence to ascertain if it has been lawfully or constitutionally obtained;
  - (i) refuse to use evidence which is reasonably believed to have been obtained through recourse to unlawful methods which constitute a grave violation of the accused person's human rights and particularly methods which constitute torture or cruel treatment;

- (j) take the necessary steps to ensure that suitable action be taken against those responsible for using illegal methods in obtaining such evidence;
- (k) save in exceptional circumstances, not discuss pending cases with the presiding officer, in the absence or without the consent or knowledge, of the defence; and
- (l) if during the preparation for a trial or the conducting of criminal proceedings or functions incidental thereto, a prosecutor is of the opinion that information has been disclosed of the commission of an offence which has not been investigated or prosecuted, he or she must without delay in writing inform and disclose to the South African Police the particulars thereof.

#### **E. CO-OPERATION**

In order to ensure the fairness and effectiveness of the prosecution process, prosecutors should—

- (a) co-operate with the police, the courts, the legal profession, defence counsel, and any relevant government agencies, whether national or international;
- (b) in their professional dealings, at all times conduct themselves in a dignified manner commensurate with their position; and
- (c) render assistance to the prosecution services and colleagues of other jurisdictions in accordance with the law and in a spirit of mutual co-operation.

#### **F. ENFORCEMENT**

1. All prosecutors should respect and comply with the terms of this Code and report any instances of unprofessional conduct by colleagues (and also, as the case may be, other court officials) to the relevant supervising authority who should consider the appropriate steps to be taken, and do so.
2. In the event of transgressions, appropriate disciplinary steps may be taken in terms of the Public Service Regulations and NPA Act No 32 of 1998.

*Notes to Code of Conduct*

1. Deputy Directors of Public Prosecutions and prosecutors, being civil servants, are also expected to comply with the Code of Conduct for the Public Service.
  2. References in this Code to prosecutors include members of the National Prosecuting Authority as defined in the Act and every person acting under a temporary delegation to prosecute, unless the context indicates otherwise.
  3. A copy of this Code should be handed to all prosecutors at the time of their taking the oath or making an affirmation as prescribed in section 32(2) of the Act or as soon as possible thereafter, and signed for to denote acceptance thereof.
  4. This Code is a public document which will be published in the Government Gazette. Changes may become necessary from time to time and will be similarly gazetted. The Code is available from offices of the National Prosecuting Authority.
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NATIONAL PROSECUTING AUTHORITY  
South Africa