

**UNDERSTANDING THE IMPLICATIONS OF THE CODE  
OF CONDUCT FOR COURT EMPLOYEES IN NIGERIA**

**BY**

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## Protocol

First and foremost I would like to express gratitude to the Administrator of the National Judicial Institute, Hon Justice Rosaline Irorefe Bozimo, OFR, for finding me worthy and giving me the opportunity of sharing my thoughts with you.

## **INTRODUCTION**

The holding of public employment in the Judiciary is a public trust justified by the confidence that the citizenry reposes in the integrity of officers and employees of the judicial branch. A court employee faithful to that trust, therefore, must observe high standards of conduct so that the integrity and independence of the court may be preserved. Court employees shall carry out all duties assigned by law and shall put loyalty to the principles embodied in the Code of Conduct above personal interest. A court employee shall uphold the constitution, laws and legal regulations of the country and never be a party to their evasion. A court employee shall also abide by the standards set out in the code of conduct and shall endeavor to expose violations of this code whenever they may appear to exist.

It is therefore not only apt but appropriate that The Rules of Code of Conduct for both Court Employees and Judicial Officers be discussed frequently in their respective Workshops. In similar vein, the Topic of

discussion today which is “Understanding the Implications of The Code of Conduct for Court Employees in Nigeria” is not only germane due to frequent infraction of its rules by court employees, but never ceases to be obsolete. Therefore, it is the objective of this paper that by the end of the presentation, Court Employees are expected to understand three (3) critical and important things that will help them in the adherence to the principles of the Code of Conduct for Court Employees in Nigeria and guide their ethical conduct in the course of their respective official duties. These three (3) things are;

- Understanding the provisions and strategic importance of the Code of Conduct and the standards court employees must observe in the discharge of their responsibilities to preserve the sanctity of the courts
- Recognizing those situations where the Code's norms are applicable
- Understanding those kinds of conduct associated with the way they deliver services prior to this presentation, and identifying what they had been doing improperly and also identifying what changes they need to make.

## **CODE OF CONDUCT FOR COURT EMPLOYEES**

The Code of Conduct for Court Employees came into force on 1<sup>st</sup> March 2004, the code was designed regulate the conduct of court employees through out the federation. The judiciary staff are duty bound to observe the code of conduct for court employees during and outside their work place. The reason for this code is not far fetched. As workers who assist judges in determining disputes they must not do

anything that will bring down the reputation of the institution they represent which is revered by all in the society.

The Code of Conduct for Court Employees contains a set of rules and guidelines detailing to a reasonable extent the manner in which court employees could identify the distinction between loyalty to their profession before personal interest and consequences that may arise as a result of the breach of any of the rules contained in the Code.

The Code of Conduct is simply a set of principles expected to be embedded in the course of an employees official obligations.

## **SCOPE OF THE CODE AND PROCEDURE FOR REPORTING VIOLATIONS OF THE CODE**

The Code of Conduct is applicable to all categories of court staff involved in the administration of the court. These categories are not limited to conventional courts but also include Special Courts, Tribunals, Commissions of Enquiry, Federal and State Judicial Service Commission Staff, FCT Judicial Service Committee Staff and any other bodies set up to perform judicial and quasi-judicial functions.

Though the Code of Conduct for Court Employee is primarily applicable to all court employees, it is equally useful to court users, to keep abreast so they can understand the rights and services that court employees owe to them. They would also understand the standards of behavior expected of court employees, which will give them the requisite insight to spot and report unethical behavior from any court employee.

Unless separate provisions have been made, any allegations for the breach of any of the rules contained in the Code of Conduct for Court

Employees are usually directed to State Judicial Service Commission or Federal Judicial Service Commission in the case of Employees of the Federal Courts. The procedure for reporting such allegations are generally made in accordance with any existing law and rules applicable in the various Federal and States Judiciaries.

## **REGULATING COURT EMPLOYEES BEHAVIOUR**

Using the context of the provision of the Code of Conduct for Court Employees, the main reason why it is necessary to regulate a court employee's behaviour is because "the court employee hold a highly visible position of public trust"<sup>1</sup>, as indicated in the Code of Conduct for Court Employees and therefore, to ensure professionalism and protect the integrity and sanctity of the courts, the behaviour of court employees must be regulated.

To clearly understand the implications of the Code of Conduct for Court Employees, it is imperative we examine each of the rules provided under the code.

### **RULE 1: ACCOUNTABILITY<sup>2</sup>**

This rule has two sub-rules. All court employees are enjoined by this rule to be accountable in all their dealings. The position a judiciary staff holds is "a position of trust" reposed on him regarding the resources, property, funds entrusted under his care. The resources and property under the care of a court employee must be judiciously used in

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<sup>1</sup> Code of Conduct for Court Employees of the Federal Republic of Nigeria, (March 2004)

<sup>2</sup> ibid

accordance with extant rules and regulations. Funds must be applied to the purpose for which they are meant for. Therefore a judiciary staff must be prudent with the funds and resources under his control. The only acceptable means of dealing with the property entrusted in the judiciary staff is by making sure that due process are followed.

It is very vital we understand wholly each and every Rule of the Code of Conduct for Court Employees under "Accountability" to avoid attracting dire consequences or loosing our job as a result of any unethical conduct, infringing on any of the Rules provided under this Code. To this backdrop, it is pertinent to understand that our office hours also form part of the resources entrusted to us and therefore, it would be unethical and in clear contravention of the Rules of this Code for any Employee to engage in personal errands during office hours.

It is also a requirement of this rule that a court employee must be accountable for confidential information entrusted to him.

The disclosure of information with regard to a particular case, by a Court Employee without following the prescribed procedure infringes on the Rule on Confidentiality of Information. A court employee must not speak to the media or grant interview without official request or official nomination, in his personal capacity as a free citizen in a way that may be injurious to the collective integrity of his employment.

Identifying the distinction between disseminating any confidential information and access to information using the Freedom of Information Act is very vital, especially when court employees are duty bound to preserve the integrity of the Courts by adhering to the principle of confidentiality. This is necessary to avoid confusing access

to Information through means that are contrary to the provisions of the Code of Conduct for Court Employees and access to Information under Freedom of Information Act.

The Freedom of Information Act provides that all public institutions shall ensure records and information about all its activities, operations and businesses are kept for public scrutiny<sup>3</sup>. Basically the Act aims at confronting unethical sharp practices and other administrative excesses of public institutions by ensuring access to information and records from public institutions providing public services. In essence the Act promotes transparency in the discharge of public duties. Public institutions are defined under section 2(7) of the Freedom of Information Act to be all authorities whether executive, legislative or judicial agencies, ministries and extra-ministerial departments....<sup>4</sup>

However, the Freedom of Information Act reserves certain classes of information/records and exempts them from being disclosed. The Act did not provide for exemption of non-disclosure of judicial proceedings in any of its Sections. Consequently, court employees are prohibited from disclosing information/records of cases pending before the court, exhibits etc. which fall under the exempted list of disclosure. Court employees are always required to strictly comply with the laws, rules of court and schedule of duties and conduct himself at all times in a manner that promotes public confidence in the integrity, impartiality and independence of the judiciary.

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<sup>3</sup> Section 2(1) of the Freedom of Information Act

<sup>4</sup> Section 2(7) of the Freedom of Information Act

## **RULE 2: RELATIONSHIPS<sup>5</sup>**

A court employee's activities outside of official duties should not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation and dignity of the court or office the court employee serves. Subject to the foregoing standards and the other provisions of this code, a court employee should refrain from partisan political activity; should not act as a leader or hold any office in a partisan political organization; should not make speeches for or publicly endorse or oppose a partisan political organization or candidate; should not solicit funds for or contribute to a partisan political organization, candidate, or event; should not become a candidate for partisan political office; and should not otherwise actively engage in partisan political activities.

Though the constitution has guaranteed freedom of association, a court staff is required by the code to restrict their behaviour so as to avoid compromising their job.

A conflict of loyalty may arise when the duties a court employer owed to the court are, or could be, in conflict with the duties an employee owes to a group or an association. Therefore, this rule strongly forbade the membership of such associations or organisations.

No court user under this rule suffers a disadvantage, prejudice or discrimination arising from the delivery of court services on account of grounds such as race, ethnicity, religion, gender or tribe. This is not just the Code of Conduct for Court Employees provision but also a provision

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<sup>5</sup> Ibid CCCE

of the constitution that forbids discrimination against citizens on grounds of ethnicity, sex, religion, political opinion or circumstances of a person's birth<sup>6</sup>. Therefore, discrimination against any of the categories of persons provided under the constitutional provision mentioned above by a court employee in the course of his/her official obligations will be violating both the Constitution and the Code which may expose the employee to civil liability for infringement of constitutionally protected rights.

This rule also enjoins court employees to avoid close or intimate association with lawyers, litigants, witnesses or members of the public if the closeness or intimacy may be perceived as capable of giving such persons with whom the employees are in such association undue advantages or preferential treatments, which other persons not in the same association do not enjoy.

Relationships between court employees that encourage favouritism, which could influence official decisions, are also in violation of this rule. It is wrong for court employees to seek to influence official decisions, including those that affect their postings, either to seek to be given a particular posting, or to resist a transfer to another posting. The rule also forbade discrimination and favouritism against persons or groups, either based on their health conditions (physically challenged persons or those living with a terminal illness and HIV patients), tribe, religion, colour, nationality, gender, or cultural background in the course of their official functions. A court employee shall at all times ensure that everyone without exception and distinction is accorded respectful,

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<sup>6</sup> Section 42(1) Constitution of the Federal Republic of Nigeria (1999 as amended)

diligent and courteous services.

### **RULE 3: ABUSE OF POSITION<sup>7</sup>**

The use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the court's resources or assets amounts to fraud and abuse of position.

An employee misuses his or her influence in the course of discharging his official obligations in a way that violates his or her duty to the courts in order to gain a direct or indirect benefit. This abhorrent act, typically cause disrepute and loss of revenue in some organisations that are profit driven. Abuse of position through personal enrichment breeds greed and promote corruption. Contextually this rule is made to ensure that there is transparency in the way a court employee performs his or her work; that no court user suffers from being exploited by a court employee and that court services are given equally to all persons without favour because the person has "settled" or "seen" anybody.

It is important to note that contravention of this rule will not only infringe on the Code of Conduct but Criminal laws as well. Section 98 of the Criminal Code forbids Corruption and Abuse of Office. The penalty provided under the Criminal laws for contravening the provisions of the Criminal Code is seven (7) years imprisonment. Therefore using an employees position to ask, request for or obtain benefits in the form of "settlement" or "tips" in consideration of service rendered by a court staff which ordinarily such staff is employed to render amounts to corruption and abuse of office which is not only sanctionable under the

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<sup>7</sup> Ibid CCCE 2004

provisions of the Code of Conduct but also under the Criminal Code by seven (7) years imprisonment.

A conflict of interest arises where the commitments and obligations owed by an individual member of staff of the court, are likely to be compromised, or may appear to be compromised, by;

- That employees personal gain, or gain to immediate family member (or a person with whom the employee has a close personal relationship, whether financial or otherwise, or
- The commitments and obligations that person owes to another person or body (in the case of membership of associations or groups which were also forbidden by Rule 2)

A conflict of interest also arises when the best interests of an individual employee are, or could be, different from the best interest of the court itself. Conflicts of interest can give rise to a number of problems, few amongst them are;

- They result in decisions or actions that are not in the best interest of the court
- Risk the impression that the court has acted improperly

Even a mere appearance of a conflict of interest can damage the court's reputation, therefore conflicts need to be managed carefully and with transparency. The duty to declare a possible conflict applies to the perception of the situation rather than the actual existence of a conflict. However, the rule is not infringed if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest.

A financial conflict of interest for the purpose of this Code, is one where there is, or appears to be opportunity for personal financial gain, financial gain to close relatives or close friends, or where it might be reasonable for another party to take the view that financial benefits might affect that persons actions.

Furthermore, it should be noted that the level of financial interest is not the determining factor as to whether a conflict should be disclosed. What might be 'not material' or not 'significant' for one person might be very significant for another. Good practice in many situations will mean the disclosure of any financial interest, however small. A conflict will arise if the interest might provide, or be reasonably seen by others, to provide an incentive to the individual, which affects their actions and where he or she has the opportunity to affect a court decision or other activity.

#### **RULE 4: DECORUM AND COMPORTEMEN<sup>8</sup>**

This rule encourages court employees to imbibe and exhibit a dignified propriety of behavior, speech, dress etc. in the course of their respective official duties. It requires court staff to be disciplined, diligent, polite and professional in carrying out their duties. Those are standards of care court employees must observe.

Attend to court users inquiries timely and with utmost courtesy. They must be cordial and professional to litigants, lawyers, witnesses and other court users in offering services to them. This is similar to what is obtained in private organizations and referred to as 'customer relations'. The relationship between court users and court employees

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<sup>8</sup> Ibid CCCE 2004

must be such that court users always leave satisfied without complains after being served.

Court employee by this rule is also required to extend utmost respect and attention to ever court user irrespective of their nature or record, be it a convicted felon or a difficult person who has a disagreeable orientation.

### **DISCIPLINARY ACTIONS**

In line with the provision of Explanations (ii) of the Code of Conduct for Court Employees the code provides for administrative procedure for reporting violations or breach of the rules of the Code. The code provides thus “Reports against court employees shall be made in accordance with the existing rules and laws applicable in the various federal and state judiciaries.” where a report is been made by any court staff or a head of court, section or unit observe any misbehavior or gross misconduct from any court employee which contravenes any of the rules in the Code of Conduct, action or inaction which amounts to improper behaviour, the employee shall be informed in writing, giving details of the unsatisfactory behaviour and requesting for written explanation or representation within a specified time. This in the civil service parlance is referred to as a ‘Query’. If a court employee is able to exculpate himself satisfactorily by explaining reasons for his unsatisfactory behaviour, that may be the end of the matter and he will be informed accordingly. He could however be given a letter of advise if he could not exculpate himself and it is considered as a letter of warning. If an employee could not exculpate himself and deserves punishment, the employee maybe interdicted or suspended. Where

the act amounting to misconduct is established against a junior officer from grade level 1-6, the chief registrar can exercise such disciplinary powers such as warning, counseling or suspending the erring staff for a specified period. However, where the erring staff is a senior employee from grade 07 and above, the officer has to be referred to the judicial service commission/ committee to face the board of enquiry. The board is enjoined to follow the rules of natural justice by giving the affected persons right to call a witness, to put questions to witness and have access to documents<sup>9</sup>.

The same disciplinary procedure as applied in cases of misbehavior/misconduct also applies for gross misconduct. However, the consequential sanctions in gross misconduct are grave, which includes interdiction, half pay salary, immediate suspension or ultimate dismissal (forfeiture of claims to retirement benefits)

In some jurisdictions, it is a slightly different procedure where for the purpose of discipline and promotion the judicial service commission set up two committees, name;

- a. Junior staff management committee (grade level 01-06)
- b. Senior staff management committee (grade level 07-16)

These two committees are mandated to handle matters affecting discipline of the appropriate category of staff within their competence. The staff, depending on his rank will be referred to the appropriate staff committee which will give the staff the opportunity to be heard, after concluding their hearing, they will make recommendations and send to

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<sup>9</sup> Adesalu, T. I (discipline and the general code of conduct for supporting staff) paper delivered at the zonal workshop for supporting staff of all the Judiciaries in Nigeria: southern zone Umuahia, Abia State. 3<sup>rd</sup>-5<sup>th</sup> April 2001 pg6

the chief registrar, who in turn forward same to the chief judge. Where the matter is not serious enough the Chief Judge, as the chairman of the judicial commission will handle it. However, where the misconduct is serious or gross misconduct the chief judge will summon the meeting of the commission, which will look into the matter dispassionately and decide the appropriate punishment<sup>10</sup>.

## **CONCLUSION**

As court employees, you stand at the front door of the justice system. To many individuals, those seeking information, those whose cases will settle or are uncontested, you may be the primary or even the only person they interact with in their dealings with the court.

You are the face of justice in our courts. In their eyes, you may control the key to whether or not they feel they have been fairly treated, whether or not they have access to our justice system.

The way you treat them and respond to their questions is critical to ensuring that members of the public honour the law and our system of justice, because if the public feels they have been treated fairly, they are more likely to have trust and confidence in our judicial system.

In many ways you must treat individuals as if you were the court itself. The court must handle cases in a neutral, impartial manner. So too, you must deal with all individuals in a neutral, impartial manner. But being neutral does not mean being cold or unresponsive. You can help

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<sup>10</sup> NWeze U.N.O. "Judicial Service Commission: Role in the administration of justice" Paper Presented at the workshop for chief registrars, secretaries, judicial service commissions etc at National Judicial Institute 30<sup>th</sup> July- 1<sup>st</sup> August 2012 pp. 25-27

educate members of the public as to what you can and cannot do, while treating them with respect and providing them with as much assistance as you can within ethical bounds. That is how the Code of Conduct can help. The more you know about what help you can and cannot provide, the more comfortable you will feel with the boundaries of proper assistance, and the more complete information you can provide the public without crossing the line. The more you know, the better you can help. And the more you help, the better court users/customers will feel about their experience in our courts.

Furthermore, if expected to maintain accountability and uphold the integrity and independence of the Judiciary for their performance, employees need to have a solid understanding of what is expected of them from their very first day of employment. At a minimum, Courts must ensure written policies for career development, specific job requirements, organizational regulations governing promotion and advancement, and clear expectations for employee performance and behaviour are clearly understood by Court Employees. These are just the first steps courts should take to promote accountability among the workforce. Following up with guidance and feedback, rewarding outstanding work, establishing minimum standards for performance, and penalizing subpar performers are also needed to sustain and promote accountability in the workforce.

The Code of Conduct is designed as a quick and easy reference for the court staff that work directly with members of the public, either over the telephone, at the counter, or in the courtroom, therefore it is a must for court employees to obtain copies each. Keep it handy so if you

have any questions about how to respond to a court user, you will be able to pull it out and reference it.

Thank you for all you do to help court users, preserve the integrity of the Courts and good image of the Judiciary!

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