

TOPIC

**CODE OF CONDUCT FOR DIRECTORS AND
INSPECTORS OF
AREA/SHARIA/CUSTOMARY COURTS**

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PREAMBLE

Foremost, let me give gratitude to the Almighty God, the Creator of heaven and earth and the giver of life for making it possible for me to stand here today, before this august gathering to present this paper. Let me sincerely appreciate and express my gratitude to My Lord, the Administrator and Chairman, Internal Education Committee of the National Judicial Institute, Hon. Justice R.P.I. Bozimo, OFR and the entire members of the Management Committee and that of the Internal Education Committee of the National Judicial Institute, for finding me worthy of standing before you today, I remain eternally grateful for this wonderful opportunity, as it is always an honour and privilege to be called upon to make contributions towards the development of continuing judicial education. I sincerely hope that my modest effort in highlighting the importance of the Code of Conduct for Directors and Inspectors of Area/Sharia/Customary Courts will go a long way in re-awakening their understanding of the code and perhaps in abiding with its provisions, it may aid them in meeting with the expectations of the judiciary, the court users and indeed the society at large.

The theme for this workshop, “*Enhancing Administration of Justice in the Area/Sharia/Customary Courts*”, I will say, has been carefully choosing and it is my conviction that this topic will further deepen the understanding of our court administrators regarding their needed and expected inputs towards speedy dispensation of justice, especially at the grass root, as it is on record that the lower courts entertain a higher percentage of cases filed in various jurisdiction across the country.

This workshop is one of the few prominent programmes, which can be likened to a ‘recurring decimal’ on the NJI calendar, it is for this reason and many others that I will urge you all to pay rapt attention during the course of this presentation, as I am sure that we have a lot to benefit

there from, you will also have the opportunity to contribute and possibly share your experiences with us during the Commentary/Question/Answer session.

Introduction:

The Constitution declares that a public office is a public trust, and all public officers and employees must at all time be accountable to the people, serve them with utmost responsibility, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

Therefore, court personnel, from the lowliest employee to the clerk of court or any position lower than that of a Judge or Justice, are involved in the dispensation of justice, as such parties seeking redress from the courts for grievances look upon court personnel as part of the Judiciary. In performing their duties and responsibilities, court employees serve as sentinel of justice and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it.

While there are statutory provisions and civil service rules governing the ethical conduct of government officials and employees, there was the need to adopt a norm of conduct that are specific to personnel in the Judiciary because of the special nature of their duties and responsibilities and that is why the judiciary came up with the Code of Conduct for Judicial Officers and the Code of Conduct for Court Employees. Prior to the establishment of the Code of Conduct for Court Employees, judicial Institutions and its administrators only rely on an unwritten code of conduct in administering the conduct of court employees. They also had recourse to the Code of Conduct for Public Officers set out in the Fifth schedule of the Constitution. But with the adoption of the code, the

standard of conduct expected from court employees and staff of the Nigerian judiciary is now clearly specified.

However, for the purpose of this presentation, our focus will be on the Code of Conduct for Court Employees, promulgated into law in March 2004 being the primary document that prescribes the standard of ethical conduct for court employees in Nigeria and going by the phrasing of this topic, it is quite evident that I am restricted to discussing the importance of the Code of Conduct as it relates to the activities of the Directors/Inspectors of the Area/Sharia/Customary Courts.

Conceptual Clarifications

Code of Conduct

Wikipedia defines a code of conduct as “*a set of rules outlining the social norms, rules and responsibilities of, or proper practices for, an individual, party or organization*”.

Director/Inspector

To better understand this topic, there is need for us to have an insight as to the definition of Directors/Inspectors and in doing this; I will take a cue from the provisions of the Federal Capital Territory Abuja Area Courts (Repeal and Enactment) Act, 2010 and the Federal Capital Territory Customary Court Act, 2007. Precisely under the interpretation part of the FCT Area Courts (Repeal and Enactment) Act, 2010, an “*Inspector*” was defined as an officer appointed under section 33 to exercise the powers vested in him under the Act and this includes the Director of Area Courts, any Senior Inspector and Assistant Inspector.

Functions of Directors/Inspectors

In going further, it is obvious that the essence of introducing a court inspection system is essentially to build user's confidence and improve satisfaction in courts, and that is why trained personnel visit courts to review court records, interview staff and users, observe proceedings and court environment, provide an independent assessment of courts' shortcomings and make proposals for improvements. Understanding these basic duties and responsibilities of these officers will stand us in good stead in appreciating the topic of discussion, and in so doing I will emphasize the provisions of section 43(1) of the Federal Capital Territory Customary Court Act, 2007.

Section 43(1)(a)-(d) of the Act pointedly identify the responsibilities of Directors/Inspectors, which are as follows:-

- (a) To monitor the activities of the members of the customary court
- (b) To inspect the records of customary courts including revenue
- (c) To report any irregularity or excesses of members customary courts to the President of the Customary Court of Appeal
- (d) To receive and look into any complaint brought by any party to any proceedings before a customary court

In addition to the provisions of section 43(1) of the FCT Customary Court Act, other responsibility of a Court Inspector includes the followings, which are to:

- i) Investigate and evaluate complaints from the public.
- ii) Conduct regular court inspections.

- iii) Evaluate the performance of Magistrates and other judicial staff.
- iv) Identify performance bottlenecks that impede effective delivery of justice.
- v) Analyzing court returns to determine the efficiency of court operations.
- vi) Producing and disseminating information to the public about the operations of the courts.

Dispensation of justice as we all know is the basic responsibility of the judicial arm of government as embedded in section 6 of the 1999 Constitution of the Federal Republic of Nigeria. This is a sacred task that can only be performed by *only* the judicial arm of government, and it is on this premise that I will ventilate the ‘Preamble’ in the Code of Conduct for Court Employees of the Federal Republic of Nigeria.

As pointed out earlier, prior to 1st of March, 2004, the Nigerian Judiciary had no written code of conduct for the court employees, but with the coming into existence of the code, its objective, as captured in its preamble clearly provide as follow:-

Whereas an independent, strong, respectable and responsible judiciary is *indispensable for the administration of justice* in a civilised society:

And whereas Court Employees are *complementary to and supportive of the role of Judicial Officers* in the administration of justice:

And whereas the duties of a Court Employee, which include *all statutory duties prescribed by law*, take precedence over all his other activities:

And whereas Court Employees hold *highly visible positions of public trust* and it is desirable that a standard of conduct which a Court Employee should observe be prescribed and published for the

information of the Court Employee and the public in general so that the objectives set out in this preamble may be achieved:

And whereas with the approval of the Chief Justice of Nigeria leading to the subsequent review by the Board of Governors of the National Judicial Institute, all State Chief Judges and Secretaries of the Federal and States Judicial Service Commissions and the Federal Capital Territory Judicial Service Committee respectively of this model Code of Conduct for Court Employees:

Therefore, this Code of Conduct for Court Employees is hereby adopted and prescribed, effective 1 March 2004”.

Permit me to add that, other than the ‘Code of Conduct for Court Employees’, employees of the courts are also bound by the provisions of the Code of Conduct for public officers as spelt out in the fifth schedule of the 1999 Constitution of the Federal Republic of Nigeria, which provides for the establishment and maintenance of a high standard of morality in the conduct of government business, and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability.

The code of conduct for court employees is intended to guide the court employees in the performance of their official duties, thereby prescribing standards below which they must not drop.

EXPLANATIONS

(i) Applicability

This Code of Conduct shall apply to *all categories of Court Employees* in all Courts in the Federal Republic of Nigeria.

In this Code the term Court Employees shall mean all categories of employees involved in the day-to-day administration of the Court, other than Judicial Officers.

It shall also include employees of all Special Courts, Tribunals, Commissions of Enquiry, staff of the respective Federal and State Judicial Service Commissions and Federal Capital Territory Judiciary Service Committee and such other bodies set up to perform judicial and quasi-judicial functions.

(ii) Procedure for Reporting Violations of this Code of Conduct

Report against Court Employees shall be made in accordance with the existing rules and laws applicable in the various Federal and States Judiciaries.

RULES

In the performance of his duties, a Court Employee shall observe the following rules:

RULE 1: *ACCOUNTABILITY*

A. Resources, Property and Funds

A Court Employee is accountable for the resources, property and funds entrusted to him. Accordingly, he shall;

Use the resources, property and funds under his official control judiciously, transparently and solely in accordance with prescribed financial regulations and other applicable rules.

Be accountable for his decisions and actions to the public and must submit himself to whatever scrutiny is required of his office by the proper authority.

Not place himself under any financial or other obligations to outside individuals or organisations that might influence the performance of his official duties.

Where applicable, declare his assets on appointment and subsequently, as may be required by Law.

B. *Confidential Information*

A Court Employee is also accountable for confidential information entrusted to him. Accordingly, a Court Employee shall not;

Speak to the media or grant interviews in his personal capacity as a free citizen in a way that may be injurious to the collective integrity of his employment.

Disclose to any unauthorised person any confidential information which may have come to his knowledge in the course of his employment.

Give out any official document of the judiciary in any form without authorization.

Guidelines

Rule 1(A) Resources, property & Funds - A Court Employee is a custodian of the public resources that are placed at his disposal. Funds should be expended carefully and only for the purposes intended by the funding unit. Pitfalls could include such temptations as personal telephone calls at funding unit expenses, personal use of government property, such as pens, pencils, paper, printers, computers, vehicles, etc. or the use of funding unit property of assist non-employees in some way as favour.

Rule 1(B) Confidentiality – Sensitive information acquired by Court Employees in the course of performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, Court Employees should exercise a great deal of discretion. Sometimes breaches of confidentiality do not involve intentional disclosures of official Court records. Some are the result of innocent and casual remarks about pending or closed cases, or about parties in litigation, which could give lawyers, litigants and reporters confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Court Employees should discuss cases only for legitimate reasons and should handle sensational or sensitive cases with great care and discretion.

RULE 2: *RELATIONSHIPS*

Associations

A Court Employee shall

Avoid close personal association with individuals, lawyers, litigants, and members of the public, where such association may reasonably give rise to suspicion or appearance of partiality or favouritism.

Refrain from lobbying or attempting to influence official decisions including posting to a particular place by reason of a relationship with a superior officer, or resisting a transfer to another jurisdiction.

B. Membership in Organisations

A Court Employee shall not be a member of, belong to or take part in any society, club and or organisation the membership of which is incompatible with the function and dignity of his office.

C. Impartiality

A Court Employee shall

Not discriminate on the basis of, nor display by words or conduct, a bias or prejudice based upon tribe, religion, colour, nationality, gender or other protected group, in the conduct of service to the Court of public.

Carry out his responsibilities to the public in a timely impartial, diligent and courteous manner.

Guidelines

Rules 2(A) Associations – A Court Employee, in the course of his employment, comes into frequent contact with lawyers, litigants and other members of the public who have dealings with the Court. However, he must be very cautious not to become overly familiar with these individuals since doing so would give the appearance of partiality. This means that a Court Employee must limit his social activities to prevent the “close personal associations” mentioned.

Likewise, a Court Employee should not use any personal relationship that he might have with a judge or other superior officer at the Court to lobby or influence official decisions that affect him or others.

Rule 2(B) Membership in Organisations – A court employee’s participation in societies or organisations should not intrude into the workplace through the displaying of literature, badges, signs or other material advertising a cause, party, or club membership. Soliciting or receiving funds at the workplace is not appropriate. In addition, no government equipment or resources of any kind are to be used for promoting any club or organisational activities in the workplace before, during or after working hours.

Rules 2(C) Impartiality – Court Employees should treat everyone with the same courtesy, tact and respect. The giving of special privileges or exemptions by an employee to certain people gives the impression that they are more favoured than others and reflects poorly on the notion that the Judicial System and its employees are impartial. The official actions

of an employee should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person.

Each day court employees are called upon to assist lawyers, litigants and the general public. It is each Court Employee's responsibility to provide these Court users with the utmost service, regardless of the individual's race, religion, gender, nationality etc. No form of discrimination is acceptable and when discovered should be exposed and eliminated.

RULE 3: *ABUSE OF POSITION*

A. Personal Enrichment

A Court Employee shall not

Use or accept to use his position or office to secure unwarranted privileges, gratify or confer any corrupt or unfair advantage upon himself or any relation or associate.

Solicit, request or accept any compensation or fee beyond that received from the employer for work done in the course of his duty.

Use the resources, property and funds under his control for purposes other than those for which they are meant.

Solicit patronage from litigants or members of the public for purposes of preparing affidavits or other processes for monetary consideration or utilize the Court's resources or property for such purposes.

Engage in any type of trade or business in court premises during office hours, or encourage others to do so.

Offer legal advice, canvass, tout, and or present himself in such a manner as to give the impression of being capable of influencing the course of justice.

Appropriate to himself or disburse by way of loan to himself or any person, court fees, fines or other funds in his custody.

8a. demand or accept any gift or benefit or any kind, as a condition for the performance of his duties, for himself or on behalf of any person on account of anything done or omitted to be done by him in the discharge of the duties of his office.

8b. accept any gift on the understanding that such gift would influence official action by him or that other person on whose behalf benefit is sought or accepted.

A Court Employee is however permitted to accept:

Personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom.

Books supplied by publishers on a complimentary basis.

A loan from lending institution in its regular course of business on the same terms generally available to people who are not Court Employees.

A scholarship or fellowship awarded on the same terms applied to other applicants.

B. Conflict of Interest

A Court Employee shall not

Put himself in a position where his personal interest conflicts or appears to conflict with the interest of the Court.

Engage in any business which may conflict or appear to conflict with performance of his official duties.

Guidelines

Rule 3(A) Personal Enrichment – This Rule addresses the concept of the use of a Court position to secure “privileges” or “exemptions”. Generally these would be special considerations given by others to the employee specifically because of his position as a Court Employee. The solicitation or acceptance of a gift with the understanding that something will be done in return contravenes the ideals expressed in this section. Public service should be delivered impartially, with equal service to all users. The administration of justice is subverted if employees appear to deliver service in exchange for a reward. All users of the justice system must be treated equally.

Gifts of any sort raise a question as to the independence of the employee, and are therefore prohibited. An understanding may be tacit on the part of the donor that the employee will look favourably upon the donor in the future. It will certainly seem so to observers. Seemingly small and innocent gifts may soon lead to larger ones, more and more threatening the integrity of the employee. The compensation of Court Employees is to be provided by their funding unit through their salary and benefits. An employee should not request or accept any additional compensation for doing his duty as a Court employee. Acceptance of any additional compensation for doing his duty gives rise to the impression that the Court Employee will be responsive to the needs of the donor.

Court Employees are not permitted to practice law, with the exception of those employees who are qualified legal practitioners required by their statutory duties to offer legal guidance. However, the general prohibition against the giving of legal advice does not mean that employees should be afraid to provide excellent and accurate information about the Court and Court process as authorised by law.

Rule 3(B) Conflict of Interest – A conflict of interest exists when the employee’s ability to perform his duty is impaired or when the Court Employee, his family or business would derive some benefits as a result of his position within the Court System. It is, therefore, required that employees avoid situations that would impair their ability to fulfil that obligation.

The employee’s position within the Court system must be his primary employment. Outside employment must be fulfilled outside the normal working hours of the Court and must not be in conflict or interfere with the performance of the employee’s duties and responsibilities in the Court. No form of private business shall be performed utilising the resources of the Court nor shall the private business require or induce the employee to disclose information acquired in the course of his official duties. Such private business should not reflect adversely on the integrity of the Court. Court Employees should not take up employment with private chambers or any other agencies.

RULE 4: *DECORUM AND COMPORTMENT*

A Court Employee shall

Attend to all enquiries from lawyers, litigants and members of the public with the utmost courtesy and without employing foul or indecent language;

Carry out promptly any official directive or instruction from a superior officer and be committed in the discharge of his duties;

Study and comply with the laws, rules of Court and schedule of duties and should conduct himself at all times in a manner that promotes public confidence in the integrity, impartiality and independence of the judiciary;

Be punctual to work and not absent himself from duty without leave or permission from his superior officer, first sought and obtained;

Be formally dressed while on duty and avoid all forms of inappropriate and indecent dressing; and

Promote ethical conduct in the discharge of his duties as prescribed by this Code and report any improper conduct by any person to the appropriate authorities.

Guidelines

Court Employees are highly visible in action and conduct these reflect upon not only themselves, but Court as well. Improper behaviour or the appearance thereof may compromise an employee's professional integrity. Before taking a particular action, Court Employees must consider its propriety. Employees should conduct themselves in a manner that commands public trust and confidence.

SANCTIONS

Breach and/or violation of any rule contained in this code shall constitute gross misconduct or misbehaviour and may attract disciplinary action, and this shall be without prejudice to the penalty which may be imposed by any law where the breach is also a criminal offence.

Code of Conduct Ethics of Work Expected of Public Officers of the Federal Republic of Nigeria

The Code of Conduct for public officers is spelt out in the 1999 constitution fifth schedule, part 1 which is to establish and maintain a high standard of morality in the conduct of government business, and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability. It must be indicated here that all public officers should study existing rules and regulations governing Government business.

Details of the Code governing the conduct of public officers and for which a violation would amount to corruption is reproduced below:

1. A public officer shall not put himself in a position where his interest conflicts with his duties and responsibilities.

2. Without prejudice to the generality of the foregoing paragraph a public officer shall not:

(a) Receive or be paid emoluments of any public office at the same time as he receive or is paid the emoluments of any other public office; or

(b) Except when he is not employed in full time basis, engage or participate in the management or running of any private business, profession or trade; but nothing in this paragraph shall prevent a public officer from engaging in farming or participating in the management or running of any farm.

3. The President, Vice President, Governors, Deputy Governors, Ministers of the government of the Federation and Commissioners of the

Government of States, members of the National Assembly and the Houses of Assembly of the States and such other public officers or persons, as the National Assembly may by law prescribe shall not maintain cooperate a bank account in any country outside Nigeria.

4. A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as Chairman, Director or employee of a company owned or controlled by the government or public authority or receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

5. (1) Retired public officers who have held offices to which the paragraph applies are prohibited from service or employment in foreign companies or foreign enterprises.

(2) The paragraph applies to the office of the President, Vice, President, and Chief Justice of Nigeria. Governor and Deputy Governor of a State

6.(1) A public officer shall not ask for or accept any property or benefit of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties.

(2) For the purpose of sub-paragraph (1) of this paragraph the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said sub-paragraph unless the contrary is proved.

(3) A public officer shall only accept personal gifts or benefit from relatives or personal friends to such extent and on such occasions as are

recognised by custom:-

Provided that any gift or donation to public officer on any public or ceremonial occasions shall be treated as gifts to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any gifts may not be treated as a contravention of this provision.

7. The President, or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of a State or any other public officer who holds office of Permanent Secretary/ Director General or head of any public corporation, University or other Parastatal, Organisation shall not accept;

(a) A loan, except from government or its agencies, bank, building society or other financial institution recognised by law, and

(b) Any benefit of whatever nature from any company, contractor, or businessman, or the nominee or agent of such person : Provided that the head of public corporation or of a university or other parastatal organisation may, subject to the rules and regulations of the body, accept a loan from such body.

No person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.

A public officer shall not do or direct to be done in abuse of his office an arbitrary act prejudicial to the rights of any other persons knowing that such act is unlawful or contrary to any government policy.

A public officer shall not be a member of, belong to, or take part in any secret society and or any society the membership of which is incompatible with the functions and dignity of his office.

11. 1. Every public officer shall within 3 months after taking office and thereafter:

(a) at the end of every four years; and

(b) at the end of his term of office;

Submit to the Code of Conduct Bureau a written declaration of all his properties, assets and liabilities and those of his spouse, or unmarried children under the age of 21 years.

2. Any statement in such declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Code.

3. Any property or assets acquired by a public officer after any declaration require under this constitution and which is not fairly attributable by sub-paragraph (1)(a) of this gifts or loan approved by the code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

12. Any allegation that a public officer has committed a breach of or has not complied with the provision of this Code shall be made to the Code of Conduct Bureau.

A public officer who does any act prohibited by this Code through a

nominee, trustee, or other agent shall be deemed ipso facto to have committed a breach of this code.

14. In its application to public officers

(a) Members of legislative houses shall be exempted from the provisions of paragraph 4 of this code; and

(b) the National Assembly may by law exempt any cadre of public officers from the provisions of paragraph 4 and 11 of this code if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of this provision.

15. Political office holders are expected to familiarise themselves with the rules and regulations regarding their behaviour while in office.

THE IDEAL BEHAVIOUR EXPECTED FROM A RESPONSIBLE PUBLIC OFFICER

Below are some of the behaviours that public officers are encourage to emulate.

(i) DISCRIMINATION

A public officer is not expected to discriminate against any citizen on the grounds of place of origin, sex, religion, status, ethnic or linguistic association. This is clearly stated in Nigeria constitution, which commits the state to the ideals national integration. As instruments of state policy, public officers are expected to set the highest examples in pursuing these noble objectives.

(ii) DISCIPLINE

This is the hallmark of a responsible public officer. Strict adherence to the rules and regulations of the public service is a must for a civil/public servant. As a senior officer, it is imperative that an officer complies with the code of Conduct and ensures that subordinates do the same.

(iii) **LOYALTY**

Loyalty should be an integral part of the behaviour of a public officer. This implies faithfulness to the nation and the employer and supportive of the aims for which one is employee

(iv) **HONESTY AND TRANSPARENCY**

These should be cardinal principles for any individual holding public office, and should be demonstrated in conducting official duties and in dealing with members of the public. This means that the public officer should be conscientious on duty. All his actions must be clear and self-evident. Public officers should not demand or receive anything in return for performing official duties.

(v) **ACCOUNTABILITY**

A public officer should display responsible stewardship for all items, money, materials and men placed under his supervision. This implies that all government property entrusted with a Public officer should be properly accounted for viz strict adherence to the civil service rules, financial regulations and all other circulars pertaining to the disbursement, management and reporting on same.

(v) **RESPECT FOR CONSTITUTED AUTHORITY**

A public officer should show unqualified respect for constituted authority and the country at large.

(vii) PUNCTUALITY AND ABSENTEEISM

A Public officer should endeavour to be punctual at his place of work. Public officers should also not absent themselves from work except on approval.

Introduce a court inspection system to build user confidence and improve satisfaction in courts:

- trained personnel visit courts to review court records, interview staff and users, observe proceedings and environment
- provide an independent assessment of a courts' shortcomings and make proposals for improvements.

MANDATE OF THE INSPECTORATE

The mandate of the Inspectorate is to monitor and evaluate the performance of Judicial Officers and other staff and court facilities. In the performance of the above mandate, the Inspectorate performs the following functions:-

- i) Investigate and evaluating of complaints from the public.
- ii) Conducting regular court inspections.
- iii) Evaluating the performance of Magistrates and other judicial staff.
- iv) Identify performance bottlenecks that impede effective delivery of justice.
- v) Analyzing court returns to determine the efficiency of court operations.
- vi) Producing and disseminating information to the public about the operations of the courts.

Section 6(1) state as follow: *The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation; while section 6(2) provides as follow: The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this constitution, for a State*

