

**NATIONAL WORKSHOP ON LEGAL RESEARCH AND LEGAL
WRITING**

**THEME: PROMOTING SPEEDY ADMINISTRATION OF
JUSTICE THROUGH EFFECTIVE LEGAL RESEARCH**

**TOPIC: CODE OF CONDUCT FOR COURT EMPLOYEES:
PERTINENT CONSIDERATIONS**

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APPRECIATION

First and foremost, I would like to express my gratitude to the Administrator of the National Judicial Institute, Hon. Justice Salisu Garba Abdullahi, the Board of Governors and the management team of the NJI for finding me worthy and giving me the opportunity of presenting this paper and I hope that the paper will contribute to the ultimate goal of promoting speedy administration of justice in Nigeria.

1. Introduction

In every modern democratic setting, the distribution of State power is such that it allows for checks and balances. The Judiciary holds an important role in this. It is the third arm of government under the Constitution of the Federal Republic of Nigeria 1999.¹ Under the Constitution, Courts are vested with judicial powers to, inter alia, settle disputes between individuals inter se, settle disputes between the individuals and the State as well as settle disputes between the different layers of government i.e the Federal, the State and the Local governments.²

It is pertinent to stress that although Judges preside over cases in court and handle all matters relating to adjudication and justice delivery, there is no doubt the fact that they are immensely assisted by supporting staff in the performance of their adjudicatory duties. Evidently, one of the hallmarks of an efficient judicial system is the speedy dispensation of justice. Beyond the Judges, other court personnel including Legal/Research Assistants are essential in promoting the effective and speedy operation of the judicial system. The Legal/ Research Assistant conducts relevant research into cases, writes Legal opinion and briefs, reviews evidence, reviews written addresses, helps the Judge in preparing cases for trials, drafts Legal

¹ Constitution of The Federal Republic of Nigeria 1999 as Amended

² S.6 (1) CFRN 1999

documents, assist in case management, writes reports and other such functions or duties as a Judicial officer may assign such a person. The Legal/Research Assistant therefore assist the Judge with an in-depth research and avail the Judge with the relevant tools to come up with a well guided decision.

The leadership of the Nigerian Judiciary has taken cognizance of the importance of the role of Court support staff (Legal/Research Assistants) in the administration of justice and has identified the fact that a support staff that lack discipline, integrity and devoid of transparency would soil the name of the Judiciary and thwart efforts at justice delivery by Judicial Officers. In order therefore to ensure that the integrity of the Judiciary does not become a subject of controversies resulting from the conduct of Court Employees a *Code of Conduct for Court Employees* has been put in place.

The purpose of this training is to strengthen the knowledge and understanding of the Code of Conduct for Court Employees ('CCCE') between Legal and Research Assistants who are involved in the day-day administration of the court. The learning objective is to understand what kinds of actions will offend the Code of Conduct for Court Employees for which a court employee may be sanctioned or disciplined and to Ensure steadfast compliance with the Code. At the end of the discussions participants are expected to have a thorough understanding of the provisions and the strategic importance of the Code of Conduct as well as the standards court employees must observe in the discharge of their responsibilities to preserve the sanctity of the Courts.

2. What is a 'Code of Conduct'?

According to Black's Law Dictionary a **code of conduct** is a written set of rules governing the behavior of a specified group such as government employees. It is also a set of Rules outlining the responsibilities of or proper practices for an individual,

party or organization.³ It is also said to be a set of guidelines, which are designed to set out acceptable behaviors for members of a particular group, association, or profession.⁴ Judges with who court employees' work in delivering justice services are also governed by a code. The applicable code is the Code of Conduct for Judicial Officers. This Code is applicable to lower courts judicature as well.

3. Purpose of a Code of Conduct

Codes of Conduct set up professional standards, which members of a profession, vocation or association should apply in the discharge of professional services. They serve a number of purposes, such as;

- Increase confidence in a profession or organization by showing outsiders that members of the profession are committed to following ethical guidelines in the course of delivering services or performing their work and will be expected to act ethically or professionally to those who use their services.⁵
- Establish standards of acceptable behavior for members of the profession, and clarify what behavior is unacceptable. In the latter case, this is usually conduct that can tarnish or undermine the image of the profession.
- Codes of Conduct therefore help to ensure that services offered by persons within that profession are professionally adequate in standard, and are competently and ethically rendered.

³ Blacks Law Dictionary, Eight Edition 2004

⁴ Code of Conduct for Judicial Employees of the United States of America, Vol. 2B, Ch.2
<https://www.uscourts.gov>

⁵ The Ethics Resource Center puts it this way: "A code is an open disclosure of the way an organization operates. It provides visible guidelines for behavior. A well-written and thoughtful code also serves as an important communication vehicle that "reflects the covenant that an organization has made to uphold its most important values, dealing with such matters as its commitment to employees, its standards for doing business and its relationship with the community."

- Codes often form the basis upon which persons bound by them are held **accountable** when they fall short of performing services according to the applicable standards within a profession.

Court Employees are complementary to and supportive of the role of judicial officers in the administration of justice. The duties of a Court Employee, takes precedence over all his other personal activities and hold highly visible positions of public trust which is the reason why it is important for court employees to act professionally and ethically. The overriding objective of the Code of Conduct for Court Employees is that it connects court employees' behaviour to the overall purpose of **maintaining public confidence in the administration of justice.**

4. To who does the Code of Conduct for Court Employee apply?

The Code shall apply to all categories of **Court Employees in all Courts of the Federal Republic of Nigeria**. 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 Judicial Service Committee and such other bodies set up to perform judicial and quasi-judicial functions.

The term Court Employees mean all categories of employees involved in the day-day administration of the court, other than Judicial Officers. The staff of the Judiciary is constituted by all the categories of staff from the Chief Registrar at the apex to the messenger. Thus any staff of the Judiciary not being a Judicial Officer is a Court Employee.⁶ Court Employees assist Judicial Officers immensely as they complement one another and failure by one to contribute its quota will adversely affect both the

⁶ Code of Conduct for Court Employees of the Federal Republic of Nigeria (2004)

administration and dispensation of justice. The tasks associated with the daily management and administration of the courts are done mainly with the input and general contributions of the support staff thus the attitude of the Court Employee to his/her duties has the capacity to determine the effective discharge by a Judicial Officer to his adjudicatory duties.

5. When does the Code of Conduct for Court Employee apply?

The Code of Conduct for Court Employees applies at all times- including during leave from the court.

6. Overview of the Code of Conduct for Court Employees

The Code of Conduct for court Employees is a set of guiding principles and values against which court employees are expected to measure their behavior. The Code addresses behavior in four important areas:

- Rule 1: **Accountability**
 - A. Resources, Property and Funds⁷
 - B. Confidential Information⁸
- Rule 2: **Relationships**
 - A. Associations⁹
 - B. Membership in Organisations
 - C. Impartiality
- Rule 3: **Abuse of Position**

⁷ The Guidelines on Rule1 (A) states that “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”.

⁸ Rule 1(B) Sensitive information acquired by the 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.

⁹ Rule 2(A) Court employee must limit his social activities to prevent the close personal associations.

A. Personal Enrichment

B. Conflict of Interest

- Rule 4: **Decorum and Comportment**

Rule 1: Accountability

What is Accountability?

Accountability means that Court employees must provide responsible stewardship of any resources, property or funds committed to their care. This could be in relation to tangible things – like resources and property - but it could also relate to intangible assets – like time. Information, which has come to the knowledge of a Court Employee as well as data stored electronically, is also an intangible asset. Accountability also means, in ordinary language, ‘liable to being called to account; answerable’. Within the context of the Code of Conduct for Court Employees, this would mean that Court Employees are liable to being called to account for the way they utilize official resources, property or funds, whether these are tangible or intangible assets.

The purpose of accountability is to ensure judicious use of court resources and property so that court users would get the most value and benefit of available resources. And also to ensure that state resources allocated for the delivery of justice services are properly managed and judiciously utilized.

Accountability under this Rule also relates to “... decision and actions to the public...”¹⁰ This means that Court Employees are also liable to being called to account for the decisions they take that affect members of the public (this would often comprise court users) and their actions to the public as well.

Accountability extends to Confidential Information having three elements

¹⁰ Rule 1(A) (2) 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 speak in personal capacity to media in a way injurious to the ‘collective integrity’ of the judiciary¹¹
- Not disclose confidential information to any unauthorized person¹²
- Not give out official document of the Judiciary

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 not be injurious to the collective integrity of his employment. The need for identifying the distinction between disseminating any confidential information and access to information using the Freedom of Information Act¹³ 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.¹⁴ Court employees should discuss cases only for legitimate reasons and should handle sensational or sensitive cases with great care and discretion. This also includes giving out official document of the Judiciary in any form without authorization. Court employees are always required to strictly comply with the laws, rules of court and schedule of duties and conduct him/herself at all times in a manner that promotes public confidence in the integrity, impartiality and independence of the judiciary.

¹¹ Rule 1 (B) (1) CCCE

¹² Rule 1(B) (2) 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.

¹³ Section 2(1) Freedom of Information Act (2011) LFN “A public institution shall ensure that it records and keeps information about all its activities, operations and businesses”.

¹⁴ Section 2(2) Freedom of Information Act (2011) LFN “A public Institution shall ensure the proper organisation a maintenance of all information in its custody in a manner that facilitates public access to such information”.

Rule 2: Relationships

The guidelines focus on relationships within 3 contexts.

1. Relationship to courts users and the public – Do not get too close to court users or members of public so as not to give the impression that particular persons are favored.
2. Social relationships – avoid belonging to associations whose aims are incompatible with the ‘dignity’ of your office
3. Impartiality – Avoid prejudice against persons on account of who they are or are associated with.

Rule 2(A) Associations: this sub-rule acknowledges the fact that Court Employees by virtue of the nature of their work and position do frequently come into contact with Court users and other members of the public. Therefore it urges Court Employees to avoid any close association with patrons of the Court which association may reasonably give rise to suspicion or appearance of partiality or favoritism. His activities outside 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. In much the same vein, no personal relationship or association with a Judge or Superior officer should be used to lobby or influence official decisions such as posting or transfer.

Rule 2(B) Membership in Organisations – A Court Employee shall not be a member of or belong to or take part in any society, club and or organizations the membership of which is incompatible with the function and dignity of his office. Thus a Court employee’s participation in societies or organizations should not intrude into the workplace through the displaying of literature, badges, signs or other material

advertising a cause, party, or club membership. Similarly an Employee of the Court should refrain from partisan political activity, should not hold any office in a partisan political organisation, should not make separate speeches for or publicly endorse or oppose a partisan political organisation or candidate, should not solicit funds for or contribute to a partisan political organisation, should not become a candidate for partisan political office and should not otherwise actively engage in partisan political activities. Even though the Constitution has guaranteed freedom of association, a court staff is required by the code to restrict their behaviours so as to avoid compromising their job. Similarly a conflict of loyalty may arise when the duties of 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 association or organisation.

Rule 2(C) Impartiality – A Court Employee shall not discriminate on the basis of, nor display by words or conduct, a bias or prejudiced based upon tribe, religion, colour, nationality, gender or other protected group, in the conduct of service to the Court and public. i.e Court employees should treat every one with the same courtesy, tact and respect irrespective of their tribe, religion, colour, nationality, gender or other consideration. The rule forbids discrimination and favoritism against persons or groups either based on their health conditions (physically challenged persons or those living with a terminal illness and HIV patients). No court user should suffer a disadvantage prejudice or discrimination arising from the delivery of court services. Similarly, Court Employees are expected to discharge their responsibilities to the public in a timely, impartial, diligent and courteous manner. No form of discrimination is acceptable otherwise the public at large and the Court users in particular will harbour the impression that the judicial system and its employee are

partial. Defining the standard elements in Rule 2 (c)(2):

- **Timely:** – occurring at a suitable time
- **Impartial:** - Not partial or biased, fair or just
- **Diligent:** - 1. Constant in effort to accomplish something or attentive and persistent in doing anything. 2. Done or pursued with persevering attention or painstaking.
- **Courteous:** having or showing good manners or polite.

Rule 3: Abuse Of Position

What is “abuse of position”? Abuse of office [i.e. position] is use of power to achieve ends other than those for which power was granted.¹⁵

This encompasses **Personal Enrichment and Conflict of Interest:**

Rule 3(A) Personal Enrichment the rule frowns at the use of a Court position to secure “privileges” or “exemptions”. The solicitation or acceptance of a gift with the understanding that something will be done in return is in contravention of the expectation of this Rule. For, the administration of justice is subverted if court employees appear to deliver service in exchange for a reward. Similarly, the use of one’s occupation or position for personal enrichment through the deliberate misuse or misapplication of the court’s resources or assets amounts to fraud and abuse of position. Abuse of position through personal enrichment breeds greed and promote corruption.

The Rule prohibits Court Employees from accepting gift of any sort for such gifts

¹⁵ **Per Ayoola**, JSC in *Offoboche v. Ogoja Local Government And Another* (Sc 139/1996) [2001] 10 (13 July 2001)

raise question as to both independence and impartiality of the Court Staff. Acceptance of gift by a Court Employee from Court user has tendency to make the Court Employee to look favourable upon the donor when the need arises. Seemingly small and innocent gifts may soon lead to larger ones and thus threatening the integrity of the Court Employee. A Court 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. It is important to note that the aim of the Rule is to ensure that there is transparency in the way a court employee performs his or her duties; that no Court user suffers from being exploited by an Employee and that Court services are given equally to all persons without favour.

A Court Employee is not permitted to engage in any type of trade or business in Court premises during office hours or even engage others to do so on his behalf. Again, an Employee of the Court should not 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. However, a Court Employee may accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognized by custom. He may accept books given on complimentary basis, loan from lending institution in its regular course of business on the same terms generally available to people who are not Court Employees and scholarship or fellowship awarded on the same term applied to other applicants.

Rule 3 is of critical importance because it touches on some of the most difficult problems seen in the way Court Employees work in Nigeria. Its provisions ensures that there is transparency in the way a Court Employees performs his or her work and

prevent exploitation of court users by an Employee by ensuring that court services are rendered equally to all persons impartially, conscientiously, and with integrity. It also provides standards to prevent the corrupt use and application of the Court Employee's office. The Guidelines accompanying Rule 3 provides **“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”**.

Why prohibit gifts? The guidelines to Rule 3 provide that: “Gifts of any sort raise a question as to the independence of the employee, and are therefore prohibited”

There are exceptions to the Rule on Personal enrichment; 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 recognized 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.

It is important to note here that it is not only the Code of Conduct that is breached when a Court Employee acts in breach of Rule 3. Most of the kinds of conduct prohibited by Rule 3 are also forbidden by criminal laws. For example, the offence of

Corruption and Abuse of office is contained in the Criminal Code. Example is where a Court Registrar who delays the processing of an application for certified true copy of a ruling because the party requesting it has not “come to see him or her” i.e. paid him or her some money privately, has also breached the Rule. The employee has sought to use his or her position or office to “secure unwarranted privileges” as well as confer a “corrupt or unfair” advantage upon himself or herself.¹⁶ Such an employee has also “solicited” or “requested” for a compensation or fee outside of what he or she is entitled to.¹⁷ Sometimes however, it may not be a court employee that requests for a payment. A court user, litigant or counsel may, after receiving a service, feel obliged to “show gratitude” or “appreciate” the giver of the service or, out of fear that failure to do so might put him or her in an unfavorable position subsequently, offer a “thank you” tip in cash or a valuable item.

Court employees should not therefore:

A. Demand, solicit, request for any fee, payment, gift, by whatsoever name called as a condition for performing a service ordinarily expected of such employee.

B. Demand any gift, in cash or otherwise, as a condition for accelerating the speed with which a particular service is performed.

C. Accept any gift, in cash or kind for the purpose of influencing the employee to act in a particular manner.

D. Accept any gift, in cash or kind, as a “thank you” for a service undertaken in the ordinary course of work.

¹⁶ (Rule 3(A)(1))

¹⁷ (Rule 3(A)(2)).

Rule 3(B) The second arm of Rule relates to **Conflicts of Interest**: 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, where 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). This arises when an Employees' 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. *Blacks Law Dictionary* defines "conflict of interest" as "[a] real or seeming incompatibility between one's private interests and one's public or fiduciary duties."

A Court Employee must therefore avoid any such situation and should not engage in any business which may conflict or appear to conflict with the performance of his official duties. He should not use resources of the Court for the purpose of carrying on private business and no such private business shall be performed utilizing the resources of the Court. In addition a Court Employee is prohibited from engaging in any private business, which may require or induce him to disclose information acquired in the course of his official duties. Yet of immense importance is the fact that such private business should not relate adversely on or call the integrity of the Court to question. Similarly, Court Employees should not take up employment with private chambers or any other agencies. The Court Employee's position within the Court system must be his primary employment.

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 that can result in decisions or actions that are not in the best interest of the court or 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.

To avoid conflict of interest situations, Court Employees must ensure that they

1. Refrain from getting involved in endeavors that will bring their private interests in conflicts with their official duties
2. Avoid getting involved in private businesses that would be run using official time or other resources
3. Avoid getting involved in any line of business/other employment that would impair their ability to maintain confidentiality of official information
4. Be vigilant and watchful for any situations, which may develop that, would create a conflict of interest for the Court Employee.

Rule 4: Decorum and Compartment

Rule 4 sets out the standard of “care” court employees must observe when they deal with court users, whether they are litigants, lawyers, witnesses, or just members of the public. First, it establishes the scope of duty of the employee to respond to inquiries, and then admonishes the employee on the “tone” through which that duty is delivered. Rule 4(A) (1) and (2) requires court employees to respond to all inquiries with utmost courtesy, i.e. with the most or best that can be offered by way of courtesy. Webster's

Dictionary defines the word “utmost” as 1. of the greatest or highest degree, quantity or the like; greatest. ... 2. being at the farthest point or extremity; farthest,... 3. uttermost, the greatest degree or amount; 4. the most or best of one’s abilities, powers etc; 5. the extreme limit or extent.

Rule 4(A)(1) and (2) when read together with Rule 2(C)(1 and 2) also mean that everyone must get this “utmost courtesy” and no one should be denied it due to a characteristic peculiar to the person, such as the person being a convicted felon, or a person with a disagreeable orientation. The rules further prescribe that no foul or indecent language should be used by the employee. This means that there is some standard of acceptable language court employees must maintain. No language may be used which someone will find offensive. Rules 4(3) makes it clear that Court Employees are under a duty to familiarize themselves with laws, rules of court and schedule of their duties and also behave in ways that will promote public confidence in the court. Knowing about laws and rules of court could put employees in a position to help unrepresented litigants with questions they may have, but employees must guard against using this knowledge to provide legal advice. Rules 4(4) and (5) reinforce the importance of punctuality and comportment. A Court Employee’s dressing should be respectable and dignifying and should reflect the dignity of the courtroom.

Rule 4(6) appears to suggest that the court employee must sometimes be proactive, and should act positively to “promote” ethical conduct in the courtroom. S/he must remember that his/her help and support is required to maintain integrity and public confidence in the court, and his/her actions or inactions may have a reflection on the court. Sometimes, to promote ethical conduct, a Court Employee must act when a

need arises.

7. What happens if a Court Employee breaches the Code?

An Employee who breaches the code is subject to disciplinary action, including dismissal if the severity warrants. The breaches or violation of any of the above Rules is said to constitute a “gross misconduct” or “behaviours”. In other words, is regarded very seriously or severely. The Code of Conduct for Court Employees has already regarded its infraction or violation as “gross” in character and anything adjudged to be ‘gross’ is usually punished with a serious, severe penalty.

8. Relevance of Code of Conduct for Court Employee to Court User Expectations

If Court Employees/Legal/Research Assistants comply with the Code of Conduct for Court Employees, court users can expect to have:

- Positive experiences with the delivery of court employee services.
- Good, speedy and qualitative standard of services.
- Ethical delivery of services by court employees.
- Greater public confidence in the administration of justice.

Conclusion

Legal/Research Assistants are essential integral part of the justice system. As Court Employees/Legal/Research Assistants, you are an important stakeholder in the justice sector of the country and 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. Your role in the administration and dispensation of

justice can hardly be overstressed. You are the face of justice in our Courts. No doubt you play complimentary roles which accord fillip to the adjudicatory roles of the Judicial Officers.

This paper has discussed the scope of the Code of Conduct for Court Employees vis-à-vis their roles in the administration of justice. It also discusses the Rules regulating the Court Employee's behaviours and the procedure for reporting violations of the Code including disciplinary actions. The existence of the Code is in itself recognition of the contribution of this category of stakeholders in the justice sector. Thus compliance with the Code will promote more discipline, transparency and integrity to justice delivery.