copies of documents that establish the representative’s authority to receive the information.

11. The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Council.


CHRISTOPHER MURUNGARU,
Chairman,
National Security Intelligence Council.

LEGAL NOTICE NO. 118

THE NATIONAL SECURITY INTELLIGENCE SERVICE CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF CODE

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Appendix – General Code of Conduct and Ethics.

THE PUBLIC OFFICER ETHICS ACT, 2003
(No. 4 of 2003)

IN EXERCISE of the powers conferred by section 5 (1) of the Public Officer Ethics Act, 2003, the National Security Intelligence Council, establishes the following Code of Conduct and Ethics:—

THE NATIONAL SECURITY INTELLIGENCE SERVICE CODE OF CONDUCT AND ETHICS

Preamble.

Public service is a public trust requiring employees to place loyalty to the Constitution, other laws and ethical principles above their own personal interests.

This Code is intended to establish standards of ethical conduct and behaviour for members of the National Security Intelligence Service. This Code contains rules of conduct and ethics to be observed by members of the Service so as to maintain public confidence in the integrity of the Service. The Code does not in any way replace the regulations governing the discipline and general conduct of members of the Service. Members must obey those regulations and all other applicable laws.

PART I - PRELIMINARY

Citation.

1. This Code may be cited as the National Security Intelligence Service Code of Conduct and Ethics.

Interpretation.

2. In this Code, unless the context otherwise requires —

“Director-General” means the Director-General of the National Security Intelligence Service;

“public officer” means a public officer to whom this Code applies under rule 3.
3. This Code applies with respect to the members of the National Security Intelligence Service.

PART II – REQUIREMENTS

4.(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

5. A public officer shall be true and faithful to the oaths or affirmations taken, as required under the National Security Intelligence Service Act, 1998, on being appointed to the National Security Intelligence Service.

6. A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

7. Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity.

8. A public officer shall not canvass or lobby, either directly or indirectly, for any favours in the National Security Intelligence Service.

9. A public officer —

(a) shall not make public comments that support or criticize a political party;

(b) shall not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;

(c) shall not publicly comment, except in furtherance of his official duties, on matters in relation to which he has been professionally involved or on matters that relate to Kenya’s foreign policy or national security and shall not publicly comment on such matters,
even in furtherance of his official duties, without the authority of the Director-General;

(d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of the National Security Intelligence Service if that is not the case.

10.(1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

(2) A public officer shall not engage in private business during official working hours.

11. A public officer shall not use his position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that the National Security Intelligence Service or the Government sanctions or endorses any activities, either by him or by any other person, that are not activities of the National Security Intelligence Service.

12. A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

13. If, because of a public officer's duties, there is a likelihood that the public officer will be assigned a matter that would result in the public officer having a conflict of interest, the public officer shall inform his superior officer of that likelihood.

14.(1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organization —

(a) the public officer shall report the matter to the Director-General who shall direct the appropriate mode of disposal of the gift; and
(b) the public officer shall comply with such direction.

(2) The gifts referred to in paragraph (1) are —

(a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2)(a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or

(b) a gift given to the public officer on a public or ceremonial occasion.

(3) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the public officer in a public office.

(4) A public officer shall not —

(a) give a gift to a superior officer;

(b) make a contribution, or solicit contributions, for a gift to a superior officer; or

(c) solicit contributions from a public officer for a gift to a superior officer of that public officer.

Harambees.

15.(1) A public officer shall not preside over a harambee, play a central role in its organization or play the role of “guest of honour”.

(2) A public officer shall not participate in a harambee in such a way as to reflect adversely on his integrity or impartiality or to interfere with the performance of his official duties.

Safeguarding of information.

16.(1) A public officer shall ensure that confidential or secret information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure.

(2) A public officer shall follow the National Security Intelligence Service procedures and directives for
safeguarding information and documents and shall not disclose any information in contravention of such procedures and directives.

17. A public officer shall not have contact with foreign governments or organizations in contravention of the National Security Intelligence Service procedures and directives relating to such contacts.

18. A public officer shall follow the National Security Intelligence Service procedures and directives for ensuring the security of National Security Intelligence Service premises.

19.(1) Unless authorized in writing by the Director-General, a public officer shall not agree to be an expert witness, other than on behalf of the National Security Intelligence Service or the Government, in a proceeding in which the National Security Intelligence Service or the Government is a party or has a substantial interest.

(2) Nothing in paragraph (1) prevents a public officer who has been summoned by the court or other appropriate authority from appearing as an expert witness but the public officer shall, before appearing, notify his superior that he has been so summoned.

20. A public officer shall not leave Kenya without the permission of the Director-General.

21. A public officer who is absent because of illness shall provide a certificate from a medical practitioner with respect to his illness.

22.(1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Director-General.

(2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Director-General directly.
(3) An offence referred to in paragraph (1) or (2) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

23. For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the Director-General.

24. Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

APPENDIX

PART III - GENERAL CODE OF CONDUCT AND ETHICS

7. This Part sets out a general Code of Conduct and Ethics for public officers.

8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

9. A public officer shall—

(a) carry out his duties in a way that maintains public confidence in the integrity of his office;

(b) treat the public and his fellow public officers with courtesy and respect;

(c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;

(d) if a member of a professional body, observe the ethical and professional requirements of that body;
(e) observe official working hours and not be absent without proper authorization or reasonable cause;

(f) maintain an appropriate standard of dress and personal hygiene; and

(g) discharge any professional responsibilities in a professional manner.

10.(1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11.(1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

(a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who —

(i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer’s duties;

(ii) carries on regulated activities with respect to which the public officer’s organisation has a role; or

(iii) has a contractual or similar relationship with the public officer’s organisation;

(b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
Conflict of interest.

12.(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership of other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

(a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and

(b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary
under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

(a) himself;

(b) a spouse or relative;

(c) a business associate; or

(d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.

13.(1) A public officer shall not—

(a) use his office or place of work as a venue for soliciting or collecting harambees; or

(b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, “collection”, “collector” and “promoter” have the same meanings as in section 2 of the Public Collections Act.

14.(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

(a) an individual is foreign if the individual is not a citizen of Kenya;
(b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

16. (1) A public officer shall not, in or in connection with the performance of his duties as such—

(a) act as an agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

17. A public officer shall not practice nepotism or favouritism.

18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.
(3) A public officer shall not neglect his financial obligations or neglect to settle them.

21.(1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), “sexually harass” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome —

(a) making a request or exerting pressure for sexual activity or favours;

(b) making intentional or careless physical contact that is sexual in nature; and

(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be —

(a) selected on the basis of integrity, competence and suitability; or

(b) elected in fair elections.

23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

24.(1) A public officer 'contravenes the Code of Conduct and Ethics if—

(a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
(b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

25. If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.


CHRISTOPHER MURUNGARU,
Chairman,
National Security Intelligence Council.