

DRAFT

MODEL CODE OF ETHICS AND CONDUCT

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Introduction

The public are entitled to expect all Customs officials to be honest, impartial and professional. To maintain public confidence it is important that Customs officials maintain the highest standards of integrity in their dealings with members of the public, the business community, and other government officials.

A key element of a sound integrity program is the development, issue and acceptance of a

comprehensive code of conduct which sets out in very practical and clear terms the standard

of behaviour expected of all Customs officials. This point was recognised by the World Customs Organisation in its Arusha Declaration on Integrity in Customs which includes a specific recommendation on the issue of codes of conduct. The Arusha Declaration states that:

“Customs officials should be issued with a code of conduct, the implications of which should be fully explained to them. There should be effective disciplinary measures, which should include the possibility of dismissal.”

An effective code of conduct must:

- describe in very practical and clear terms the standards of behaviour expected of all

Customs officials; and

- provide a guide to solving ethical issues for those working in Customs and those who have dealings with Customs officials.

Key Elements

The 11 key elements of the code of conduct are:

1. Personal Responsibility
2. Compliance with the Law
3. Relations with the Public
4. Acceptance of Gifts, Rewards, Hospitality and Discounts
5. Avoiding Conflict of Interest
6. Political Activities
7. Conduct in Money Matters
8. Confidentiality and Use of Official Information
9. Use of Official Property and Services
10. Private Purchases of Government Property by staff
11. Work Environment

Each of these elements is described in more detail below.. **1. Personal responsibility**

1.1. General rules

All officials must accept personal responsibility for compliance with the code of conduct. In

particular, officials must:

- perform duties with care, diligence, professionalism and integrity;

- strive for the highest ethical standards, not just the minimum required to meet legal or procedural requirements;
- take the time to read and understand the code of conduct and the implications of non compliance;
- observe appropriate acts, regulations, determinations and lawful directions that relate to the performance of official duties;
- treat colleagues and members of the public with courtesy and be sensitive to their rights, duties and aspirations;
- avoid waste, or extravagant use of public resources;
- not take, or seek to take, improper advantage of any official information acquired in the course of official duties; and
- behave in a manner that maintains or enhances the reputation and professional standing of Customs.

2. Compliance with the law

2.1. Criminal offences

All officials of Customs must comply with the law. The special responsibilities of Customs mean that offences relating to legislation which Customs administers, or has an interest in, are regarded most gravely when committed by Customs officials.

Customs officials who commit offences involving, in particular: prohibited drugs; fraud;

seeking or accepting bribes; or illegal importation or exportation of goods will be subject to

disciplinary action, regardless of any penalties applied as a result of criminal proceedings.

All officials are required to inform the senior manager on duty as soon as they become the

subject of criminal or possible criminal proceedings. On receipt of such information the

senior official on duty should decide whether the official can be retained on normal duty,

moved to alternative duties or suspended from duty.

Officials must not use their official positions or relationships established in the course of their

duty to inappropriately influence or interfere with action being contemplated by internal

investigation officials or external law enforcement authorities..

2.2. Complaints against Customs and its officials

It is important that the public has confidence in the integrity of Customs and its staff. In order

to ensure this confidence is maintained complaints against Customs, and/or individual

officials, must be investigated promptly and objectively.

2.3. Internally initiated allegations

If officials believe they are being required to act in a way which is: illegal; improper;

unethical; or is in any way in breach of the code of conduct they have a responsibility to

report the matter to a designated member of senior management.

Senior managers must record and take effective steps to investigate all such claims. In

some cases, particularly when allegations are made against senior officials, it may be

necessary to refer the investigation to a body external to Customs.

3. Relations with the public

The public expect that their dealings with Customs will be fair, professional, and confidential.

To ensure a high standard of service is maintained and to improve the quality of service provided it is essential to adopt a courteous, helpful and professional attitude to the public.

3.1. Your responsibilities

Officials should use all reasonable means to help the public to fulfil their obligations and obtain their rights under the law.

3.2. Promotional activities on behalf of other organisations or businesses

It is essential that Customs be, and be seen to be, impartial in its dealings with the public.

To avoid criticisms that one party is being favoured over another or that a reward of some

kind has been received, invitations to become involved in the promotional activities of any

organisation should be declined. If officials are in doubt about the nature of such requests they must refer the matter to their senior manager.

3.3. Disclosure of name - Wearing of name badges

Under most circumstances the public have the right to know who they are dealing with. As

such, all officials are expected to identify themselves in correspondence and on the

telephone. In addition, officials who come into contact with the public during the course of

their work should wear a nameplate. The only exceptions to this rule are when the wearing

of a nameplate may endanger the personal safety of the official or when non-uniformed officials identify themselves on arrival at a meeting etc. by identification card..**3.4. Assault and obstruction of an official**

Officials should always consider their own safety and the safety of their colleagues when undertaking their duties. If a situation arises where it would be wiser to withdraw and seek additional support from trained personnel then officials should do so. In all cases, such action should be immediately reported to the senior manager on duty.

3.5. Dealings with the business community

The business community should understand the ethical standards as practised by Customs and should ensure their own practices do not pressure officials to depart from those standards. Any attempts by members of the business community to offer inducements or other benefits in exchange for favours or special treatment must be reported immediately in writing to the senior official on duty.

4. Acceptance of gifts, rewards, hospitality, and discounts for staff

4.1. Gifts and hospitality

In many cases official duties will bring officials into contact with organisations and members of the public who may expect officials to be party to the normal private sector practice of offering gifts and hospitality to business contacts. While it is important to maintain contacts with outside groups, it is vital that Customs officials be, and be seen to be, free of any form

of bribery or corruption. The offering of gifts and/or other benefits may be seen as an attempt to influence a decision which an official is required to take and therefore must be avoided.

For this reason officials must not accept gifts or hospitality of any kind except in cases where:

- the gift is of an inexpensive nature such as a tie, drinking cup, calendar or diary given in the spirit of harmonious business relations;
- refusal of the gift would cause offence on cultural grounds;
- the gift is offered in a public forum where refusal would cause embarrassment;
- the hospitality is associated with the demands of work, for example, working meals or legitimate representational functions to meet and discuss business with key clients.

In cases where a more expensive item is accepted for cultural or protocol reasons the item

must be surrendered to the organisation and must not be regarded as the personal property

of the official. Where possible, an attempt should be made to diplomatically return the gift to

the provider.

In all cases, and regardless of the value of item received, officials must advise the senior manager on duty in writing of any gifts or hospitality received and the item must be listed on

a register. The register should list the name of the official receiving the gift or hospitality, the

supplier, a description of the item and its approximate value.. **4.2. Staff involved in procurement**

Staff involved in procurement must take special care to ensure they do not expose themselves to allegations of unfair purchasing practices. As such, staff should not under any circumstances accept gifts or hospitality from current or prospective suppliers.

4.3. Incidental benefits obtained as a result of goods and services purchased with

official funds

Many commercial organisations offer free gifts to anyone using their services such as Frequent Flyer schemes and the like which accumulate points based on the number of goods purchased or services used. If possible, any incidental benefits of this kind are to be used by the organisation and under no circumstances should individual officials avail themselves of these benefits.

4.4. Offers of free travel for official purposes

Some organisations such as airlines or ferry companies may offer free travel by offering vacant seats or places to Customs for use on official business. Such an offer must not be accepted without approval of the Head of Customs as it may lead to the suspicion that there is an improper relationship between the company making the offer and Customs.

4.5. Concessions and discounts offered to members of Customs

Where companies offer discounts on their goods or services to all or a significant number of staff in Customs, and provided the offer has been made based on the purchasing power

of

the staff as individuals, the head of Customs may approve such discount schemes. Special

care needs to be taken, however, to avoid the possibility of suspicion that a private benefit

that has been obtained could influence the placing of a contract or decision made by

Customs. Therefore, discount schemes and the like should generally not be negotiated with

organisations with whom Customs has official dealings.

5. Avoiding conflict of interest

5.1. Personal association with those who do business with Customs

Conflict of interest may arise from official dealings with, or decisions made in respect of,

individuals who share private interests. For example, membership of societies, clubs, other

organisations or family. Where a potential conflict of interest arises, officials must advise the

Head of Customs and ensure that their official duties do not place them in a position where

allegations of unfairness may be made.

5.2. Shareholdings

Customs officials are free to invest in shareholdings or other securities, however, they must

not be involved directly or indirectly in any official decision which could affect the value of

their own investments. Likewise, they must not use any information obtained in the course

of their duties to advance their private interests or those of others. If officials believe

there may be a potential conflict of interest in respect to any private or family shareholdings or

securities they must advise the Head of Customs in writing.

5.3. Involvement in business interests and government contracts

No government contract may be given to any member of Customs or any partnership where

a partner is a member of Customs unless the member has fully disclosed the extent of their

interest in the contract and the Head of Customs is satisfied that no conflict of interest, or appearance of conflict of interest, could arise.

5.4. Engaging in other paid employment

Where legislation or lawful directions do not forbid outside employment officials wishing to

hold outside employment must obtain prior permission. When discussing this with the senior

official on duty, officials must be able to establish that such employment will not create a conflict of interest or adversely affect the performance of official duties. All outside work must be performed separately from, and outside, periods of official duty.

As a general rule, all former officials should avoid situations where their current knowledge

could result in an unfair commercial advantage or involve potential breaches of confidentiality.

6. Political activities

Officials, in an official capacity, must not make inappropriate public comment on matters relating to government policy and programs. Inappropriate public comment includes:

- comments on government policy or programs which the official has been involved in developing or implementing;
- personal statements or opinions which could be implied to be official comments;
- attacks on the administration of Customs which could cause serious disruption to the workplace; and
- expressing a negative opinion about Government policy when acting in an official capacity.

7. Conduct in money matters

7.1. General rules

If a Customs official becomes insolvent, bankrupt or gives notice of an intention to take advantage of bankruptcy laws then the official must notify the Head of Customs of the circumstances as soon as possible. This provision extends to those suffering significant financial difficulties where there is little or no prospect in the near future of being able to meet current debts. Temporary financial embarrassment need not be reported.

Officials who are bankrupt or insolvent will normally be allowed to continue in employment

unless they have committed a serious disciplinary or criminal offence involving public money. Officials who are bankrupt or insolvent should not normally be employed on duties which

might permit misappropriation of public funds.

7.2. Private financial transactions

Private financial transactions between members of staff are discouraged. This includes

making loans to staff members and or acting as guarantor or providing security on loans.

Officials who enter into voluntary private transactions with members of Customs do so at their own risk. Those entering into such arrangements should ensure the work of Customs

and its reputation are not adversely affected by their private arrangements.

7.3. Dealing with official money

The receipt and custody of official money is restricted to those who need to do so in the course of their official duties. In normal circumstances, no other official should accept money due to Customs unless specifically authorised to do so. When such authority is given

it should be confirmed in writing.

When payment other than by cheque is accepted, a receipt on the prescribed form is to be

issued by the official receiving the money. If an official receipt cannot be issued

immediately, a temporary receipt is to be issued and a copy of it signed by the payer

signifying that the amount shown on the receipt is correct. A copy is to be retained by the

official. If a temporary receipt is issued a permanent receipt clearly marked as "duplicate"

should be sent to the payer as soon as is practically possible. Any money accepted on

behalf of Customs must be accounted for immediately and in accordance with formal

instructions.

All officials have a responsibility to the public to use their money only for proper purposes

and to make sure value for money is obtained. Officials must avoid giving cause for criticism

that the money is being used directly for the personal benefit of members of Customs.

Likewise, any money spent must be for Customs legitimate business aims.

If there is any incidental personal benefit obtained as a result of public expenditure then officials must be sure it could be defended in the face of any criticism from the press or public. Anything that would benefit an individual staff member in such a way as it would be

looked upon as a "perk" is totally unacceptable.

The following principles apply to the spending of public money:

- public money must be spent wisely and properly;
- transactions involving public money must be accounted for correctly;
- only authorised persons may make spending decisions;
- the rules which apply to the acceptance of gift, hospitality and other benefits apply to staff taking spending decisions; and
- staff must not make use of their official position to further either their own private

interests or those of others.. **8. Confidentiality and use of official Information**

All officials have a duty not to disclose without proper authority any information that has been

obtained in the course of official duties. This rule extends to all documents, records, and information stored electronically. Likewise, officials are required to protect the privacy of individuals in official dealings.

Ways in which official information can be misused include:

- leaking information;

- use of information for personal or private gain;
- taking advantage of a person on the basis of information gained through confidential records; and
- removing, altering or destroying official records.

Engaging in any of the above activities is unacceptable and may lead to prosecution and/or

disciplinary action.

9. Use of official property and services

9.1. General rules

Unless specifically authorised, the use of Customs resources or services paid for with official

money for personal purposes or gain is prohibited. Such resources include:

- facilities (including telephones, photocopiers, office equipment/supplies);
- vehicles, vessels, machinery and equipment;
- computers and computer software;
- security passes and official stationary; and
- stamps and postal services.

Expenditure on goods and services can be reduced by paying due attention to the physical

security of all Customs assets. All officials are required to make adequate security arrangements for Customs assets under their control.

9.2. Motor vehicles

In respect to the use and care of official vehicles specific rules apply. These include:

- officials driving official vehicles must be licensed and authorised;
 - unauthorised passengers must not be carried;
 - officials must not drive official vehicles when under the influence of alcohol or any other intoxicant or drug; and.
- unless specific permission has been granted, official vehicles must not be used to provide transport to and from official' s personal residences.

9.3. Official identification

Identity badges and security items are issued to assist and identify officials in the performance of their duties, and in exercising powers entrusted to them. They are not to be used for any other purpose. Security badges, keys, passwords and the like are to be maintained safely by the official to whom they have been issued and must be surrendered to

Customs on termination of employment.

10. Private purchases of government property by staff

10.1. Purchases of government articles by staff

All officials are free to purchase articles of Government property which are on sale to the public, for example, publications, surplus supplies and goods sold at government sales unless:

- officials have, because of their official position, been able to obtain special knowledge about the condition of the goods being sold;
- officials have been officially associated with the disposal arrangements; and/or
- officials receive the goods at a discount that would not be available to a member of the

public.

10.2. Purchases of goods from Customs sources

It is important that members of Customs should not be thought to have an advantage over

members of the public in the purchasing of seized or forfeited goods. For this reason staff are prohibited from making purchases at Customs sales, either directly or through a third party.

Additionally, staff who were officially involved in the disposal arrangements or, because of

their official position, obtained special knowledge about the goods may not purchase goods

bought by traders at such sales.

11. Work environment

11.1. General principles

All officials have the right to a healthy and safe workplace free of discrimination and harassment in which individual and organisational objectives can be met. A good working environment is one that is:

- fair and equitable;
- safe and supportive; .· free of alcohol and drugs;
- free of harassment and unjustified discrimination;
- values individual differences and cultural diversity;
- provides honest performance feedback and development opportunities; and
- seeks staff co-operation in the decision-making process.

11.2. Fairness and non-discrimination

A commitment to fairness and non-discrimination is central to maintaining Customs standards of equity, ethical conduct and accountability. All officials must take an active role in ensuring the Customs work environment is free of discrimination and harassment of any kind.

11.3. Occupational health and safety

All staff have a right to a healthy and safe working environment. Officials must take seriously their responsibilities in respect to safety issues and should report any health or safety concerns or breaches of rules or regulations promptly to their supervisor.

11.4. Misuse of drugs

Customs is responsible for preventing the illegal importation of certain drugs. As such, it will not tolerate any official participating in the illegal importation, possession, traffic or use of illicit drugs or other prohibited substances. Officials knowingly concerned with illicit drugs will be subject to disciplinary and/or criminal action.

11.5. Misuse of alcohol

Officials must not, through the intake of intoxicating liquor, render themselves unfit to perform their duties. Officials whose work performance or conduct is impaired by alcohol are expected to remove themselves from the workplace until they are fully effective. As alcohol

is frequently a contributory factor in workplace accidents, officials engaged in boarding vessels or operating motor vehicles or machinery should refrain from consuming any alcohol in the period immediately prior to commencing duties.

11.6. Smoking

Customs has a duty of care to protect its officials and provide a healthy and safe working environment. Officials must not smoke in areas where it is prohibited or when on active duty

in public places. At private premises officials must not smoke in areas in which smoking is prohibited by the proprietor..

11.7. Standards of dress

The dress and appearance of all officials should reflect a professional image. Public perceptions and work practices can be influenced by the appearance of officials. At all times

clothing should be appropriate to the duties and generally established standards and official' s appearance should be neat, clean and tidy.

It is particularly important for uniformed officials to present a professional image. Everyone

issued with a uniform must comply with the relevant guidelines when wearing it and are responsible for keeping their uniform clean and neat. Any alterations or repairs that become

necessary must be undertaken promptly.

Summary

The public are entitled to expect all Customs officials to be honest, impartial and professional. To maintain public confidence it is important that Customs officials maintain

the highest standards of integrity in their dealings with members of the public, the business

community, and other government officials.

A key element in any integrity program must be the development, issue and acceptance of a

comprehensive Code of Conduct which sets out in very practical and clear terms the standard of behaviour expected of all Customs officials.

To fully comply with the code, each official needs to:

- perform duties with care, diligence, professionalism and integrity;
- strive for the highest ethical standards, not just the basic legal requirements; and
- behave at all times in a manner that maintains or enhances the reputation of Customs.

In addition, supervisors and managers have a particularly important role to play and must be

prepared to:

- lead by example;
 - ensure staff are familiar with the relevant legislation, required standards, departmental procedures and instructions; and
 - take appropriate action when staff fall short of the required standards.
-