

FOREWORD

Pursuant to section 37 of the Leadership and Integrity Act, 2012 the County Government of Homa Bay; establishes this Leadership and Integrity Code to be observed by and binding upon state Officers in the County. The County Government of Homa Bay supports the initiative to develop a code of conduct and ethics for County State officers. This will go to great lengths to establishing a Public service that is free from corruption, embraces the core values of integrity, honesty, team spirit, accountability, transparency and result-oriented work force.

Since the inception of devolution, the County Government has engaged and brought on board a number of staff drawn from private and public sectors. These officers need to be at the same level and platform to harness their skills, competencies and attitudes into high productivity.

This is aimed at developing and achieving uniformity of shared values and creating a culture of efficient and effective service delivery.

The Constitution of Kenya 2010 states that all sovereign power is bestowed on the citizens of Kenya. Those serving in government and particularly in the public service must be accountable to the citizens. Article 226 emphasizes the seriousness of accountability to the people.

I wish to urge all state officers to obey and uphold the rule of law in the execution of their duties. The values and principles of public service need to be mainstreamed to each public officer.

Article 73 of the Constitution assigns leadership responsibilities to state officers and public officers. Authority assigned to these officers is a public trust to be exercised in a manner that:

- Demonstrates respect for the people;
- Brings honor to the nation and dignity to the office; and
- Promotes public confidence in the integrity of the office.

It's against this background that the code of conduct and ethics for state officers is necessary.

Finally, I wish to give a precaution to all state officers that they should be guided by the rule of law, transparency and accountability in the discharge of their respective duties. This code therefore aims at fostering positive attitude and work ethics that enhance high quality service delivery.

**H.E. HON GLADYS WANGA, CBS GOVERNOR,
COUNTY GOVERNMENT OF HOMA BAY**

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PART I - STATEMENT OF INTENT

A Leadership and Integrity Code for State Officers in the County Executive of Homa Bay County Government made pursuant to the provisions of Section 37 of the Leadership and Integrity Act, 2012 and to give effect to Chapter Six of the Constitution of Kenya. The Code is intended to establish standards of integrity and ethical conduct in the leadership and management of public affairs of Homa Bay County Government by ensuring that the State Officers respect the values, principles and provisions of the Constitution and other applicable laws or policies on the standards of conduct and performance expected of holders of State offices in the discharge of their duties.

Preamble

This Code of Conduct and Ethics (Code) is a statement of our principles and expectations that guides delivery of services in the County Government of Homa Bay. The code establishes the standards that govern the way we deal with each other and all other stakeholders.

As state officers, we are required to conduct our business in Government with the highest standards of ethics, integrity, honesty, fairness and professionalism. While reaching our goals is critical to our success, equally important is the way we achieve them. Every employee of the county Government is expected and required to assess every decision and every action on behalf of the County Government in light of whether it is right, legal and fair. This applies to all cadres of staff and offices in the County Government. The Code is intended to help state officers meet these expectations.

By following ethical practices outlined in this Code and in applying them in our day-to-day activities, we will continue to promote a culture of high integrity and

Professionalism while reducing the risks that may occur due to absence of this code of conduct.

The Code references other policy documents which include; the constitution of Kenya 2010, County Governments Act 2012, Public Finance Management Act 2012, Leadership and integrity Act 2012 and public officer ethics Act 2003.

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PART I - PRELIMINARY

Citation

1. This code may be cited as the Leadership and Integrity Code for Public officers in the County Executive of Homa Bay

Commencement

2. This Code shall come into operation within seven days of its publication in the Kenya Gazette.

Interpretation

3. In this code, unless the context otherwise requires-

'Act' means the Leadership and Integrity Act, 2012;

'Code' means the Homa Bay County Government Code of "Bank

Account" has the meaning assigned to it under section 2 of the Act: Conduct and Ethics for State officers:

'Code of conduct' means Set of rules and guidelines that govern the behavior of State officers serving in the County Government of Homa Bay.

'Confidential information' is the County Government information that a State officer comes into contact with, and is restricted to him/her.

'Corruption'- is the abuse of socially accepted norms such as unlawful acquisition of property at the expense of the public, misuse of official authority for the benefit of individual or a group through coercion, undue influence, misrepresentation, falsification, dishonesty or any other improper acts or means in breach of law or rule in force.

"Commission" means the Ethics and Anti-Corruption Commission established under section 3 of the Ethics and Anti-corruption commission Act. No. 22 of 2011;

"Gazette" means the Kenya Gazette

"His" includes the expression **"her"**

"Office" means the office the County Executive of Homa Bay County Government.

'Ethics'- A set of morally accepted norms or standards how we ought to behave.

'Innovation'- Seeking solutions based on needs and abilities, and showing initiative to find new ways to improve service delivery.

'Integrity'- Is the sum of positive qualities or virtues such as honest, trustworthiness, goodness, loyalty, truthfulness, courage, impartiality, firmness and steadfastness of principled behavior.

"Personal Interest" means a matter in which a Public Officer has a direct or indirect pecuniary or non-pecuniary interest and includes the interest of this or her spouse, child, business associate or agent

'State officer'- Means a public officer whom this code of applies to and has the same meaning as assigned to it under Article 260 of the Constitution.

'Respect'- Treating clients and colleagues with courtesy and tolerance and making the workplace an inclusive, productive, and healthy environment.

Application of Chapter Six of the Constitution and the Leadership and Integrity Act, 2012

4. (1) The provisions of Chapter Six of the Constitution and the Leadership and Integrity Act shall form part of the code.

Commitment to the Code

5. (1) A State Officer elected or appointed to the County Executive shall sign and commit to this Code as per the first schedule to this code at the time of taking oath of office or within seven days of assuming office.

(2) A serving State Officer shall sign and commit to this Code within seven days of the publication of the Code in the Gazette.

(3) The declaration of commitment to the Code shall take the form and structure set out in the First Schedule to this Code.

PART II-ESTABLISHMENT AND APPLICATION OF THE CODE

6. In exercise of the power conferred by Section 37 of the Leadership and Integrity Act, 2013, the Homa Bay county government establishes this code of conduct and ethics for its state officers.

7. This code applies to all Homa Bay county state officers. All State Officers of the county are obliged to familiarize themselves with this code of conduct and observe its principles. The provisions of this code shall be mainstreamed into sectoral/departmental activities, committees and functions.

PART III- APPLICATION OF THE CONSTITUTION AND THE LEADERSHIP AND INTEGRITY ACT

8. The provisions of Chapter six of the Constitution shall form part of this code;

9. Unless otherwise provided in this code, the provisions of the Public Officer Ethics Act shall form part of this code in so far as they conform to the provisions of the Leadership and Integrity Act.

PART IV-GENERAL LEADERSHIP AND INTEGRITY CODE

Performance of duties

10. State officers shall, to the best of their ability;

(1) Carry out their duties in an efficient and honest manner and avoid behaviors which might impair their effectiveness.

(2) Carry out their duties in a transparent and accountable manner and keep accurate records and documents relating to the functions of the office.

(3) Report truthfully on all matters of the departments they represent

11. A State officer shall obey all lawful orders of his/her immediate supervisor and other senior officers. All official communications should be channeled through the immediate supervisors.

12. State officers are required to use official language while performing their duties while in their places of work.

Professionalism

13. A State officer should carry out his duties in a way that maintains public confidence in the integrity of his office conduct him/herself in a professional manner at all times and to apply high professional standards in carrying out his/her duties including promotion and application of best practices and procedures that upholds public confidence and the integrity of the office.

14. A State officer should portray a positive image before the public at all times by respecting him/herself and conducting him/herself in a manner that upholds the dignity of the office.

15. A State officer should treat members of public and other State officers with courtesy and respect and not discriminate against any person, except as provided by law.

16. If the state officer is a member of a professional body, shall observe and subscribe to the Ethical and professional requirements of that body in so far as the requirements do not contravene the constitution or the Leadership and Integrity Act.

Confidentiality

17. A State officer shall not disclose or cause to be disclosed any information in his/her custody to any unauthorized person.

Financial Integrity

18. State officers shall not use his/her office to improperly enrich him/her or others.

19. A State officer shall not use his office or official position to solicit or collect harambee money or participate in such a way as to reflect adversely on his integrity or impartiality or to interfere with the performance of his official duties.

Reporting Corruption

20. All state officer of the county government are expected to report any acts of corruption or suspicious practices to immediate supervisors or Ethics and Integrity prevention committees in the County.

21. The county Government will continuously conduct risk assessment at the work place to determine the scale and scope of the vice with view of devising effective counter measures.

22. In situations where corruption has taken place, a recurrence shall be stopped, evidence safeguarded and system weaknesses reviewed to strengthen integrity.

Moral and Ethical requirements

23. A State officer shall observe and maintain the Ethical and Moral requirements in section 13 of the Leadership and Integrity Act [2012], not sexually harass a member of the public, or a fellow State officer. Sexual Harassment has the meaning assigned to it under section 21 of the public ethics Act 2003.

24. A State officer shall not practice nepotism or favoritism in performance of his/her duties.

25. A State officer shall ensure that his/her private life does not interfere with his/her official duties and affect the dignity of his office. He/she is required to pay taxes and honor his/her financial obligations.

Public trust

26. A Public Office is a position of public trust and the authority and responsibility vested in a State Officer shall be exercised by the Public Officer in the best interest of the office and the people of Kenya.

Responsibility and duties

27. Subject to the constitution and any other law, a Public Officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of his or her office.

Gifts or benefits in kind

29. Gifts or donations given to a State officer on a public or official occasion shall be treated as a gift or donation to the county.

30. A State officer or any member of his/her family shall not receive presents in form of money, entertainments or any service from a person that may be regarded as geared towards compromising his/her integrity.

Care of Property

31. State officers are required to take reasonable care of public property and other resources entrusted in their custody. Further he/she should not incur any liability on the part of the employer without proper authorization.

32. A State officer who contravenes subsection 1 shall in addition to any other penalties provided for under the constitution, the Act or any other law be personally liable for any loss or damage to the public property.

Rule of Law

33. A State officer shall respect and abide by the constitution and the law.

34. A State officer shall carry out the duties of his/ her office in accordance with the law.

35. In carrying out the duties of his/her office, a State officer shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the law and in accordance with Article 24 of the Constitution.

36. In carrying out his/her duties, a State officer shall respect, protect and promote the fundamental rights and freedoms of other persons without discrimination on the basis of race, tribe, political opinions, language, color, creed, sex, disability social status or culture.

Conflict of interest

37. A State officer shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the State officer's official duties.

38. A State officer whose personal interests conflict or are likely to conflict with their official duties shall declare the personal interest to the Government and the Anti-Corruption committee.

Participation in Tenders:

39. A State officer shall not participate in a tender for the supply of goods or services to a Government entity in which he or she is serving or is otherwise similarly associated, but the holding of shares by a State officer in accompany shall not be construed as participating in the tender unless he/she has a controlling shareholding in the company.

Impartiality

40. A State officer shall, at all times, carry out the duties of the office with impartiality and objectivity and shall not practice favoritism, nepotism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

Falsification of Records

41. A State officer shall not falsify any records or misrepresent information to the public.

Conduct of private affairs

42. A State officer shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

Bullying

43. A State officer shall not bully any person.

Acting through others

44. A State officer contravenes this code if the officer knowingly.

(1) Causes anything to be done through another person that would constitute a contravention of the code if done by the State officer or

(2) Allows or directs a person under their supervision or control to do anything that is in contravention of the code.

45. A State officer who knowingly acts under an unlawful direction shall be responsible for his or her action.

Reporting improper orders

46. If a State officer considers anything required of them is in contravention of this code or is otherwise improper or unethical, he/she shall report the matter to the Anti-corruption committee which shall investigate the report and take action within ninety days of receiving the report.

Bank accounts outside Kenya

47. (1) A State officer shall operate foreign bank accounts in accordance with section 19 of the leadership and integrity Act.

(2) The Ethics and Anti-corruption commission is mandated to approve operation of bank accounts outside Kenya in line with section 19(3) of the leadership and integrity Act, 2012.

(3) Declaration of incomes, assets and liabilities of State officers shall be in line with the requirements of the Leadership and Integrity Act, 2012.

Dress Code

48. A State officer shall maintain appropriate standard of dress and personal hygiene at all times.

Breach of the code

49 (1) Breach of this code amount to misconduct for which the State officer may be subjected to disciplinary proceedings including removal from office:

(2) Where a breach of this code amounts to a violation of the constitution, the State officer may be removed from office in accordance with Article 251 of the Constitution.

(3). Failure to comply with the provisions of this code is a serious violation and may result in disciplinary action up to and including termination, as well as civil or criminal charge

Wrongful or unlawful acquisition of property

50. A State Officer shall not use the office to wrongfully or unlawfully acquire or influence the acquisition of public or other property.

Public Collections

51. (1) A State Officer shall not solicit for contributions from the office or any other person or, public entity for a public Purpose unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

(2) A State Officer shall not participate in a public collection of funds in a way that reflects adversely on the State Officers' integrity, impartiality or interferes with the Performance of the official duties.

(3) Nothing in this clause shall be constructed as prohibiting a State Officer from making voluntary contribution.

Acting for foreigners

52. (1) A State Officer shall not be an agent of, or further the interests of a foreign government, organization or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty.

(2) For the purposes of this paragraph-

(a) An individual is a foreigner if the individual is not a citizen of Kenya;
and

(b) An organization is foreign if it is established outside Kenya or is owned or controlled by a foreign government, organization or individual

Misuse of official information

53. (1) A State Officer shall not directly or indirectly use or allow any person under the officers authority to use any Information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) A State Officer shall not be deemed to have violated the requirements of subparagraph (1), if the information given-

(a) Pursuant to a court order

(b) For purposes of educational, research, literary, scientific or other purposes not prohibited by law; or

(c) In compliance with Article 35 of the Constitution and the relevant law

Giving of advice

54. A State Officer who has a duty to give advice shall give honest, accurate and impartial advice without fear or favor.

Use of Social Media

55. A State Officer shall not use social media in a manner that is prejudicial to public interest, national cohesion or that otherwise constitutes a breach of any law

Political and other Influence

56. (1) A State Officer shall exercise independence in the discharge of his duties and shall not allow himself to be subjected to political or any other internal or external influence that is detrimental to public interest

(2) A State Officer shall not influence or attempt to influence the decision of any other State or Public Officer or public entity on any matter.

(3) A State Officer shall not in any way interfere with the duties of any other State Officer Public Officer or public entity.

Implementation of development projects

57. (1) A State Officer shall exercise prudence in the undertaking of development projects and shall at times prioritize projects that are most urgent for the public.

(2) For the purposes of sub-paragraph (1), a State Officer shall, before planning for any project, to the extent applicable, undertake and facilitate public and stakeholder participation in the determination of the projects to be implemented at any given time.

(3) A State Officer shall not undertake any project without prior planning or budgeting

(4) A State Officer shall not demand or accept any kickbacks, gifts, benefits or other favors from contractors.

(5) A State Officer shall not compromise or abet compromising of standards of any project implemented for the office.

(6) A State Officer shall, subject to the law, disclose all relevant information regarding any project to any person requiring such information.

Preferential treatment

58. A State Officer shall ensure equal and equitable distribution of resources to all persons and any section of the population in his area of jurisdiction and shall not confer any undue advantage to any person or section of the population

59. Political Neutrality

Member of county executive committee shall not, in the performances their duties:-

- a) Act as an agent or, or further interests of a political party or candidate.
- b) Manifests support or for opposition to any party or candidate in an election.

2) An appointed state officer or public officer shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.

(3) Without prejudice to the generality of subsection (2) a public officer shall not-

- a) Engage in activities of any political party or a candidate or act as an agent of a political party or candidate in an election.
- b) Publicly indicates support or an opposition against any political party or candidate participating in an election.

General Penalty

60. Any person who is convicted of an offense under the leadership and integrity act, for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding five hundred thousand shillings ,or imprisonment or a term not exceeding five years or both.

PART V- MISCELLANEOUS

61 (1) This code be reviewed and updated after every three (3) years to keep it current and reflective of emerging laws, regulations, policies and best practices. This code should be treated as a county policy on ethics and integrity for State officers.

(2)It is therefore imperative that all State officers of the county read and familiarize themselves with this code.

(3)This code will be used alongside other existing statutory provisions pertaining to Good governance, Integrity, ethics and anti-corruption. These include:

- The Constitution of Kenya 2010.
- Leadership and Integrity Act 2012.
- Public procurement and Disposal Act.
- Public procurement regulations.
- Official Secret Act (Cap 18)
- The Code of regulations for public servants.
- Public finance Management Act.
- Human resources circulars.
- County public service Human Resource Manual, May 2013
- Public officer Ethics Act of 2003

FIRST SCHEDULE

(Para. 5(1))

**COMMITMENT TO THE LEADERSHIP AND INTEGRITY IN THE COUNTY
STATE OFFICERS CODE FOR GOVERNMENT OF HOMA BAY**

I.....holder of National ID/Passport No.....and
Post Office Box No.....having been elected or appointed
as.....in the County Executive of Homa Bay County Government
do hereby confirm that I have read and understood the Leadership and
Integrity Code for State Officers in the County Executive of Homa Bay County
Government and hereby solemnly declare commit myself to abide by the
provisions of the Code at all times.

SIGNED at.....By the said
Deponent

This.....day of.....20.....

Before Me
)
)
)

.....
Judge/ Magistrate/ Commissioner for Oaths

PRESCRIBED for the State Officers in the County Executive of Homa Bay
County Government in accordance with the provisions of section 37 of the
Leadership and Integrity Act, 2012.

At.....this.....day
of.....2016

.....
Governor of the County Government of Homa Bay

APPROVED by the Ethics and Anti-corruption commission, in accordance
with the provisions of section 39 of the
leadership and integrity act 2012.

At.....this.....day of
.....2016

.....
**SECRETARY/ CHIEF EXECUTIVE OFFICER
ETHICS AND ANTICORRUPTION COMMISSION**

