



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA



**GUIDE TO THE CODE OF CONDUCT
FOR MEMBERS OF PARLIAMENT**

JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS



JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS

GUIDE TO THE CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

Who implements the Code of Conduct?

The Joint Committee on Ethics and Members' Interests established in terms of the Joint Rules of Parliament, implements the Code of Conduct.

What are the functions of the Joint Committee on Ethics and Members' Interests?

- to implement Parliament's Code of Conduct for Members
- to develop standards of ethical conduct
- to serve as an advisory and consultative body, both generally and for Members, concerning the implementation and interpretation of the Code
- to review the Code and recommend amendments
- to perform other functions assigned to it by the Joint Rules Committee

- to report annually to both Houses.

What is the purpose of the Code of Ethical Conduct and Disclosure of Members' Interests?

The Code of Conduct is intended to:

- assert that the integrity of public processes is essential to the Rule of Law
- gives effect to the constitutional provision of equality before the law
- help Members conduct themselves appropriately as public representatives
- hold Members of Parliament accountable in their exercise of public power
- determine acceptable behaviour by Members of Parliament
- establish minimum standards of behaviour
- assists in managing conflict of Interests
- promote values enshrined in the Constitution
- reduce secrecy and ensure that Members' personal interests are open to public scrutiny through disclosure.

What are the principles that guide the conduct of a Member of Parliament?

- Selflessness
- Integrity
- Objectivity



- Openness
- Honesty
- Leadership.

Why are Members of Parliament required to behave according to a Code of Conduct?

Members are the representatives of the electorate who voted for them and represent the interests of that collective. When they take decisions they should not do so on the basis of personal interests but rather on the basis of the above principles.

What are the other rules that apply to members?

In addition to the Code of Conduct, Members of the Executive are bound by the Executive Members Ethics Act. Other relevant legislation include, but is not limited to, the Powers, Privileges and Immunities of Parliaments and the Provincial Legislatures Act and the Financial Management of Parliament Act.

What is a conflict of interests?

A conflict of interest involves a conflict between a public officials duty to serve the public interests and the public officials private interests,

What are private interests?

A private interest can be pecuniary /material, this refers to an interest which involves a potential financial gain or loss. A pecuniary or material interests does not require the exchange of money. It may involve an interest relating to shares, property, the receipt of benefits, gifts, hospitality, and potential contracts from the state.

Non pecuniary interests includes the tendency by an individual to unfairly advantage or prejudice a person or group in a manner which conflicts with the public interests.

What is a potential conflict of interest?

A potential conflict of interest arises when a Members private interest could conflict with their duties in the future.

What is a perceived conflict of interest?

When it is perceived that a Members private interests could improperly influence the performance of the Members duties.

What should a Member do when faced with a potential conflict of interest?

REMEMBER IT IS NOT WRONG OR UNETHICAL TO HAVE A CONFLICT OF INTEREST, WHAT IS IMPORTANT IS THAT IT IS IDENTIFIED AND APPROPRIATELY MANAGED

When a conflict of interest arises, remember the 6 R's

- record/register the interest
- restrict your involvement through recusal
- if you cannot restrict your involvement have a third party review the process
- recuse yourself from further involvement



- If the conflict of interests is abiding relinquish the interests
- If the private interests cannot be relinquished than resign.

The conflict of interests rules in the code are designed to

- Ensure that those in positions of responsibility serve the public interests
- Use power responsibly
- Act with honesty and transparency
- Address improper conduct
- To ensure that decisions are made and are seen to be made on proper grounds, for legitimate reasons and without bias.

What is prohibited business activity?

- Any benefit or tender or contract with an organ of state
- Any benefit, tender or contract received by a Member's spouse, immediate family or business partner that arises out of that Member's influence or due to their relationship with a Member.
- A Member may not lobby for remuneration

What is lobbying?

- “Lobbying” refers to a Member receiving payment to make representations or to attempt to influence a decision on behalf of a third party.

When is remunerated employment outside Parliament unacceptable?

No Member may undertake remunerated employment without the permission of his/her political party and that is not compatible with the Members’ role as a Member. The political party must supply all relevant details regarding such employment to the Registrar.

What guides the use of Members facilities?

A member must avoid improper use of Members’ facilities and observe the rules.

What interests of Members must be disclosed according to the Code of Ethical Conduct and Disclosure of Members’ Interests?

Information is either disclosed in the public or confidential sections of the Register, as stipulated in the rules.

The categories of information that must be disclosed in the Register are:



1. Shares and financial interests

Members are required to disclose the name of the company and number, nature and nominal value of the shares.

Number of shares	Nature	Nominal value	Name of company
4	Ordinary	R125	XYZ

2. Remunerated employment outside Parliament

Members are required to disclose the name of the employer and type of business in the public section of the Register. The remuneration received must be disclosed confidentially.

Name of employer	Type of business
DCB Suppliers	Part-time accountant for hardware supplier

3. Directorships and partnerships

If the member receives remuneration as a result of his or her partnerships/directorships, this must be disclosed in the Register. Members are required to disclose the name of the company and the type of activity in the public section of the Register. The extent of remuneration is confidential.

Directorship or partnership in any corporate body	Type of business activity
HJ Corporation	Candlemakers

4. Consultancies/Retainerships

If the member receives remuneration as a result of his or her consultancies/retainerships, this must be disclosed in the Register.

Name of Organisation	Type of business activity	Value of any benefits derived
ABC Security	Home security consultant	Use of motor vehicle and R5000 pa retainer.

5. Sponsorships

All sponsorships from non-party sources must be disclosed.

Source of sponsorship	Description of assistance or sponsorship	Extent/value
UNDP	Payment of fees	R2500

6. Gifts and hospitality exceeding R1500

Members are not required to disclose gifts of a family or traditional nature, provided that these are unrelated to a Member's role as an MP.

Description	Value	Source
Crystal vase	Unknown but exceeds R1500	Ambassador Smith
Hospitality which exceeds R1500 in one year	Tickets for concerts, dinner 2/3/2002 and 30/6/2002	Telkom

7. Benefits exceeding R1500

Members must disclose the value of the benefit they receive. This is disclosed in the confidential section of the Register.

Source of benefit	Description of benefit
-------------------	------------------------



MultiChoice	Discount on monthly DSTV subscription
-------------	---------------------------------------

8. Foreign travel paid for by outside sources

Foreign visits paid for by Members, business visits unrelated to a Member's role as a public representative or formal visits paid for by a Member's political party or the Government are excluded from registration.

Sponsor	Description of journey
USAID	<p>Visit by Portfolio Committee on Justice and Constitutional Development.</p> <p>Cost of flights between CT and NY on 6/9/2002 and 15/9/2002</p> <p>S&T: US\$500</p> <p>Meals and accommodation at 3-star hotel</p>

9. Ownership of land and property

Members must disclose their ownership of land and property and its value.

Description of property	Location	Extent of property
Residence	Durban	500 sq m house with adjoining property of 1000 sq m

10. Pensions

Pensions must be disclosed in the confidential section of the Register.

Source	Private or public

Special pension	Public
-----------------	--------

11. Public contracts awarded

The value of benefits from public contracts must be disclosed in the Register.

Source (organ of state from which the contract was obtained)	Details of the Contract, value, period
Gauteng Dept of Education	Supply of textbooks, R1m, Mar 2014 -7/2015.

12. Trusts

Value of trusts and the details of benefits accrued must be disclosed in the Register.

Details of Trusts	Details of benefits accrued from trusts
Name and registration number of trust, where it is registered	Use of home 24 Urban Durban Use of motor vehicle (Mercedes Benz), including Insurance cover Total value of benefit R35000

13 Encumbrances.

Encumbrances must be disclosed in the confidential section of the Register.

Details of Encumbrances	Details of Encumbrances
-------------------------	-------------------------



FNB	Mortgage Bond for 350 000
10 Year Loan MR XUZ	Revolving loan of R1m at 3% per annum

How are Members required to declare private interests?

- The interest must be declared in the Register of Members' Interests.
- In the event of a conflict of interest for a Member in any committee or forum, the Member must disclose the conflict of interest in writing to the chairperson of the committee and send a copy of the disclosure to the Registrar.
- If the conflict is substantial, Members should recuse themselves from the proceedings. However, if the interests are not substantial, the Rules allow the committee to decide whether the Member can continue to participate in the proceedings.

BREACHES OF THE CODE AND INVESTIGATION PROCEDURES

When does a Member breach the Code?

A Member breaches the Code when a Member

- Does not disclose a registrable interest
- Wilfully or negligently provides wrong or misleading information when disclosing his/her interests
- Contravenes all ethical standards imposed by this Code
- Contravenes the requirements related to conflict of interests

- Conducts prohibited business activity with the state
- Engages in remunerated employment outside Parliament without proper authorisation
- Improperly uses benefits.

CONFIDENTIAL DISCLOSURES

What information is public and what is confidential?

- Information regarding a Member's immediate family (spouse and minor children) is confidential.
- The remuneration a Member receives for employment, fees or payments received in respect of partnerships, any confidential travel and the value of any pensions are confidential.
- Any encumbrances that is long term liabilities should be disclosed in the confidential section of the Register.
- Members' financial interests are public.

How is confidentiality maintained?

- Only the Registrar/ staff and members of the Joint Committee on Ethics and Members' Interests are allowed to view the documents. The Registrar keeps a note of all Members who have viewed the confidential records, unless a court orders



otherwise.

- Members and staff who work for the Committee are required to take an oath of confidentiality.
- Members who are in breach of confidentiality are liable to a reduction of 30 days salary and become ineligible to serve on the Committee.
- Staff who breach confidentiality are subject to disciplinary action including dismissal.
- Confidential records are kept locked to avoid unauthorised access.

What are the penalties should a Member breach the Code?

The penalties the Committee may impose are dependent on the nature of the breach

- If the breach is minor the Committee could ask the Member to rectify and counsel the Member
- Penalties could include a fine up to the equivalent of thirty days salary
- A loss of benefits

What should Members consider when they complete the form?

- They should ensure that the information is accurate.

- A Member must disclose public information in the public section of the Code. No information that the Code requires to be public may be disclosed in the confidential section, unless the Member has approval from the committee.
- A Member must disclose all his/her interests annually.
- Previous disclosure of financial interest does not exempt a Member from disclosure in the current year.
- When in doubt, disclose!!!
- additional penalties it deems appropriate,

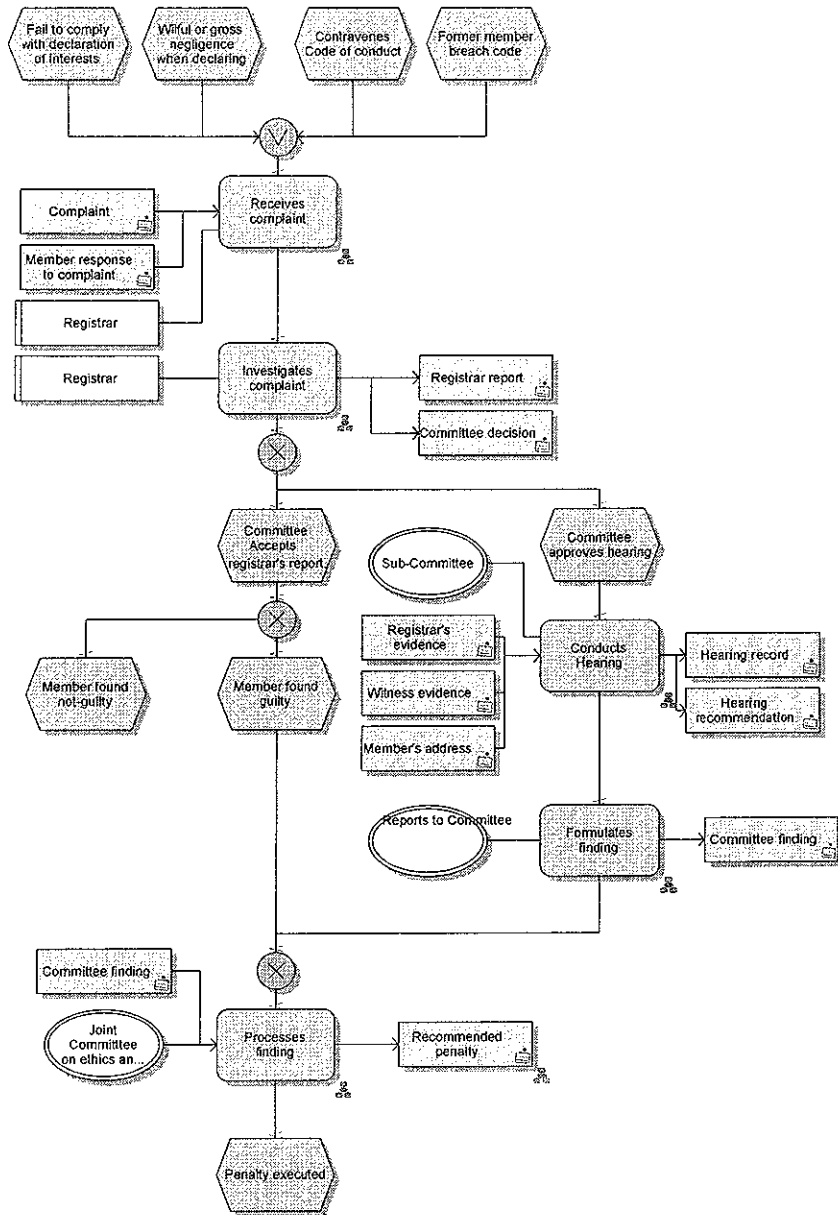
DEVELOPING AN UNDERSTANDING OF ETHICAL CONCEPTS

What are the guidelines for ethical behaviour?

- Members should take decisions solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their family or their friends.
- Members should not place themselves under any financial or other obligation to outside individuals or organisations that may influence them in the performance of their official duties.
- In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, Members should make choices on merit.



- Members are accountable for their decisions and actions to the public and must subject themselves to whatever scrutiny is appropriate to their office.
- Members should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.
- Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- When a Member asks a Minister to assist in a matter, the Member is required to disclose his/her private interests.
- No Member may lobby for remuneration. ("Remuneration" in this instance means any financial gain or benefit.)
- The code does not prevent Members from making representations on behalf of others, as long as the interests are disclosed and the Member does not receive remuneration.





PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Parliament of the Republic of South Africa
PO Box 15 Cape Town, 8000, RSA
www.parliament.gov.za