

## **APPENDIX B**

### **Guide to identifying, avoiding and managing Conflict of Interests**

(Largely adapted from the “Principles of Integrity for Persons in Public Life and those exercising public functions” published by the Integrity Commission of Trinidad and Tobago.)

#### **What is Conflict of Interest?**

*A conflict of interest is deemed to arise if a person in public life or those exercising public functions, were to make or participate in the making of a decision in the execution of his office and at the same time knows or ought reasonably to have known that in the making of the decision, there is an opportunity either directly or indirectly to further his private interest or that of a member of his family or any other person.*

The key question to consider in assessing whether an interest might create, or appear to create a conflict, is whether or not the interest creates an incentive to act in a way that may not be in the best interest of the government body in question. If the answer is yes, then a conflict of interest is seen to exist.

The existence of an incentive and whether or not the public might reasonably think that a person in public life would be influenced by it is sufficient enough to create a conflict. Whether or not a person would actually act upon the incentive is irrelevant.

#### **Identifying Conflicts of interest:**

In identifying conflicts of interest, focus should be placed on interests that are specific rather than generic (those held in common with the general public) in nature.

Two ways in which a conflict of interest, or the perception of it, can arise are:

- from the exercise of power or other influence in a way that does or could be considered to affect the value an interest held; or
- from using special knowledge acquired in the course of public duties in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to private interests.

**Responsibility for avoiding a conflict:**

Ultimately, it is the responsibility of persons in public life to order their own private lives in such a way as to avoid criticism and to decide whether and what action is needed to avoid a conflict or the perception of a conflict. They should be able to defend that decision if necessary by accounting for it to the relevant authorities.

It is also the responsibility for those in a position to do so, to ensure that proper systems are established so that potential conflicts of interests are identified and managed. This is necessary in order to protect the decision-making integrity of the public bodies concerned and the public confidence in them.

**Procedure:**

The Integrity Commission Ordinance prescribes the procedures to be followed by all persons in public life with regards to the filing of declaration of assets, incomes and liabilities (covering themselves, their spouses and dependent children) and Statement of Registrable Interests (currently only for the House of Assembly Members)

While the Ordinance does not require the filing of interests based on those of family members or close personal links based on friendship or common memberships or organizations, these can be very influential and should be declared and managed in the same way as those of a person themselves, so as to avoid any possibility of misinterpretation and partisanship .

Where it is proper for a person in public life to retain a personal interest, that interest should be disclosed in accordance with the procedures prescribed under the Integrity Commission Ordinance or other relevant legislation. In particular, whenever there is a possible or perceived conflict of interest, a person in public life must disclose such interest in accordance with any prescribed procedure. This will include disqualifying himself from any decision-making process involving the interest in question.

**Types of Conflicts of Interests**

Conflicts of interest are likely to arise in the following situations and care should be taken to identify and manage any such conflicts.

- Directorships or other employment;
- Interests in business enterprises or professional practices;
- Share ownership;
- Beneficial interest in trusts;
- Existing professional association with a public body or personal association with a person in public office;
- Professional associations or relationships with other groups or organisations; or
- Family and other close relationships.

Persons in public office should scrupulously avoid any danger of an actual or apparent conflict of interest between their professional duties and their private interests. In order to avoid such a danger, they should be guided by the general principle that they should either dispose of any financial interest giving rise to the actual or apparent conflict or take alternative steps to prevent such conflict.

### Directorships

In considering whether a conflict of interest may exist, or appear to exist, a person in public life and those seeking to enter public life, should consider whether:

- the company of which they are currently a director, is in, or is in the process of entering into, a contractual relationship with the Government or any public body;
- the company, of which they are currently a director, is in receipt of Government assistance;
- their department or agency is in a regulatory relationship with the company;
- granting approval could give a rival business, including a government business enterprise, reasonable grounds for perceiving a conflict of interest to exist.

These considerations should be applied in relation to directorships in both public, private as well as charitable organisations, regardless of whether or not the position carries a remuneration or is honorary.

Best practice would have officers resign their previous position when taking up public office .

### Partnerships

Persons in public life, more specifically members of the House of Assembly and members of Boards of Public bodies, who are partners, whether in professional firms (e.g. attorneys- at- law, accountants etc.), or in other Businesses, should, on taking up office, cease to practise or to play any part in the day-to-day management of the firms affairs'

The above is not intended to require those to whom it applies to dissolve their partnership or to allow, for example, their annual practising certificate to lapse. Any continuing financial interest in a firm would however make it necessary for steps to be taken so as to avoid any involvement in relevant decisions that could be perceived as a conflict of interest.

### Non-public bodies

Those in public life should ensure that they do not become associated with non-public organizations whose objectives may in any degree conflict with Government policy and thus give rise to a conflict of interest. Those in public life should not accept invitations to act as patrons of, or otherwise offer support to pressure groups or organisations dependent in whole or in part on government funding.

### Trade unions and other professional organisations

Where membership in trade unions and other professional organisations are retained, those in public life should arrange their affairs so as to avoid any suggestion that a union or any other organization, of which they are a member, has any undue influence on their actions or decisions. Conflicts of interest can be avoided by taking no active part in the conduct of affairs, by resigning from any office held, and by not accepting any remuneration.

### Family relationships

When considering what constitutes a private or personal interest, consideration should also be placed on those interests held by family members, including spouses, partners (member of a couple who live together), parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, of a spouse or partner of any of the preceding people, and friends, as well as those arising through

membership in, or associations with, clubs, societies and other organisations including trade unions and other voluntary bodies.

### Government Contracts

The following situations give rise to conflicts of interest and should thus be avoided:

- knowingly and willingly, directly or indirectly, being a party to a contract with the Government or any public body; and
- having an interest, whether directly or indirectly (through family, friends or other associations), in a company that is a party to a contract with the Government or any public body.

### **Mechanisms for avoiding or managing the conflicts of interest**

The various methods that can be used for dealing with conflicts of interest include:

- Divestment;
- Blind trusts -where investments are placed into a blind trust, it must be remembered that it could be assumed that knowledge of the contents of the portfolio would exist for a period after its creation. The protection that a trust offers against conflicts of interest is therefore not complete and those in question should consider refraining from dealing in the relevant investments for a period of time.
- Severing connections;
- Confidentiality agreements;
- Declaration of interests- the principles of disclosure should be applied to both formal meetings such as sittings of the Cabinet, House of Assembly Public Service Management meetings, Board meetings and other such meetings at which the respective person is present as well as in unofficial relations with those concerned; and
- Withdrawal and abstaining from discussions and voting.