



# Seychelles Revenue Commission Practice Statement PS CM 2009/01

## Corporate Management: Conflict of Interest

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This Corporate Management Practice Statement is issued under the authority of the Revenue Commissioner (Commissioner) of the Seychelles Revenue Commission (SRC). Corporate Management Practice Statements are endorsed corporate policy and must be followed by all SRC employees. In circumstances where the anticipated impact of this Practice Statement is likely to result in unintended consequences, matters are to be referred to the Commissioner SRC.

### **SUBJECT**

This is a direction for SRC employees to conduct themselves without bias and to avoid any real or perceived conflict of interest in their day to day duties.

### **PURPOSE**

This practice statement describes the nature of a conflict of interest in the context of an SRC employee's employment with the SRC. It also directs certain action by SRC employees and managers in relation to both real and apparent conflicts of interest, as well as providing general guidelines to assist employees and managers in understanding their obligations relating to conflicts of interest.

### **SUMMARY OF MAIN POINTS**

- A 'conflict of interest' includes a real or apparent conflict of interest, which can be both financial and non-financial in nature. A conflict of interest can have either positive and negative impacts on an employee or other party.
- Employees must take all reasonable steps to avoid conflicts of interest and disclose to their manager when they believe a conflict of interest exists, could be perceived to exist or potentially exists. Any doubts as to whether a conflict of interest exists will be decided by the employee's supervisor using the Public Service Code of Ethics and Conduct as well as this Practice Statement as the source of guidance.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

- Managers have a responsibility for ensuring employees understand their obligations and for progressing quickly, decisions in relation to conflict of interest matters.
- Conflicts of interest will be resolved in a fair, prompt and decisive manner. Employees reporting conflicts of interest will be protected from victimisation and discrimination.

## STATEMENT

### Application

1. This Corporate Management Practice Statement (CMPS) applies to all SRC employees be it full-time, part-time or casual, and includes managers, directors and all contractors who act on behalf of the SRC.
2. For the purpose of this Practice Statement, SRC employees include all employees in paragraph 1 under the direct or indirect control of the SRC including, but not limited to, semi-autonomous agencies, Funds, Parastatals and commercial entities for which the Government of Seychelles holds a majority shareholding.

### Background

3. The Public Officers' Ethics Act, 2008 states that:

8(1) A public officer shall use his best efforts to avoid being in a position in which his personal interest conflicts with his official duties.

8(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interest conflict with his official duties.

8(3) A public officer whose personal interests conflict with his official duties shall:

(a) declare the personal interest to his superior and comply with any directions to avoid the interest; and

(b) refrain from any participation in any deliberations with respect to any matter where his personal interest may conflict with his official duties.

4. Furthermore, the Government of Seychelles' Public Service Code of Ethics and Conduct (PSCEC) sets out a series of values a Seychelles public servant is required



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

to adhere to. Subparagraph 8(b)(v) of the PSCEC states that in order for the employee to properly perform their duties, it is mandatory for employees to receive approval of outside secondary employment so to avoid a real or perceived conflict of interest. Section 10 of the PSCEC governs integrity and the avoidance of conflict of interest.

5. The Public Officers' Ethics Act and PSCEC detailed above compel SRC employees to disclose any conflict of interest in connection with SRC employment, as well as avoid any relevant apparent conflicts of interest.

#### **Direction:**

6. Employees are required to ensure that they understand their obligations to avoid conflicts of interest.
7. All SRC employees must conduct their work in a manner free of bias that either favours or discriminates against parties.
8. SRC employees have a responsibility to notify managers about real or apparent conflicts of interest.
9. Managers have a responsibility for ensuring that employees are aware of their obligations to avoid situations which may give rise to a conflict of interest.
10. Managers have a further responsibility to decide whether:
  - there is, or could be, a conflict of interest,
  - to ask the person to divest themselves of the interest,
  - to change the person's duties or to transfer the person to another position where there is no conflict, or
  - to allow the person to continue their duties.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

## EXPLANATION

### Definitions

11. A 'conflict of interest' occurs when an employee's personal, financial or other interest compromise, influence, or affect the performance of their official duties or their employment with the SRC. A conflict of interest can be real or apparent. It can also be both financial and non-financial in nature.

12. The following definitions apply to this Practice Statement:

- a real conflict of interest occurs when an employee's personal, financial or other interests actually compromise, influence, or affect the performance of their official duties or their employment with the SRC
- an apparent conflict of interest occurs where it appears a conflict of interest has arisen, irrespective of whether a conflict actually exists
- a personal interest is an interest that does not arise from the performance of an employee's official duties or employment with the SRC and may include, but is not limited to, family members or associates
- a non-financial conflict of interest is a conflict that occurs between an employee's personal interests and the performance of their duties or employment with the SRC. It includes, but is not limited to, conflicts arising out of relationships based on common interests such as sporting, social, cultural or political activities as well as family, sexual or other relationships. Non-financial conflicts of interest may include patronage, favouritism, cronyism or nepotism
- a financial interest includes all of the employee's financial affairs, including but not limited to any outside employment activity, directorships, shareholdings including the buying and selling of goods, services, securities, real estate or trusts
- a financial conflict of interest is where an employee's financial affairs conflict with their official duties or employment with the SRC. It includes but is not limited to conflicts arising out of directorships, shareholdings including the buying and selling of securities, real estate or trusts, or the acceptance of outside employment or gifts
- an employee includes full, part-time or casual employees under the direct or indirect control of the SRC.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

- a manager means the person to whom an employee reports
- a director means the person to whom an employee's manager reports.

#### **Direction: Obligations - all employees**

13. Employees have the primary responsibility for ensuring that they understand their obligations to avoid conflicts of interest. All employees must conduct their work in a manner free of bias that either favours or discriminates against parties.
14. The key to determining conflict of interest situations is to assess whether it is likely to interfere or **appear** to interfere with the impartiality and highest ethical standards that are required of SRC employees. The main issue to resolve is whether the trust placed in the employee by the SRC and the public will be lessened by the situation.
15. When a situation arises which is, or has the potential to develop into a conflict of interest, employees must immediately:
  - fully disclose in writing, the relevant information to their manager in order for the manager to be able to make an initial decision on how to manage the situation, and
  - take all reasonable steps to avoid the situation.
16. More specifically, SRC employees must immediately declare to their managers any non-financial or financial interest they have in:
  - any matter that comes before them as part of their official duties, or
  - any taxed or SRC related enterprise, or
  - the supplying of goods and services to the SRC or associated entities.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

17. To ensure SRC employees avoid situations of conflict of interest, employees must:

- only seek official information needed for the performance of their duties
- not accept a fee for any assistance to friends or relatives in helping to complete their SRC affairs
- disclose and document in advance for their supervisor any current or prior personal relationships with prospective providers when involved in a procurement process
- disclose and document in advance for their supervisor any current or prior personal relationships with applicant(s) for a position in recruitment processes when sitting on a selection panel
- have written approval from their supervisor prior to undertaking any paid or unpaid outside employment
- ensure that any private political or lobbying activities are not presented as, or could be seen as, representing the SRC or associated entities
- not use information obtained in the course of official duties to gain an advantage for him or herself or for any other person; e.g. using information to buy or sell shares
- not accept gifts or hospitality (other than of a trivial nature), or prizes from clients, suppliers or contractors for any activities related to their employment
- not use official business cards, ID passes, letterhead or status as an employee of the SRC or associate entity to enhance their own status or gain a benefit in their private dealings.

18. If an employee has any doubts about whether a matter may be a conflict of interest, they are to discuss it immediately with their supervisor.

19. If an employee anticipates that a situation of conflict of interest may potentially arise, the employee should disclose the anticipated conflict of interest with their manager, and take all reasonable steps to avoid the situation of conflict.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

#### **Direction: Obligations - managers**

20. Managers have a responsibility for ensuring that employees are aware of their obligations to avoid situations which may give rise to a conflict of interest.
21. Upon receiving the disclosure of a personal or financial interest by an employee, or a report of a conflict of interest, the manager must determine if there is a real or apparent conflict of interest and the possible extent of that conflict.
22. The manager must decide whether to:
  - authorise the employee to continue in their duties given the nature of the conflict, or
  - request the employee to divest their interest or remove themselves from the situation, or
  - re-arrange the employee's duties or reassign the employee to duties of an equivalent classification level where there is no conflict of interest.
23. Where a breach of the Public Officers' Ethics Act or PSCEC is suspected, a report is to be given to the Commissioner SRC, who is to manage the situation in accordance with the Public Officers' Ethics Act and PSCEC.
24. Where managers have any doubts about how a conflict of interest matter is to be managed they must seek advice, or refer a matter to any of the following in order of priority:
  - their supervisor,
  - the Commissioner SRC, or
  - the Public Officers' Ethics Commission.

#### **Consequences of conflict of interests**

25. A conflict of interest may significantly damage the reputation of the SRC and Government as a whole. Consequently, the SRC attaches particular importance to the avoidance and proper resolution of conflict of interest situations.
26. As noted above, the rules requiring SRC employees to disclose situations of conflict of interest have their basis in the Public Officers' Ethics Act and the PSCEC.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

Accordingly, the failure on the part of an SRC employee to adhere to the rules surrounding situations of conflict of interest can result in a breach of the Public Officers' Ethics Act and/or the PSCEC.

27. Accordingly, conflict of interest situations may result in action being taken under the Public Officers' Ethics Act and/or PSCEC. If a breach is found the following sanctions may be imposed:

- a reprimand
- a written warning
- recovery of costs
- withholding of salary progression
- redeployment
- demotion
- suspension from work
- termination of employment with notice
- termination of employment without notice

28. Depending on the nature of the conflict of interest, criminal prosecution could also occur with appropriate penalties being imposed by a court.

#### **Records relating to conflict of interests**

29. When a manager or director is determining whether a conflict or apparent conflict of interest exists, records must be kept of all decisions made in respect of that determination.

30. Where a matter is not managed as a suspected breach of the PSCEC, disclosures and reports of suspected conflicts of interest are to be made in writing and kept on the employee's personnel file.

31. Where a matter is managed as a suspected breach of the PSCEC, all the records relating to the conflict of interest are to form part of a "Misconduct Investigation" File and/or reported to the Public Officers' Ethics Commission.



# Practice Statement

## PS CM 2009/01

### Corporate Management: Conflict of Interest

---

#### Conformance

32. To assist all SRC employees in complying with the directions and guidelines contained in this Practice Statement, the SRC will:

- report on incidences where conflict of interest has resulted in formal management action such as that provided under the PSCEC
- provide information relating to conflict of interest on a regular basis
- provide information relating to conflict of interest in induction and manager training programs.

#### Further advice

33. Further advice on conflict of interest issues can be obtained from:

- your manager
- your director
- the Commissioner SRC.

## REFERENCES:

#### Legislation and other references

34. The following legislative references underpin the governance of conflict of interest:

- (a) Section 10 of the PSCEC.
- (b) Section 8 of the *Public Officers' Ethics Act, 2008*



# Practice Statement PS CM 2009/01

Corporate Management: Conflict of Interest

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## **DATE OF EFFECT:**

35. The date of effect of this Practice Statement is 1 March 2009.

## **APPROVAL**

Approved by:

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Revenue Commissioner,

Seychelles Revenue Commission