

# ATTORNEY GENERAL'S OFFICE

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## Anti-Corruption Policy

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### 1.0 An Overview

The Attorney General's Office provides advisory, legal representation and legislative drafting services to the Government.

It is the only institution that interacts with the three constitutional powers, namely, the Legislature (National Assembly), the Judiciary (Courts) and the Executive (Government/Ministries).

The Office also provides assistance to the Courts in its capacity as Ministère Public in addition to a number of other statutory powers vested upon it. Applications for change of name, rectification, tardy declaration and appointment of guardian and subguardian, adoption amongst others, are dealt with by the Ministère Public, to assist the Court.

The Office is called upon, under the Mutual Legal Assistance Provisions, to provide legal assistance to other Ministries/Departments as well as Parastatal Organisations and Government owned bodies.

The Honourable Attorney General is empowered, pursuant to the Law Practitioners Act to, inter alia, enquire into any complaint made against a law practitioner.

In addition, the International Arbitrations which comprises the Permanent Court of Arbitration (PCA), and the Mauritius International Arbitration Centre (MIAC) as well as the Law Reforms Commission (LRC), operate under the aegis of the Attorney General's Office.

While envisioning to develop itself into a centre of excellence for Legal and Legislative Drafting Services, the Attorney General's Office aims at providing, without fear or favour, hatred or ill-will, to the Government of the day, sound and independent legal advice and representation. The AGO also contributes in the development of a fair and just legal system that promotes the rule of the law, in the best interest of the State and the people. The Attorney General, is the principal legal adviser to the Government of Mauritius and holds the Office of a Minister. The Honourable Attorney General is also the Regulatory Body of the law firms, foreign law firms, joint law venture and foreign lawyers, under the Law Practitioners Act as far as registration is concerned.

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## Anti-Corruption Policy

### **1. Introduction**

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Section 69(1) of the Constitution provides that the Attorney General shall be the principal legal adviser to the Government of Mauritius and section 69(2) specifies that the office of the Attorney-General shall be the office of a Minister.

The Attorney General's Office comprises of the Office of the Solicitor-General, the Office of the Director of Public Prosecutions and the Office of the Parliamentary Counsel. For the purpose of this Policy, reference to the Attorney General's Office consists only of the Office of the Solicitor-General and the Office of Parliamentary Counsel. The Office of the Director of Public Prosecutions already has a specific Anti-Corruption Policy.

The Attorney General's Office acknowledges the risk of corruption which may appear in various processes in many organisations. The Attorney General's Office is committed to maintain the highest level of integrity in the conduct of its affairs through the adoption of corruption-prevention strategies.

This Anti-Corruption Policy (“the Policy”) sets out the full commitment of the Attorney General’s Office for the deterrence and detection of acts of corruption and for adherence to a culture of integrity.

## **2. Statement of Intent**

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The Attorney General’s Office does not and will not condone acts of corruption in the administration of its responsibilities, whether from an internal or external source. It expects the highest standards of conduct from the law officers and support staff and those who have dealings with the Attorney General’s Office. The Attorney General’s Office is committed to ensuring that any risk of corruption is duly addressed.

## **3. Policy Statement**

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The Attorney General’s Office remains committed to promoting and adhering to the highest standards of probity, transparency and accountability in the operations and management of the Office. Through this policy, the Attorney-General’s Office engages itself to fully and unequivocally adopt a zero-tolerance approach towards acts of corruption and other malpractices and shall ensure compliance with the applicable anti-corruption legislation in force.

## **4. Anti-corruption Commitment**

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The Attorney General’s Office has signed the Anti-Corruption Commitment of the Independent Commission Against Corruption (‘ICAC’) and has thus undertaken to use all available means and resources at its disposal to combat acts of corruption in all its forms and at all times, including the application of appropriate prevention and detection control measures.

For the purpose of ensuring sound implementation of this Policy, the Attorney General’s Office will ensure that:

- the law officers and support staff have sufficient knowledge of this Policy and that it is applied to all undertakings;
- adequate controls have been put in place to counteract any risk or related acts of corruption within the Office;
- there are clear procedures for reporting any suspected act of corruption; and
- stakeholders are notified of this Policy.

The main objective of this Policy is to strengthen and sustain an integrity culture within the Attorney General's Office. This will be achieved through:

- the setting-up of effective and transparent processes; and
- the regular evaluation of systems and procedures.

## **5. Scope and Applicability**

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This Policy is elaborated in the context of the legal provisions of the Prevention of Corruption Act and the offences thereunder. The Policy seeks to cover measures and practices of the Attorney-General's Office with a view to prevent and combat any activity which is or may appear to be corrupt, fraudulent, collusive or amounting to a coercive practice.

## **6. Act of corruption**

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The term 'act of corruption' is used in this Policy. This term is defined in section 2 of the Prevention of Corruption Act, as amended and is reproduced below:

“act of corruption”

*(a) means an act which constitutes a corruption offence; and*

*(b) includes –*

- (i) *any conduct whereby, in return for a gratification, a person does or neglects from doing an act in contravention of his public duties;*
- (ii) *the offer, promise, soliciting or receipt of gratification as an inducement or reward to a person to do or not to do any act, with a corrupt intention;*
- (iii) *the abuse of a public or private office for private gain;*
- (iv) *an agreement between 2 or more persons to act or refrain from acting in violation of a person's duties in the private or public sector for profit or gain;*
- (v) *any conduct whereby a person accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification for inducing a public official, by corrupt or illegal means, or by the exercise of personal influence, to do or abstain from doing an act in the exercise of his duties to show favour or disfavour to any person.*

Sections 4 to 17 of the Prevention of Corruption Act provide for various criminal offences. The offences comprise bribery by public official, taking gratification to screen an offender from punishment, public official using his office for gratification, traffic d'influence, bribery for procuring contracts, conflict of interest, and receiving gift for a corrupt purpose. Offences also include acts committed by legal person.

## **7. Responsibility as to the implementation of the Policy**

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An Anti-Corruption Committee ('ACC') will be set up to assist in the implementation of the recommendations made by Anti-Corruption Committee in relation to addressing the issue related to risk of corruption with a view to detect, prevent and deter any illegal or mal practices. The ACC shall recommend priorities, provide advice when ethical issues arise and communicate the policy to all levels of law officers and support staff.

The ACC shall comprise members from the law officers and support staff of the Attorney-General's Office and a designated person shall chair all meetings. A Secretary to ACC shall also be designated.

The ACC shall develop a time-bound programme with clear and precise deliverables and related budget. Upon the programme being approved by the Responsible Officer of the Attorney-General's Office, the ACC shall implement same.

The ACC shall meet on a quarterly basis or earlier, when deemed necessary. The Chair of the ACC shall decide upon the setting up of sub-committees to assist the ACC in the implementation of any initiatives decided by the ACC.

**Role of Heads of Unit** – The heads of the various units of the Attorney-General's Office shall disseminate this Policy among the staff of their respective units. The heads of units are to actively deter, prevent and detect acts of corruption by maintaining effective control systems and ensuring that their officers are familiar with the contents of this Policy.

**Role of law officers and support staff** – Each law officer and support staff shall be encouraged to be familiar with and adhere to this Policy. A copy of this Policy shall be placed on the notice boards and website of the Attorney-General's Office.

**Role of Internal Audit** – The Internal Audit has the responsibility to ascertain the effectiveness and adequacy of the Internal Control System in place and to conduct regular assessments.

## **8. Risk Assessment**

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The Attorney General's Office shall be proactive in its endeavours to ensure that a proper risk management process is in place.

The ACC shall have the responsibility to plan, coordinate and monitor the risk management process with the approval of the Responsible Officer of the Attorney General's Office. The risk assessment process will include a thorough analysis of the functional activities in close collaboration with the officers and staff involved in the process with a view to identifying any sensitive area in relation to the acts of corruption. Upon a risk being identified, necessary prevention measures shall be developed and implemented to address such risk, as soon as possible.

## **9. Handling and reporting acts of corruption**

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Reporting suspected cases of acts of corruption – Section 44(1) of the Prevention of Corruption Act, as amended, which provides, inter alia, that where an officer of a public body suspects that an act of corruption has been committed within or in relation to that public body, that officer shall forthwith make a written report to the ICAC. In that respect, the Attorney General's Office shall put in place measures that shall facilitate the reporting of any suspected case.

Confidentiality – Nothing in this Policy constitutes or shall be construed as waiving any applicable legal provisions as to confidentiality and data protection

## **10. Whistleblowers**

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The Prevention of Corruption Act defines the term "public official" as follows:

*"public official" \_*

*(a) means a Minister, a member of the National Assembly, a public officer, a local government officer, an employee or member of a local authority, a member of a Commission set up under the Constitution, an employee or member of a statutory corporation, or an employee or director of any Government company;*

*[Amended 27/11 (cio 15/1/12).]*

*(b) includes a Judge, an arbitrator, an assessor or a member of a jury;*

*(c) includes an official of the International Criminal Court referred to in the International Criminal Court Act 2011;*

*[Inserted 27/11 (cio 15/1/12)]*

There may be instances where a law officer or support staff becomes a whistleblower by reporting in good faith an alleged act of corruption. Where such reporting is done in good faith, the Attorney-General's Office will consider the way forward according to the specific facts of the case at hand.

## **11. Training and communication**

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The Attorney General's Office acknowledges that the effectiveness of this Policy is dependent on training and meaningful communication among the law officers and support staff and undertakes to provide such training and communications.