

Framework for Preventing and Managing Conflicts of Interest in the Public Sector

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1.0 Introduction

- 1.1 If conflicts of interest are not identified and managed appropriately this may give rise to improper conduct undermining the reputation of and trust in public institutions.
- 1.2 Identifying and managing conflict of interest situations remains a priority issue for the Government of Malta and is a crucial component of good governance and for building and maintaining trust in public institutions.
- 1.3 This Framework has been designed to:
 - promote high standards in the public sector;
 - ensure integrity and transparency in the public sector; and to
 - provide public employees and board members with guidelines, policies, and procedures to ensure the effective identification, reporting and management of conflict of interest situations.
- 1.4 This Framework is intended to further support the relevant provisions provided in the Public Administration Act (Cap. 595 of the Laws of Malta), which incorporates the Code of Ethics for Public Employees and Board Members (First Schedule to the Public Administration Act).
- 1.5 This Framework includes the following Sections:
 - Section 2 defines the applicability of the Framework, that is the public employees and board members as defined within Section 2 of this Framework who fall within the scope of this Framework.
 - Section 3 reiterates the values and attributes to be followed by public employees and board members as set out in the Public Administration Act and the Code of Ethics respectively.
 - Section 4 defines what constitutes a conflict of interest and the types of conflict of interest.
 - Section 5 provides the provisions, guidelines, and obligations to be followed by in-scope public employees and board members in the identification and reporting of conflict of interest matters.
 - Section 6 focuses on the management of conflict of interest matters with a view to avoid, eliminate or otherwise mitigate the associated risks arising from such

matters. Section 6 presents alternative management strategies that may be applied to manage conflict of interest matters.

- Section 7 provides additional provisions and guidelines with respect to specific areas, such as:
 - the acceptance of gifts, hospitality, and other benefits;
 - political participation;
 - pre- and post-public employment; and
 - private work.
- Section 8 explains the disciplinary measures that may be taken in the event of non-compliance to the provisions and guidelines provided within this Framework.

2.0 Applicability

2.1 This Framework applies to:

- (a) Public officers and employees of state agencies, and other entities of Government to which the Public Administration Act applies;
- (b) Public officers seconded to bodies outside the Public Administration of Malta;
- (c) Persons on a contract of employment within the Public Administration;
- (d) Employees and officials of companies where the Government of Malta holds a majority shareholding and a controlling interest.

Employees, officers and officials referred to in paragraphs 2.1 (a), (b), (c), and (d) are hereinafter collectively referred to as 'public employees'.

- (e) the chairpersons and members of standing boards and commissions within the Public Administration including the governing boards of state entities and companies where the Government of Malta holds a majority shareholding and a controlling interest, hereinafter collectively referred to as 'board members'.

3.0 Values of Public Employees and Board Members

3.1 Public employees and board members shall uphold, promote, and operate with the following set of values as set out in Article 4 (1) of the Public Administration Act:

- integrity;
- respect;
- loyalty;

- trust;
- quality;
- accountability;
- impartiality; and
- non-discrimination.

3.2 The Code of Ethics provides the attributes expected to be demonstrated by public employees and board members to ensure adherence to the set of values provided by the Public Administration Act.

4.0 Recognising a Conflict of Interest

4.1 What constitutes a Conflict of Interest?

- 4.1.1 A conflict of interest arises when a public employee or a board member's ability to faithfully discharge his / her duties, is or can reasonably be, called into question on account of occupations, activities or interests that they or their close relations may have, including instances where the public employee or board member is placed in a position to be biased or is seen as potentially being biased.
- 4.1.2 A conflict of interest may be driven from financial and / or non-financial interests of public employees / board members or their close relations.
- A financial conflict of interest involves a pecuniary interest where a public employee / board member or their close relations may gain financially or otherwise avoid financial loss.
 - A non-financial conflict of interest is where the interest of the public employee / board member or their close relations is non-pecuniary in nature and may arise due to personal relationships, affiliations, ties or other sorts of interests or involvements that could impinge the public employee / board member from faithfully discharging his / her duties.
- 4.1.3 Financial or non-financial conflicts of interest may be actual, potential or apparent.
- An actual conflict of interest refers to situations where the private-capacity interests of a public employee / board member are already in conflict with his / her official duties and responsibilities.

- A potential conflict of interest refers to situations where the private-capacity interests of a public employee / board member have not yet come into conflict with his / her official duties and responsibilities but may do so in the future.
 - An apparent conflict of interest exists where it could be perceived, or appears, that the private capacity interests of a public employee / board member could improperly influence the public employee / board member in the performance of his / her official duties and responsibilities.
- 4.1.4 Close relations may include a public employee's / board member's relation with family members, friends, associates, or other private relationships with persons or organisations. Personal relationships are to be deemed as close relations following due consideration of the closeness of the relationship and the extent to which such relations may influence the objective exercise of the public employees' / board members' official duties and responsibilities.
- 4.1.5 Public employees and board members are required to exercise careful judgement in assessing which relations may give rise to an actual, potential, or apparent conflict of interest. In general, the following personal relationships are to be considered as close relations and the private interests of such close relations must be considered and assessed by public employees / board members to determine whether such private interests may give rise to an actual, potential or apparent conflict of interest:
- Immediate family members (parents, siblings, spouse / civil partner, or partner as defined by law and dependents);
 - Relatives or individuals living in the same household of the public employee / board member;
 - Relations with friends, associates, persons or organisations with whom the public employee / board member has business interests or has had business interests over the past two (2) years.

5.0 Identification and reporting of a Conflict of Interest

5.1 Identification of a Conflict of Interest

- 5.1.1 In many cases, only the individual public employee / board member is aware of actual, potential or apparent conflict of interest situations arising from their private capacity interests or the private capacity interests of their close relations which may directly or indirectly influence their objectivity in performing their respective official duties and responsibilities.

- 5.1.2 An interest refers to anything which may have an impact on the individual public employee / board member. The term private capacity interests includes direct private capacity interests arising from personal, professional or business interests including any activities or occupations which may have or may be perceived to have an influence on the objectivity of the public employee / board member in performing his / her respective official duties and responsibilities. It also includes indirect private capacity interests arising from personal, professional or business interests including any activities or occupations held by close relations which may have or may be perceived to have an influence on the objectivity of the public employee / board member in performing his / her respective official duties and responsibilities.

5.2 Reporting a Conflict of Interest

- 5.2.1 It is the responsibility of the individual public employee / board member to inform his / her Permanent Secretary, through his / her superiors of any actual, potential, or apparent conflict of interest so as to allow the proper management of such conflict of interest situations.
- 5.2.2 Current and prospective public employees / board members are to report any known actual, potential or apparent conflicts of interest prior to assuming office or accepting an appointment.
- 5.2.3 If prior to assuming office or accepting an appointment there are no known actual, potential or apparent conflicts of interest, current and prospective public employees / board members:
- (a) in posts with a salary equivalent to salary scales 1 to 5; or
 - (b) in posts within the Public Administration that due to the nature of their role and responsibilities, are considered to be high risk positions as listed in the Sixth Schedule to the Public Administration Act; or
 - (c) in posts that involve regulatory and inspectorate functions as listed in the Annex to Directive No: 14 'Governing Framework for the Management of the Revolving Door Policy for Public Employees'
- are also required to confirm, prior to assuming office or accepting an appointment, that there are no known actual, potential or apparent conflicts of interest.
- 5.2.4 Current and prospective public employees / board members not falling within any of the categories listed in paragraph 5.2.3 may still be required to confirm that they have no known conflicts of interest prior to assuming office or accepting an appointment, if so decided by senior management.
- 5.2.5 Once a public employee / board member assumes office or accepts an appointment, any actual, potential or apparent conflicts of interest arising

from subsequent change in duties, responsibilities or circumstances, are to be reported by the public employee / board member, immediately as soon as such conflicts of interest are known.

- 5.2.6 Individuals considered for the post of Permanent Secretary are to report to the Principal Permanent Secretary any known actual, potential, or apparent conflicts of interest, or otherwise confirm that there are no actual, potential or apparent conflicts of interest prior to assuming office.
- 5.2.7 Following appointment as a Permanent Secretary, any actual, potential or apparent conflicts of interest arising from subsequent change in duties, responsibilities or circumstances, are to be reported by the Permanent Secretary to the Principal Permanent Secretary, immediately as soon as such conflicts of interest are known.
- 5.2.8 Such reporting must be made in writing making use of the 'Conflict of Interest Notification' form (Appendix 1), within which current and prospective public employees / board members are to disclose:
- all matters which may give rise to an actual, potential, or apparent conflict of interest;
 - their respective duties and responsibilities that may, or otherwise may potentially or may be perceived to be influenced by the matter(s) under consideration;
 - any direct or indirect private interests which may impact, have the potential to impact or otherwise may be perceived to impact their ability to carry out their official duties and responsibilities, impartially and in the public interest;
 - whether the matters give rise to an actual, potential or apparent conflict of interest; and
 - whether direct or indirect private interests are of a financial and / or non-financial nature.
- 5.2.9 In assessing whether a situation gives rise to an actual, potential or apparent conflict of interest, public employees / board members may make use of the checklist provided in Appendix 2. This checklist is intended to guide public employees / board members in their assessment and is not intended to provide an exhaustive list of matters to be considered. Public employees / board members are required to use their judgment and shall refer to their superiors, Permanent Secretary, or the Principal Permanent Secretary, as applicable, for further guidance if required.
- 5.2.10 The public employees' / board members' superiors, respective Permanent Secretary or the Principal Permanent Secretary as applicable, may at their

discretion request public employees / board members to submit additional information for the purpose of verification and evaluation of the matters reported and the information disclosed within the notification.

5.2.11 Superiors, Permanent Secretaries, the Principal Permanent Secretary and / or the **Conflict of Interest Committee** as applicable, shall ensure that matters reported through the conflict of interest notification are kept confidential and processed solely for assessing and managing actual, potential, or apparent conflict of interest situations, unless required otherwise by law.

5.2.12 As part of the Government of Malta's commitment to enhance transparency and accountability and to further enhance the provisions of this Framework, legal amendments will follow in due course to introduce the requirement for persons in top executive functions to submit a Statement of interests on an annual basis.

5.3 Reporting of Conflict of Interest matters regarding other public employees or board members

5.3.1 All public employees / board members have a duty to report any matters pertaining to other public employees / board members which occurred or are likely to occur and which may result in an actual, potential or apparent conflict of interest.

5.3.2 Such reporting is to be undertaken in line with the provisions provided within the Whistleblower Act.

6.0 Managing Conflicts of Interest

6.1 General obligations

6.1.1 Ministries, Government directorates / departments, state agencies and other entities of the Government are responsible for putting in place arrangements to manage conflicts of interest. The manner in which conflicts are managed shall be based on the risk exposure.

6.1.2 Each Ministry, Government directorate / department, state agency or Government entity shall ensure that public employees or board members are aware of their obligation to:

- report any actual, potential, or apparent conflict of interest as set out in Section 5.2 of this Framework; and

- report any suspected conflict of interest regarding another public employee or board member, as set out in Section 5.3 of this Framework.

6.1.3 Each Ministry, Government directorate / department, state agency or Government entity shall ensure they have appropriate systems in place to facilitate the reporting and management of conflict of interest situations in a transparent and timely manner.

6.2 Register of Conflicts of Interest

6.2.1 Permanent Secretaries are responsible for ensuring that each Ministry, Government directorate / department, state agency or Government entity maintains a **'Register of Conflicts of Interest'** to enhance transparency and provide the respective organisation with an effective tool to monitor and manage conflict of interest situations.

6.2.2 The Principal Permanent Secretary is responsible to ensure that a **'Register of Conflicts of Interest'** is maintained for recording the interests pertaining to Permanent Secretaries.

6.2.3 The **'Register of Conflicts of Interest'** shall be kept up-to-date and as a minimum disclose the following information:

- the name and surname of the public employee or board member concerned;
- his / her designation and his / her respective Ministry, Government directorate / department, state agency or Government entity;
- the date when the matter was detected or reported;
- a description of the matters and personal capacity interests which may give rise to an actual, potential, or apparent conflict of interest;
- the type of conflict of interest (actual, potential, or apparent);
- details of the review and assessment carried out;
- where and as applicable, the recommendation provided by the **Conflicts of Interest Committee** to the Principal Permanent Secretary or the respective Permanent Secretary;
- details of how the matter was managed, and how the associated risks were reduced or eliminated;

- action, if any, taken by the respective Ministry, Government directorate / department, state agency or Government entity; and
- date when the matter / case was closed.

6.3 Management of Conflicts of Interest

- 6.3.1 Actual, potential, or apparent conflicts of interest may lead to the integrity of a public employee or board member to be questioned and may also impact the reputation of the respective Ministry, Government directorate / department, state agency or Government entity.
- 6.3.2 Each Permanent Secretary must ensure that when a conflict of interest is identified, pertaining to a public employee or board member within a Ministry, Government directorate / department, state agency and Government entity falling under his / her remit, appropriate action is taken to avoid, or otherwise mitigate the associated risks.
- 6.3.3 The Principal Permanent Secretary must ensure that when a conflict of interest is identified, pertaining to a Permanent Secretary, appropriate action is taken to avoid, or otherwise mitigate the associated risks.
- 6.3.4 In the case of high-risk, or complex conflict of interest matters, or otherwise where the Principal Permanent Secretary or Permanent Secretary feels that he / she may, or may be perceived not to be able to manage the matter in an objective manner, the conflict of interest matter shall be escalated to the [Conflicts of Interest Committee](#).
- 6.3.5 The [Conflicts of Interest Committee](#) is responsible for:
- reviewing conflict of interest matters referred to it by the Principal Permanent Secretary and / or the respective Permanent Secretaries; and
 - providing recommendations to the Principal Permanent Secretary or the respective Permanent Secretaries, as applicable, on how to manage any conflict of interest matters identified.
- 6.3.6 If the matter being reviewed by the [Conflicts of Interest Committee](#) pertains or affects a member of the same Committee, such member shall be recused from taking part in the discussion.
- 6.3.7 The action taken to manage identified conflicts of interest depends on the nature, severity, and associated risks of the identified conflict. The following table outlines possible management strategies that may be applied to manage conflicts of interest and provides guidance, intended to support the Principal Permanent Secretary, the Permanent Secretaries and the [Conflicts of Interest](#)

Committee, as applicable, in determining the most appropriate management strategy for managing a conflict of interest situation.

Management strategy	Most suitable for:
<p>Register <i>Conflict of interest is recorded in 'Register of Conflicts of Interest' and no further action is taken</i></p>	<ul style="list-style-type: none"> • Very-low risk potential conflict of interest where the act of transparency through recording the conflict in the 'Register of Conflicts of Interest' is deemed sufficient.
<p>Restrict <i>The public employee or board member is restricted from involvement in the matter giving rise to a conflict of interest</i></p>	<ul style="list-style-type: none"> • Instances where the public employee or board member can be effectively separated from parts of the activity or process and the conflict of interest is not likely to arise frequently.
<p>Recruit <i>An independent third party is engaged to oversee part, or all of the process in relation to the matter giving rise to a conflict of interest</i></p>	<ul style="list-style-type: none"> • Instances where it is not feasible or desirable for the public employee or board member to remove themselves from the decision-making process and where the expertise of the public employee or board member is necessary and cannot be replaced.
<p>Remove <i>The public employee or board member is removed from the matter giving rise to the conflict of interest</i></p>	<ul style="list-style-type: none"> • Matters of an ongoing nature which give rise to serious conflicts of interest and where ad-hoc restrictions or the engagement of independent third parties to oversee part, or all of the process is not appropriate.
<p>Relinquish <i>The public employee or board member relinquishes the private interest that is creating the conflict.</i></p>	<ul style="list-style-type: none"> • Instances where the public official or board member's commitment to carry out his / her official duties and responsibilities outweigh their attachment to the private interest; hence the public employee or board member is willing to relinquish the relevant private interest.

Management strategy	Most suitable for:
<p>Resign <i>The public employee or board member resigns from their position</i></p>	<ul style="list-style-type: none"> • Matters where: <ul style="list-style-type: none"> • the effects of the conflict are not low risk or of low significance; • no alternative management strategy is appropriate; • when the public employee or board member is unable or not willing to relinquish the private interests giving rise to the conflict of interest; • changes to official duties and responsibilities are not feasible; or • the public employee or board member prefers this course of action as a matter of principle.

6.3.8 The action taken to manage the risks associated to a conflict of interest shall be disclosed within the ‘Register of Conflicts of Interest’ as provided in Section 6.2 within this Framework. Moreover, the Permanent Secretary or Principal Permanent Secretary, as applicable, shall inform the respective public employee / board member of the decision taken to manage the conflict in a timely and transparent manner.

7.0 Standards to prevent and manage Conflicts of Interest

7.1 Gifts, Hospitality, and other Benefits

7.1.1 Acceptance of Gifts, Hospitality, and other Benefits

7.1.1.1 The aim of these guidelines is to ensure that the actions of public employees and board members are above suspicion and do not give rise to any actual, potential, or apparent conflict of interest. The dealings of public employees and board members shall be scrutinised to mitigate the risks of conflict of interest situations and avoid risks potentially undermining public confidence in the respective public employee or board member and the Ministry, Government directorate / department, state agency or Government entity which they represent.

7.1.1.2 For the purpose of these guidelines ‘Gifts’, ‘Current Market Value’, ‘Significant Value’ and ‘Reportable Gifts’ shall have the following meanings:

A ‘Gift’ includes:

- any item of property, whether of a consumable nature or otherwise, including but not limited to a display item, watch, clocks,

books, furniture, figurine, work of art, jewellery, equipment, clothing, wine / spirits, or items containing precious metal or stones; and

- gifts of entertainment, hospitality, travel or any other form of benefits.

The 'Current Market Value' of a gift refers to the real market value of the gift on the day it is received.

Gifts of a 'Significant Value' refers to gifts having a current market value exceeding €250.

A 'reportable gift' comprises of:

- any gift made to a public employee or board member by an organisation, agency, private sector entity or by a private individual; and
- where the current market value of the gift exceeds €100.

7.1.1.3 Public employees or board members, or any member of their respective household shall not accept any gifts, benefits, hospitality or any promises of such either for themselves, any members of their families, or any other persons or bodies, which could create an obligation, real or perceived.

7.1.1.4 Public employees or board members shall not directly or indirectly bestow any gifts, benefits or hospitality to any person or body with a view to influencing that person or body on a matter in which the respective public employee or board member has a direct or indirect interest.

7.1.2 Offers of Gifts, Hospitality or other Benefits with a current market value not exceeding the significant value threshold (€250)

7.1.2.1 A gift can be interpreted as an inducement or a reward simply because of its intrinsic value. For this purpose, only token gifts may be accepted, which do not exceed the current market value of €250.

7.1.2.2 Cash gifts irrespective of the amount shall never be accepted.

7.1.2.3 Before accepting gifts not exceeding the current market value of €250, public employees and board members are required to assess whether the acceptance of such gifts by themselves, or any member of their respective household may create an obligation, real or perceived and in such cases refuse the gift in a courteous and polite manner.

7.1.2.4 For this purpose, prior to accepting any gift with a current market value not exceeding €250, public employees or board members shall complete the following prescriptive checklist, which comprises of four simple tests

arranged under the mnemonic 'GIFT' and which is aimed at reducing the potential for confusion:

Test	Assessment
<u>G</u>enuine	<p>Is the gift being given genuinely in appreciation for something you did, as part of your official duties and responsibilities?</p> <p>Why has the gift been offered?</p> <p>Public employees or board members shall carefully assess the circumstances and reasons why the gift is being offered and ensure that this is not being offered to influence their objectivity or their future action or non-action, or otherwise may create an obligation, real or perceived.</p>
<u>I</u>ndependent	<p>If you accept the gift would this, be seen as reasonable by the general public or would this potentially raise concerns on your independence / impartiality, particularly if the person or entity giving the gift may be affected by a decision or action you take?</p>
<u>F</u>ree	<p>If you accept the gift, would you be free from any obligation to do something in return to the person or entity providing the gift, including his / her family, friends or associates?</p>
<u>T</u>ransparent	<p>Would you have any objection to declare in a transparent manner this gift, as well as its source to your superiors, colleagues, to the media and general public?</p>

7.1.2.5 Public employees or board members shall only accept gifts not exceeding the current market value threshold of €250 after due assessment of the considerations provided in the checklist (refer to paragraph 7.1.2.4). In case of any doubts, around the motives for such gift offers or otherwise how acceptance of the gift may be perceived by the general public, the public employee or board member shall exercise caution and refuse the gift in a courteous and polite manner.

7.1.3 Offers of Gifts, Hospitality or other Benefits with a current market value exceeding the significant value threshold (€250)

- 7.1.3.1 Any gifts exceeding the current market value of €250 shall be refused by public employees or board members.
- 7.1.3.2 Where a public employee or board member receives more than one offer from the same source in any calendar year, and the value of each offer does not exceed the 'Significant Value' threshold, public employees or board members shall assess the cumulative market value of offers received from the same source during the calendar year and ensure that the cumulative current market value of offers accepted do not exceed the 'Significant Value' threshold.
- 7.1.3.3 Paragraph 7.1.3.1 does not apply in cases where the public employee or board member receives a gift from his / her colleagues on the occasion of their retirement.
- 7.1.3.4 Gifts received from foreign dignitaries are to be handed over to the state, and when received on behalf of the State, these are to be included in the Directorate's inventory. Any reciprocated gifts are to be given at Government's expense.

7.1.4 Register of Gifts, Hospitality and Benefits

- 7.1.4.1 Public employees or board members are required to report to the Permanent Secretary, through their superiors, all offers exceeding the current market value threshold of €100, irrespective of whether the gift, hospitality or benefit offered was accepted or otherwise refused.
- 7.1.4.2 Where a public employee or board member receives more than one offer from the same source in any calendar year, such offers shall be individually reported if the current market value of all offers exceed the reportable gift threshold of €100. In such cases, the individual offers received from the same source shall be reported individually irrespective if such offers were accepted or refused.
- 7.1.4.3 Gifts received by a public employee or board member from a family member, relative or friend in a private capacity and in accordance with social norm (example during occasions such as birthday, anniversary or marriage) are not to be considered as reportable gifts.
- 7.1.4.4 Each Ministry, Government directorate / department, state agency or Government entity is to maintain a register listing all reportable gifts. For the avoidance of doubt the term 'reportable gift' includes gift offers pertaining to physical property, cash gifts, entertainment, hospitality, travel or any other form of benefits, where the current market value of such gifts individually exceed the current market value of €100, or otherwise where

the various gift offers received from the same source during the same calendar year collectively exceed the current market value of €100.

7.1.4.5 It is the responsibility of the Permanent Secretary, or delegate to ensure that the Register of Gifts, Hospitality and Benefits is maintained, reviewed and scrutinised on a regular basis.

7.1.4.6 Reportable gifts, as defined above, received by Permanent Secretaries shall be reported to the Principal Permanent Secretary who is responsible for ensuring that a Register of Gifts, Hospitality and Benefits is maintained, reviewed and scrutinised on a regular basis.

7.1.4.7 Each entry within the register shall capture the following information:

- the name and surname of the public employee or board member concerned;
- his / her designation and his / her respective Ministry, Government directorate / department, state agency or Government entity;
- the date when the offer was made;
- the source of the gift (name of organisation, agency, private sector entity or private individual making the offer);
- nature of the offer;
- reasons or circumstances leading to the offer;
- estimated current market value of the offer; and
- whether the offer was accepted or rejected.

7.1.5 Application of guidelines in relation to Gifts, Hospitality and Benefits

7.1.5.1 Each Ministry, Government directorate / department, state agency or Government entity is to ensure compliance to the guidelines provided within this Framework.

7.1.5.2 The guidelines provided within the Framework do not limit the respective Ministry, Government directorate / department, state agency or Government entity from applying more stringent guidelines, such as the lowering of the 'Significant Value' threshold, the lowering of the 'Reportable Gift' threshold, obtaining pre-approval prior to accepting offers, or otherwise requiring public employees or board members to report all accepted and refused offers amongst others. Each Ministry, Government directorate / department, state agency or Government entity after due consideration of the inherent risks, the nature of its operations and the

respective duties and responsibilities of its employees, shall determine whether to implement more stringent policies.

7.2 Political Participation

7.2.1 Ministerial and public confidence in the impartiality of the Public Administration shall not be impaired in any way. Public employees and board members need to ensure that political participation does not bring them into conflict with their primary duty to serve the Government of the day. On the other hand, active participation in the political wellbeing of the country is to be encouraged.

7.2.2 Most posts in the Public Service are classified as 'politically free', however a number of posts are regarded as 'politically restricted', as listed in Schedule A-1 of Amending Directive 5-1, which list may be updated by the Principal Permanent Secretary.

7.3 Pre- and Post-Public employment

Pre- and post-public employment may give rise to conflict of interest risks, in the form of lobbying, switching sides and abuse of insider information. The following provides some examples of conflict of interest risks that may arise from pre- and post-public employment.

- Lobbying may occur when a former public employee lobbies with their former employer or colleagues in their new position or capacity.
- A conflict of interest risk may also arise when employees switch sides, for instance an individual previously employed within the private sector takes up a position within the Public Administration and exerts unfair or preferential bias towards former employers and clients in the performance of his / her official duties and responsibilities, or otherwise has ongoing economic ties to their former employer which may influence the objectivity of the public employee in the performance of his / her official duties and responsibilities.
- Former public employees may make use of information and connections gained during their public employment to unfairly benefit their new employer, or otherwise represent their new employer on an issue or matter they previously worked on in their public capacity.
- An individuals' use of insider and confidential information obtained during his / her employment in the private or public sector may also give rise to conflict of interest risks.

These guidelines are intended to protect the public interest whilst encouraging the freedom of movement and employment for former and current employees.

7.3.1 Pre-Public employment

- 7.3.1.1 During the recruitment process, the public employees involved in the interviewing, evaluation, or selection panel shall assess candidates' previous employments to assess potential conflicts of interest. Any potential conflict of interest matters noted shall be reported to the Permanent Secretary, or the Principal Permanent Secretary, as applicable to ensure that should the candidate be recruited such conflicts of interest would be appropriately managed.
- 7.3.1.2 Applicants for headship or Assistant Director positions are required to submit the 'Conflict of Interest Notification Form' (Appendix 1) at application stage, indicating any actual, potential or apparent conflicts of interest (e.g. business interests, private work etc.). Applicants who have already submitted such a notification / declaration in the past are to confirm in writing that there are no changes and need not resubmit such a declaration / notification. In cases where there has been a change, a new notification / declaration is to be submitted.
- 7.3.1.3 Prior to accepting an appointment or prior to assuming office, public employees are to inform their respective Permanent Secretary or the Principal Permanent Secretary, as applicable, of any actual, potential or apparent conflicts of interest as provided in paragraphs 5.2.2 and 5.2.6 respectively, through the submission of the 'Conflict of Interest Notification' form (Appendix 1).
- 7.3.1.4 Consonant with professional ethics, it is the practice to avoid having in the same unit, members of the same family or persons with business ties where the relationship may impinge on the official duties and may cause potential conflict of interest. This shall be considered during the recruitment process and throughout the term of employment of the public employee within the Public Administration.

7.3.2 Post-Public employment

- 7.3.2.1 These guidelines are intended to address potential issues that may arise while the public employee is still working in the Public Administration and potential issues that may arise after the public employee leaves his employment in the Public Administration. These guidelines also address the duties of current public employees when dealing with former public employees or former board members.

Guidelines to address potential issues that may arise while public employees are still employed within the Public Administration

- 7.3.2.2 Public employees shall not give preferential treatment to potential employers with a view to enhance their future employment prospects.
- 7.3.2.3 When a public employee has the intention to seek, is seeking or otherwise receives an offer for employment that could constitute a conflict of interest,

the public employee shall immediately report such a conflict to his / her Permanent Secretary, or the Principal Permanent Secretary, as applicable, making use of the 'Conflict of Interest Notification' form (Appendix 1).

- 7.3.2.4 The responsible Permanent Secretary or the Principal Permanent Secretary, as applicable, must ensure that appropriate and timely action is taken to manage and address the associated risks arising from such notifications, guided by the management strategies provided in paragraph 6.3.7.

Guidelines to address potential issues that may arise after the public employee leaves his / her employment within the Public Administration

- 7.3.2.5 Former public employees shall not make use of insider or confidential information obtained throughout their employment within the Public Administration and shall not lobby with former superiors, subordinates, and colleagues within the Public Administration.

- 7.3.2.6 Former public employees are prohibited from representing their new employer in an ongoing procedure of a contentious nature, for which they had responsibility before they left the Public Administration.

- 7.3.2.7 Former public employees must ensure that they do not accept employment or engage in activities which may cast doubts on their own integrity or that of the Ministry, Government directorate / department, state agency or Government entity in which they were previously employed or the Public Administration in general.

- 7.3.2.8 Public employees holding posts or positions that involve regulatory or inspectorate functions, which post or position is included in the Annex to Directive 14, 'Governing Framework for the Management of the Revolving Door Policy for Public Employees', are subject to the provisions provided within this Directive and the Public Administration Act (Cap. 595 of the Laws of Malta).

Guidelines to be followed by current public employees when dealing with former public employees or former board members

- 7.3.2.9 Public employees shall duly report any lobbying efforts or inappropriate requests by former public employees or former board members to their Permanent Secretary in writing.

- 7.3.2.10 Public employees are prohibited from granting preferential or unfair treatment, special access or privileged and confidential information to anyone, including former public employees or former board members.

7.4 Private Work

- 7.4.1 Public employees or board members shall avoid situations which could give rise to a conflict of interest, perceived or otherwise. In particular public employees or board members must consider whether:

- the concerned company or organisation is in, or entering into, a contractual relationship with Government;
- the concerned company or organisation has, as its primary purpose, the lobby of Government Ministries, directorates, departments, agencies, entities, similar organisations or Members of Parliament; or
- Government is in a regulatory relationship with the Company or organisation.

7.4.2 Public employees whose post or position has been designated as involving regulatory or inspectorate functions and falling under the 'Revolving Door Policy', in terms of Directive 14 'Governing Framework for the Management of the Revolving Door Policy for Public Employees', are subject to the provisions provided within this Directive and the Public Administration Act (Cap. 595 of the Laws of Malta).

7.4.3 Public employees before engaging in any form of business outside their official duties and responsibilities, are required to obtain approval from their respective Permanent Secretary, through their superior, Chairperson or Chief Executive Officer.

7.4.4 Permanent Secretaries when considering whether to approve requests or otherwise, shall take into account whether such private work may give rise to a conflict of interest after due consideration of the nature of the private work and the public employees' official duties and responsibilities.

7.4.5 If during the period of approval to perform private work, the applicant is transferred, progresses, or is promoted to a higher grade / scale, permission to perform private work shall be deemed as having been automatically withdrawn and fresh approval shall be sought.

7.4.6 Public employees may be granted permission by their Permanent Secretary, through their superiors, to hold in their name, a police licence for operating a shop or business premises, provided that there is no connection whatsoever between the business and the public employees' work in the Public Administration.

7.4.7 Public employees may be granted permission by their Permanent Secretary, through their superiors, to hold the registration certificate of a non-political club in their own name, provided that the activities of the club do not conflict with their official duties and responsibilities.

8.0 Disciplinary measures

- 8.1 Public employees or board members are expected to comply with the provisions and guidelines provided within this Framework.
- 8.2 Non-compliance by public employees or board members to the provisions and guidelines provided within this Framework may result in reputational damage to their respective Ministry, Government directorate / department, state agency or Government entity, and may also lead to the loss of public trust, external inquiries and potentially legal action.
- 8.3 Non-compliance may result in a range of consequences for both the public employee or board member and their respective Ministry, Government directorate / department, state agency or Government entity.
- 8.4 Discipline in the Public Service is regulated by the Public Service Commission Disciplinary Regulations, 2017.
- 8.5 Non-compliance to the provisions of this Framework may result in:
 - the termination of employment or other disciplinary proceedings, where public employees are concerned;
 - the termination of appointment, or the imposition of certain conditions on their appointments, where board members are concerned;
 - the execution of relevant provisions derived from any applicable undertaking; and / or
 - the initiation of criminal proceedings, where this is called for in respect of serious breaches of trust and / or non-compliance, where both public employees or board members are concerned.

Appendix 1 – Conflict of Interest Notification

Conflict of Interest Notification

A conflict of interest arises when a public employee or a board member's ability to faithfully discharge his / her duties is, or can reasonably be, called into question on account of occupations, activities or interests that they or their close relations may have, including instances where the public employee or board member is placed in a position to be biased or is seen as potentially being biased.

An *actual* conflict of interest refers to situations where the private-capacity interests of a public employee / board member are already in conflict with his / her official duties and responsibilities.

A *potential* conflict of interest refers to situations where the private-capacity interests of a public employee / board member have not yet come into conflict with his / her official duties and responsibilities but may do so in the future.

An *apparent* conflict of interest exists where it could be perceived, or appears, that the private capacity interests of a public employee / board member could improperly influence the public employee / board member in the performance of his / her official duties and responsibilities.

Personal relationships are to be deemed as close relations following due consideration of the closeness of the relationship and the extent to which such relations may influence the objective exercise of the public employees' / board members' official duties and responsibilities.

Current and prospective public employees / board members are to report any known actual, potential or apparent conflicts of interest prior to assuming office or accepting an appointment. When no conflict of interest matters are identified by public employees / board members falling within the scope of paragraph 5.2.3 of the Framework for Preventing and Managing Conflicts of Interest in the Public Sector, or otherwise if required by Senior Management, are required prior to assuming office or accepting an appointment to confirm that there are no known actual, potential or apparent conflicts of interest.

Applicants for headship or Assistant Director positions are required to submit this notification at application stage, confirming there are no conflicts of interest or otherwise indicating any actual, potential or apparent conflicts of interest.

Once a public employee / board member assumes office or accepts an appointment any actual, potential or apparent conflicts of interest arising from subsequent change in duties, responsibilities or circumstances are to be reported by the public employee / board member, immediately as soon as such conflicts of interest are known.

In assessing whether a situation gives rise to an actual, potential or apparent conflict of interest you are required to consider how the situation may potentially affect you and your organisation's integrity and how the situation may be perceived by the general public given all known circumstances and facts.

A. Form to be completed, where and if applicable, prior to assuming office or accepting an appointment

Conflict of Interest Confirmation / Notification Form (to be completed by prior to assuming office or accepting an appointment)	
Part A	
Applicability:	<p>This Section needs to be completed by:</p> <ul style="list-style-type: none"> • applicants for headship or Assistant Director positions; • current and prospective public employees / board members prior to assuming office or otherwise accepting an appointment should the office / appointment give rise to known actual, potential or apparent conflict-of-interest matters; • current and prospective public employees / board members falling within the scope of paragraph 5.2.3 of the Framework, or otherwise if requested by senior management.
Name and surname:	
ID No:	
Current position held:	
Name of current Ministry, organisation, agency, entity, directorate or Department	
Description of prospective office / appointment and the name of the respective Ministry, Organisation, Agency, Entity, Directorate or Department:	
Declaration:	<p><input type="checkbox"/> I confirm that that no actual, potential or apparent conflicts-of-interest arise from my acceptance of the office / appointment <i>(Proceed to complete Part C of this form)</i></p> <p><input type="checkbox"/> An actual, potential or apparent conflict-of-interest matter(s) has / have been identified as a result of my acceptance of the office / appointment. <i>(Proceed to complete Parts B and Part C of this form)</i></p>

Part B		
Applicability:	This Section is to be completed if in Part A, an actual, potential or apparent conflict-of-interest matter(s) has / have been identified.	
Matter(s) under consideration and details of private interests (including interests of close relations), which give rise to the conflict-of-interest matter(s)	<p><i>Provide a detailed overview of:</i></p> <ul style="list-style-type: none"> • <i>the matters under consideration which give rise or may give rise to an actual, potential, or apparent conflict-of-interest;</i> • <i>disclose any direct or indirect private interests which may impact, have the potential to impact or otherwise may be perceived to impact your ability to carry out your official duties and responsibilities, impartially and in the public interest; and</i> • <i>list the duties and responsibilities expected from you as a public employee / board member which may, or otherwise may potentially, or may be perceived to be influenced as a direct result of the matter(s) under consideration.</i> 	
Type of conflict:	Actual conflict of interest <input type="checkbox"/> Potential / apparent conflict of interest <input type="checkbox"/> <i>Tick the appropriate boxes</i>	
Type of interest:	Financial interest <input type="checkbox"/> Non-financial interest <input type="checkbox"/> <i>Tick the appropriate boxes</i>	
Part C – Submission Declaration		
<p>I confirm all known actual, potential, and apparent conflict of interest situations have been disclosed. I hereby declare, to the best of my knowledge, that the above details are correct, and I am submitting this conflict-of-interest confirmation / notification in good faith.</p> <p>I understand that any known misinterpretations including failure to report such matters could constitute grounds for disciplinary action.</p>		
Signature:		
Date:		

Part D - For internal use only	
I hereby declare that I have received and appropriately noted this conflict-of-interest confirmation / notification.	
Name and surname:	
Designation:	
Signature:	
Date:	

B. Form to be completed by current public employees / board members to report any actual, potential or apparent conflict-of-interest matter(s), which may arise following subsequent changes in duties, responsibilities or circumstances

Conflict-of-Interest Notification Form		
Part A		
Applicability:	This notification form needs to be submitted immediately by public employees / board members, as soon as an actual, potential or apparent conflict-of-interest matter(s) is / are identified.	
Name and surname:		
ID No:		
Designation:		
Name of Ministry, Organisation, Agency, Entity, Directorate or Department:		
Matter(s) under consideration and details of private interests (including interests of close relations), which give rise to the conflict-of-interest matter(s)	<p><i>Provide a detailed overview of:</i></p> <ul style="list-style-type: none"> <i>the matters under consideration which give rise or may give rise to an actual, potential, or apparent conflict-of-interest;</i> <i>disclose any direct or indirect private interests which may impact, have the potential to impact or otherwise may be perceived to impact your ability to carry out your official duties and responsibilities, impartially and in the public interest; and</i> <i>list the duties and responsibilities expected from you as a public employee / board member which may, or otherwise may potentially, or may be perceived to be influenced as a direct result of the matter(s) under consideration.</i> 	
Type of conflict:	Actual conflict of interest Potential / apparent conflict of interest <i>Tick the appropriate boxes</i>	<input type="checkbox"/> <input type="checkbox"/>
Type of interest:	Financial interest Non-financial interest <i>Tick the appropriate boxes</i>	<input type="checkbox"/> <input type="checkbox"/>

Part B: Submission declaration	
<p>I confirm all known actual, potential, and apparent conflict of interest situations have been disclosed. I hereby declare, to the best of my knowledge, that the above details are correct, and I am submitting this conflict-of-interest notification in good faith.</p> <p>I understand that any known misinterpretations including failure to report such matters could constitute grounds for disciplinary action.</p>	
Signature:	
Date:	
Part C - For internal use only	
<p>I hereby declare that I have received and appropriately noted this conflict-of-interest notification.</p>	
Name and surname <i>(Superior as applicable)</i>	
Designation:	
Signature:	
Date:	
Name and surname <i>(Permanent Secretary or Principal Permanent Secretary, as applicable)</i>	
Designation:	
Signature:	
Date:	

Appendix 2 – Checklist for recognising Conflict of Interest situations

What are your official duties and responsibilities?

Assess current job / position description defined by law, contract of employment, statement of work or other key duties and responsibilities assigned.

Do you have any private capacity interests which could affect or influence you in the performance of your official duties and responsibilities?

In responding to this question consider relevant direct or indirect private capacity interests which may be qualitative of such a kind or quantitative of such a value that would be reasonable to believe that the private capacity interests could influence the performance of your official duties or responsibilities.

The following checklist may be used to assess whether the private capacity interests identified, result in an actual, potential, or apparent conflict of interest

When completing the below checklist, you should:

- *consider how this situation may potentially affect you and your organisation’s integrity; and*
- *assess how the situation under consideration may be perceived by the general public given all known circumstances and facts.*

Analysis of identified situation	YES	NO
Could the impact of my decision, action or non-action be of benefit or detrimental to me or my close relations in a financial or non-financial manner, now or in the future?	<input type="checkbox"/>	<input type="checkbox"/>
Could my decision, action, or non-action cast doubt on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Do I or my close relations have a significant current or previous personal, professional, or business interest, or a tie or association with an organisation, interested party or individual, which may or may be perceived as having an influence on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Could my decision, action or non-action enhance or damage my reputation or the reputation of my close relations?	<input type="checkbox"/>	<input type="checkbox"/>
Do my personal, professional, or political views and biases influence or may be perceived as having an influence on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Have I or my close relations in any way contributed in a private capacity to a matter being dealt with by my respective organisation?	<input type="checkbox"/>	<input type="checkbox"/>
Have I received any gifts from someone who stands to gain or lose from my decision, action, or non-action, which may or may be perceived to have an influence on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
Could my decision, action or non-action or the situation have an influence on any future employment opportunities for me or my close relations?	<input type="checkbox"/>	<input type="checkbox"/>
Are there any other financial or non-financial interests and / or factors that could cast doubt on my objectivity and may influence my ability to act in an impartial manner and in the public interest?	<input type="checkbox"/>	<input type="checkbox"/>

Conclusion of assessment

Following the completion of the above assessment, based on all facts and circumstances, public employees / board members shall determine whether the situation gives rise to a conflict of interest.

If you answered 'YES' to any of the above questions this indicates that a conflict of interest exists which needs to be reported through the Conflict of Interest Notification form to ensure the conflict is managed.

An actual conflict of interest occurs where the private-capacity interests of a public employee / board member are already in conflict with his / her official duties and responsibilities.

A potential conflict of interest refers to situations where the private-capacity interests of a public employee / board member have not yet come into conflict with his / her official duties and responsibilities but may do so in the future.

An apparent conflict of interest exists where it could be perceived, or appears, that the private capacity interests of a public employee / board member could improperly influence the public employee / board member in the performance of his / her official duties and responsibilities.

If no conflict of interest is identified you should ensure that this assessment allows you to act and be seen to act in a fair, impartial, and objective manner. If you have any doubts kindly consult with your respective Permanent Secretary for further advice and guidance. Permanent Secretaries shall in case of any doubts consult with the Principal Permanent Secretary.

Following the assessment of my private capacity interests (including the interests of close relations) I conclude that these interests result in:

- | | |
|------------------------------------|--------------------------|
| • An actual Conflict of Interest | <input type="checkbox"/> |
| • A potential Conflict of Interest | <input type="checkbox"/> |
| • An apparent Conflict of Interest | <input type="checkbox"/> |
| • No Conflict of Interest | <input type="checkbox"/> |