

# **CODE OF CONDUCT BUREAU AND** **CODE OF CONDUCT FOR PUBLIC OFFICERS**

## **1.0 Introduction**

The United Nations Convention against Corruption (UNCAC) has focused attention on corruption's corrosive effects and provided a framework for action for countries to tackle this scourge. One of the most important elements of this framework is the process of building integrity and preventing corruption. Developing effective disclosure systems and integrating them into wider anti-corruption programs are critical elements in that process. Nigeria is among 140 countries that signed the United Nations Convention against corruption. Nigeria became signatory to the convention in December 9th 2003 but among 83 countries with ratification, acceptance, approval, accession in December 14th 2004. The purposes of this Convention are: (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively; (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including assets recovery; (c) To promote integrity, accountability and proper management of public affairs and public property. It is instructive to note that the break-down of law and order in Nigeria, triggered by official corrupt practices has brought about socio-economic discontent, political instability and was thus marked by wide spread and longstanding violence, over time and space. These trends were partly and directly the results of corruption, communication break-down and collaborative gap.

### **1.0.1 Historical background**

The Code of Conduct Bureau (CCB) is a Federal Executive body set up by the Federal Government of Nigeria. The history of this establishment can be traced to the military

administration of late General Murtala Mohammed which appointed late Alhaji Isa Kaita as Chairman before the termination of the regime in 1979.

Reportedly, the Bureau could not effectively take off due to lack of enabling instrument from the National Assembly to that effect until the demise of the second Republic in 1983.

In 1986 the Political Bureau in its report which government accepted, observed that corruption and indiscipline were the bane of our political development. It recommended the strengthening of existing machineries for monitoring the action and behavior of Public Officers, to ensure that they conform to the highest standard of public morality and accountability. Following this recommendation, Code of Conduct Bureau and code of Conduct Tribunal were established as the agencies to enforce the code of conduct for public officers provided for in the 1979 Constitution of the Federal Republic of Nigeria.

In 1999, the General Abubakar Abdulsalam's administration enshrined the Code of Conduct Bureau in section 153, Third schedule, part 1 and Fifth scheduled part 1 of the Constitution of Federal Republic of Nigeria.

The Vision of CCB is "Honesty, Transparency and Accountability in Public Office".

Mission of CCB is "to eradicate corrupt practices and ensure compliance with the code of conduct for public officers".

### **1.0.2 Code of Conduct Bureau and other Anti-Corruption Bodies**

The Bureau is not alone in the discharge of its task of fight against corruption. There are a number of bodies with similar and complimentary roles. These we consider under two different headings.

### **1.0.2.1 Code of Conduct Bureau and other Constitutional Bodies.**

Section 153 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) established Code of Conduct Bureau along with other Bodies conferred with varying powers aimed at ensuring coordinated action for national development. The section provides:

**(1) There shall be established for the Federation the following bodies, namely:**

- (a) Code of Conduct Bureau**
- (b) Council of State;**
- (c) Federal Character Commission;**
- (d) Federal Civil Service Commission;**
- (e) Federal Judicial Service Commission;**
- (f) Independence National Electoral Commission;**
- (g) National Defence Council;**
- (h) National Economic Council;**
- (i) National Judicial Council;**
- (j) National Population Commission;**
- (k) National Security Council;**
- (l) Police Service Commission; and**
- (m) Revenue Mobilization Allocation and Fiscal Commission**

**(2) The composition and powers of each body established by subsection (1) of this section are as contained in Part 1 of the Third Schedule to this Constitution.**

Section 158(1) makes it emphatically clear that the Code of Conduct Bureau along with other bodies are vested with parallel powers in the exercise of their functions and discharge of their duties:

**158(1) In exercising its power to make appointments or to exercise disciplinary control over persons, the Code of Conduct Bureau, the National Judicial Council, the Federal Civil Service Commission, the Revenue Mobilization Allocation and Fiscal Commission, the Federal Character Commission,**

**and the Independent National Electoral Commission, shall not be subject to the direction or control of any other authority or person.**

This is further aimed at ensuring the independence of these Constitutional bodies for total freedom from control by other authorities or persons

Further to subsection (2) of the section 153, Part 1 of the Third Schedule to this Constitution, explicitly provides for the constitution of the board of the Bureau, its national structure, its Powers and functions. The wordings of the Part 1 of the Third Schedule to the 1999 Constitution (as amended) are worthy of being reproduced for clarity.

- 1. The Code of Conduct Bureau shall comprise the following members –**
  - (a) a Chairman and**
  - (b) nine other members**

**each of whom at the time of appointment, shall not be less than fifty years of age and subject to the provision of section 157 of this constitution shall vacate his office on attaining the age of seventy years.**
- 2. The Bureau shall establish such offices in each state of the Federation as it may require for the discharge of its functions under this constitution.**
- 3. The Bureau shall have powers to –**
  - (a) receive declaration by public officers made under paragraph 12 of Part 1 of the Fifth Schedule to the Constitution;**
  - (b) examine the declarations in accordance with the requirement of the Code of Conduct or any law;**
  - (c) retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe;**
  - (d) ensure compliance with and, where appropriate, enforce the provisions of the Code of Conduct or any law relating thereto;**

- (e) receive complaints about non-compliance with or breach of the provisions of the Code of Conduct or any law in relation thereto, investigate the complaint and, where appropriate, refer such matters to the Code of conduct Tribunal;**
- (f) appoint, promote, dismiss and exercise disciplinary control over the staff of the Code of Conduct Bureau in accordance with the provisions of an Act of the National Assembly enacted in that behalf; and**
- (g) carryout such other functions as may be conferred upon it by the National Assembly;**

In view of paragraph 3(g) above powers and functions of the Bureau are not exhaustive, the National Assembly is empowered to confer such other functions on the Bureau. In this respect a leave can be borrowed from the interpretation of paragraph 18(1) of the 5th Schedule to the 1999 Constitution (as amended) and section 23(1) of the Code of Conduct Bureau and Tribunal Act in the case of Saraki V FRN where the Supreme Court held:

**National Assembly may prescribe “such other punishment” (in case of Bureau “such other functions) other than the current ones to be imposed by the tribunal. This clearly shows a possibility of the National Assembly imposing sanctions of fines and/or imprisonment for offences under the Act or paragraph 18 of the 5th Schedule to the said 1999 Constitution (as amended), if so desired.**

### **1.0.2.2 Code of Conduct Tribunal**

Code of Conduct is a sister institution created alongside Code of Conduct Bureau with a view to complimenting the Bureau in the discharge of its powers as enshrined in paragraph 3(e) of part 1 of the third schedule to the 1999 Constitution, which provides:

**receive complaints about non-compliance with or breach of the provisions of the Code of Conduct or any law in relation thereto, investigate the complaint and, where appropriate, refer such matters to the Code of conduct Tribunal**

The relevant provisions of the 1999 Constitution (as amended) and the Code of Conduct Bureau and Tribunal Act provide for the establishment and constitution of the membership of the Tribunal. The relevant provisions are as follows:-

- (1) Paragraph 15(1) of the fifth Schedule to the 1999 Constitution (as amended) provides: ‘There shall be established a tribunal to be known as the Code of Conduct Tribunal, which shall consist of a Chairman and two other persons.’**
- (2) Section 20(1) and (2) of the Code of Conduct Bureau and Tribunal Act, Cap. C15, Laws of the Federation of Nigeria, 2004 provide thus: ‘(1) There is hereby established a tribunal to be known as the Code of Conduct Tribunal (in this Act referred to as “the tribunal”). (2) The tribunal shall consist of a Chairman and two other members.’**

The Code of Conduct Bureau and Code of Conduct Tribunal are two autonomous institutions that operate independently with clearly defined but complementary roles. While the Bureau administers assets declarations gather intelligence, monitor compliance with code of conduct and investigates complaints/petitions of breaches of the code of conduct, the Tribunal adjudicates on the cases referred to it by the Bureau. Such cases are prosecuted by the office of the Attorney General of the Federation, being represented by the legal officers in the Bureau.

### **1.0.2.3 Code of Conduct Bureau and other Anti-Corruption Statutory Bodies**

Internationalization of fight against corruption and the response to the global requirement for it led to the establishment of some anti corruption agencies in Nigeria by legislation of National Assembly. Among others these include:

1. Independent Corrupt Practices and Other Related offences Commission;
2. Economic and Financial crimes Commission;
3. Bureau of Public Procurement;
4. Public Complaint Commission;
5. Nigerian Financial Intelligence Unit

Functions of the above institutions is further complimented and supported by Code of Conduct Bureau in the area of collaboration and information sharing. The Bureau also collaborates with the following establishments in the discharge of it powers of verification/examination of declared assets and investigation complaints against declarants. These include:

1. State Security Service;
2. Nigerian Intelligence Agency
3. Nigeria Police
4. Nigerian Financial Intelligence Unit
5. Central Bank of Nigeria and Banking sector;
6. Corporate Affairs Commission;
7. Securities and Exchange Commission;
8. FCT and States Land Registries; and
9. Non designate Financial Institutions.

## **2.0 Import and Purport of Code of Bureau**

The New International Webster's Comprehensive Dictionary of the English language defines Code, Conduct as follows:-

- **Code:-** A system of rules and regulations for the purpose of ensuring adequate standard of practice and uniformity in workmanship.
- **Conduct:-** To direct or lead one's course of action, behavior, the act of managing direction, control, skillful management.
- **Code of Conduct:-** Giving the scope of this presentation, the working definition provided in 2007 by the International Federation of Accountants becomes apt, "principles, values, standard or rules of behavior that guides the decisions, procedure and system of an organization in a way that (a) contributes to the welfare of its key stake holders and (b) respect the rights of all constituent affected by its operations.
- **Public Officers** as defined by the Merriam Webster's dictionary is a person who has been legally elected or appointed to office and who exercises governmental functions.

In Nigeria, the Supreme Court has made it clear that a public officer not only includes the individual (public Officer) but also includes the offices itself (public office). This was stated in Ibrahim V. Judicial Service Committee Kaduna State and Awor (1998) 14 NWLR (pt. 584) 1. What this also means is that an official body or public department is now a public officer as long as they are used for an act done in the execution of their public duties, i.e public officers and public offices have no distinction between them.

### **3.0 Code of Conduct for Public Officers**

The Code of Conduct for public officers is spelt out in the 1999 Constitution fifth schedule, part 1 which is to establish and maintain a high standard of morality in the conduct of Government Business and to ensure that the actions and behavior of public officers conform to the highest standard of public morality and accountability.



The Code of Conduct expected of every Public Officer in Nigeria (Federal, State and Local Govt.) who receives emolument from government coffers are as follows:

1. A public officer shall not put himself in a position where his interest conflicts with his duties and responsibilities.
2. A public officer shall not receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office; or except when he is not employed on full time basis, engage or participate in the management or running of any private business, profession or trade but nothing shall prevent a public officer from engaging in farming.
3. The President, Vice President, Governor, Deputy Governor, Ministers, Commissioners of the Government of States, members of the National Assembly and of the Houses of Assembly of the state and such other public officers or persons, as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria.
4. A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as Chairman, Director or employee of a company owned or controlled by the government or any public authority. A retired public servant shall not receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.
5. Retired public officers who have attained the position of President, Vice President, Chief Justice of Nigeria, Governor and Deputy Governor are prohibited from service or employment in foreign companies or foreign enterprises after vacating their office.
6. A public officer shall not ask for or accept property, benefits of any kind for himself or any other person on account of anything done or omitted to be done

by him in the discharge of his duties. In the process of discharging duties, public officers shall not accept gifts of any kind from commercial firms, business enterprises or persons who have contracts with the government. A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on occasions recognized by customs. Any gift or donation offered to a public officer on any public or ceremonial occasion shall be treated as a gift to the appropriate institution represented by the public officer.

7. The President, Vice President, Governor, Deputy Governor, Ministers, Commissioner of the Government of a State or any other public officer who holds the office of a Permanent Secretary/Director General or Head of any public corporation, university or other parastatal organization shall not accept a loan except from government or its agencies, a bank, building society or other financial institutions recognized by law.
8. Public Officer shall not accept any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or discharge in favour of the public officer's duties.
9. A Public Officer shall not do or direct to be done in abuse of his office, any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to any government policy.
10. A Public Officer shall not belong to any secret society or occult which is incompatible with the functions and dignity of his office.
11. Every public officer shall within 3 months after coming into office declare his/her assets immediately after taking office. Declare at the end of every four years and at the end of his term of office submit to the Code of Conduct Bureau a written declaration of all properties, assets and liabilities and those of his spouse, or unmarried children under the age of 18 years. Any statement

found to be false on the assets form shall be deemed to be breach of this Code. Any assets acquired by a public officer after declaration that is not fairly attributed to income, gift or loan approved by this code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

12. Any allegation that a public officer has committed a breach of or has not complied with the provisions of this Code shall be made to the Code of Conduct Bureau.

13. A Public Officer who does any act prohibited by the Code through a nominee, trustee, or other agent shall be deemed ipso facto to have committed a breach of this Code.

14. Public Officers as the likes of members of legislative houses shall be exempted from the provisions of paragraph which says public officers shall not after retirement from public service and while receiving pension from public funds, accept more than one remunerative Chairman, Director or employee of a company owned or controlled by the government or any public authority. A retired public servant shall not receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

The National Assembly may by law exempt any cadre of public officers from the provisions of paragraph 4 and 11 of the Code if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of this provision.

#### **4.0 Conclusion**

Over the years, Nigeria has remain sluggish in almost every facet of national development this could be largely attributed to greed and the unstoppable quest for materialism in the minds of most public officers who feel the public office is a ready

conduit where indiscipline and corruption flows. As it were, it has almost become an acceptable norm that public office is a “National Cake” which occupants are privilege to have and share.

Society therefore place high expectations on public officer as they push their sons and daughters to get in and get rich in public office; not minding the means to meet such expectations.

The issue becomes more worrisome when public officers who could loot the public office are often honoured, celebrated and accorded all forms of recognition, while those who play by the rules of the public office are regarded as not smart and failures in the society. Little wonder they crave for public office.

The Bureau’s vision to undertake this breath taking constitutional task is, “Honesty, transparency and accountability” with a mission to “eradicate corrupt practices and ensure compliance with the code of conduct for public officers,” through the instrumentality of assets declaration.

Regrettably, most public officers have regarded the watch dog posture of the Bureau as a Bull Dog without tooth to bite. Such public officers do not take interest in the code of conduct for public officers forgetting the fact that the Bureau has enormous constitutional powers and always watching with calculated attempts to bite any public officer who is established to have breached the Code of Conduct for public officers.

Nigeria is blessed with vibrant public officers and as the hub of development; they are expected to familiarize themselves with the rules and regulations regarding their behavior while in office.

The Code of Conduct Bureau is poised as a veritable and indispensable tool in the nation’s quest for rebirth and development. The time for the public officers to embrace this all important agency is now.

Thank you for listening.