



DRAFT RECOMMENDATION OF THE COUNCIL ON PUBLIC INTEGRITY

ONLINE PUBLIC CONSULTATION

DEADLINE FOR COMMENT – 22 MARCH 2016

The draft Recommendation of the Council on Public Integrity has been elaborated by the OECD's Public Governance Committee, through its Working Party of Senior Public Integrity Officials (SPIO) and is being circulated publicly for consultation. It may still be subject to modifications, in particular to reflect, as appropriate, the relevant comments received through the public consultation. We welcome your comments, suggestions and constructive input to increase the relevance and impact of the final output of this work

Your comments will be made available to the public unless otherwise requested. Comments should be sent by **22 March 2016** to govintegrity@oecd.org.

INTRODUCTION

No country is immune from the adverse impact of corruption and wrongdoing on prosperity and wellbeing. Integrity is the backbone of political, economic and social structures and the recognition that breaches of public integrity continue to plague us has resulted in an increased interest in Member and non-Members countries in upgrading their integrity frameworks.

As a result, the OECD Council invited the Public Governance Committee to update the first international instrument in the area of managing ethics and enhancing integrity: the 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service (1998 Recommendation). The revisions to the 1998 Recommendation are extensive, as it incorporates new insights. For this reason, it is proposed to abrogate the 1998 Recommendation and replace it with the draft Recommendation of the Council on Public Integrity. The 1998 Recommendation is not legally binding but there is an expectation that Members and non-Members having adhered to the Recommendation will do their utmost to implement

it. The OECD stimulates learning through benchmarking and voluntary peer reviews to monitor progress in implementing the Recommendations in specific country contexts. Once adopted, the Recommendation would also be open for adherence by OECD non-Members.

The draft Recommendation specifically promotes a comprehensive and coherent progressive integrity framework that is applicable to all stages of the policy cycle. It is founded on the notion that an integrity system can only be effective if countries balance a value-based and compliance-based approach, and if the system is relevant given the actual risks of misconduct and corruption. Moreover, a culture of integrity needs to be supported by clear standards and laws; yet over-elaborate formal regulations and procedures may be counter-effective as they may raise unnecessary administrative costs, reduce privacy, institutionalise distrust, and may reduce ethical reasoning to a culture of just following rules and procedures. This notion is also reflected within the draft Recommendation: it is a principle-based text. Practical guidance on how these principles may be implemented within a given context could be added at a later stage by providing a toolbox of good practices.

In addition, the scope of the Draft Recommendation explicitly includes a whole-of-government approach addressing public sector employees, as well as appointed or elected public officials. As such, it takes into account the insight that public trust in governments is based on the integrity of public decision making and service delivery in the whole public sector, including state owned enterprises or Public-Private-Partnerships. The draft Recommendation is further based upon the notion of integrity as a shared responsibility of individual public bodies for their own organisation, and of central bodies (which may exist at the national level, but may also be available at the subnational level) for the elements of the integrity system which include laws, regulations, policies, organisations and officials specifically contributing to public integrity. Given the variety of multilevel governance arrangements in countries, integrity systems can be tailored to meet the needs of different government structures. Also, given the variety of specific sectors, public officials or high-risk officials and tasks, the principle of a coherent and comprehensive integrity system does not imply uniformity across the public sector as it allows for co-existing integrity sub-systems (at the central and subnational level) where relevant and effective.

The draft Recommendation also takes into account that integrity risks arise out of the various interactions between the public sector, the private sector, civil society and citizens at all stages of the political and policy process. This interconnectedness therefore is best addressed through a whole-of-society approach to enhancing integrity and reducing corruption. This is ultimately dependent upon efforts of public officials to refrain from misconduct, but a risk-based approach to integrity would also take into account the role of business and citizens in unethical interactions with public officials. Moreover, efforts to reduce corruption by public officials can only be effective within a broader culture of integrity where fraud and abuse of public resources by business and citizens alike is seen as unacceptable. Establishing a culture of integrity within society would require a concerted action by public and private sectors and civil society alike.

Finally, in order to address the challenge of the actual implementation of measures promoting integrity, general management principles have been incorporated to ensure effective coordination of the system. Most importantly, the draft Recommendation aims to avoid a check-box approach based on one-size-fits-all-solutions, with the understanding that an effective integrity system must be founded on strategic goals and priorities that are informed by a risk-based approach.

STRUCTURE OF THE DRAFT RECOMMENDATION

Central to the draft Recommendation is the shared aspiration and commitment by Member States and adherents to create a comprehensive integrity system, which builds a culture of integrity and provides accountability, and which contributes to effective governance, trust within society and inclusive growth. The public integrity system is thus organised around three pillars:

1. **Ensuring a coordinated and comprehensive integrity system** by taking political and administrative responsibilities for a strategic integrity system for all public officials, based on ethical standards.
2. **Creating cultures of integrity** through a whole-of-society approach to support ethical awareness and responsibilities for all public officials (elected officials, managers and public servants).
3. **Establishing effective accountability** through internal control and regulatory oversight to ensure compliance of the public sector, private sector and citizens with standards of public integrity, and through transparency and active participation by civil society in the public decision-making process.

DRAFT RECOMMENDATION OF THE COUNCIL ON PUBLIC INTEGRITY

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council for Improving the Quality of Government Regulation [C(95)21/FINAL], the Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Sector [C(2003)107], the Recommendation of the Council on Principles for Private Sector Participation in Infrastructure [C(2007)23/FINAL], the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions [C(2009)159/REV1/FINAL], the Recommendation of the Council on Principles for Transparency and Integrity in Lobbying [C(2010)16], the Guidelines for Multinational Enterprises [C(76)99/FINAL as amended by C/MIN(2011)11/FINAL], the Recommendation of the Council on Regulatory Policy and Governance [C(2012)37], the Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships [C(2012)86], the Recommendation of the Council on Effective Public Investment Across Levels of Government [C(2014)32], the Recommendation of the Council on Public Procurement [C(2015)2], the Recommendation of the Council on the Policy Framework for Investment [C(2015)56/REV1] and the Recommendation of the Council on Guidelines on Corporate Governance of State-Owned Enterprises [C(2015)85];

HAVING REGARD to the important work done on anti-corruption and good governance by the United Nations, embodied in particular in the United Nations Convention against Corruption and the United Nations Sustainable Development Goals, and by several regional organisations;

RECOGNISING that public integrity is the backbone of political, economic and social structures and thus essential to economic and social well-being and prosperity for individuals and societies as a whole;

RECOGNISING that public integrity is vital to public governance, safeguarding the public interest and reinforcing such fundamental values as commitment to a pluralistic democracy based upon the rule of law and respect of human rights;

CONSIDERING that corruption and other integrity breaches, of which no country is immune, have become increasingly complex since the adoption of the 1998 Recommendation of the Council on Improving Ethical Conduct in the Public Service including Principles for Managing Ethics in the Public Service [C(98)70], which this Recommendation replaces;

RECOGNISING that integrity risks exist in the various interactions between the public sector, the private sector, civil society and citizens at all stages of the political and policy process, therefore this interconnectedness requires an integrative approach to enhancing integrity and reducing corruption;

RECOGNISING that integrity is a cornerstone of the overall system of good governance, and that updated guidance on integrity should accordingly promote coherence with other key elements of public governance;

RECOGNISING that national practices on promoting integrity vary widely across countries in light of the specific nature of integrity risks and their distinct legal, institutional and cultural contexts, and while countries will determine and manage their national integrity system in light of these country-specific circumstances, they can benefit from the present Recommendation;

CONSIDERING that enhancing public integrity is a shared mission for all levels of government, though different mandates and levels of autonomy apply in line with national legal and institutional frameworks; therefore, this Recommendation is relevant to all levels of government for fostering public trust;

On the proposal of the Public Governance Committee:

I. AGREES that, for the purpose of the present Recommendation, the following definitions are used:

- **Conflict of interest** involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities.
- **Corruption** refers to the abuse of a position or office for private interests;
- **Integrity** refers to the consistent alignment of and adherence to stated values, principles and norms;
- **Integrity system** includes the laws, regulations, policies, organisations and officials specifically contributing to public integrity and could be tailored to specific type of sectors and public officials thereby creating co-existing **integrity sub-systems**;
- **Misconduct** refers to behaviour breaching standards and rules that can be formally sanctioned, either through disciplinary, administrative, criminal or civil law;
- **Public official** refers to any person who performs a public function or provides a public service, i.e. someone who holds a legislative, executive, administrative, or judicial position of any kind, whether appointed or elected;
- **Public sector** includes the legislative, executive, administrative, or judicial bodies at the central and subnational level, including public corporations, state owned enterprises and Public-Private Partnerships. It could also include entities that deliver in-kind services (e.g. health, education, and public transport) although these can be contracted out or privately funded in some countries. It could also include non-governmental organisations performing governmental functions, generally in receipt of funding or other support from government.

II. RECOMMENDS that Members and non-Members having adhered to this Recommendation (hereafter the “Adherents”) ensure a coherent and comprehensive integrity system.

To this end, Adherents should:

1. Demonstrate commitment at the highest political and management level to enhance integrity and reduce corruption, in particular through:

- a) Establishing a coherent and comprehensive integrity system that takes into consideration a multilevel governance and whole-of-society perspective to integrity, that defines, supports, controls and enforces integrity and that is integrated into the wider management and governance framework.
- b) Ensuring that all public organisations have effective legislative and institutional frameworks, adequate resources and support to take responsibility for adequately applying the integrity system.
- c) Demonstrating exemplary personal behaviour, maintaining a high standard of propriety in the discharge of official duties.

2. Promote institutional responsibilities across the public sector to strengthen the effectiveness of the integrity system, in particular through:

- a) Establishing clear and effective responsibilities for leading and implementing all elements of the integrity system.
- b) Ensuring that government units or bodies (including autonomous or independent ones) responsible for the development, implementation, enforcement, and/or monitoring of elements of the integrity system have adequate mandate, capacity, expertise and resources to effectively fulfil their responsibilities.
- c) Fostering effective mechanisms for horizontal and vertical collaboration between government bodies, and where possible with and between subnational levels of government through formal or informal means to share lessons from good practices, to avoid overlap and gaps.

3. Develop a strategic approach, outlining objectives and priorities that address risks and success factors, in particular through:

- a) Setting strategic objectives and priorities for the integrity system based upon a clear risk-based approach to irregularities, misconduct and wrongful acts, and that takes into account relevant critical success factors.
- b) Providing transparent and up-to-date measurement processes, including credible and relevant data, benchmarks and indicators that measure the level of implementation, performance and overall effectiveness of the integrity system.

4. Set standards that promote ethical conduct for public officials, in particular through:

- a) Setting integrity standards that not only focus on minimum standards, but that also encourage high standards of conduct, good governance, adherence to public service values and an open culture that facilitates learning.

- b) Setting integrity standards in the legal system and organisational policies to provide a clear basis for -- disciplinary, administrative, and/or criminal -- investigation and sanctions.
- c) Setting clear and proportionate standards and procedures for high-risk positions and appointed or elected positions to prevent corruption and misconduct, including for the management of (latent) conflict of interests.
- d) Communicate public sector values and standards internally in public organisations, and to the private sector, civil society and the public with the expectation that these partners also respect those values and standards.

III. RECOMMENDS that Adherents build a culture of integrity.

To this end, Adherents should:

5. Promote a whole-of-society culture of integrity, partnering with citizens and the private sector, in particular through:

- a) Including in the integrity system the role and responsibilities of citizens and the private sector for respecting public integrity values, in particular by providing incentives to uphold those values as a shared responsibility.
- b) Raising awareness in society of the benefits of integrity and ethical behaviour to reduce tolerance of corruption and misconduct, and carry out, where appropriate, campaigns to promote civic education, public values and ethics, among citizens.
- c) Engaging all relevant stakeholders in the development and regular update and implementation of the integrity system to ensure relevance and effective performance.
- d) Engaging with the private sector to uphold integrity in business operations and in the impact of business actions.

6. Support open organisational cultures responsive to integrity concerns, in particular through:

- a) Encouraging an open organisational culture where ethical dilemmas, integrity concerns, and errors can be discussed freely and where leadership is responsive to providing timely advice and resolving these issues.
- b) Providing alternative channels for reporting irregularities and misconduct, including the possibility of reporting to a body with the mandate and capacity to conduct an independent investigation.
- c) Providing clear rules and procedures for reporting irregularities, concerns about misconduct and wrongful acts that cover a wide scope of wrongdoings, and ensure in legislation and practice effective protection against all types of reprisals as a result of reporting, for all who carry out activities relevant to an organisation's mission.

7. Invest in integrity leadership to demonstrate an organisation's commitment to integrity, in particular through:

- a) Including integrity leadership in the profile for managers at all levels of the organisation, and as a requirement for selection, appointment or promotion in a management position. In

addition, assessing the performance of managers with respect to the integrity system at all levels of the organisation.

- b) Supporting managers in their role as ethical leaders by establishing clear mandates, providing organisational support (internal control, human resources instruments, legal advice etc.), training and guidance to increase awareness and skills for exercising appropriate judgement for integrity, in particular in case of conflict of interest, whistleblowing, or disciplinary issues.

8. Create a merit based professional public sector dedicated to public service values and good governance, in particular through:

- a) Effective, transparent and consistent human resource management policies that promote a public ethos, a merit based professional public sector, prevent favouritism and nepotism and address risks for abuse of position and misconduct.
- b) Ensuring that central units or bodies (including autonomous or independent ones) responsible for the development, implementation, enforcement, and/or monitoring of elements of the merit based system within their jurisdiction have the mandate, expertise and resources to effectively fulfil their responsibilities.
- c) Foster management frameworks that promote managerial responsibilities to identify and mitigate integrity risks.

9. Provide sufficient guidance and timely advice for public officials to support a culture of integrity, in particular through:

- a) Providing public officials throughout their career with clear and up-to-date information about the organisation's policies, rules and administrative procedures relevant to maintaining high standards of integrity.
- b) Offering induction and on-the-job integrity training to public officials throughout their career in order to raise awareness and develop essential skills for analysis of ethical dilemmas; and to make codes of conduct and other integrity standards practically applicable and meaningful in their own contexts.
- c) Providing informal guidance and consultation mechanisms to help public officials apply integrity standards in their daily work, and to respond properly to conflict of interest situations. In addition impartial advice and guidance (provided internal and/or external to the organisation) should be made easy accessible to public officials.

IV. RECOMMENDS that Adherents ensure accountability, and effective control and enforcement of public integrity.

To this end, Adherents should:

10. Apply an internal control and risk management framework to effectively safeguard integrity in public organisations, in particular through:

- a) Ensuring an effective control environment with clear objectives that demonstrate managers' commitment to integrity and public service values, and that provides a reasonable level of assurance of an entity's efficiency, performance and compliance with laws, regulations, and

standards. In particular, the internal control system should help to improve the performance – coherence, effectiveness and efficiency – of the integrity system.

- b) Ensuring a strategic approach to risk management that includes assessing integrity risks and addressing control weaknesses on a risk basis. This includes building in warning signals – such as red-flags – within critical processes, and an effective monitoring and quality assurance mechanism of the risk management system, including fraud and corruption risks.
- c) Ensuring control mechanisms are coherent with effective and clear procedures for responding to credible suspicions of violations of laws and regulations, and facilitate reporting to the competent authorities without fear of reprisals.

11. Ensure that enforcement mechanisms respond effectively to all cases of irregularities, misconduct or corruption, in particular through:

- a) Applying fairness and objectivity in the disciplinary or administrative process and through defining responsibilities and ensuring institutional capacity, at the organisational and central level where relevant to respond effectively and timely to reported cases.
- b) Fostering effective mechanisms for collaboration and exchange of information between relevant internal bodies and external public authorities where concurrent disciplinary and criminal cases would increase the timeliness and proportionality of enforcement mechanisms.
- c) Providing transparency within the organisation and to the public, about the outcomes of cases and the effectiveness of the enforcement mechanisms, in particular through developing relevant statistical data on cases, while respecting confidentiality and other relevant legal provisions.

12. Ensure effective external oversight and control that promote public accountability and integrity, in particular through:

- a) Ensuring that autonomous or independent regulatory and investigative entities defend the public interest through the impartial enforcement of laws and regulations applying to both public and private organisations, as well as citizens.
- b) Ensuring that external oversight entities are autonomous or independent, with adequate authority, mandate, capacity, expertise and resources to fulfil their responsibilities, including the right to impose sanctions, as established in law.
- c) Facilitating organisational learning and building public trust by providing adequate response (including redress where relevant) to the sanctions, rulings and formal advice by oversight bodies and regulatory entities.

13. Safeguard integrity and the public interest in the broader decision-making process, in particular through:

- a) Promoting transparency and an open government, including actively providing access to information and open data, and active responses to request for information.
- b) Ensuring inclusion by granting all stakeholders - civil society organisations, businesses, the media and the general public - equitable voice in the development and implementation of public policies. Including promoting integrity and avoidance of policy capture through

management of conflict-of-interests, and transparency of lobbying activities and of financing of political parties and election campaigns.

- c) Enabling a civil society that includes 'watchdog' organisations, citizens groups and independent media, in order to ensure effective accountability.

V. INVITES the Secretary-General to disseminate this Recommendation.

VI. INVITES Adherents to disseminate this Recommendation within the public sector.

VII. INVITES non-Adherents to take account of and adhere to this Recommendation.

VIII. INSTRUCTS the Public Governance Committee to monitor the implementation of this Recommendation and to report thereon to the Council no later than five years following its adoption and regularly thereafter.