



**Institute of Certified Public Secretaries of Kenya  
(ICPSK)**

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## **GOVERNANCE GUIDELINE 001**

### **GG 001: GUIDELINES ON PROFESSIONAL ETHICS AND CONDUCT FOR CERTIFIED SECRETARIES**

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## **1.0 PURPOSE**

The purpose of this Guideline is to promote professionalism, uniformity and consistency in the Secretary's advisory role on matters of good governance practices to the Board and Organisation. This Guideline is to be read alongside Codes of Governance, Standards and other Guidelines issued by the Institute.

## **2.0 SCOPE**

Applies to all Secretaries.

## **3.0 LEGAL FRAMEWORK AND GOVERNANCE STANDARDS**

This Guideline takes into consideration all the applicable laws and regulations, and where no laws and regulations exist, the practices considered "best practice" both in Kenya and in other jurisdictions which include but are not limited to:

- 3.1 Certified Public Secretaries of Kenya Act (Cap 534).
- 3.2 The Government Owned Enterprise Bill, 2015.
- 3.3 Mwongozo: The Code of Governance for State Corporations in Kenya, PSC 2014
- 3.4 Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015
- 3.5 Code of Governance for Private Organizations in Kenya, ICPSK 2014.

## **4.0 DEFINITIONS**

- 4.1 "Articles" means the Articles of Association of the Company.
- 4.2 "Board" means the body or person, by whatever name called, carrying out or empowered to perform functions relating to the overall direction and management of an Organisation;
- 4.3 "Board Member" means a Director, Trustee or Member of the Board of an Organisation;
- 4.4 "Client" means the recipient of professional services from a Certified Secretary for a fee;
- 4.5 "Constitutive Document" collectively means the Articles ,By-laws, Charter or similar document of an Organisation
- 4.6 "Council" means the Council of the Institute of Certified Public Secretaries of Kenya (ICPSK) ;
- 4.7 "Institute" means the Institute of Certified Public Secretaries of Kenya (ICPSK) ;
- 4.8 "Mass Media" means a diversified collection of media technologies that reach a large audience via mass communication which includes broadcast media, digital media, outdoor media, and print media.
- 4.9 "Member" means a member of the Institute , having the right to attend and vote at a General Meeting;
- 4.10 "Organisation" means a Company ,Society , Cooperative Society , University , Trusts, Non-Governmental Organizations , Government

Owned Entities , Commissions , County Public Service Boards or other similar institution

4.11 “Secretary” means Certified Secretary as defined in the Certified Public Secretaries Act.

4.12 “Practising Secretary” means a person that practises as a certified public secretary in consideration of remuneration or other benefits received or to be received and whether by himself or in partnership with any other person meaning that he :

4.12.1 Engages in the public practice of secretaryship or performs the statutory duties of a certified public secretary or holds himself out to the public as a person entitled to do so.

4.12.2 Offers to perform or performs services involving the submission of official and statutory returns of companies and trading organizations;

4.12.3 Offers to perform or performs services involving the certification of statutory returns or records related to statements; or

4.12.4 Engages in any practice, or performs or offers to perform any services, which may be prescribed.

PROVIDED THAT a salaried employee of a government, or of any other person does not practise as a certified public secretary by reason only of doing, in his capacity as such employee, any of the acts referred above.

4.13 “Solicitation” means a request or petition intended to obtain something illegally, criminally or un-procedurally in an attempt to increase the number of one's actual or potential Clientele.

4.14 Words importing the masculine gender shall also include the feminine gender.

## **5.0 FUNDAMENTAL PRINCIPLES**

### **5.1 Integrity**

A Member shall be honest, truthful and conscientious in his approach to and in the performance of work. Relationships or interest whether direct or indirect which could adversely influence, impair or threaten his capacity to act with integrity and objectivity shall be avoided.

## **5.2 Professional Independence**

When in practice, a Member shall be impartial, remain free, from any influence, interest, or relationship, which could impair his professional judgment or independence.

## **5.3 Professional Knowledge and Skills**

**5.3.1** A Member has a duty to maintain professional knowledge and skills to perform his work in accordance with all relevant laws, regulating the professional standards applicable to that work.

**5.3.2** A Member shall only undertake work which he is able to perform with professional competence. A Client is entitled to assume that a Member is professionally competent to perform any engagement which he has undertaken.

**5.3.3** A Member shall maintain his professional knowledge and skill sufficient to ensure that his Client or employer receives the advantage of competent professional service based on up-to-date development in practice, legislation and techniques.

## **5.4 Confidentiality**

**5.4.1** A Member shall maintain confidentiality of information acquired in the course of professional work and any such information shall not be disclosed unless consent has been obtained from the Client, employer or where there is legal or professional duty on him/her to do so.

**5.4.2** A Member shall not use the confidential information acquired in the course of his work for his personal advantage or for the advantage of a third party.

**5.4.3** The duty of confidentiality shall be maintained even after the end of the relationship between the professional and the Client or employer. A Member may however disclose information without the consent of the Client where required by law.

## **5.5 Good Standing**

Every Member of the Institute shall;

**5.5.1** Actively participate in the programmes and functions of the Institute and attain the minimum Continuing Professional Development (CPD) credits as prescribed from time to time by the Council.

**5.5.2** Pay the requisite membership subscriptions as prescribed from time to time by the Council.

**5.5.3** Not be involved in professional misconduct.

## **6.0 PROFESSIONAL MISCONDUCT**

Professional misconduct by a Member of the Institute is as defined in the Certified Public Secretaries of Kenya Act, Cap 534 or any re-enactment thereof. A Member of the Institute is guilty of professional misconduct if he:-

- 6.1 Allows any person to practice in his name as a Certified Secretary unless such person is the holder of a practising certificate and is in partnership with him or employed by him.
- 6.2 Enters, for the purpose of or in course of practising as a Certified Secretary, into partnership with a person who does not hold a practicing certificate or secures any professional business through the services of such a person or by means not open to a Certified Secretary;
- 6.3 Pays or allows or agrees to pay or allows directly or indirectly, to any person (other than a person who holds a practising certificate, is a retired partner or the legal representative of such a partner) any share, commission or brokerage out of the fees for, or profits of, his professional services;
- 6.4 Discloses information acquired in the course of professional engagement to any person other than a Client, without the consent of the Client, or otherwise than required by law;
- 6.5 Certifies or submits in his name or in the name of his firm a report of statutory returns and yet the completion of such statutory returns and the related records have not been made by him/her or a partner or an employee in his firm;
- 6.6 Fails to disclose in a statutory return or otherwise a material fact known to him/ her, and yet the disclosure of that fact is necessary to ensure that the statutory returns are not misleading;
- 6.7 Fails to report a material mis-statement known to him/ her to appear in a statutory return with which he is concerned in a professional capacity;
- 6.8 Guilty of gross negligence in the conduct of his professional ethics;
- 6.9 Expresses an opinion on any matter with which he is concerned in a professional capacity without obtaining sufficient information on which to base the opinion;
- 6.10 Fails to keep the funds of a Client in a separate banking account
- 6.11 Uses such funds for purposes for which they are not intended;
- 6.12 Includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false; or
- 6.13 Does or fails to do any other act which may be prescribed.

## **7.0 PUBLICITY AND ADVERTISEMENT**

7.1 Publicity given to Members or professional firms activities, both professional and otherwise, is acceptable. Publicity is desirable in making the public aware of the range of services available from a Certified Secretary and competing effectively with individuals and organizations offering similar services subject to the following:

- 7.1.1 Publicity materials shall not contain testimonials or endorsements,

- 7.1.2 Publicity materials shall be in good taste both in content and presentation.
- 7.1.3 Publicity materials shall neither compare with nor belittle services offered by others claiming superiority for the services rendered.
- 7.1.4 Publicity materials may include professional journals, firm websites, business cards, firm profiles and directories to Clients or non-Clients.
- 7.1.5 Only Members holding practising certificates may issue such Publicity materials.
- 7.1.6 Mass media advertisements shall not be allowed except in cases of sponsorship for professional activities, staff recruitment, major organisational changes, office relocation, change of office address, or where the law requires.
- 7.1.7 Training courses, seminars, and workshops conducted for clients, staff, and other professionals is allowed.

7.2 Solicitation is **NOT** permitted.

## **8.0 PROFESSIONAL RELATIONSHIPS**

A Member shall promote co-operation and good inter-personal relations with other Members within the profession. He shall not censure the professional work or attainments of another Member unless he has a duty to comment adversely on the matter.

## **9.0 LETTER HEADS**

Professional firm letterheads or stationery may contain: firm name, firm address, logo, contact details and names of partners. Firm letterheads and stationery may also contain names and details of other professionals provided that it is clear they are not partners or holders of practising certificate in accordance with Certified Public Secretaries of Kenya Act, Cap 534 Laws of Kenya.

## **10.0 ACCEPTING ASSIGNMENTS**

- 10.1 A formal letter of appointment should be issued by the Client to the Practicing Secretary. The Secretary shall confirm acceptance of appointment in writing.
- 10.2 Upon appointment as a Secretary to replace the retiring Secretary, the incoming Secretary shall communicate the appointment to the retiring Secretary in writing and seek for professional clearance. This is good professional practice and enables the incoming Secretary to understand any outstanding issues or if there exists any grounds to decline the engagement.
- 10.3 If no response is received within reasonable time, the incoming Secretary shall endeavour to reach the retiring Secretary by other means. If this fails, the incoming Secretary may assume that there are no grounds to decline the engagement and may therefore accept the appointment.
- 10.4 A Member shall respect Clients' right to appoint a Secretary of his choice.

10.5 The incoming Secretary and the Client shall agree on the terms of engagement prior to the commencement of the assignment.

#### **11.0 FEES FOR PROFESSIONAL WORK**

11.1 Professional fee shall be a fair reflection of the value of time spent on the work performed for the Client.

11.2 Professional fees shall be a subject of negotiation between the Member and his Client.

11.3 The Council may from time to time set guidelines on the minimum professional fees.

#### **12.0 COMMISSIONS**

12.1 The payment or receipt of fees, commissions, brokerage fees, share or profits in respect of work referred between Members in practice is allowed.

12.2 A Member shall **NOT** obtain or accept fees, commissions, brokerage fees, share or profits from any other person who is not a Member in practice for Clients referrals.

12.3 A Member shall **NOT** pay a commission to obtain a Client subject to 12.1 and 12.2 above.

#### **13.0 SIGNING OF REPORTS**

A Member in practice shall not delegate to any person who is not his partner, the power to sign any report or certificates in his name.

#### **14.0 CLIENT MONEY**

A Certified Secretary shall:

14.1 Keep proper books of accounts of all monies received, held or paid by him for or on behalf of each of his Clients.

14.2 Clearly distinguish all monies received, held or paid by him on behalf of each of his Clients from the monies of other Clients, his own and the firm.

14.3 Not retain, without express authority of his Clients, monies received for and on behalf of such Clients beyond the agreed period.

14.4 Maintain Client bank account(s) separate from the business bank accounts but does not need to maintain a separate Client bank account for each Client unless a Client specifically requests that a Member do so.

#### **15.0 DESCRIPTION AND DESIGNATORY LETTERS**

A Member is entitled at all times to use appropriate designatory letters 'CS' and to describe himself as a Certified Secretary.



These guidelines are subject to the provisions of the applicable laws, where the guidelines are in any manner inconsistent with the applicable laws and regulations for the time being thereunder, the applicable laws and such regulations shall prevail

**16.0 APPROVAL DATE**

These Guidelines were approved by the Council of the Institute on Thursday January 21, 2016

**17.0 REVIEW OF GUIDELINES**

The Guidelines may be reviewed from time to time by the Council at its discretion and subject to the laws.

**18.0 EFFECTIVE DATE**

The Guidelines shall come into effect from March 1, 2016.