

What is Leadership Code?

It is a Code of Ethics that our leaders are expected to know and follow [Regulated ethics – now criminalized].

It was set up by the Constitution under Division III.2.

The OC has been given the authority by the Constitution and the Organic Law on the Duties and Responsibilities of Leadership to supervise and enforce the Leadership Code.

Who are our Leaders by Constitutional Definition (s26)?

- All Members of Parliament (including PM, Opposition Leader & Ministers)
- All members of Provincial Assemblies and LLGs (including members of JPP&BPC and JDP&BPC)
- All Constitutional Office Holders (s221)
- All heads (Secretaries) of Departments of the National Public Service
- All heads of Statutory Authorities and other government bodies and agencies
- Provincial Administrators
- Commissioner of Police
- Commander of PNG Defence Force
- CIS Commissioner
- All of PNG's Ambassadors and High Commissioners
- Public Curator
- Ministerial staff and staff of the Leader and Deputy Leader of the Opposition.
- Governor General's staff
- Executives of registered Political Parties
- ABG members of House of Representatives

CATEGORY 'A' AND CATEGORY 'B' LEADERS

Leaders specified under Section 26 of the Constitution are listed in two categories, Category A and Category B Leaders.

Category 'A'

- All National MPs
- National Departmental Heads
- Constitutional Office Holders
- Provincial Administrators
- CIS Commissioner
- Police Commissioner
- Defence Force Commander
- Chairmen and CEOs of Statutory Authorities & Other government bodies
- University Council Heads (Government runned)
- Ambassadors & High Commissioners
- Public Curator
- ABG House of Representative Members

Category 'B'

- All Members of Provincial Assemblies and LLGs
- Ministerial staff and staff of the Leader and Deputy Leader of the Opposition.
- Governor General's staff
- Executives of registered Political Parties
- Universities Council Members

- Board Members of Statutory Authorities

General Responsibilities of Office defined by the Constitution [s27]

- Leaders must never place themselves in a position where they could have a conflict of interest or where they could be compromised in any way.
- Leaders must never demean their office or position.
- Leaders must never allow their integrity to be called into question.
- The integrity of and respect for the government of PNG must be preserved at all times and no act of a leader should diminish or undermine this respect for government.
- Leaders must never use their office for personal gain. They must never engage in any dealings or activity that might be interpreted by the people of PNG benefiting themselves. They must never let themselves be open to suspicions.
- The standards of conduct for leaders also apply to their spouses, children and associates.

Specific Duties and Responsibilities defined by OLDRL

The Organic Law on the Duties and Responsibilities of Leadership (O.L.D.R.L.) establishes the specific duties and responsibilities of a leader.

- Statement of Income (S4)
- Use of Office for Personal Benefit (S5)
- Personal Interest (S6)
- Company Directorship (S7)
- Shareholding (S8)
- Engaging in Other Paid Employment (S9)
- Interest in Contracts (S10)
- Acceptance, Etc.. Of Bribes (S11)
- Acceptance. Etc ..of Loans (S12)
- Misappropriation of Funds in PNG (S13)
- Personal Advantage not to be gained from Official Information (S14)
- Disclosure of Interest before Debate or Voting (S15)
- Agents, etc (S16)

1. Annual Statements (s4)

- Leaders are required to submit their Annual Statements after every 12 months.
- It is a declaration of their state of affairs in the 12 months in terms of their personal particulars, spouse(s), children, assets, liabilities, income, accounts, business connections and positions, business transactions and gifts.
- Non-declaration/Non- Submission is already Misconduct in Office.

2. Use of Office for Personal Benefit (s5)

- A leader must not use his official position or power to give himself benefits. A leader also cannot use his official powers to give advantages and favours to his or her family, relatives, friends or associates. A leader who uses or allows his name to be used for his benefit or the benefit of any other person is Guilty of Misconduct in Office.

3. Personal Interest (s6)

- A leader who fails to disclose or report to the Ombudsman Commission and the appropriate authority, the nature and extent of his interest or the interest of an associate, in the matter with which he has to deal with in his official capacity, is Guilty of Misconduct in Office.
- It is an act of misconduct if the leader deals with the matter without disclosing it.

4. Company Directorships (s7)

- A Minister, his spouse or children under voting age who become or is nominated a director of a company or foreign company is Guilty of Misconduct in Office.
- A Minister fails to give priority to official business over private or personal business is guilty of Misconduct in Office.
- Prior to accepting the leader must seek approval from Ombudsman Commission.

5. **Shareholdings (s8)**
 - A leader, his spouse or any children under voting age who hold shares or investment in any company and by holding shares the leader could reasonably be expected to be placed in a conflict of interest situation or might be compromised in the discharging of his duties, is Guilty of Misconduct in Office.
 - Prior to obtaining shares or investment the leader must seek approval from the Ombudsman Commission.
6. **Engagement in Other Paid Employment (s9)**
 - A leader who remains in, or engages in other jobs or work that pays a wage or salary other than his official employment, without obtaining the written approval of the Ombudsman Commission is Guilty of Misconduct in Office.
7. **Interest in Contracts (s10)**
 - A leader his spouse or child under voting age or a company which he has controlling interest in cannot seek, accept or hold any beneficial interest in any contract of PNG. To do so is Misconduct in Office.
 - The above will not apply to the leader who has obtained the approval of the Ombudsman Commission.
8. **Acceptance of Bribes (s11)**
 - A leader or any of his associates, who receives or obtains, agrees to receive or obtain or attempts to receive or obtain any money, property, benefit, or favour of any kind for himself or any other person from any one in return for official favours, is Guilty of Misconduct in Office.
9. **Acceptance of Loans (s12)**
 - A leader, his spouse or child under voting age who accepts a loan of money from any person, or holds a franchise (to do business under the person's trade name), or accepts any gifts or other benefit or advantage, from a person or a foreign company is Guilty of Misconduct in Office.
 - The above will not apply to a bank loan, a loan from a Savings & Loan Society or a hire-purchase agreement entered into on the same or similar terms & conditions applicable to other borrowers or hirers.
10. **Misappropriation of Funds of PNG (s13)**
 - A leader who intentionally use or agrees to apply any public money to any purpose not intended for or who authorizes or agrees to such misappropriation of public funds is guilty of misconduct in office.
11. **Personal Advantage of Official Information (s14)**
 - A Leader who divulges any confidential information acquired in the course of his official duties or uses any information acquired in his official duties for his own benefit and for the benefit of his associates is guilty of misconduct in office.
 - This does not apply to information which has been officially released by a leader or body having the power to release it for public information.
12. **Disclosure of Interest before Debate or Voting (s15)**
 - A Member of a Legislative or Executive body must disclose to that body any direct or indirect beneficial interest in a matter pending before it prior to debating or voting upon the matter.
13. **Agents (s16)**
 - Leaders must not act in any manner either by consent or by authority for the benefit of his spouse, relative or associates.

Enforcement Powers

- The OC can require any person (leader, govt employee or private citizen) to appear before it to give testimony or to produce any document that is relevant to an investigation.
- The Commission can give directions to leaders to ensure compliance with its investigations. Failure to co-operate or comply with a direction constitutes Misconduct in Office.
- The Commission refers leaders to the Public Prosecutor after all its investigations and analysis of leaders response.

Leadership Tribunal

- Consists of one National Court Judge and two senior magistrates.
- They determine whether a leader is guilty of misconduct in office or not.
- Rules of evidence have been recently changed to proving beyond reasonable doubt after some legislative changes to the OLDRL.
- Leadership tribunal proceedings are not the same as judicial proceedings. But current changes in rules of evidence does not change the status of the OC as a quasi-judicial body.

Penalties

- Severe penalty under the Leadership Code is dismissal from office for 3 years.
- Section 31(1) of the Constitution states a person dismissed from office:
 - Cannot be elected to any elective public office,
 - Cannot be appointed as Head of State,
 - Cannot be appointed as a nominated member of parliament,
 - Cannot be elected as a Governor or a member of any Provincial Assembly,
 - Cannot be appointed to a provincial legislature or provincial executive,
 - Cannot be appointed to a Local Level Government body.

Prosecutions

- Since 1976 to 2013 a total of about 101 leaders have been referred to the Public Prosecutor and Leadership Tribunal.