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TECHNICAL PAPER: OPTIONS FOR THE COUNCIL OF ETHICS FOR PUBLIC SERVICE AS THE NATIONAL PREVENTION OF CORRUPTION COUNCIL

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1. THE CURRENT STATUS OF THE COUNCIL

The Council has acknowledged the need to review its roles and responsibilities. Members recognise the current restrictions, whether resources or the single sanction, on its activities. They also recognise the need for extensive education and training on ethics, as well as more cooperation and coordination with other agencies. While several members see the Council undertaking all 3 main roles – investigation, awareness and prevention – there is some divergence over which of those should be the primary role or roles of the Council (and thus where any new resources would be allocated).

In discussions, the main areas to expand and develop the work of the Council, as perceived by Council members, include:

- to develop an effective investigative capability, including addressing the issue of parallel investigations;
- to extend the range of sanctions;
- to develop training and awareness roles, particularly through media campaigns;
- to expand the remit of the Code to universities;
- to work with the Legislature, Judiciary and armed forces to develop their own Codes of Ethics;
- to encourage ministries to report on their work on developing an ethical environment;
- to develop a research capability and an approach to prevention.

On balance, the predominant view of the future role of the Council was to focus on a preventative role in relation to ministries and other public bodies over their work in implementing the Code and developing an ethical framework. This would include: receiving annual self-assessments and risk assessments from ministries, monitoring training programmes, liaising with Inspectorates, undertaking research, carrying out proactive reviews, and supervising the roles and responsibilities of Ethics Commissions. It would retain a monitoring role over the investigative work within ministries and publicise its and the ministries' work to the public but not mount any extensive awareness campaigns. Complaints would still come to the Council who would delegate most investigations but receive reports on the outcome.

2. NATIONAL CORRUPTION PREVENTION POLICY

2.1 Main Responsibilities

To provide for the main role of the prevention of corruption, the Council would need to take responsibility for the development of a uniform and consistent policy by ministries to the prevention of corruption and the promotion of public ethics (and especially the Code). For the Council, the key areas of responsibility will be:

- development of a national prevention of corruption policy and the promotion of public ethics,
- requiring public service institutions to produce action plans to address the prevention of corruption and the promotion of public ethics;
- working with bodies involved in inspection and ethics work;
- undertaking inspections of institutions;
- publishing league tables or 'corruption prone' reports on the public sector;
- undertaking research into legislation and administrative procedures and prevention of corruption approaches;
- taking evidence on and hearings for an annual review of progress on the strategy or action plans;
- taking evidence on and hearings for systematic review of progress on a national prevention of corruption policy, and publishing reports;
- reviewing complaints from the public;
- undertaking inquiries into complaints or delegating and monitoring inquiries by other institutions,
- reviewing the Code.

2.2 The Policy

The policy should set out clear goals, timelines and the sequences in which specific goals should be accomplished. These should be made public, ensuring overall transparency and helping to mobilize popular support and pressure to achieve the expected goals. There should be a process to allow for review and revision according to a predetermined and public schedule, to assist in planning future actions and evaluating past or ongoing actions.

Within the policy, specific action plans should be developed by individual ministries or institutions to ensure that the policy is implemented uniformly. These should reflect the implementation of the policy in detail and ensure that the policy is not simply a mere declaration of intent. In order to be credible they must be co-ordinated and must comprise definite, measurable objectives in terms of outcomes and impact on the prevention of corruption and wider promotion of an ethical environment. It must be ensured that the action plans are implemented and periodically evaluated and adapted. In particular, one of the pivotal means of fighting corruption is the existence of an effective and continuing means of monitoring, review, and revision. This will need to be organized and coordinated by the Council.

2.3 The Policy Process

The policy will go through a number of stages toward implementation.

The first stage is the development phase to set priorities, to make an estimate of how long the policy will last and to determine the resources required to implement it. The assessment should cover all the public service. The policy developed at this stage will be the baseline against which future progress will be assessed. This will be followed by the design stage, to set clear and reasonable objectives for the strategy and each of its components, and measurable performance indicators for those objectives.

The delivery stage of the policy will be the development of individual action plans which will help foster understanding of the anti-corruption policy, mobilize support for corruption prevention and the promotion of high standards of public service integrity and performance.

The follow-up phase will be used to help assess progress against the strategy, to provide periodic information about the implementation of strategic components and their effects on corruption, and to help decide how strategic components/priorities can be adapted in the face of strategic successes and failures.

3. THE WORK OF THE COUNCIL

The Council will have responsibility to create an equitable and consistent approach across various sectors; to work across ministry boundaries with equal authority; to ensure the coordinated implementation of policies and undertake inquiries, research and reviews; to revise and monitor the implementation of an effective, coordinated corruption prevention policy; to ensure ministries establish and promote effective action plans, procedures and training practices aimed at the prevention of corruption; to evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

3.1 The Status of the Council

To fulfill this mandate, and as noted in Working Paper 4, the Council may require the formal legislative authority to undertake its responsibilities, including those to: require public sector

institutions to produce specific action plans; undertake evaluations or inspections of institutions; receive, review and delegate complaints from the public relating to the Code; receive audit, investigative or other reports from those bodies responsible for investigations into the prevention of corruption or ethical conduct; undertake research into legislation and administrative procedures; take evidence on and hearings for progress on the implementation of the corruption prevention policy and action plans; work with NGOs and educational institutes to promote the preventive work and the integration of anti-corruption awareness into school or university curricula.

With a primary focus on prevention policy and practices, the Council should ensure that it appropriates measures to coordinate the work with other agencies, develop longer-term strategic perspectives and balance a consensual approach with a robust independence.

Thus, as noted in Working Paper 4, the Council will require agreed clarification on:

3.1.1 Independence and accountability

the appointment, tenure and dismissal of the Chair and members of the Council and other designated senior personnel; the composition of the Secretariat; suitable financial resources and remuneration for staff; an appropriate budget; suitable recruitment, appointment/election, evaluation and promotion procedures; periodic reporting obligations to another public body, such as the legislature; formal paths to allow cooperation and exchange of information with other agencies; arrangements to ensure the involvement of the civil society and media. Part of the independence should be the right of the Council to determine its work.

3.1.2 Resources

It is important that the Council will be funded appropriately. One method for doing this is direct submission of its annual business plan, with full budgetary details, to the appropriate budgetary committee of the Legislature for approval. Where possible, the funding for the body should be agreed on a multi year basis. How it spends its funds is the responsibility of the Council although each year it should submit accounts and be subject to the appropriate external audit arrangements for public bodies of an equivalent nature.

3.1.3 Specialised Staff and Training

Within its annual business plan and budget estimate, the Council should identify staffing requirements within its plan or budget, to determine the number and professional qualifications of its staff, identify necessary specializations, as well as training qualifications and requirements.

4. DISSEMINATING THE POLICY

The role of the Council would be to provide overall policy guidance on implementation through:

- establish and promote effective practices aimed at the prevention of corruption;
- means for the periodic evaluation of relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption;
- collaboration with other agencies and with relevant international and regional organizations in promoting and developing prevention of corruption measures;
- participation in international programmes and projects aimed at the prevention of corruption;
- the annual publication of the body or bodies intended objectives and associated workplan.

Within the guidance, practices should be developed by individual ministries to:

- Identify the major functional areas of the organisation;
- Identify the risks for each functional area and assess the extent of these risks in terms of corruption;
- Identify potential responses to risk areas (prevention or risk minimisation measures);
- Evaluate existing system controls;
- Develop a prevention of corruption action plan;
- Develop an ethics training programme;
- Define the roles and responsibilities of the Ethics Commission;
- Educating staff the objectives and content of the action plan;
- Assess how new business practices and/or new technology will change corruption risks;
- Train senior management to identify ethical dilemmas and other corruption risks, including raising their ethical awareness;
- Hold regular feedback and discussion sessions on the organizational ethical culture and review the risks and the strategies for addressing them;
- Report annually to the Council on the progress of the action plan.

5. DEVELOPING AN ETHICAL ENVIRONMENT

The work of the Council in promoting an ethical environment would cover a number of key areas. Drawing on the guidance of the UN Convention Against Corruption, these could include:

5.1 Public Officials

Confirming arrangements for the:

- recruitment, hiring, retention, promotion and retirement of public servants based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption;
- education and training programmes.
- codes or standards of conduct.

5.2 Procedures

Monitoring:

- systems that promote transparency and prevent conflicts of interest;
- measures and systems to facilitate the reporting by public officials;
- measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter *alia*, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest;
- disciplinary or other measures against public officials who violate the codes or standards.

5.3 Investigations

Undertaking:

Within the procedures to deal with allegations of breaches of the Code, and the proposed work of Ethics Commissions, investigations of serious or sensitive cases, directly or through a designated agency.

5.4 Public Access

Reporting on:

- measures as may be necessary to enhance transparency in its public administration, allowing members of the general public to obtain, where appropriate, information on the organization
- simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and publishing information, which may include periodic reports on the risks of corruption in its public administration;
- submitting an annual report on the work of ministries;
- Publishing information, which may include periodic reports on the risks of corruption in the public service.

5.5 Awareness

Supporting:

- the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of corruption;
- public awareness regarding the existence, causes and gravity of and the threat posed by corruption;
- undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula.