



Komesina o Sulufaiga

OFFICE OF THE OMBUDSMAN/ NHRI SAMOA

CODE OF CONDUCT

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PREFACE

We aim to be an effective organization. Our staff are expected to do their work with efficiency, fairness, impartiality and integrity. This will promote public confidence and trust in the Office.

This Code of Conduct has been developed based on principles, values and code of conduct contained in the *Public Service Act 2004* and the *Ombudsman (Komesina o Sulufaiga) Act 2013*, which sets out mandatory requirements and best practice conduct for all Ombudsman employees.

Additional topics, which reflect the specific needs of this Office, have been included in this code acknowledging our unique role and our responsibility to maintain public confidence and trust in the Office of the Ombudsman/ NHRI Samoa.

RESPONSIBILITY

The CODE applies to all staff of the Office of the Ombudsman/ NHRI Samoa whether by way of appointment, secondment, contract, or on a temporary arrangement.

In performing our official duties as public servants, we are expected to act ‘in the public interest’ and exercise a duty of care with due regard for the present and foreseeable interests of the people of Samoa. We must also carefully balance many considerations when we provide advice, make decisions and or administer policies.

As public servants, we must ensure our powers and influence are used lawfully to reflect the true values and principles of the Office of the Ombudsman.

In everything we do, we value the following:

- Integrity and Impartiality
- Fairness and Dignity
- Accessibility and Accountability
- Consistency and Diligence
- Samoan Culture and Rule of Law

In our everyday interactions with others, we are expected to:

- Act fairly and independently
- Perform our duties in a timely manner
- Deal confidentiality with information given to us
- Give clear explanations about our role
- Communicate regular progress on matters
- Give clear reasons for our decisions
- Provide reasonable access to our services

This guide applies at all times when we are performing official duties, including representing the Office at conferences, training events, on business trips and attending work-related social events.

I encourage you to be the best you can be in serving others to reflect the true values and principles of Office of the Ombudsman.

Maiava Iulai Toma
Ombudsman
01/05/2019

Terms and acronyms

The following terms and acronyms have been used throughout this code. References to singular will also include the plural

Term / acronym	Meaning
Employee	An Office r employed under s.54 of the <i>Ombudsman (Komesina o Sulufaiga) Act 2013</i>
Staff	Means assistant Ombudsman, Officers and other staff of the Office, and includes other persons engaged to carry out the functions, duties and powers under this <i>Act</i> .
Director / Manager	Acting members of the Ombudsman Management Group. Employees who have managerial responsibilities in their role descriptions
Office	Office of the Ombudsman/ NHRI Samoa
Ombudsman	Samoan Ombudsman
PSC Act	<i>Public Service Act 2004</i>
LERACT	<i>Labour and Employment Relations Act 2013</i>

POLICY STATEMENT

1. Our vision and values

The Ombudsman is accountable to the people of Samoa through Parliament and the operations of the Office are essentially independent of the government of the day. The Office has a prime obligation to the public interest which demands that the work of the Office and the conduct of its Officers and staff must maintain public confidence and trust.

Our vision in this Code is to improve the standard of accountability, integrity, fairness and service delivery to the citizens of Samoa.

Our purpose:

- Deal effectively and fairly with complaints and work with organizations to improve their complaint – handling systems
- Be a leading integrity agency
- Be an effective organization

The public has a right to quality service from the Ombudsman. The Ombudsman expects that you will act with fairness, integrity and impartiality, respecting all those with whom we deal, to seek practical solutions and improvements that will benefit the community, including demonstrating the following values:

- **Honesty, Integrity, Impartiality**

Act ethically with good judgment, honestly with high professional standards and law-abiding in everything we do.

Act without bias, providing impartial advice without fear or favor, neither an advocate for complainants nor responding agencies but as an advocate for the public interest independent of government.

- **Ethics, Fairness and Dignity**

Bringing clarity to problems and identifying practical solutions and improvements that benefit the community rather than apportioning blame.

Acting and treating all complainants, stakeholders and colleagues equitably with dignity and respect.

- **Accessibility, Accountability and Transparency**

Being accessible to all people and acting in a transparent and accountable manner for all actions.

- **Culture and Rule of Law**

Acting lawfully and with value and respect for the FaaSamoa.

2. Legislative Obligations

You are obliged to always act in accordance with the provisions of the legislation under which the Office undertakes its functions, in particular the *Ombudsman (Komesina o Sulufaiga) Act 2013*.

You are to become and remain fully conversant with those pieces of legislation under which you are delegated functions.

3. Compliance with Office Policies

The Ombudsman's policies provide guidance and set boundaries for what behavior and which decisions are consistent with the Office's vision, purpose and goals. You must act in accordance with the *Ombudsman (Komesina o Sulufaiga) Act 2013* and all Office policies, directions and delegations as set out in terms and conditions and procedure manuals. In particular, you must conduct operational matters and exercise any delegated power in accordance with the *Ombudsman (Komesina o Sulufaiga) Act 2013*.

4. Ethical standards for the government sector

The Office policies support our staff in meeting their responsibilities under all relevant legislation.

5. Government sector core values

You must perform your duties in accordance with Ombudsman core values and principles.

- a. Honesty – acting honestly, being truthful and abiding by the laws of Samoa;
- b. Impartiality – providing impartial advice, acting without fear or favor, and making decisions on their merits;
- c. Service – serving the people well, through faithful service to the Government;
- d. Respect – treating the people, the Government and colleagues with courtesy and respect;
- e. Transparency – taking actions and making decisions in an open way
- f. Accountability – being able to explain the reason for actions taken, and taking responsibility for those actions; and
- g. Efficiency and effectiveness – achieving good results for Samoa in an economical way.

6. Mandatory conduct

- a. All Staff

You have a responsibility to:

- Demonstrate high levels of personal conduct consistent with ethics required under the *PSC Act 2004*.
- Promote the implementation of the ethical standards to their colleagues
- Report possible breaches of ethical standards to relevant Office responsible.

b. Directors, Managers and Deputy Ombudsman

Directors, Managers and Deputy Ombudsman have additional responsibilities to:

- Lead and promote implementation of ethical standards in their units
- Ensure their divisional culture, practices and systems operate consistently with all ethical standards
- Ensure that any real or perceived conflicts of interests are avoided or effectively managed.

All directors and senior executives (including acting personnel) must declare in writing private interests that have the potential to influence decisions made or advice given by the Ombudsman and or Deputy Ombudsman)

c. Ombudsman

The Ombudsman has additional responsibilities to:

- Lead and promote implementation of ethical standards in the Office
- Ensure the general conduct and management of the functions of the Office are in accordance with the ethical standards and core values of the *Office*.

7. Acting in the public interest

Ethical behavior and standards are to be applied at all times in working relations with colleagues, complainants, other stakeholders and other government ministries.

You should treat all people equally without prejudice or favour and with honesty consistency and impartiality.

During the course of your work with the Office of the Ombudsman, you must always;

- Place the public interest over your personal interest
- Uphold the law, institutions of government and democratic principles
- Provide apolitical and non-partisan advice
- Provide transparency to enable public scrutiny
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

Acting in the public interest requires leadership, courage and innovation to develop practical recommendations and actions that are consistent with the core values and help achieve the objectives of the Office of the Ombudsman.

Acting in ways that are expedient or convenient, but which do not promote the integrity, trust, service and accountability of the public sector is not in the public interest.

Working relations are depicted in the diagram below:



8. Conflicts of Interests

A conflict of interest would exist when it is likely that an employee could be influenced, or could be reasonably perceived to be influenced, by a personal interest in carrying out their public duty.

To maintain the integrity of the Office, personal interests (financial or otherwise), declare associations and activities so it does not conflict with your duties. The Ombudsman is entitled to know if there is even a remote possibility of a conflict arising. Conflicts of interests may arise when:

- there is a direct conflict between your current duties and responsibilities and your private interests (an 'actual' conflict of interests)
- when a person could reasonably perceive that your private interests are likely to improperly influence the performance of your official duties, whether or not his is in fact the case (a 'reasonably perceived' conflict of interests), or

- when you have a private interest that could conflict with your official duties in the future (a 'potential' conflict of interests).

You must make full and frank disclosure to your Director or your divisional Manager of any conflict, either actual, 'reasonably perceived', or potential, which may be seen to impact on the impartial exercise of your duties.

All conflicts of interests are to be noted in the conflicts register maintained by the Deputy Ombudsman (Corporate). This register contains all disclosures by staff of matters that are or could potentially result in conflicts of interest arising out of the performance of their duties with this Office.

If necessary, you may need to disqualify yourself from having any involvement in particular matters where that conflict arises, subject to the agreement of your Director. If you are in any doubt whether to disclose a potential conflict of interest, you have an obligation to consult your divisional head or the Deputy Ombudsman. Such consultations will be treated confidentially and may avoid harm or embarrassment to the Office and you.

9. Professional conduct

You are expected to discharge your duties thoroughly and with care, and comply with all lawful instructions.

Staff must act with

- honesty and integrity
- accuracy and completeness
- consideration of all relevant facts
- particular merits of the case
- impartiality and procedural fairness
- equity and natural justice
- accountability
- consistency, all things being equal
- Office policy
- discretion and tact
- avoidance of conflicts of interests

You must maintain adequate documentation to support any decision made. You must not unduly delay taking action or making decision.

Any verbal communications on sensitive or important matters are to be recorded accurately and immediately and of necessary or appropriate be brought to the attention of your director.

10. Consultation

You have a duty to consult your Director when you have any doubt about the way in which you should exercise your delegated powers or fulfill your duties.

You have a duty to seek approval for any action that you do not have delegated authority to take. You must also seek approval if any specific direction of the Ombudsman, requires consultation or approval before the action can be taken.

11. Reporting

You have a duty to report any operational problem or difficulty you identify to your immediate supervisor, or where appropriate, to a director or your divisional manager. In particular you must report any unauthorized disclosure or release of confidential information.

You must report any observed or suspected security weakness in, or threats to, Office premises, equipment or systems to your director.

12. Acceptance of gifts or benefits

You must not accept any gift or benefit that could be reasonably perceived by a member of the public as intended or likely to cause you to do your job in a particular way, or deviate from usual procedures.

Any such offers should be declined as it imposes on you obligations that may conflict with your duties.

You must always decline gifts or benefits from individuals or organizations that are complainants to the Office or that you know to be the subject of an investigation by this Office.

You must never solicit any money, gift, benefit, travel or hospitality in association with your duties. Using or declaring your position as an Office r of the Ombudsman to gain, or attempt to gain a personal advantage in any non-work related interaction with any person or organization within our jurisdiction is unacceptable.

13. Discrimination and harassment

All employees' have a responsibility to ensure that the workplace is free from all forms of harassment and discrimination.

Management in particular must make sure that the workplace is free from all forms of harassment and discrimination. They should understand and apply the principles of equal employment opportunity and ensure that employees they supervise are informed of these principles.

14. Fairness and acting with authority

Issues or cases being considered by employees should be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, in a non-discriminatory manner and in conformity with natural justice.

When using any discretionary powers, staff should ensure that they take all relevant facts into consideration, have regard to the particular merits of each case, and not take irrelevant matters or circumstances into consideration.

15. Public comment on the work of the Office

You must not engage in public comment, whether through public speaking engagements, comments to newspapers, radio or television journalists, letters or articles to newspapers, social media, social networking sites or other publications that:

- comments on the work of the Office unless you have prior permission or delegated authority of the Ombudsman, or
- is the expression of private views but by implication is capable of being perceived as official comment from this Office .

You can disclose official information that is ordinarily given to members of the public seeking that information. If discussing your work outside the Office, you must confine yourself to material that has entered the public domain by way of annual report, reports to Parliament, media releases authorized by the Ombudsman or public addresses given by the Ombudsman.

You must refer all media enquiries to the Deputy Ombudsman or the Director Engagement and Communications Unit or unless you are a designated Officer to take media calls in relation to some specific issue.

The constraints on public comment and the obligations to observe and protect confidentiality continue to apply when you leave the employment of the Ombudsman.

16. Use of social media

As a general rule, staff should avoid using social media or social networking sites on the internet to comment on confidential work of the Office unless you have prior permission or delegated authority of the Ombudsman. Examples of social media may include (but are not

limited to) Facebook, Twitter, LinkedIn, blogs, video/photo sharing sites, online forums and discussion groups etc.

Staff should be mindful that laws relating to employment continue to apply outside the workplace and that any comment made on a social network platform that refers to the Office, a client or a fellow staff member or any work related activities may be in breach of Office policy.

17. Protecting confidential information

You must always comply with the obligations of secrecy, privacy and confidentiality in respect of the work of the Office prescribed by the legislation under which the Office undertakes its investigations, and monitoring and reporting functions.

You must not access or disclose any of the sensitive information that the Office receives or has access to (including confidential databases of other agencies) except with the consent of the person or agency that provided the information or for the purpose of discharging a statutory function in the proper performance of your duties.

You must not use any information that you obtain in the course of your duties to gain improper advantage for yourself or for any other person that would cause harm or discredit to the Office or any person, or would be inconsistent with your duties.

You must not, otherwise than in connection with the lawful exercise of your official functions, intentionally disclose or use any personal information about another person to which you have or had access in the exercise of your official function.

You must ensure that confidential information, in any form (including electronic), cannot be accessed by unauthorized people and that information obtained by you in the course of performing your official functions is only discussed with people, either within or outside the Office, who are authorized to have access to it.

18. Drugs and Alcohol

You are responsible for making sure your capacity to perform your duties is not impaired by the use of alcohol or drugs (including those prescribed by a doctor), and that the use of such substances does not put you or any other person's health and safety at risk.

As an Officer of the Office of the Ombudsman/NHRI Samoa, you must:

- not attend work under the influence of alcohol, illegal drugs or non-prescribed and or restricted substances
- not endanger your own safety or the safety of any other person in the workplace by consuming alcohol, illegal drugs or non-prescribed or restricted substances

- notify your immediate divisional head if you are aware that your work performance or conduct could be adversely affected as a result of the effect of a prescribed drug
- take action to resolve any alcohol or other drug related problems that you have;

As an Ombudsman employee, you must not have illegal drugs in your possession while at work.

There is a prohibition on the use of illicit drugs:

- in the workplace, whether that be at the Office or at a temporary location when required to travel,
- on the way to or from work
- at Office related functions.

19. Use of official facilities and resources (Government Vehicles)

You must use all Office resources and equipment economically and without waste. When using equipment you must exercise care and follow operating requirements. Never use public resources, including money, property such as Office vehicles and any equipment or consumable for your personal benefit or for a non-work related unauthorized purpose.

You must not use your work time or Office stationery, equipment or postage for private purposes unless authorized. There are some reasonable exceptions to this rule. For example, you may use the phone for private local calls if they are short, infrequent and do not interfere with work and use Office internet so long as this use is reasonable, appropriate and does not interfere with the work of the Office.

When using Office resources for an authorized private purpose, you must ensure that they are secure and properly cared for, used in your own time, do not interrupt the work of the Office or access by colleagues for official purposes.

You must not remove any Office equipment, data or software from the Office without clear authorization from the Ombudsman.

When you leave the employment of the Office, you must return all equipment and documents that belong to the Office.

20. Secondary employment

You must not engage in any outside employment or remuneration that would conflict or compromise your duties as an Office r of the Office of the Ombudsman/NHRI Samoa.

You must obtain approval from your divisional head for any outside employment that you intend to engage in.

You must disclose in accordance with the conflicts of interest component of this code, any voluntary work that you do for any agency whose work or activities are within the jurisdiction of the Ombudsman.

21. Political and community participation

Staff must make sure that any participation in party political activities does not conflict with their primary duty as an Officer of the Ombudsman to perform their duties in a politically neutral manner.

Within the context of the requirements of this code, employees are free to fully participate as volunteers in community organizations and charities and in professional associations.

22. Post separation employment

Staff should not use their position to obtain opportunities for future employments. They should not be influenced by plans for, or offer of, employment outside the Office.

Former staff members should not use or take advantage of confidential information obtained in the course of their official duties for any purposes.

All staff must be careful in their dealings with former staff members and make sure that they do not give them or appear to give them favorable treatment or access to confidential information.

23. Dress and appearance

Your dress and appearance need to be appropriate to your duties and the people you are dealing with. You should behave in a way that upholds the reputation of the Office and our professionalism means our appearance and dress should rather reflect pride in our Office and respect for those we work and deal with, particularly the public. What this means in practice for our staff:

- maintain a clean, neat and tidy appearance
- it is not appropriate to wear clothing that is dirty or unkempt
- dress to a standard appropriate to your duties (puletasi for female and iefaitaga and buttoned shirt for males staff – when involved in consultation with villages).

No dress code can cover all contingencies, so you are expected to apply good judgment in your choice of clothing to wear to work.

24. Security

You must take all necessary and appropriate steps to maintain the security of the Office, any keys and passwords that you have been issued. You are responsible for the security of any file in your care. This includes complaint files as well as administrative files.

To help ensure that proper security is maintained for the Office:

- you must only use the Office for work related purposes, or authorized purposes (for example study)
- you must only access the Office outside ordinary working hours if your division manager or director has authorized your being in the Office during that time
- you must ensure that all other people allowed into the Office who are not members of staff are accompanied and supervised at all times by a member of staff.
- you must not disclose your computer access password to any other person unless authorized for security purposes.

The use of IT equipment, regardless of ownership, outside the Office for the purpose of official business is subject to the following;

- personal computers should not be used at home for business activities if virus controls are not in place
- when travelling, equipment, software, computer files and the like should not be left unattended in public places and portable computers must be carried as hand luggage.
- when travelling, laptops should be provided with an appropriate form of access protection e.g. passwords

25. Sanctions

If it is alleged that you have acted in a way that is contrary to this code, you will have an opportunity to provide your version of events. How this will happen will be proportionate to the seriousness and nature of the matter.

If the allegations are minor or of a low level, your director will discuss this matter directly with you.

Sanctions may be applied if you are involved in:

- unacceptable behavior, either in the course of your duties or in your private life that would bring discredit on the Office
- unsatisfactory performance of your duties
- breaches of this code
- breaches of your terms of employment

- breaches of any provisions of the Acts referred to in this code or any other legislation under which our Office operates.

Any sanctions applied will depend on the seriousness and nature of the breaches and may include termination of employment, fines, classification or grade, assignment to a different role, caution or reprimand.

OMBUDSMAN

Maiava Iulai Toma

OMBUDSMAN

Summary of references

Legislation

Ombudsman (Komesina o Sulufaiga) Act 2013

Public Service Act 2004

Labour and Employment Relations Act 2013

Public Service Regulations 2008

Policies

Samoa Public Service managing the breaches of Code of Conduct Manual

Samoa Public Service (SPS) *managing conflicts of interest*

SPS Merit Policy