

AN ANALYSIS OF THE CODE OF CONDUCT FOR COURT EMPLOYEES IN NIGERIA

Haruna Abubakar Bagudu*

Abstract

The paper focuses on the code of conduct for court employees in Nigeria. The judiciary is an independent arm of government which administers justice according to laws. The institution comprises broadly of the courts, justices and judges as well as the support staff who run day to day activities of the court. The main functions of the judiciary are to interpret and apply the laws and provide a mechanism for the settling of disputes. The judiciary also fundamentally performs significant role in our democratic way of life and indeed it can be said to be a constant feature of any democratically elected government or military regime in Nigeria. The judicial institution cannot be taken away from governance as the only arm that interprets the law thereby maintaining peace, order and good governance. The paper used doctrinal method to analyse the code of conduct of court employees in Nigeria to find that there are adequate rules and guidelines regulating the behaviours of court employees. It recommended that the rules and regulations should be effectively and efficiently implemented in order to have sound judiciary.

Keywords: Code; Conduct; Court; Employees; Nigeria.

1. Introduction

Citizens look up to the judiciary to uphold their rights and the government as well look up to the judiciary to interpret laws, especially where there is dispute between the legislative and executive arms of the government; between states inter se or between states and the Federal Government. Obviously, judges retain the ultimate authority for judicial administration. However, the tasks associated with the daily management and administration of justice cannot be concluded without the input and extensive contributions of the support staff of the judiciary. The code of conduct for court employees is fundamental towards enhancing the operational capacity of judiciary staff which is to serve as a guide and advice as well as to emphasise on the standard of behaviour and conduct in order to ensure that court employees discharge their duties professionally, efficiently, competently with accountability.

* LLB, UDUS, BL. Law School Abuja, B.Sc. Economics (UniAbuja), harunaabubakarbagudu@gmail.com, G16, National Judicial Institute Staff Housing, National judicial Institute, Abuja, 08038536427.

2. Definition of Key Terms

2.1 Conduct

The word conduct has been defined by the Black's Law Dictionary as "personal behaviour, deportment, mode of action, any positive or negative act; an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omission".¹ In view of the above definition, when personal behaviour or deportment, be it positive or negative, is subjected to official guidance or scrutiny, it then becomes ethics.

2.2 Ethics

The term ethics has been defined as "anything relating to moral action, conduct, motive or character; anything conforming to the professional standard of conduct".² It can also be said to be the branch of philosophy that deals with morality and which is concerned basically with distinguishing good and evil, right and wrong, virtuous and non-virtuous character of the people. In summary, it can be said to be that philosophy that is mainly concerned with the question of the best way to live. When all these behaviours are made professional standard of ways of living and codified and made enforceable with various sanctions for any form of violations, it then becomes a code of conduct.

3. Code of Conduct for Court Employees

The Code of Conduct for Court Employees of the Federal Republic of Nigeria came into being some years back as a result of the imminent need to have a written code of conduct for certain categories of all-important officials of the Nigerian judiciary which includes court employees. The Code of Conduct for Court Employees in its preamble precisely provides that:

Whereas an independent, strong, respectable and responsible judiciary is indispensable for the administration of justice in a civilized society. And whereas court employees are complementary to and supportive of the role of judicial officers in the administration of justice. And whereas the duties of a court employee, which include all statutory duties prescribed by law, take precedence over all his activities. And whereas court employees hold highly visible positions of public trust and it is desirable that a standard conduct which a court employee should observe be prescribed and published for the information of the court

¹Black Law Dictionary 6th Edition at Page 296

²Ibid at page 553

employee and the public in general so that the objectives set out in this preamble may be achieved. And whereas with the approval of the Chief Justice of Nigeria leading to the subsequent review by the Board of Governors of the National Judicial Institute, all State Chief Judges and Secretaries of the Federal and States Judicial Service Commissions and the Federal Capital Territory Judicial Service Committee respectively of this model Code of Conduct for Court Employees. This Code of Conduct shall apply to all categories of court employees in all Courts in the Federal Republic of Nigeria. In this Code, the term court employees shall mean all categories of employees involved in the day-to-day administration of the court, other than judicial officers. The applicability of the Code shall also include employees of all special courts, tribunals, commissions of enquiry, staff of the respective Federal and State Judicial Service Commissions and Federal Capital Territory Judicial Service Committee and such other bodies set up to perform judicial and quasi-judicial functions. Therefore, this Code of Conduct for Court Employees is hereby adopted and prescribed, effective 1st of March, 2004.

Court employees are specialised and technical set of public servants. Every officer of this category is important in his/ her own right. The aim of the Code of Conduct for Court Employees as clearly provided by the Code is to ensure an independent, strong, respectable and responsible judiciary as an indispensable instrument for quick, efficient and impartial administration of justice in Nigeria.

It is significantly necessary to note that aside from the Code of Conduct for Court Employees which shall be our major area of concern, there are also some relevant codes that regulate the conduct and behaviour of court employees, such as:

- a. The Constitution of the Federal Republic of Nigeria which provides that: “A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities”.³ Public officers for the purpose of the Code of Conduct include The Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of court of law.
- b. The Rules of Professional Conduct for Legal Practitioners which provides that: “A lawyer shall uphold and observe the rule of law, promote and foster the cause of justice,

³Section 1, 5th Schedule, part 1, 1999 CFRN as Amended

maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner”.⁴

- c. The public service rules which defines misconduct as: “A specific act of wrong doing or an improper behaviour which is inimical to the image of the service and which can be investigated and proved”. It can also lead to termination and retirement. It includes:
 - (a) Scandalous conduct such as:
 - (i) Immoral behaviour;
 - (ii) Unruly behaviour;
 - (iii) Drunkenness;
 - (iv) Foul language;
 - (v) Assault;
 - (vi) Battery;
 - (b) Refusal to proceed on transfer or to accept posting;
 - (c) Habitual lateness to work;
 - (d) Deliberate delay in treating official document;
 - (e) Failure to keep records;
 - (f) Unauthorized removal of public records;
 - (g) Dishonesty;
 - (h) Negligence;
 - (i) Membership of cult;
 - (j) Sleeping on duty;
 - (k) Improper dressing while on duty;
 - (l) Hawking merchandise within office premises;
 - (m) Refusal to take/carry out lawful instruction from superior officers;
 - (n) Malingering;
 - (o) Insubordination;
 - (p) Discourteous behaviour to the public.
- d. The current National Judicial Policy on judicial code of conduct which provides that “The code of conduct for judicial officers and code of conduct for court employees, with the amendment discouraging acceptance of gifts from other arms of the government,

⁴Section 1, LPA

should be such as would be adequate. Compliance with the provisions shall be mandatory”.

It is important to note that codes of conduct are usually soft laws which are generally not enacted through the formal law enactment of the legislative process; rather, they are usually made by the employers of labour so as to ensure proper guidance for behaviour and ethical standards of the employees. That is to say that the code of conduct for court employees is a compliance document that is embodied with authoritative features, which means that the violation of the code could lead to disciplinary actions which we shall be considered later.

The rules and guidelines as provided in the Code are meant to clarify and provide direction for the application of the tenets to which we all subscribe as court employees in Nigeria. Until then, if we must look beyond our jurisdiction, such as the United State of America (USA), the Code of Conduct for Judicial Employees provides that: “Employees of the Federal Judiciary are expected to observe high standards of conduct so that the integrity and independence of the judiciary are preserved and the judicial employee’s office reflects a devotion to serving the public”.⁵

3.1 The Rules

In the performance of his duties, a court employee shall observe the following rules; these rules are however divided into four major rules, which are:

Rule 1: Accountability

This rule consists of two sub-rules: Rule A involves resources, property and funds; while Rule B relates to confidentiality of information.

Rule A: Resources, Property and Funds

By the provision of this sub-rule, a court employee is accountable for the resources, property and funds entrusted to him. Accordingly, a court employee shall:

- i. Use the resources, property and funds under his/her official control judiciously, transparently and solely in accordance with prescribed financial regulations and other applicable rules.
- ii. Be accountable for his/her decisions and actions to the public and must submit him/herself to whatever scrutiny is required of his/her office by proper authority.
- iii. Not to place his/herself under any financial or other obligations to outside individuals or organizations that might influence the performance of his/her official duties.

⁵Published Advisory Opinions (Guide to Judicial Policy), Code of Conduct for Judicial Employees, Vol.2B, Ch.2

- iv. Where applicable, declare his/her assets on appointment and subsequently, as may be required by the law. This is in tandem with the section of the Constitution which provides that: “Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter-⁶
 - a. At the end of every four years; and
 - b. At the end of his term of office, submit to the Code of Conduct Bureau a written declaration of all his properties, assets and liabilities and those of his unmarried children under the age of eighteen years.

Guidelines

The guideline of Rule 1 (A) which is resources, property and funds expresses that a court employee is a custodian of the public resources that are placed at his/her disposal. That funds are expected to be used or expended carefully and only for their intended purposes by the funding unit, for instance, the violation of this sub-rule could include such temptations as personal telephone calls at funding unit expense, personal use of government property, such as pens, pencils, paper, printer, computer, vehicles, etc or the use of funding unit property to assist non-employee in some ways as a favour.

Rule B: Confidential Information

Under this sub-rule, a court employee is accountable for confidential information entrusted in him/her; hence, the court employee shall not:

- i. Speak to the media or grant interviews in his/her personal capacity as a free citizen in a way that may be injurious to the collective integrity of his/her employment.
- ii. Disclose to any unauthorized person any confidential information, which may have come to his/her knowledge in the course of his/her employment.
- iii. Give out any official document of the judiciary in any form without authorization.

Guidelines

The guidelines to this sub-rule suggest that sensitive information received by court employees in the course of performing official duties should never be revealed until it is made a matter of public need. That is, even when the information becomes public, a great deal of discretion is required before such can be revealed. Note that sometimes breaches of confidentiality do not

⁶ Part 1, 5th Schedule 1999 CFRN as (Amended)

involve intentional disclosures of official court records, such as a result of innocent and casual remarks about pending or closed cases, or about parties in litigation, which could give lawyers, litigants and reporters confidential information. Such remarks can seriously compromise a case or a person's standing in the society. If court employees must discuss a case, this must be only for legitimate reasons, and in compliance with the laid down rules. Court employees are therefore, expected to handle sensational or sensitive cases with great care and discretion.

RULE 2: Relationships

Rule A: Associations

- i. Avoid close personal association with individuals, lawyers, litigants, and members of the public, where such association may reasonably give rise to suspicion or appearance of partiality or favouritism.
- ii. Refrain from lobbying or attempting to influence official decisions including posting to a particular place by reason of a relationship with a superior officer, or resisting a transfer to another jurisdiction.

Rule B: Membership in Organisations

A Court Employee shall not be a member of, belong to or take part in any society, club and/or organisation the membership of which is incompatible with the function and dignity of his office.

Rule C: Impartiality

A court employee shall:

- i. Not discriminate on the basis of, nor display by words or conduct, a bias or prejudice based upon tribe, religion, colour, nationality, gender or other protected group, in the conduct of service to the Court and public.
- ii. Carry out his responsibilities to the public in a timely, impartial, diligent and courteous manner.

Guidelines

A court employee, in the course of his employment, comes into frequent contact with lawyers, litigants, and other members of the public who have dealings with the court. However, he must be very cautious not to become overly familiar with these individuals as doing so might give the impression of partiality. This means that a court employee must limit his social activities to prevent the 'close personal associations' mentioned. Likewise, a court employee should not use

any personal relationship that he might have with a Judge or other superior officer at the court to lobby or influence official decisions that affect him or others.

A court employee's participation in societies or organizations should not intrude into the workplace through the displaying of literature, badges, signs or other material advertising a cause, party, or club membership. Soliciting or receiving funds at the workplace is not appropriate. In addition, no government equipment or resources of any kind are to be used for promoting any club or organizational activities in the workplace before, during or after working hours.

Court employees should treat everyone with the same courtesy, tact and respect. The giving of special privileges or exemptions by an employee to certain people gives the impression that they are more favoured than others and reflects poorly on the notion that the judicial system and its employees are impartial. The official actions of an employee should not be affected or appear to be affected by kinship, rank, position or influence of any party or person. Each day court employees are called upon to assist lawyers, litigants and the general public. It is each court employee's responsibility to provide these court users with the utmost service, regardless of the individual's race, religion, gender, nationality etc. No form of discrimination is acceptable and when discovered should be exposed and eliminated.

Rule 3: Abuse of Position

Rule A: Personal Enrichment

A court employee shall not:

- i. Use or accept to use his position or office to secure unwarranted privileges, gratify or confer any corrupt or unfair advantage upon himself or any relation or associate.
- ii. Solicit, request or accept any compensation or fee beyond that received from the employer for work done in the course of his duty.
- iii. Use the resources, property and funds under his control for purposes other than those for which they are meant.
- iv. Solicit patronage from litigants or members of the public for purposes of preparing affidavits or other processes for monetary consideration or utilize the Court's resources or property for such purposes.
- v. Engage in any type of trade or business in court premises during office hours, or encourage others to do so.

- vi. Offer legal advice, canvass, tout, and/or present himself in such a manner as to give the impression of being capable of influencing the course of justice.
- vii. Appropriate to himself or disburse by way of loan to himself or any person, court fees, fines or other funds in his custody.
- viii. Demand or accept any gift or benefit of any kind, as a condition for the performance of his duties, for himself or on behalf of any person on account of anything done or omitted to be done by him in the discharge of the duties of his office.
- ix. Accept any gift on the understanding that such gift would influence official action by him or that other person on whose behalf benefit is sought or accepted.

A court employee is however permitted to accept:

- i. Personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognized by custom.
- ii. Books supplied by publishers on a complimentary basis.
- iii. A loan from lending institution in its regular course of business on the same terms generally available to people who are not court employees.
- iv. A scholarship or fellowship awarded on the same terms applied to other applicants.

Rule B: Conflict of Interest

A court employee shall not:

- i. Put himself in a position where his personal interest conflicts or appears to conflict with the interest of the court.
- ii. Engage in any business which may conflict or appear to conflict with the performance of his official duties.

Guidelines

This Rule addresses the concept of the use of a court position to secure “privileges” or “exemptions”. Generally these would be special considerations given by others to the employees specifically because of his position as a court employee. The solicitation or acceptance of a gift with the understanding that something will be done in return contravenes the ideals expressed in this section. Public service should be delivered impartially, with equal service to all users. The administration of justice is subverted if employees appear to deliver service in exchange for a reward. All users of the justice system must be treated equally.

Gifts of any sort from litigant raise a question as to the independence of the employee, and are therefore prohibited. An understanding may be tacit on the part of the donor that the employee will look favourably upon the donor in the future. Seemingly small and innocent gifts may soon lead to larger ones, more and more threatening the integrity of the employee. The compensation of court employees is to be provided by their funding unit through their salary and benefits. An employee should not request or accept any additional compensation for doing his duty as a court employee. Acceptance of any additional compensation for doing his duty gives rise to the impression that the court employee will be responsive to the needs of the donor.

Court employees are not permitted to practice law, with the exception of those employees who are qualified legal practitioners required by their statutory duties to offer legal guidance. However, the general prohibition against the giving of legal advice does not mean that employees should be afraid to provide excellent and accurate information about the court and court process as authorized by law.

A conflict of interest exists when the employee's ability to perform his duty is impaired or when the court employee, his family or business would derive some benefits as a result of his position within the court system. It is therefore, required that employees avoid situations that would impair their ability to fulfil that obligation.

The employee's position within the court system must be his primary employment. Outside employment must be fulfilled outside the normal working hours of the court and must not be in conflict or interfere with the performance of the employee's duties and responsibilities in the court. No form of private business shall be performed utilizing the resources of the court nor shall the private business require or induce the employee to disclose information acquired in the course of his official duties. Such private business should not reflect adversely on the integrity of the court. Court employees should not take up employment with private chambers or any other agencies.

RULE 4: Decorum and Comportment

A court employee shall:

- i. Attend to all enquiries from lawyers, litigants and members of the public with the utmost courtesy and without employing foul or indecent language;
- ii. Carry out promptly any official directive or instruction from a superior officer and be committed in the discharge of his duties;

- iii. Study and comply with the laws, rules of court, and schedule of duties and should conduct himself at all times in a manner that promotes public confidence of the judiciary.
- iv. Be punctual to work and not absent himself from duty without leave or permission from his superior officer, first sought and obtained;
- v. Be formally dressed while on duty and avoid all forms of inappropriate and indecent dressing; and
- vi. Promote ethical conduct in the discharge of his duties as prescribed by this Code and report any improper conduct by any person to the appropriate authorities.

Guidelines

Court employees are highly visible in action and conduct and these reflect upon not only themselves, but the Court as well, improper behaviour or the appearance therefore may compromise an employee's professional integrity. Before taking a particular action, court employees must consider its propriety. Employees should conduct themselves in a manner that commands public trust and confidence.

Sanctions

Even though the Code does not prescribe clear punishment for the offenders in cases of violations, it does provide for sanctions such as:

The breach and/or violation of any rule contained in this Code shall constitute gross misconduct and may attract disciplinary actions which may lead to suspension; compulsory retirement, termination of appointment or even dismissal and this shall be without prejudice to the penalty, which may be imposed by any law where the breach is also a criminal offence.

4. Conclusion

It is important to state that even though the Code may not completely prevent inappropriate behaviour or fraud amongst some few, no doubt, the rules and guidelines in the Code have had influence that appear to lead an improved ethical and standards of behaviour that will influence a court employee's performance and commitment to the internal control system of the judiciary which we all serve. It is therefore significant to understand that as responsible members of the judicial institution, violation of any form of these rules will amount to gross misconduct and therefore, court employees are expected to adhere strictly to these rules and measure up to the highest standards of ethical values, accountability, probity and transparency.

Finally, like it was mentioned earlier, court employees are part of the most valuable assets of the judiciary, and their management and welfare can be the most important thing, even though, quite challenging, but the fact that the primary aim of the Code is to build and develop disciplined, loyal, efficient, effective and productive court employees, it requires that motivation and welfare of the court employees should be a priority. It is the only strategy that can drive the court employees to work harder and accomplish their responsibilities. There should be a rewarding system for officers who have one way or the other distinguished themselves in the course of duty. This is not to say that every achievement must be rewarded with money, but at least there are much better ways such as special promotions for such officers or even a simple letter of commendation being formally communicated to an employee could mean something, raise hope and to some extent, build loyalty and encourage officers to work harder. Court employees should be given the opportunity to develop the skills they need to grow in their career as this will help a lot of them perform at a level of excellence. Emphasis should be on creating satisfied and motivated court employees with strong morale. This will make great court employees to do great job for efficient and effective justice delivery in Nigeria.