

## Chapter 5

### Codes of conduct

*Setting values and standards of conduct for public officials in a code of conduct is amongst the first steps towards safeguarding integrity in the public sector. This chapter undertakes a review of the provisions in the new Italian Anti-Corruption Law that require Italy to issue a new code of conduct for public officials. Based on the experience and lessons learned from OECD countries, the chapter discusses key factors that Italy needs to consider in designing and implementing a code of conduct. The importance of defining the scope and content of the code in a consultative, participative manner and the institutional framework necessary for monitoring the implementation of the code and enforcing it are highlighted as key factors. The chapter also presents an implementation strategy for Italy.*

## **Towards a culture of integrity in the civil service: Values and standards of conduct**

In the current context of economic crisis and fiscal consolidation, citizens' confidence in markets and government has been seriously weakened. It is therefore vital to restore trust in government as a prerequisite for building the support needed for decisive political action and structural reforms toward economic recovery. A high level of integrity in the civil service and high-quality public service delivery are key conditions for promoting trust between citizens and governments. Public officials are thus required to provide better and more responsive services while observing high standards of conduct.

Setting standards of conduct for public officials and the values for the public sector are amongst the first steps towards safeguarding integrity in the public sector. International conventions and instruments – such as the OECD Principles for Managing Ethics in the Public Service, and the United Nations Convention against Corruption (UNCAC) – recognise the use of codes of conduct and ethics as effective tools for articulating the values of the public sector and the expected conduct of public employees in an easily understandable, flexible manner. In fact, they can support the creation of a common understanding within the public service and among citizens as to the behaviour public employees should observe in their daily work and so help define misconduct.

UNCAC's Article 8 refers specifically to codes of conduct – such as the International Code of Conduct for Public Officials<sup>1</sup> – as an essential element in preventing corruption. The Council of Europe, too, has drafted a specific recommendation on codes of conduct for public officials, commonly referred to as the Model Code.<sup>2</sup> In 2000, the European Union also drew up and adopted a Code of Good Administrative Behaviour<sup>3</sup> which is associated with Article 41 of the EU Charter of Fundamental Rights.

Recognising the importance of defining standards of conduct in the public service, the majority of OECD member countries have drawn up codes of ethics or conduct in recent decades. Some are even in the process of drafting second- or third-generation codes based on the lessons learned from past experience. Similarly, the Italian civil service has used two different codes of conduct.

On 31 March 1994, the Ministry of Public Administration issued the first Code of Conduct for Public Employees.<sup>4</sup> It was then followed by the Code of Conduct for Public Officials which came into force by legislative decree on 28 November 2000.<sup>5</sup> The current framework for Italy's code of conduct was set out by legislative decree in 2000. However, experience suggests that the codes were not effectively implemented. The new Anti-Corruption Law urges revision of the codes and the drawing up of a new code of conduct which would embed a culture of integrity and efficiency in the Italian civil service.

This chapter undertakes a review of the provisions in the Anti-Corruption Law related to codes of conduct (CoCs). It discusses key factors that need Italy needs to consider in designing and implementing a code of conduct. It presents experience and lessons learned from OECD countries and compares them to the provisions in the new anti-corruption law. It first considers the importance of defining the scope and content of the code in a consultative, participative manner. It then addresses the institutional framework necessary for monitoring the implementation of the code and enforcing it. Finally, building upon relevant models and good practices, the chapter presents an implementation strategy for Italy.

Embedding a culture of integrity in the civil service requires defining common values to which all public employees should adhere and drawing up concrete standards of conduct that they need to apply in their daily work. From this perspective, values refer to “collectively shared principles that guide judgement about what is good and proper” (OECD, 2000), while standards of conduct are “the required criteria for actual actions of public servants/public officials” (ibid.).

Codes of conduct and ethics are generally the tools adopted to raise awareness of common values and standards of behaviour in the civil service. There has been much research into ethics codes and studies have “revealed that codes influence ethical decision making and assist in raising the general level of awareness of ethical issues” (Loe et al., 2000). The usefulness of codes of conduct is especially true when sanctions are coupled with codes of conduct and top management's commitment to the code (Ford and Richardson, 1994). Furthermore, research suggests that codes “used to define an ethical environment and their effective implementation must be as part of a learning process that requires inculcation, reinforcement and measurement” (Doig and Wilson, 1998). Overall, a code of conduct can improve organisational culture and prescribe a set of principles aimed to define conduct, culture and performance. While by themselves codes of conduct will not enhance integrity and reduce corruption in the public service, they do constitute a key element integrity frameworks. Thus it is essential to bear in mind that their success is largely dependent on the other elements of integrity frameworks (Box 5.1).

#### **Box 5.1. The impact of codes of ethics: Research and empirical findings**

Research in public administration into ethics codes has been very limited. In his surveys among members of the American Society for Public Administration (Bowman and Williams, 1997; Bowman, 1990), Bowman found that practitioners tend to think positively about codes and to believe that they have desirable effects. Flake and Grob (1998) performed content analyses on public sector ethics codes and found that they were “dramatically skewed in the low-road direction”, i.e. they emphasised compliance with rules and laws. These and other analyses are interesting, but “a relationship between codes and actual behaviour in fact still awaits examination” (Gilman and Lewis, 1996). One public administration study (among city and county managers) into the topic found “no significant difference in the mean response scores [on a moral reasoning test] that can be attributed to whether or not a jurisdiction has a code of ethics” (Stewart & Sprinthall, 1993).

An interesting descriptive study is the 2007 survey of the New Zealand State Services Commission, which was conducted by the Ethics Resource Centre among 4 642 State servants. Ninety-six percent of the responding state servants reported that their agency had drafted standards of integrity and conduct. Half of surveyed state servants reported that their agency had a specific person, telephone line, e-mail address, or website where they could get advice about integrity and conduct issues. In sum, the findings were very mixed. This is consistent with the hypothesis that an integrity code will only have a significant impact when it is embedded in and consistent with a wider integrity management framework.

*Source:* Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation, GOV/PGC/GF(2009)1.

OECD countries have adopted various models of codes of conduct and ethics. Some codes both encompass the values of the public service and specify the expected standards of conduct of public employees. Two examples are the Australian Public Service Values and Code of Conduct and the Canadian Values and Ethics Code for the Public Service. Other countries have adopted more action-oriented codes which explain how the values can be translated in public employees' daily conduct – e.g. the Korean Code of Conduct

for Maintaining the Integrity of Public Officials and the New Zealand Standards of Integrity and Conduct and its related guidance document (Box 5.2).

### **Box 5.2. New Zealand Standards of Integrity and Conduct**

The current New Zealand Code of Conduct for civil servants came into force on 30 November 2007, superseding the previous code, the New Zealand Public Service Code of Conduct, which had been issued in 2001 pursuant to what was then Section 57 of the State Sector Act 1988. The current Code is only delivered as a one-page document, affirming the broad characteristics of public service which should be fair, impartial, responsible and trustworthy. The Code only provides general rules of behaviour, without providing specific advice on how to behave in real-world situations. However, the Code of Conduct is not a self-standing document, as it is provided along with “Understanding the Code of Conduct - Guidance for State Servants”,<sup>6</sup> a guide for public employees which explains the content of the Code.

#### **Fair**

We must:

- treat everyone fairly and with respect
- be professional and responsive
- work to make government services accessible and effective
- strive to make a difference to the well-being of New Zealand and all its people.

#### **Impartial**

We must:

- maintain the political neutrality required to enable us to work with current and future governments
- carry out the functions of our organisation, unaffected by our personal beliefs
- support our organisation to provide robust and unbiased advice
- respect the authority of the government of the day.

#### **Responsible**

We must:

- act lawfully and objectively
- use our organisation’s resources carefully and only for intended purposes
- treat information with care and use it only for proper purposes
- work to improve the performance and efficiency of our organisation.

#### **Trustworthy**

We must:

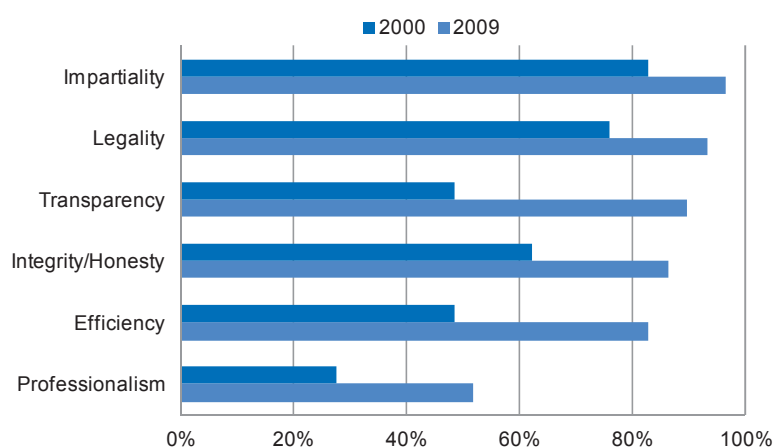
- be honest
- work to the best of our abilities
- ensure our actions are not affected by our personal interests or relationships
- never misuse our position for personal gain
- decline gifts or benefits that place us under any obligation or perceived influence
- avoid any activities, work or non-work, that may harm the reputation of our organisation or of the State Service.

*Source:* New Zealand State Services Commission, [www.ssc.govt.nz/sites/all/files/Code-of-conduct-StateServices.pdf](http://www.ssc.govt.nz/sites/all/files/Code-of-conduct-StateServices.pdf), accessed 5 December 2012.

Most organisations find themselves somewhere in the middle and choose a hybrid of both types of codes. They may thus, for example, opt for a code that is built around a number of values, where each value is expanded into more specific principles and standards to provide guidelines for applying values where necessary. Successful codes do not only provide a standard for public officials to strive for. They also articulate a special sense of responsibility because of the professional standing a public official may have in his/her community. Simply put, codes are written to guide behaviour.

Irrespective of the model chosen, a code of conduct should be clear, concise, and easily understandable in order to support public employees in understanding the key principles and values by which they should abide. Despite such different approaches, however, there is a general consensus as to the principles identified in national codes of conduct. Rule of law, impartiality, transparency, faithfulness, honesty, service in the public interest, and efficiency are among the major values chosen as pillars of integrity systems (Figure 5.1). In 2000, the Committee of Ministers of Council of Europe adopted a Model Code of Conduct for Public Officials which reflects those principles and from which many national codes currently in use draw inspiration.

**Figure 5.1. The evolution of core public service values and principles in OECD countries**



Source: OECD (2009), *Government at a Glance 2009*, OECD Publishing, Paris, doi: <http://dx.doi.org/10.1787/9789264075061-en>.

Effective codes operate at two levels: institutional and symbolic. Institutional codes articulate boundaries of behaviour as well as expectations of behaviour. In other words, they provide clear markers as to what behaviour is prohibited and expected. Codes of conduct have symbolic value in that they create a sense of participation and self-reassurance of how public officials not only see themselves but how they want to be seen by others (Gilman, 2005).

Italy has, over the past 15 years, drafted two different codes of conduct. The Ministry of Public Administration issued the Code of Conduct for Public Employees<sup>7</sup> on 31 March 1994 and a second one followed on 28 November 2000 through a legislative decree (Box 5.3).

Incorporating a code into a legislative framework follows the trend observed in other OECD member countries (OECD, 2000). It is necessary, however, to distinguish between

making the code a legal document and incorporating the elements of the code into the legal framework per se. Integrating elements of a code – particularly positive expectations of behaviour – into primary or secondary legislation demonstrates a clear commitment from the government, promotes compliance, and supports enforcement. Making a code a legal document may, however, render it less flexible and adaptable to emerging issues and result in a more legalistic use of language.

### **Box 5.3. The current framework for the Italian code of conduct**

The current framework for the Italian code of conduct was set out in the Legislative Decree of 2001 which provided certain guidelines for the drafting of the code:

The Code is to be adopted by the Ministry of Public Administration in accordance with major unions. Organisational measures to ensure quality of service for citizens must be taken into consideration.

The Code is to be published in the Gazzetta Ufficiale and should be given to public employee when hired.

Civil service departments should give employee representatives instructions for the codes to be included in contracts and their provisions to be co-ordinated with disciplinary sanctions.

For each judicial and State Legal Service, professional associations' bodies are to adopt a code for their own members. In case of inaction, the self-government body should adopt it.

The head office of each civil service department, in accordance with unions and consumers and users associations, is to verify the applicability of the code and makes possible amendments.

The heads of each civil service department should oversee the application of the code.

The civil service should plan training to raise awareness, improve knowledge and ensure the correct implementation of the code.

The Code of Conduct for Public Officials in 2000 was drafted by the Ministry of Public Administration in consultation with major unions. It does not apply to the judiciary, military, prison personnel or state police all of whom have their own codes of conduct. Agencies may use the Code as the basis for the own special codes. In this way, several agencies and local authorities have drawn up their own codes.

The Code is not itself a legally binding document and contains no disciplinary or enforcement mechanism. However, it is incorporated into collective bargaining agreements. These include a disciplinary code, which transforms the code of conduct into a legally binding instrument. In one example, the collective bargaining agreements for the regions and autonomous localities for the years 2006-9 were amended to include the Code's provisions.

Italy's current code of conduct framework draws attention to public officials' integrity obligations. It contains general principles governing public service as well as specific provisions regarding gifts (Article 3) and other conflict of interest issues (Articles 5 to 7). While the current framework has no special provisions on monitoring or sanctioning officials' conduct, Article 54 of the 2001 Legislative Decree stipulates that managers within each public body are responsible for enforcing rules that relate to ethics and workplace conduct.

### **Box 5.3. The current framework for the Italian code of conduct (cont.)**

The Group of States against Corruption (GRECO) has stated that, while current code of conduct applies to civil servants, it does not apply to senior government officials. GRECO has therefore recommended that a publicly announced, professionally embraced and, if possible, an enforceable code of conduct be issued for members of Government (GRECO, 2011). GRECO has also recommended that such a code of conduct include reasonable restrictions on the acceptance of gifts other than those related to protocol. Transparency International's 2011 National Integrity Assessment has similarly stated that there is a lack of effective codes of conduct for both members of Parliament and government and that the existing ones have no adequate mechanisms for control or sanctions. However, the Anti-Corruption Law addresses these concerns.

There is no one-size fit all model for ways to effectively adopt and implement a code of conduct. However, some a number of pointers can help successful adoption and effective implementation:

1. Specific and practical: a code should serve as a guide to public officials in situations where the ethical boundaries of an act are not self-evident or immediately understood.
2. Climate of integrity: codes can help paint a clearer picture of expected behaviour.
3. Public awareness: emphasising duties and standards of behaviour increases public trust in public institutions.
4. Minimise subjectivity: a code of conduct outlines the rights and responsibilities of staff members, thus preventing arbitrary actions by public officials and employees.
5. Prevents legal consequences: adherence to the provisions stated in codes of conduct (even when not directly linked to a sanction) can contribute to public officials' and employees' understanding of the legal implications of misconduct.
6. Rewarding: codes can promote efficiency by rewarding ethical behaviour (even the reward is not tangible).
7. Accessible: a code should be an easy, accessible tool that guides daily decisions in the workplace.

One of the most common failings of a code of conduct is the creation of unrealistic expectations. Experience shows that common problems in effectively implementing codes of conduct are

- inefficiency;
- a public servant's lack of sufficient technical know-how or the knowledge to recognise an ethics problem for what it is;
- a public official not knowing what standards his/her organisation expects from him/her;
- a public official considering it to be not in his/her interest, personally or professionally, to take a stand for integrity and against corruption (Palidauskaite, 2003);

- From this perspective, certain conditions need to be met to ensure the effective implementation of a code of conduct. They include:
  - defining clear, easily understandable values and standards of conduct in a consultative, participative manner,
  - affording guidance on how to apply the code in daily work and providing an administrative structure for responding to ethical dilemmas and ensuring consistency throughout the administration in understanding the values and standards of conduct promoted by the code,
  - monitoring and assessing the implementation of the code of conduct and its impact on promoting integrity in the public service,
  - incorporating ethical dimensions into management frameworks to achieve compliance with the values of the public service.

### **Building consensus on values and public employees' ownership of codes of conduct**

Article 1.2 of the Anti-Corruption Law requires the Italian government to adopt a new code of conduct in place of the 2001 code within six months of the Anti-Corruption Law being approved.<sup>8</sup> The government's task is to draft the new code in order to promote high-quality services, the prevention of corruption, and compliance with the constitutional duties of diligence and public interest, loyalty and impartiality.

The code should include a section dedicated to senior civil servants. It should also prohibit all public servants from seeking or accepting payments, gifts, or other benefits in the line of duty. The only exceptions may be protocol-related or low-value gifts which may be accepted out of social courtesy. It is the task of the Ministry for Public Administration and Simplification – in accordance with the Conferenza Unificata, or Joint Conference, which brings together state and local public entities<sup>9</sup> – to draft the code. It will then be discussed by the Council of Ministers and approved by presidential decree.

To draft codes of conduct, countries generally create working groups that bring together representatives from ministries and sometimes from Parliament, the judiciary and civil society. In Austria, for example, a special working group consisting of experts from all ministries, the regional and local authorities, and public sector trade unions was set up to develop a code of conduct based on applicable law for all public sector employees at federal, local and municipal levels. The working group was mandated by the Code of Conduct for the Civil Service which was issued in October 2008.

As required by the Anti-Corruption Law, once the Ministry of Public Administration and Simplification has developed a first draft of the code it will consult the Conferenza Unificata. However, the ministry could envisage wider consultation which, in addition to public employees and institutions, would involve all stakeholders in designing the code. Such consultation might even include such indirect beneficiaries as citizens and the private sector.

The experience of OECD countries demonstrates that consulting or actively involving stakeholders in drafting the code helps build a common understanding of public service values and expected standards of public employee conduct. Stakeholder involvement would, in addition, improve the quality of the code so that it met both public employees' and citizens' expectations. The government would also be able to demonstrate its



commitment to greater transparency and accountability, thereby gaining public trust (OECD, 2001).

In order to launch an effective consultation campaign with stakeholders the Ministry of Public Administration and Simplification needs first to clarify a number of questions:

- What is the purpose of the consultation? (To receive feedback and comments from stakeholders on the draft code? Create a positive and constructive attitude towards the code in order to build trust between the public administration and society at large? Harvest new ideas to be included in the code based on citizens experiences?)
- What is the scope of the consultation? (Should it involve public employees, the private sector, civil society, academics, experts, etc.?)
- When should the consultation process be launched? (After the draft code has been written or while it is being drawn up?)

Following this clarification, the Ministry could then design the consultation process, determining its duration and the type of events and communication strategy that could be used. Consultation could also help the Ministry to understand the rationale behind Italy's existing codes of conduct, which are function- or institution-specific in nature. Examples include codes used by the Ministry of Economy and Finance, the Authority for Communications, the judiciary, the Bank of Italy, and the Antitrust Authority. Under the terms of the new anti-corruption law, such specific codes would remain in place, while others could be developed (in particular for the judiciary) as long as they were consistent with and in the same spirit as the general public service code that is to be developed.

The Ministry of Public Administration and Simplification could benefit from the experience of institutions which have already drawn up codes of conduct to promote consistent public service values and standards of expected behaviour among public employees. In Brazil, for instance, the consultation process undertaken for the Comptroller General of the Union's code of conduct raised interesting issues that also served as input for the government-wide integrity framework (Box 5.3).

#### **Box 5.4. Consultation for an organisation-specific code of conduct in Brazil**

The Professional Code of Conduct for Public Servants of the Office of the Comptroller General of the Union was developed with input from public officials from Office of the Comptroller General of the Union during a consultation period of one calendar month, between 1st and 30 June 2009. Following inclusion of the recommendations, the Office of the Comptroller General of the Union Ethics Committee issued the code.

In developing the code, a number of recurring comments were submitted. They included: i) the need to clarify the concepts of moral and ethical values, as it was felt that the related concepts were too broad in definition and required greater clarification; ii) the need for a sample list of conflict of interest situations to support public officials in their work; and iii) the need to clarify provisions barring officials from administering seminars, courses, and other activities, whether remunerated or not, without the authorisation of the competent official.

### **Box 5.4. Consultation for an organisation-specific code of conduct in Brazil (cont.)**

A number of concerns were also raised concerning procedures for reporting suspected misconduct and the involvement of official from Office of the Comptroller General of the Union in external activities. Some Office officials inquired whether reports of misconduct could be filed without identifying other officials and whether the reporting official's identity would be protected. Concern was also raised over the provision requiring all official from Office of the Comptroller General of the Union to be accompanied by another Office of the Comptroller General of the Union official when attending professional gatherings, meetings or events held by individuals, organisations or associations with an interest in the progress and results of the work of the Office of the Comptroller General of the Union. This concern derived from the difficulty in complying with the requirement, given the time constraints on officials from the Office of the Comptroller General of the Union and the significant demands of their jobs.

*Source:* OECD (2012), *Integrity Review of Brazil: Managing Risks for a Cleaner Public Service*, OECD Publishing, Paris, doi: <http://dx.doi.org/10.1787/9789264119321-en>.

A consultative, participative approach would support the Ministry of Public Administration in determining to whom the code applies (e.g. politicians, civil servants, contractual public employees) and its content (i.e. how to articulate common standards with specific risks related to sectors or government functions). Such an approach would not, however, be sufficient in itself. The Ministry could also consider supplementing the feedback from consultations with empirical data and risk analysis to design the code best suited to the Italian context.

Surveys and other tools for collecting empirical data would help Italy to identify the issues and concerns that are most relevant to its public service. The design and interpretation of surveys used in code of conduct programmes normally follow a number of key steps. The first consists of devising questions to elicit data on important issues requiring regulation. For example, individuals and service users in a particular agency might think that over-politicisation represents a greater danger than conflict of interest. The second step is to analyse the data and identify significant correlations. The third consists of writing the code of conduct based on the themes identified. The code can thus address the issues identified and incorporate ways in which survey respondents think that provisions can be enforced.

### **Towards high standards of conduct: Educating public servants in codes of conduct**

A code of conduct cannot guarantee ethical behaviour. It can, however, offer guidance on expected behaviour by outlining the values and standards to which public officials should aspire. But to be effectively implemented, it must be part of a wider organisational strategy, with the institution in question committed to training and educating employees in specific values. Designing an effective code of conduct is only one part of the overall organisational strategy for determining the behaviour expected of public officials and employees in the workplace. Training, raising awareness, and disseminating the core values and standards contained in the code are key elements of sound integrity management.

The new anti-corruption law in Italy is placing greater emphasis on training in the components of the code of conduct. It stipulates that public entities should develop their own the code of conduct training schemes. However, it offers no indications as whether a central body (e.g. the Department for Public Administration [DPA] or the Independent Commission for Evaluation, Integrity and Transparency [CIVIT]) should ensure consistency between code of conduct training programmes for public employees. Yet harmonising ethics training is necessary if all public employees are to share a common understanding of the standards of conduct expect of them.

Various types of training schemes and educational programmes exist in OECD countries. They range from rules-based training, with a focus on the obligations of public employees and sanctions in the event of misconduct, to value-based training that examines ethical dilemmas in the workplace and provides guidance on the appropriate attitudes to adopt. However, in most OECD countries training modules are developed by a single central entity that also offers guidance on how public employees should apply their codes of conduct, particularly in sensitive situations.

In 2004, Estonia adopted the so-called “Honest State” anti-corruption plan which established the Public Service Council of Ethics. The Council promotes the code of ethics and raises awareness of ethical principles in the civil service. It also designs new training initiatives and guidelines for the practical implementation of codes of ethics and conduct in public sector organisations. The Australian Public Service Commission, for example, has established the Ethics Advisory Service to provide advice and training to all public officials through dilemma-type training programmes that consider how to react in specific sensitive situations (see [www.apsc.gov.au/ethics](http://www.apsc.gov.au/ethics)). In Japan, brochures are distributed to public officials with real-world examples of incidents where there may be ethical violations.

Finally, in the Netherlands, the government recently issued a brochure entitled *The Integrity Rules of the Game* that explains in clear, everyday terms the rules to which staff members must adhere. It considers real-life issues such as confidentiality, accepting gifts and invitations, investing in securities, holding additional positions or directorships, and dealing with operating assets. The Netherlands has also developed dilemma-type training to help officials recognise situations which could lead to misconduct and to react appropriately.

To effectively disseminate core values across all levels of public service, it is crucial that senior staff be trained in codes of conduct so that they can lead by example and promote high standards of conduct in their organisations. Code of conduct training should not only target newly recruited staff, it should also be provided continuously to incumbent employees.

Guidance should also be given to public institutions wishing to develop their own codes of conduct. In fact, the Anti-Corruption Law stipulates that, in accordance with independent evaluation bodies and as long as they are open to participation, all public service organisations can adopt their own codes of conduct. Such codes should incorporate the principles of the general code of conduct. CIVIT, however, is responsible for drawing up the criteria, guidelines, and standard models for specific codes of conduct. Its role is to ensure that common values and standards are shared throughout the civil service, while taking into consideration the specific risks associated with the administrative functions (e.g. public procurement) and sectors (e.g. taxation) that are most exposed to corruption.

Italy could consider tasking a specialised organisation with designing a single code of conduct training programme to ensure that all public employees receive the same training. Such an organisation could also offer guidance and counselling to public employees facing ethical dilemmas. Each public service body could then put in place training sessions and ensure that they take into account the specific nature of its area of work. It could also consider sequencing the training process so that senior staff first attend sessions in order to foster their commitment to implementing the code. Code of conduct training would then be extended to all staff. Finally, an incentive-based scheme could also be considered as a way of motivating staff to strive for high standards of conduct.

### **Monitoring the implementation of codes of conduct**

A code of conduct being a flexible instrument, monitoring its implementation will help determine whether it fits the bill of promoting high standards of conduct within the public service. If it does not, further guidelines may be drawn up to clarify the values and standards of conduct that the code lays down. To that end, the monitoring entity should assess:

- public employees' knowledge of standards of conduct (to determine, for example, if dissemination and training are sufficient),
- how public organisations provide guidance on the code,
- whether there are specific codes aligned with the administration-wide code,
- whether there are mechanisms for reporting misconduct and if they are used, and
- how many disciplinary actions were taken.

Tools, such as surveys of public employees or analyses of disciplinary procedures, could support such monitoring and assessment.

In Italy, the Anti-Corruption Law introduces additional provisions pertaining to the implementation of codes of conduct. It puts the heads of public entities in charge of overseeing implementation and requires the DPA to carry out an annual review of how the codes have been implemented. CIVIT, as the national anti-corruption authority, has a role to play in issuing non-binding recommendations on how civil servants should comply with the law, the implementation of codes of conduct, and collective and individual employment contracts. The Law also gives CIVIT a significant role in the implementation of the many provisions included in the code of conduct, such as expressing its opinion when public employees take on outside work.

A body which oversees and monitors the implementation of the Code of Conduct for Public Employees and compliance with standards of behaviour seems crucial to making the Code a valuable, efficient contribution to the improvement of the public sector. Although the heads of public entities will be responsible for ensuring high standards of employee conduct day-to-day for taking appropriate action in the event of misconduct, a central entity could, nevertheless, ensure that government-wide monitoring is undertaken to promote high standards of conduct throughout the public service. Effective institutional co-ordination between actors involved in the implementation of the Code remains essential. This role seems to be entrusted principally to the DPA with the collaboration of CIVIT. The DPA, should, however, draw up a specific action plan beyond the yearly reporting mechanism to ensure – on a regular basis that the heads of public entities are consistently implementing the Code.

## **Enforcement and compliance: Incorporating ethics into the management framework**

Institutional frameworks for codes of conduct at managerial level in OECD countries generally include sanctions for non-compliance. Their severity varies. In Japan, non-compliant public officials may be formally reprimanded and urged to abide by the standards of conduct or they may be admonished and invited to resign from the chair of a committee. In the United Kingdom, sanctions for violations of the public officials' code of conduct may include suspension. In the United States, violations of the executive branch code of conduct can result in disciplinary action that ranges from reprimand through dismissal. In one study, Bruce (1996) showed that “a clearly worded code of conduct (or ethics) with sanctions” is the best way to curb corruption in government. However, she also concluded that sanctions have limited impact on the behaviour of public officials, observing that the mere fact of having a code substantially affected behaviour.

The Anti-Corruption Law stipulates that corruption-related breaches of the Code of Conduct for Public Officials are subject to disciplinary action. Other breaches are sanctioned in accordance with the relevant administrative and financial regulations. The sanctions for the most serious breaches to the code of conduct are set out in Legislative Decree 231/2001.

Who actually enforces the code of conduct varies from country to country. It may be an independent body, the head of a public service entity, its human resources department, or a department with an audit function. In Italy, the enforcers are public administration entities (which investigate possible and monitor how the code works) and the DPA (which sets the criteria for rotating senior officers in areas which are most exposed to the risk of corruption). In public entities, the human resources departments – in particular their disciplinary units – sanction misconduct in accordance with the relevant legislation. In addition, the Anti-Corruption Law requires a selected public official in each government department to oversee the anti-corruption plan and prevent breaches. The rationale behind this is to create a higher sense of accountability within all public institutions.

However, the Law remains unclear on the reporting mechanisms in the event of misconduct within entities, particularly with regard to senior management. It would be beneficial to provide clear guidance to public officials on the mechanisms at their disposal for reporting misconduct. Additionally, the DPA should play a role in ensuring that sanctions for corruption are applied consistently in all public entities.

The Anti-Corruption Law also identifies or amends practices which will probably be covered by the new code of conduct. One example will be the practice of revolving doors. Public employees who have exercised authoritative or negotiating powers on behalf of a public service organisation may not, in the three years following their departure from the public sector, engage in employment or professional activities in those private entities which they had dealings. Contracts that violation this provision are void and the private persons who signed them are barred from contracting with the public sector for three years. In addition, payments received as a consequence of these contracts must be returned. The new code of conduct will need to incorporate this new regulation and promote consistently applied sanctions throughout the civil service in such high-risk areas.

## Proposals for action

The Italian authorities today have the opportunity to adopt a new code of conduct which has enough substance and powers of enforcement to address the concerns discussed in this chapter. The experience of OECD countries points to three different proposals for action that could help a code of conduct be successfully adopted and implemented.

### *Combining participative and evidence-based approaches to determine the content of the new code of conduct*

The experience of OECD countries shows that an inclusive, consultative approach towards designing codes of conduct is essential to ensuring take-up and implementation. The Ministry of Public Administration should adopt such an approach in order to define *i)* the values of the public administration, *ii)* the standards of conduct expected of public officials, *iii)* the scope of the code and to whom it shall apply.

The consultation process, however needs to be carefully organised around three questions: What is the purpose of consultation? How long should it last? How wide should it be?

Consultation and participation could also be complemented by an evidence-based approach. Its aim would be to gather comparative data on the values and standards of conduct that need to be reflected in the code in order to meet the expectations of public officials, citizens, and the private sector.

It is essential that the content and issues covered by the code build on Italy's existing sector-related codes of conduct so as to promote consistent values and standards of conduct throughout the public service.

### *Towards implementation of the code of conduct: training, educating, counselling and monitoring*

Clearly, a code of conduct forms part of a wider integrity framework and requires an institutional set-up that can raise awareness of the code and provide training, education and guidance to public officials. To be effective such guidance should be consistent throughout the public service. From this perspective, the Ministry of Public Administration could work with CIVIT to develop national training modules which the heads of public entities would then applied and tailored organisational level.

Training and education may range from value-oriented to rules-based and dilemma-type programmes in order to help public officials fully grasp all that the code entails. Irrespective of types of training, however, senior management should attend so that they can lead by example and offer constant guidance to all staff on how to apply the code day-to-day. Exactly how this guidance will be provided at the organisational and the central government levels is yet to be clarified. Combining training with an incentive-based programme could also help motivate public officials to strive for high standards of conduct.

The Anti-Corruption Law stipulates that the Ministry of Public Administration, working with CIVIT, should conduct an annual review of how the code of conduct has been implemented and applied. The participation of CIVIT in the conduction of this annual implementation review remains to be defined. To support this process, the DPA

should consider developing a specific action plan to ensure that the heads of public entities are implementing the code. This plan should assess:

- public employees’ knowledge of standards of conduct (to determine, for example, if dissemination and training are sufficient),
- how public organisations provide guidance on the code,
- whether there are specific codes aligned with the administration-wide code, and
- whether there are mechanisms for reporting misconduct and if they are used.

### *Enforcement and compliance*

It is essential that an efficient, consistent enforcement mechanism be designed in order to ensure compliance with the code. The DPA needs to ensure that public entities adopt a consistent approach to sanctioning misconduct. The new offences that the Anti-Corruption Law which will be introduced should also be sanctioned consistently across the public service.

## **Notes**

1. The International Code of Conduct for Public Officials was approved by the UN General Assembly. The Code can be consulted in the Annex to General Assembly Resolution 51/59 on Action against Corruption of 12 December 1996 (see [www.un.org/documents/ga/res/51/a51r059.htm](http://www.un.org/documents/ga/res/51/a51r059.htm)).
2. Ibid.
3. [http://ec.europa.eu/transparency/civil\\_society/code/index\\_en.htm](http://ec.europa.eu/transparency/civil_society/code/index_en.htm).
4. Published in Gazzetta Ufficiale n.149, 8 June 1994.
5. Legislative Decree No. 165 of 30 March 2001. Articolo 54 Codice di comportamento (Art. 58-bis del d.lgs n. 29 del 1993, aggiunto dall'art. 26 del d.lgs n. 546 del 1993 e successivamente sostituito dall'art. 27 del d.lgs n. 80 del 1998).
6. [www.ssc.govt.nz/sites/all/files/Understanding-the-Code-of-Conduct-April2010.pdf](http://www.ssc.govt.nz/sites/all/files/Understanding-the-Code-of-Conduct-April2010.pdf).
7. Published in Gazzetta Ufficiale n.149, 8 June 1994.
8. Article 3, Paragraph 3. L’articolo 54 del decreto legislativo 30 marzo 2001, n. 165.
9. Conferenza Unificata is a public body composed by central and local administration representatives. It is designed to improve co-operation between State and local entities in matters of joint interest.

## *Annex 5.A1*

### **Australian public service values**

The Australian Public Service Commission has identified values of public service to which all public officials must adhere. These values were formulated in a clear and workable manner, facilitating adherence.

The Australian Public Service (APS):

- is apolitical, performing its functions in an impartial and professional manner;
- is a public service in which employment decisions are based on merit;
- provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves;
- has the highest ethical standards;
- is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public;
- is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programmes;
- delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public;
- has leadership of the highest quality;
- establishes workplace relations that value communication, consultation, co-operation and input from employees on matters that affect their workplace;
- provides a fair, flexible, safe and rewarding workplace;
- focuses on achieving results and managing performance;
- promotes equity in employment;
- provides a reasonable opportunity to all eligible members of the community to apply for APS employment;
- is a career-based service to enhance the effectiveness and cohesion of Australia's democratic system of government;
- provides a fair system of review of decisions taken in respect of employees.
- agency heads are bound by the Code of Conduct, like all APS employees, and have an additional duty to promote the APS Values.

*Source: [www.apsc.gov.au/values](http://www.apsc.gov.au/values).*



## *Annex 5.A2*

### **The Canadian Values and Ethics Code for the Public Service**

The Values and Ethics Code is divided into four chapters: 1) Statements of Public Service Values and Ethics, 2) Conflict of Interest Measures, 3) Post-employment Measures, and 4) Avenues of Resolution. Recalling all the regulations and policies by which civil servants should abide (such as the Access to Information Act, Privacy Act, Financial Administration Act, Policy on Internal Disclosure of Information Concerning Wrongdoing in Workplace, etc.), each chapter has been divided into sections that address a few main ideas in order to make the code easily interpretable and avoid detailed provisions. Thus, the Code succeeded in defining clear and concise standards of conduct.

As for the standards of behaviour in dealing with citizens and colleagues, the Canadian Code has defined the values that should guide this behaviour under the title “People Values”, which require civil servants to “demonstrate respect, fairness and courtesy in their dealings with both citizens and fellow public servants”. This general statement has been further explained in a set of concrete principles namely:

- Respect for human dignity and the value of every person should always inspire the exercise of authority and responsibility.
- People values should reinforce the wider range of public service values. Those who are treated with fairness and civility will be motivated to display these values in their own conduct.
- Public service organisations should be led through participation, openness and communication, and with respect for diversity and for the official languages of Canada.
- Appointment decisions in the public service shall be based on merit.
- Public service values should play a key role in recruitment, evaluation and promotion.

Finally, concerning the application of Code, a separate section determines the responsibilities, authorities and accountabilities of public servants, deputy heads and senior managers, the Treasury Board (which developed the Code and provides guiding materials on how to implement it) and the Public Service Integrity Officers (who are in charge of receiving, recording and reviewing disclosures of wrongdoing). Complementary regulations and guidance to implement the Code provide further details on how to apply the standards of conduct in specific situations.

*Source: [www.tbs-sct.gc.ca/pubs\\_pol/hrpubs/tb\\_851/vec-cve-eng.asp](http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_851/vec-cve-eng.asp) (Archived).*

### *Annex 5.A3*

## **The Austrian Code of Conduct to Prevent Corruption: the responsibility rests with me**

As transparent as possible – as discreet as necessary.

I work transparently and comprehensibly, and, because of my duty of disclosure, inform individuals and the public about my professional actions.

However, it is also clear to me that, depending on my area of work, I am subject to various and specific obligations to maintain secrecy that limit my duty of disclosure. These also continue to apply after I have retired from or left public service.

Under certain circumstances, passing on information acquired solely in the course of my official duties may violate the justified interests of third parties. Such interests include, above all, particular public interests such as the maintenance of law, order, and public security; foreign relations, national defence or the economic interests of public bodies. I may seek to be released from certain obligations to maintain secrecy. Of course, I also seek to protect the interests of individuals, in particular personal rights and their basic right to data protection.

If a member of the public approaches me with a request to pass on information, I carefully balance his/her interest in receiving this information with those private or personal interests which could be violated by passing on or even publishing the information. Above all, I endeavour to avoid compromising individuals.

In case of doubt, I seek the advice of my manager. I document my forwarding or refusal to forward the relevant information and also the reasons for my decision.

*Source: [www.bka.gv.at/DocView.axd?CobId=40151](http://www.bka.gv.at/DocView.axd?CobId=40151).*

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