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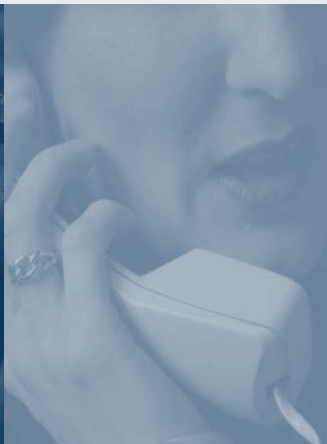
INDEPENDENT  
COMMISSION  
AGAINST  
CORRUPTION

# **ICAC Code of Conduct**

**FEBRUARY  
2007**

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This publication and further information about the Independent Commission Against Corruption can be found on the Commission's website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

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ADDRESS: Level 21, 133 Castlereagh Street, Sydney,  
New South Wales, 2000

---

POSTAL ADDRESS: GPO Box 500, Sydney, New South Wales,  
Australia, 2001

---

PHONE: 02 8281 5999  
1800 463 909 (toll free, for callers outside  
metropolitan Sydney)

---

FACSIMILE: 02 9264 5364

---

TTY: 02 8281 5773 (for hearing-impaired callers only)

---

EMAIL: [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

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OFFICE HOURS: 9.00 am to 5.00 pm, Monday to Friday

# 1. Introduction from the Commissioner



The Commission was established to tackle corruption in the New South Wales public sector. It has three principal functions: investigation, corruption prevention and public education. These functions can only be properly and effectively carried out if every Commission officer acts in accordance with their public duty, and the trust placed in them by the community.

This Code of Conduct sets out the principles we are expected to uphold, and prescribes specific conduct in areas considered central to the exercise of the Commission's functions. The Code will be reviewed regularly, and updated and expanded to reflect changes both within and outside the Commission.

This Code applies to all employees of the Commission and other persons engaged to do work for the Commission. (Where the Code says "Commission officers", this includes other persons engaged to do work for the Commission).

Any one of us may be faced with ethical dilemmas in both our working life and personal life. This Code of Conduct has been developed to guide us in making decisions and in determining an appropriate course of action that is supported by our corporate values (see box on following page).

As individuals, we are responsible for our own actions. In the event that any of us becomes aware of, or witnesses, unsatisfactory actions by other Commission employees or persons engaged by the Commission, each of us is obliged to report that to a senior staff member or to the Solicitor to the Commission.

Breaches of the Code or any of the principles and guidelines that it describes may lead to the Commission taking disciplinary action.

If you are unsure of any aspect of this Code consult your line manager, a director, or the Manager, Human Resources and Administration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jerrold Cripps'. The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

The Hon Jerrold Cripps QC  
Commissioner

## Our corporate values are to...

1. Advance the public interest
2. Act ethically and with integrity
3. Be fair, impartial and accountable
4. Strive for excellence
5. Be tenacious and professional in pursuing our aims
6. Respect each other and support each other with an emphasis on teamwork
7. Preserve the ICAC's independence.



## 2. Our conduct as Commission officers

**The name and powers of the Commission must be used with restraint, and with an awareness of their potential effect on individuals. These powers must never be used to gain personal advantage or pursue personal issues.**

### 2.1 Our employment

By accepting employment or engagement with the Commissioner of the ICAC we are obliged to be aware of and comply with this Code of Conduct, and have undertaken to:

- engage in personal or professional conduct that will uphold the reputation of the Commission;
- abide by the secrecy and confidentiality provisions of the *Independent Commission Against Corruption Act 1988* (the ICAC Act);
- in accordance with Commission policies and regulations, fully and openly disclose to the Commission personal particulars and financial or other interests. Any significant changes to those interests should be disclosed.

We must be continually alert to our individual employment obligations to ensure we are acting ethically, responsibly and productively.

We are committed to certain fundamental values in all our interactions with public sector agencies, other organisations, individuals and our staff.

### 2.2 Ethical behaviour and decision making

We are obliged to meet the same standards of ethical behaviour and accountability that the Commission promotes in its dealings with other government organisations.

We should:

- treat members of the public, officers of the Commission and other public officials with respect, courtesy, honesty and fairness, and have proper regard for their interests, rights, safety, health and welfare;
- ensure that our work habits, behaviour and personal and professional relationships at the workplace contribute to a harmonious and productive work environment;

- perform our work honestly, diligently and with commitment;
- make decisions in a fair and timely manner, giving due attention to relevant information, legislation and Commission policies and procedures;
- respect diversity of thought, experience and skills;
- observe common courtesies and etiquette in terms of day-to-day relationships;
- comply with lawful or reasonable instructions given by an authorised colleague.

## 2.3 Conflicts of interest

**The work of the Commission must not be compromised or affected by any personal interest.**

A conflict of interest arises when our public duty conflicts with a private interest that we may have. The public interest must come first on all such occasions.

Conflicts of interest, or the perception that they have arisen, can do great damage to the reputation of the Commission and its staff.

We can all have real, potential or perceived conflicts of interest. These can be financial or non-financial. It is our responsibility to ensure that the situation is properly managed, including by reporting the situation to our line manager and advising our manager of any changes to that situation.

We must check our Declaration of Interests at regular intervals, and make amendments to reflect any changes in our interests as they occur.

If in doubt seek advice from your line manager, the Security and Risk Management Officer, the Manager of Human Resources and Administration, or an Executive Director. For more information refer to our Conflicts of Interest Policy.

## 2.4 Gifts, benefits, bribes or favours

We should never create the impression that the Commission or any of its officers is being influenced by any person or organisation.

As Commission officers we may be offered gifts, benefits, travel, hospitality or other inducements during the course of our work. The acceptance of gifts and other benefits has the potential to compromise our position by creating a sense of obligation in the receiver and so undermine our impartiality. It may also affect the public perception of the integrity and independence of the Commission and its officers.

We should never solicit any money, gift or benefit and should never accept any offer of money. To do so may constitute bribery. Bribery is soliciting, receiving or offering any undue reward. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.

There are some circumstances when to refuse a gift would be perceived as rude or offensive.

We must exercise sound judgement when deciding whether or not to accept a gift or other benefit. Officers should ensure that the Gifts and Benefits Declaration is completed and submitted. If unsure, seek advice from your line manager and consult our Gifts and Benefits Policy.

## 2.5 Use of public resources

### **Public resources must be used efficiently and appropriately.**

The resources we use at work are publicly funded resources, including our time. These resources include—but are not limited to—facilities, computers, printers, motor vehicles, the internet, mobile phones, credit and fuel cards, and people. Because these resources are publicly funded, our use of them needs to be efficient and appropriate.

It is our obligation and responsibility to use publicly funded resources in accordance with government legislation and policy. Limited private use of the Commission's resources may be permitted in some cases. However, our private use of the Commission's resources, including our time, should be short, infrequent, and should not interfere with Commission work.

Further guidance about these issues can be found in our Phone Policy, Private Use of Commission Property Policy, Use of Commission Vehicle Policy, Electronic Mail Policy and Procedures, External Systems Access Policy, Internet Access Policy, and Cab Charge Procedures Policy.

## 2.6 Political, community and personal activities

As individuals we have the right to participate in political and community activities and to pursue personal interests, provided we do so in a private capacity and do not allow a conflict of interest to arise.

We must ensure that any participation in political activities does not conflict with our primary duty to advance the public interest in a politically neutral manner.

We must also be aware that involvement in or association with a political party may limit or prevent our involvement in particular Commission investigations and projects. This is because the Commission can be required to deal with matters that are politically controversial and sensitive.

In participating in any political, community and personal activity we must ensure that:

- any comment we make or discussion we have does not cast doubt on our ability or willingness to implement Commission policies and guidelines objectively;
- we do not participate in private political activities in the work environment;
- we do not use Commission resources to assist us in our political, community or personal activities;
- we do not use information obtained through our work at the Commission to assist our political, community or personal activities, or make such information known to any other person;
- we do not misrepresent the position of the Commission on any issue.

It is our obligation to ensure that any involvement in political, community or personal activities is understood to represent our personal views as a private citizen. It is also our responsibility to ensure that our manager is made aware of any political association that may affect, or be perceived to affect, a matter that we encounter in our day-to-day work.

## 2.7 Secondary employment or other activities

Engaging in outside, or secondary, employment, professional activities or even volunteer work may have the potential to compromise or be seen to compromise our duties as a Commission officer. For example we might not know that a potential employer was of interest to the ICAC.

Prior to engaging in any secondary employment or other professional activity we should seek advice from our line manager. We should only commence secondary employment once we have received formal authorisation from the Commissioner for that employment.

For further details regarding secondary employment and how to apply for authorisation, refer to our Secondary Employment Policy.

## 2.8 If we leave the Commission

**We have an obligation to carry out our work professionally, impartially, with integrity and in the best interests of the Commission.**

If any one of us intends to accept a position with another organisation we should advise our Executive Director as soon as possible so that any conflict or potential conflict of interest can be managed.

When we leave the Commission, in accordance with the ICAC Act we should respect the confidentiality of information that we have come across in our work, and the Commission's intellectual property rights over material produced by the Commission, including material produced by us while at the Commission.

When we cease duty with the Commission we cannot take any Commission resources such as manuals, documents, materials or other information or equipment, unless authorised. These items are the property of the Commission.

Being a former employee of the Commission does not entitle a person to favourable treatment or access to confidential information.

## 3. Our workplace

**We should treat everyone with respect.**

### 3.1 A workplace free of discrimination, harassment and bullying

We are required to deal with individuals and organisations fairly, properly and with integrity, as well as recognise that each individual has rights as a citizen.

Discrimination and partiality, either within the Commission or in dealings with people and organisations outside the Commission, are unacceptable.

We are all obliged not to harass, bully or discriminate against our colleagues or members of the public on the grounds of gender, marital status, pregnancy, age, race, ethnic or national origin, disability, carer responsibilities, transgender status, religious beliefs, sexual orientation, medical conditions, political and trade union affiliations.

We should take all necessary steps to prevent and deal with harassment, bullying and discrimination in our work environment and to report it if it occurs.

For more information refer to our Bullying and Harassment Prevention Policy, the Equal Employment Opportunity (EEO) Policy and the *Anti-Discrimination Act 1977* (NSW).

### 3.2 A workplace that is safe and secure

#### Safety

We are expected to understand our responsibilities and obligations under Occupational Health and Safety (OHS) legislation. We should be proactive in ensuring that our workplace is safe and secure for everyone, including identifying, assessing and reporting safety risks and hazards.

We have an obligation to ensure that personal use of alcohol or other drugs does not affect our performance or safety, or the performance or safety of others. Inappropriate consumption of alcohol or other drugs may adversely affect the image of the Commission.

## Security

We have obligations to keep our workplace secure by being aware of and reporting suspicious visitors and/or unusual events. It is important that we are familiar with our security policies and procedures.

For more information refer to our Managing Alcohol and Other Drugs Policy, Occupational Health and Safety Policy, Workplace Injury and Management and Workers Compensation Policy, Anti Tail-Gating Procedure, and Security Passes and Cards Policy.



## 4. Our obligations regarding Commission information

**The security of information and protection of persons working with or dealing with the Commission must be assured.**

### 4.1 Using and protecting confidential information

Commission work involves access to confidential information. We must not disclose any information that we acquire during the course of our work except in the exercise of the Commission's functions. To do so may be an offence under section 111 of the ICAC Act.

We are obliged to ensure that we deal with information appropriately and use it only for the purposes of the Commission. Information may be disclosed in accordance with the Commission's Security of Sensitive Material Policy, or if the Commissioner certifies that it is necessary in the public interest to do so.

We should also exercise caution and sound judgment in discussing such information with other Commission officers. Normally information should be limited to those who need it to conduct their duties, or who can assist us to carry out our work because of their expertise.

We should remember that former Commission employees will not be given favourable treatment or access to confidential information.

Improper use of information could result in harm to another person, interfere with the integrity of an investigation or otherwise reduce the effectiveness of the Commission. We must not use information to gain a personal or commercial advantage for ourselves or another person.

Commission files and other confidential documents and information are not to be removed from the premises except in accordance with the Commission's security policies and procedures. If in doubt as to how to manage or secure sensitive material, consult our Security of Sensitive Material Policy or your line manager.

### 4.2 Making public comment on the Commission's work

**Only officers authorised by the Commissioner can make official public comment about the Commission.**

The unauthorised or improper release of information to the media may compromise an investigation, adversely affect the reputation or safety of individuals, or undermine public confidence in the Commission.

In general, Commission officers are not authorised to make official public comment about the Commission. Any media enquiries should be immediately referred to the Media Manager.

We are able to discuss Commission work that is already in the public domain, such as published reports and discussion papers, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses.

We should ensure that others are aware that we are only discussing material that is in the public domain, to avoid the perception that we may be telling people something that is confidential. This is a good rule to observe, for example, when talking to family, friends or acquaintances, when on public transport, in social settings, or at a café, party or pub.

If uncertain as to whether information is in the public domain, consult the Media Manager or your line manager.

For more information refer to our Policy and Practice in relation to the Media.

### **4.3 Intellectual Property**

We should respect the Commission's intellectual property rights over material produced by the Commission.

Anything we develop, invent or create, either alone or in collaboration with others in the course of our employment or engagement with the Commission, remains the intellectual property of the Commission.

On occasion, it may be in the public interest for the Commission to share its intellectual property with other agencies, but this must be authorised by the Commissioner.

If we leave the Commission we should respect the Commission's intellectual property rights over material produced by the Commission.

For more information refer to our Intellectual Property Management Policy.

## 5. Unacceptable conduct

**Unacceptable conduct is conduct that is unethical, unfair, unlawful or corrupt, or involves maladministration or serious and substantial waste.**

It is critical that we as Commission officers practice the conduct we expect of others. The integrity and public image of the Commission could be seriously compromised if any of us engage in conduct that is corrupt, unlawful, unethical or unfair.

The Commission will not tolerate any officer engaging in misconduct, corrupt conduct, maladministration or serious and substantial waste of public resources.

### **Misconduct**

Misconduct may involve deliberate acts or acts that contravene the ICAC Act, this Code of Conduct, or other Commission policies. Misconduct refers to many different factual situations that are considered under legislation or by the Commission to be unethical, unfair or unlawful.

Misconduct includes, but is not limited to, acts of carelessness, neglect, deceit, bullying, discrimination, harassment, or the misuse of position or information arising from a conflict of interest, as well as taking reprisal action against someone for making a protected disclosure (see Section 7). Misconduct includes conduct that happened while an officer was not on duty, or before an officer was appointed to his or her position.

### **Corrupt conduct**

As public officials we have specific powers, functions and knowledge because of the positions we hold. Corrupt conduct occurs when a public official uses or attempts to use that position for personal advantage. Corrupt conduct can also occur when a member of the public influences or attempts to influence a public official to use his or her position for a purpose other than the benefit of the public.

### **Serious and substantial waste**

Serious and substantial waste refers to uneconomical, inefficient or ineffective use of resources that results in loss/wastage of public funds/resources. Serious and substantial waste might be systemic (e.g. where there is a pattern of waste

that might be low-level or involve large quantities) or it might be absolute (e.g. where \$200,000 is spent on supplies never used).

### Maladministration

Maladministration includes action—or lack of action—of a serious nature by a public employee that is:

- against the law;
- unreasonable, unjust, oppressive or discriminatory; or
- based wholly or partly on improper motives.

For more information on these definitions refer to the *Ombudsman Act 1974*, the *Public Finance and Audit Act 1983*, the *ICAC Act*, and the *Protected Disclosures Act 1994*.



## 6. Accountability and reporting

**We are required to comply with the principles and guidance in this Code of Conduct.**

If we suspect or become aware of conduct inside the Commission that is unethical, unfair, unlawful or corrupt, or which involves maladministration or serious and substantial waste, we should promptly report it to our line manager, the Solicitor to the Commission or the Commissioner.

### 6.1 Misconduct

If we become aware of conduct that is unethical, unfair or unlawful, such as bullying, harassment, or involving a breach of this Code, we should report it to our line manager or to the Solicitor to the Commission. If the matter concerns the Solicitor to the Commission it should be made known to the Commissioner directly.

For further information refer to our policy on Procedures Relating to the Handling of Complaints of Misconduct Against Staff.

### 6.2 Corrupt conduct, maladministration or waste within the Commission

If we become aware of conduct that may involve corrupt conduct, maladministration or serious and substantial waste we should promptly report it. The Protected Disclosures Act will generally be applicable to complaints made by officers about such conduct to a line manager, the Solicitor to the Commission or to the Inspector of the ICAC.

We should report such conduct that we suspect or encounter in the course of our duties. We should also make a report if we suspect that another Commission officer is engaged in corrupt conduct, even if that corrupt conduct is unrelated to the officer's duties for the Commission.

#### Protected disclosures

Under the Protected Disclosures Act, a 'protected disclosure' is a voluntary report by a public official about corrupt conduct, maladministration or serious and substantial waste within the NSW public sector. The Protected Disclosures Act acknowledges the difficulty we may face when making a report about another public official.

The Act provides certain protections against reprisals for employees who report such matters and makes it an offence for detrimental action to be taken against a person for making a protected disclosure (but not for vexatious or malicious complaints). The Act applies to complaints made about the actions of public officials from other agencies as well as those involving the agency by which the public official is employed.

Internal reports by staff that fall within the Protected Disclosures Act will be treated as a 'protected disclosure' and handled in accordance with the Commission's Reporting of Protected Disclosures by Commission Officers Policy.

We can make a protected disclosure in the knowledge that it is an offence to take detrimental action against a person in reprisal for making a protected disclosure. If we believe that we have been detrimentally treated for having made a protected disclosure, we should report this directly to the Commissioner.

The internal investigation of complaints against staff is the responsibility of the Solicitor to the Commission, reporting to the Commissioner. Internal investigations are ordinarily conducted by a member of the Executive and a report submitted to the Commissioner for consideration of appropriate action. In the case of more serious or difficult investigations, outside assistance may be engaged.

Some staff may prefer to make a complaint to someone outside the Commission. Complaints involving corrupt conduct, maladministration or serious and substantial waste on the part of Commission officers may be made to the Inspector of the ICAC. The Inspector is an investigating authority for the purposes of the Protected Disclosures Act and has jurisdiction to investigate such complaints.

The Ombudsman and Auditor-General are no longer able to investigate complaints about ICAC officers made directly to them, although the Inspector of the ICAC may refer matters to them.

### **6.3 Reporting unacceptable behaviour outside the Commission**

The nature of our work means that from time to time we may become aware of suspected corrupt conduct which has not been otherwise reported. As Commission officers it is our responsibility to lead by example in reporting suspected corrupt conduct.

For example we may personally observe a public official engage in a suspect act, a friend may tell us something because we are a Commission employee, or someone may seek to enlist us into an improper arrangement during the course of conducting government business.

Although we are not obliged to report corrupt conduct that we may suspect or encounter by the general public outside the course of our duties, we are encouraged to do so. We should make such reports in writing to our line manager or to the Solicitor to the Commission.

## 6.4 Breaches of the Code of Conduct

By accepting a position or engagement with the Commission we have agreed to abide by this Code of Conduct.

Breaches of the Code or any of the principles and guidelines that it describes may lead to the Commission taking disciplinary action. Disciplinary action may include counselling, official notification of unsatisfactory performance, dismissal, prosecution, and a number of other measures described in our Misconduct, Unsatisfactory Performance and Serious Offences Policy.



## 7. Applicable legislation

- *Anti-Discrimination Act 1977* (NSW) and Commonwealth legislation relating to discrimination on the grounds of race, sex and disability
- *Crimes Act 1900* (NSW)
- *Freedom of Information Act 1989* (NSW)
- *Independent Commission Against Corruption Act 1988* (NSW)
- *Industrial Relations Act 1996* (NSW)
- *Occupational Health and Safety Act 2000* (NSW) & *Occupational Health and Safety Regulation 2001*
- *Ombudsman Act 1974* (NSW)
- *Privacy and Personal Information Protection Act 1998* (NSW)
- *Protected Disclosures Act 1994* (NSW)
- *Public Finance and Audit Act 1983* (NSW) and *Public Finance and Audit Regulation 2005*

Refer to the ICAC intranet for the relevant Commission policies.

When we are faced with an ethical dilemma, each of us should ask ourselves the following questions:

- Is it legal?
- Is it consistent with Commission values, principles and policies?
- Do I think it's the right thing to do?
- What will the consequences be for my colleagues, the Commission and me?
- What will the consequences be for other parties?
- Can I justify my actions?
- What would be the reaction of my family and friends if they were to find out?
- What would happen if my conduct became front page news?

If you are unsure of the answer or what to do, speak to your Manager or a more senior Commission officer.

### **Remember...**

**Managers are a resource to help us resolve problems and make ethical decisions, as well as help us manage unintentional acts that may breach the Code.**





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ADDRESS: Level 21, 133 Castlereagh Street, Sydney,  
New South Wales, 2000

---

POSTAL ADDRESS: GPO Box 500, Sydney, New South Wales,  
Australia, 2001

---

PHONE: 02 8281 5999  
1800 463 909 (toll free, for callers outside  
metropolitan Sydney)

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FACSIMILE: 02 9264 5364

---

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