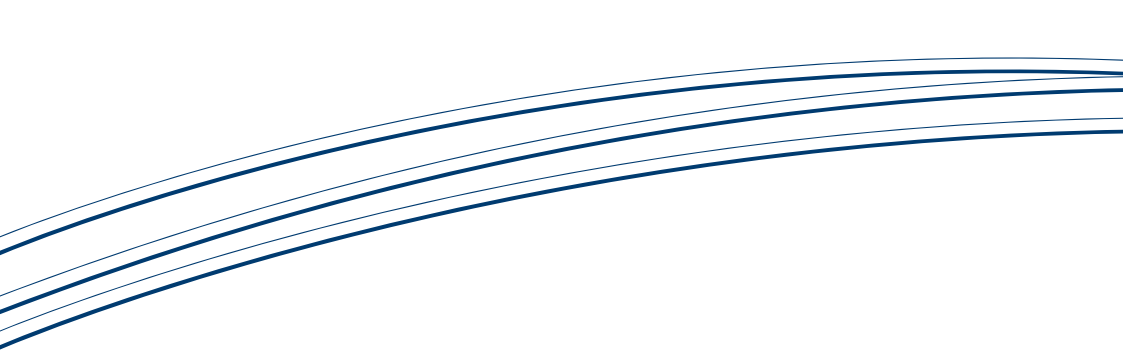




INDEPENDENT COMMISSION
AGAINST CORRUPTION
NEW SOUTH WALES

ICAC CODE OF CONDUCT

JULY 2018



This publication is available on the Commission's website www.icac.nsw.gov.au and is available in other formats for the vision-impaired upon request. Please advise of format needed, for example large print or as an ASCII file.

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Level 7, 255 Elizabeth Street
Sydney NSW Australia 2000

Postal Address: GPO Box 500,
Sydney NSW Australia 2001

T: 02 8281 5999

1800 463 909 (toll free for callers outside metropolitan Sydney)

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

F: 02 9264 5364

E: icac@icac.nsw.gov.au

www.icac.nsw.gov.au

Business Hours: 9.00 am - 5.00 pm Monday to Friday

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1. Introduction by the Commissioners

The NSW Independent Commission Against Corruption (“the Commission”) plays an important role in strengthening the integrity of the public sector in our state.

The Commission was established to tackle corruption in the NSW public sector. Its principal functions are to detect, expose and prevent corrupt conduct and to promote the integrity and good repute of public administration. These functions can be properly and effectively carried out only if every officer acts in accordance with their public duty, and the trust placed in them by the community.

This Code of Conduct (“the code”) 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 applies to all employees of the Commission and other persons engaged to do work for the Commission (where the code says “Commission officers” or “staff”, 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 and personal lives. The code has been developed to guide us in making decisions and in determining an appropriate course of action that is supported by our fundamental values (see box on page 3). We are committed to these values in all our interactions with public sector officials and agencies, contractors, complainants, persons affected by our work and each other.

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 in accordance with the Commission’s reporting policies.

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 manager, an executive director or the manager human resources, security and facilities. Commission policies referred to throughout the code are accessible through the intranet.

Ultimately, the Commission's performance in discharging its important functions and its reputation derives from the actions and decisions of its staff. This is why it is imperative that all of us know and understand this code.

Yours faithfully,



The Hon Peter Hall QC
Chief Commissioner



Patricia McDonald SC
Commissioner



Stephen Rushton SC
Commissioner

Our values

Advance the public interest.

Act ethically and with integrity.

Be objective, fair, impartial and accountable.

Strive for excellence.

Be tenacious and professional in pursuing our aim.

Respect each other with an emphasis on teamwork.

Preserve the ICAC's independence and reputation.

2. Our conduct as Commission officers

The powers of the Commission must be used and exercised with due caution and appropriate restraint according to the circumstances, 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 Chief Commissioner of the ICAC, we are obliged to be aware of, and comply with, this code and undertake 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”)
- fully and openly disclose to the Commission personal particulars and financial or other interests in accordance with Commission policies and regulations (any significant changes to those interests also should be disclosed).

We must continually be 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, contractors, individuals and our Commission colleagues.

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:

- regard the protection of the public interest and the prevention of breaches of public trust as paramount concerns
- 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 persons affected by the Commission's operations are provided with procedural fairness
- 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 skill
- 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 we are in a position to be influenced, or appear to be influenced, by our private interests when doing our job. The public interest must come first on all such occasions.

Conflicts of interest, or the perception that they have arisen or been mismanaged, 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 promptly reporting it to

our manager and advising our manager of any changes to that situation. Managers have a particular responsibility for ensuring that all reported conflicts are managed in favour of the public interest.

We must check our Table of Associations and 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 manager, a human resources officer or an executive director. For more information, refer to our Conflicts of Interest Policy and Procedure (policy number 92).

2.4 Gifts, benefits, bribes or favours

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

As Commission officers, we may be offered gifts, benefits, travel, hospitality or 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 therefore can undermine our impartiality. It may also affect the public perception of the integrity and independence of the Commission and its officers. Consequently, it is not acceptable for Commission staff to accept gifts, benefits or hospitality that could create the impression of an attempt to influence.

We should never solicit any money, gift or benefit and should never accept any offer of money or equivalents of money such as gift vouchers. To do so may constitute bribery. Bribery is soliciting, receiving or offering any undue reward that influences, or is intended to influence, our conduct. A reward can encompass anything of value (including a favour) and is not limited to money or tangible goods. The provision of services may amount to a reward. If we are offered a bribe or undue reward, we should refuse it and immediately report the offer to the Solicitor to the Commission.

Additional details, including information about our disclosure obligations, can be found in our Gifts and Benefits Policy (policy number 93) on the intranet.

2.5 Use of public resources

Use public resources efficiently and effectively.

The resources we use at work, including our time, are publicly funded. These resources include—but are not limited to—facilities, computers, printers, photocopiers, motor vehicles, the internet, mobile telephones, 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 relevant legislation and Commission 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 managing our use of the Commission's resources can be found in IM&T Policies and Procedures (policy number 77), Use of Commission Vehicle Policy (policy number 57), External Systems Access Policy (policy number 63), and Procedures for using Cab Charge E-tickets (policy number 75) .

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 affect our work at the Commission.

We must ensure that any participation in party political activities does not conflict with or adversely affect our primary duty to advance the public interest in a politically neutral manner while undertaking our Commission duties.

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 or 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 engage in private political activities in the work environment
- we do not use Commission resources to assist us in our political, community or personal activities or those of others
- 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 give the impression that we represent the position of the Commission on any issue.

It is our obligation to ensure that any involvement in political, community or personal activity 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 Outside employment or other activities

Outside employment refers to a situation where a Commission officer engages in paid or unpaid work for another organisation (private or public). It includes self-employment, operating a private business and providing paid consultancy services as well as partnerships and directorships of companies. It also includes any steps that an officer might take to establish a business or attract customers to a business.

Employees must not engage in outside employment without permission, and should seek advice from their manager prior to engaging in any outside employment.

We must not make any commitment, nor engage in outside employment, until formal approval has been given by the Chief Commissioner.

The Commission takes a very strong view on outside employment and only in exceptional circumstances would it support an application for outside employment.

For further details regarding outside employment, and how to apply for approval, refer to our Outside Employment Policy (policy number 27), which also makes reference to the obligations of contractors, consultants and

agency staff to formally advise the Commission of any outside employment undertaken while engaged at the Commission.

Voluntary activities, including those of a sporting, charitable, community or artistic nature, are not generally considered to be outside employment. However, these activities must be disclosed in accordance with the Conflicts of Interest Policy and Procedure (policy number 92) if they constitute a conflict of interest. Where appropriate, we should also update our Table of Associations and Declaration of Interests to reflect volunteer work (for example, to disclose a relevant personal association, office-holding or private commitment).

2.8 If we leave the Commission

- If we intend to accept a position with another organisation, we should advise our manager, executive director or human resources as soon as possible so that any conflict of interest (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

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, religious beliefs, sexual orientation, medical conditions, political and trade union affiliations.

It is important to recognise that harassment may take various forms or be exhibited in various ways, in words used, manner of expression and by non-verbal forms of conduct. 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.

In addition, the Commission's values require that we treat each other with respect and emphasise teamwork in our activities. This, however, should not prevent the frank exchange of views about our work.

For more information refer to our Bullying and Harassment Prevention Policy (policy number 48), the Equal Employment Opportunity and Discrimination Prevention Policy (policy number 39) and the *Anti-Discrimination Act 1977*.

3.2 A workplace that is safe and secure

3.2.1 Safety

We are expected to understand our responsibilities and obligations under work health and safety (WHS) legislation. We should ensure that our

workplace is safe and secure for everyone, including by identifying and managing safety risks and hazards.

For more information refer to our Work Health and Safety Policy and Procedures (policy number 8) Policy and Workplace Injury Management and Worker's Compensation Policy and Procedures (policy number 10).

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.

For more information, refer to our Managing Alcohol and Other Drugs Policy (policy number 84).

3.2.2 Security

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

For more information, refer to our Security Passes and Cards Policy (policy number 60).

4. Our obligations regarding Commission information

Assure the security of information and protection of persons working or dealing with the Commission.

4.1 Using and protecting confidential information

Commission work involves access to confidential information. Disclosure of any information that we acquire during the course of our work, except in the exercise of the Commission's functions, is strictly prohibited. To do so is likely to constitute a fundamental breach of contractual and fiduciary-like obligations and may be an offence under s 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's work. Information may be disclosed in accordance with the Commission's Information Security Policy (policy number 78), or if the Chief 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 are not 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 Information Security Policy, Working at Home on a Short-Term Basis Policy (policy number 45) or your manager.

4.2 Making public comment on the Commission's work

Only officers authorised by the Chief 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. It is Commission policy that any media enquiries must be immediately referred to the Manager Communications and Media.

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 Manager Communications and Media.

For more information, refer to our Media Policy (policy number 3) and the Social Media Policy (policy number 102)

4.3 Intellectual property

We should respect the Commission's intellectual property rights over material it produces.

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 in accordance with the Commission's policy and delegations.

If we leave the Commission, we should respect the Commission's intellectual property rights over its material.

For more information, refer to our Intellectual Property Management Policy (policy number 88).

5. Unacceptable conduct

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

As Commission officers, it is critical that we practise 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, serious and substantial waste of public resources or government information contravention.

Misconduct may involve deliberate acts or acts that contravene the ICAC Act, the code 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 public interest disclosure (see section 6.1 of this code). Misconduct can include conduct that happened while an officer was not on duty or before an officer was appointed to their position.

Corrupt conduct is defined in s 7 – s 9 of the ICAC Act. All Commission staff must be familiar with this definition.

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

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

Serious and substantial waste of public resources refers to uneconomical, inefficient or ineffective use of resources resulting in loss or waste of public funds and resources. Serious and substantial waste might

be systemic (for example, where there is a pattern of waste that might be low-level or involve large quantities) or it might be absolute (for example, where \$200,000 is spent on supplies that were never used).

Government information contravention refers to a failure to exercise functions in accordance with the *Government Information (Public Access) Act 2009* (“the GIPA Act”).

For more information on these definitions, refer to the *Ombudsman Act 1974*, the ICAC Act, the *Public Interest Disclosures Act 1994* (“the PID Act”) and the GIPA Act.

6. Accountability and reporting

If we suspect or become aware of conduct inside the Commission, which is described as “Unacceptable conduct” in section 5 of the code, we must promptly report it in accordance with the Reporting of Public Interest Disclosures by Commission Officers Policy (policy number 44), where it applies, or to the Solicitor to the Commission, the Chief Commissioner or a Commissioner.

For further information, refer to our Unsatisfactory Performance, Misconduct and Serious Offences Policy (policy number 64) and Fraud and Corruption Control Policy (policy number 104).

6.1 Making public interest disclosures

Under the PID Act, a public interest disclosure is a report by a public official about potential corrupt conduct, maladministration, a GIPA Act breach or local government pecuniary interest breach, or serious and substantial waste within the NSW public sector. The PID Act acknowledges the difficulty we may face when making a report about another public official. All of these matters fall within the meaning of “Unacceptable conduct” (see section 5 of the code) and therefore must be reported if we suspect or become aware that they are occurring.

The PID 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 public interest disclosure. The PID 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 PID Act will be treated as a “public interest disclosure” and handled in accordance with the Commission’s Reporting of Public Interest Disclosures by Commission Officers Policy (policy number 44).

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

The internal investigation of complaints against staff is the responsibility of the Solicitor to the Commission, who advises the Commissioners.

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 of the ICAC is an investigating authority for the purposes of the PID Act and has jurisdiction to investigate such complaints.

There are some matters that the Commission regards as “Unacceptable conduct” that are not covered by the PID Act. This could include, for instance, behaviour that is unethical but not serious enough to be corrupt or maladministration. In these cases, the Commission will nonetheless apply the general principle that complainants will be protected from the possibility of detrimental action.

6.2 Observing corrupt behaviour outside the Commission

The nature of our work means that, from time-to-time, we may become aware of suspected corrupt conduct that 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 suspicious act, a friend may tell us something because we are a Commission employee, or we may otherwise come across evidence of corrupt conduct outside of work.

Although we are not obliged to report corrupt conduct that we may suspect or encounter outside the course of our duties, we are encouraged to do so. We should make such reports in writing to the Manager Assessments.

6.3 Breaches of the code

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

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 Unsatisfactory Performance, Misconduct and Serious Offences Policy (policy number 64).

7. Applicable legislation

- *Anti-Discrimination Act 1977*
- *Crimes Act 1900*
- *Independent Commission Against Corruption Act 1988*
- *Work Health and Safety Act 2011 and Regulation 2011*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 1994*

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

- Is it legal?
- Is it consistent with Commission values, principles and policies?
- Do I think it is the right thing to do?
- What will be the consequences for my colleagues, the Commission and me?
- What will be the consequences 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.



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9.00 am - 5.00 pm Monday to Friday

Level 7, 255 Elizabeth Street
Sydney NSW Australia 2000

Postal Address: GPO Box 500,
Sydney NSW Australia 2001

T: 02 8281 5999

1800 463 909 (outside metropolitan Sydney)

F: 02 9264 5364

TTY: 02 8281 5773 (hearing-impaired)

E: icac@icac.nsw.gov.au

www.icac.nsw.gov.au