



Conduct guide

Developing a code of conduct

Enquiries:

Public Sector Commission
Dumas House, 2 Havelock Street, West Perth 6005
Locked Bag 3002, West Perth WA 6872
Telephone: (08) 6552 8500 Fax: (08) 6552 8501
Email: admin@psc.wa.gov.au
Website: www.publicsector.wa.gov.au

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Introduction

To ensure the community and government have confidence in the public sector, employees must act – and be seen to act – with integrity. All employees have a personal and collective responsibility to serve the public interest and make accountable and ethical decisions.

Each public sector body's code of conduct communicates the expected standards of conduct and integrity to all employees, from the director general or chief executive officer through to trainees. Codes of conduct must be consistent with [Commissioner's Instruction No. 7 – Code of Ethics](#) and [Commissioner's Instruction No. 8 – Codes of conduct and integrity training](#). Effective codes that are well communicated to employees can assist in building and sustaining a culture of integrity, which is fundamental to good organisational performance.

This guide assists public sector bodies to develop, implement and promote an effective code of conduct. The Commission is also available to provide further advice. See www.publicsector.wa.gov.au for more information.

Purpose of this guide

This guide assists public sector bodies to develop, implement and promote their codes of conduct in accordance with [Commissioner's Instruction No. 8 – Codes of conduct and integrity training](#) (CI No. 8). It should be read in conjunction with CI No. 8 and [Commissioner's Instruction No. 7 – Code of Ethics](#) (CI No. 7), both available at www.publicsector.wa.gov.au. Entities not covered by CI No. 8, such as those in Schedule 1 of the *Public Sector Management Act 1994* (PSM Act) may also find this guide useful when developing or reviewing their codes of conduct.

This guide contains information about the types of issues to be addressed in a code of conduct, but it is not exhaustive. It also addresses the implementation and review of a code of conduct. This guide does not replace the need for your public sector body to identify and incorporate any specific legislative, conduct and integrity requirements.

The guide uses the term 'employees' throughout, however it is intended to cover all persons to whom your code applies. This may include, for example, statutory office holders and temporary staff. If you are developing a code of conduct for a board or committee, see the [Conduct guide for public sector boards and committees – Developing your code of conduct](#).

Structure of this guide

This guide follows the seven conduct areas arising from CI No. 8. There are three sections under each conduct area.

Section one contains the conduct expectations a code of conduct should include.

Section two includes information about policies and activities that may support a code of conduct. Consider this information in the context of your public sector body's operating environment and integrity risks.

Section three outlines a range of mandatory requirements, common across the public sector to ensure accountability and proper process (referred to as 'the accountability framework'). The accountability framework includes, but is not limited to, legislation, Commissioner's Instructions (including the Code of Ethics), Premier's Circulars, Commissioner's Circulars and Treasurer's Instructions. Check whether the requirements in section three apply to your public sector body before including them in the code.

Developing a code

Considerations for developing a code

CI No. 8 requires all public sector bodies to develop, implement and promote a code of conduct and ensure compliance with that code. Section 9 of the PSM Act outlines conduct principles for public sector employees and specifies the requirement to comply with the public sector *Code of Ethics* (CI No. 7) and any code applicable to a public sector body.

Purpose of a code

A code of conduct translates the principles of the *Code of Ethics* (personal integrity, relationships with others and accountability) and the PSM Act into action and commitment for public sector employees. It sets the minimum standard of behaviour expected from employees when carrying out their daily duties. A code is also a practical tool to guide employees' accountable and ethical decision making that recognises the context in which a public sector body operates and its integrity risks.

An effective code of conduct can build and sustain an ethical culture and contribute to the positive reputation of the wider public sector. It can 'set the tone' from the top, clearly articulating a public sector body's commitment to the code and the requirement for employees to comply.

Inclusions and format

Your public sector body can present its code of conduct in any format and with content that it considers best suits its needs, as long as the code addresses the seven conduct areas in CI No. 8. These are:

1. Personal behaviour
2. Communication and official information
3. Fraudulent or corrupt behaviour
4. Use of public resources
5. Record keeping and use of information
6. Conflicts of interest and gifts and benefits
7. Reporting suspected breaches of the code.

As such, your public sector body's code of conduct may outline the high level principles that govern conduct, or it may include more specific policy and procedural advice around these seven conduct areas. If the code is high level and broad, ensure it references the specific policies and procedures relevant to each of the conduct areas so employees know where they can access further advice.

Codes often begin with a message or endorsement from the director general or chief executive officer to communicate and emphasise expectations. Your public sector body's mission and value statement may also be included in the introduction.

Along with the general accountability requirements, check any enabling legislation under which your public sector body operates to ensure the code reflects and references these requirements. Also identify and consider the risks associated with your public sector body's work (see the 'risk assessment' section below) and ensure these are addressed either within the code or linked policies and guidelines.

Some code of conduct writing and style tips are outlined below.

- Use positive or inclusive language such as 'we' or 'our'.
- Make the code clear, concise and use plain English so everyone understands it.
- Avoid having a code that reads like a list of what not to do.
- Ensure the code is well structured and specific enough to guide the conduct of employees, and reference other requirements or provide links to related policies.
- Be mindful of the code's length. There is no page limit, although for longer codes consider including a contents page. Ensure the code has a clear layout and easy formatting to improve readability.
- Define or expand on key concepts, either within the code or related policies. Examples or scenarios related to the work of your public sector body may illustrate how employees should conduct themselves in particular situations.

A sample structure for a code of conduct is included at [Appendix A](#).

Consultation

As the code applies to all employees, consider forming a consultative group to discuss the code's content and format, and how the code will be promoted to employees and stakeholders.

Risk assessment

A code of conduct can assist to manage integrity risks. Before developing or updating a code, consider risks that may be inherent to your public sector body's functions. This will form a basis for determining how the risks should be managed.

Because economic, industry, regulatory and operating conditions change over time, undertake regular risk assessments to ensure risk management approaches remain current and appropriate.

Some points to consider in assessing risk are outlined below.

- Identify areas of particular risk. Considerations may include:
 - Is there a likelihood conflicts of interest may be prevalent for decision makers?
 - Does your public sector body manage a large budget and regularly run large procurement processes, or award contracts or licenses?
 - Is there a likelihood employees may be offered, or need to provide, gifts, benefits or hospitality?
 - Are the decisions of your public sector body subject to strong stakeholder, public or media scrutiny?
 - Does your public sector body deal directly with members of the community, especially vulnerable people?
 - Does your public sector body collect particularly sensitive or confidential information?
- Consider reviews by integrity agencies to see if risks identified in other authorities may be applicable to your public sector body.
- Regularly examine any complaints, reports, conduct issues or disciplinary cases that may indicate risks your public sector body needs to manage.

In identifying these risks, also consider the possibility of instances where employees' decisions and actions may not accord with policies and ethical codes and how these instances will be reported and managed. See the 'Reporting suspected breaches of the code' section (page 30) for further information.

Risk is explored further in [*Treasurer's Instruction 825 – Risk management and security*](#).

Personal behaviour

Public sector employees have a personal responsibility to act ethically, with integrity and make decisions in the public interest. They represent the Government of the day and are role models for new and prospective public sector employees, stakeholders and members of the community they serve.

Appropriate personal behaviour in any given situation requires good judgement, guided by the applicable requirements, such as those set out in the public sector accountability framework.

Section one

Conduct expectations

The code should communicate the need for employees to:

- act honestly and with integrity in the performance of duties, in accordance with all legislative requirements, agency policies and ethical codes that apply to their conduct and to familiarise themselves with these obligations
- not engage in harassment, bullying or discrimination against colleagues or members of the public
- maintain and contribute to a harmonious, safe and productive work environment and professional relationships
- treat members of the public and colleagues with respect, courtesy, honesty and fairness, having proper regard for their interests, rights, safety and welfare
- make decisions fairly, impartially and promptly, and consider all available information, legislation, policies and procedures
- serve the Government of the day professionally and impartially and provide timely, well-considered information and policy advice
- understand the consequences of misconduct and actions that may be taken if they do not comply with the code and associated policies.

Section two

Supporting information

Your public sector body may choose to further explore within its code or associated policies:

- equal opportunity and diversity, and the prevention of discrimination and harassment
- occupational safety and health
- police clearance and working with children checks where appropriate, including possible consequences if an employee commits a criminal offence during their employment
- the need to notify the employing authority where essential job requirements are at risk, which may include suspension of, or change to, professional registration, accreditation, licence or qualifications
- customer service, which may include a customer service charter and information on response times and how to manage difficult customers
- customer complaints and how these are received and managed
- job description forms/role statements that outline your public sector body's values and conduct expectations
- monitoring compliance with the code of conduct and associated policies, for example, through review processes and reporting systems.

Section three

Compliance with applicable legislation, which commonly includes:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 7 – Public administration and management principles
 - section 8 – Human resource management principles
 - section 9 – Principles of conduct by public sector bodies etc.
- *Auditor General Act 2006*
- *Corruption, Crime and Misconduct Act 2003*
- *Criminal Code*
 - Chapter XII – Corruption and abuse of office
- *Disability Services Act 1993*
- *Environmental Protection Act 1986*
- *Equal Opportunity Act 1984*

- *Financial Management Act 2006*
- *Freedom of Information Act 1992*
- *Industrial Relations Act 1979*
- *Occupational Safety and Health Act 1984*
- *Parliamentary Commissioner Act 1971*
- *Public Interest Disclosure Act 2003*
- *State Records Act 2000*
- *State Supply Commission Act 1991*
- *Statutory Corporations (Liability of Directors) Act 1996*
- *Working with Children (Criminal Record Checking) Act 2004*

Compliance with across government requirements, which commonly include:

- [*Commissioner's Instruction No. 7 – Code of Ethics*](#)
 - Outlines the minimum standards of conduct and integrity to be complied with by all public sector bodies and employees
- [*Public Sector Commissioner's Circular: 2012-05 Code of practice: Occupational safety and health in the Western Australian public sector*](#)
 - Promotes strategies to help CEOs, managers and employees improve the work environment and ensure compliance with the *Occupational Safety and Health Act 1984*
- [*Premier's Circular: 2013/03 Coordination and governance of public sector labour relations*](#)
 - Requires public sector bodies to comply with the Coordination and Governance framework for Public Sector Labour Relations
- [*Premier's Circular: 2003/08 State Government access guidelines for information, services and facilities*](#)
 - Public sector bodies to fulfil social and legislative responsibilities by ensuring service accessibility by all customers, including people with disabilities
- [*Public Sector Commissioner's Circular: 2009-27 Complaints management*](#)
 - Public sector bodies' complaints management systems must conform to Australian Standard ISO 10002-2006
- [*Public Sector Commissioner's Circular: 2013-04 Equal employment opportunity management plans and workforce planning in the public sector*](#)
 - Public sector bodies are required to prepare and implement an equal employment opportunity management plan

- [Public Sector Commissioner's Circular: 2015-01 Implementation of the policy framework for substantive equality](#)
 - Aims to eliminate systemic racial discrimination in public sector services and promote sensitivity to different client groups
- [Public sector standards in human resource management](#)
 - Outline the minimum standards of merit, equity and probity to be complied with in the public sector for a number of human resource activities
- [Treasurer's Instructions](#)
 - Outline financial administration requirements for accounting for revenue, expenditure and property, and the standards for reporting

Communication and official information

Confidential information is any official information or document acquired in the course of employment that may be considered sensitive and only to be viewed or accessed by certain persons. Public sector employees have access to information that may not be in the public arena and certain obligations as to how this information is managed, and when and how it is released. Certain information must be treated with extra security and sensitivity, for example, Cabinet-in-confidence documents and sensitive personal or financial details.

Section one

Conduct expectations

Official information and use of information

The code should communicate the need for employees to:

- maintain confidentiality and not disclose any official information or documents acquired in their daily duties, other than as required by law or where proper authorisation is given
- not make improper use of official information obtained in their daily duties for direct or indirect personal or commercial gain for themselves or others, or to do harm to others
- respect the privacy of individuals and the security of personal information
- protect intellectual property
- seek advice about the appropriate release of information if they are unsure.

Communication and public comment

The code should communicate the need for employees to:

- adhere to any legal requirements, policies and all other lawful directives regarding communication with Parliament, Ministers, ministerial staff, lobbyists, the media and members of the public
- understand how they may use social media in an official capacity, if at all.

Section two

Supporting information

Your public sector body may choose to further explore within its code or associated policies:

- how and when information may be released, including public access to documents where appropriate, freedom of information and making general information available through your public sector body's website
- the nature of official information, including identifying who is authorised to make comment on behalf of your public sector body to the media or other organisations
- protection of intellectual property, including using and granting permission to use intellectual property
- stakeholder privacy and security of personal information
- use of social media in an official capacity, if at all
- monitoring compliance with the code of conduct and associated policies, for example, through review processes and reporting systems.

Section three

Compliance with applicable legislation and regulations, which commonly include:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 8(2) – For certain matters the department or organisation is not subject to the direction of a Minister
 - section 9 – Acting with integrity in the performance of official duties and being scrupulous with information, equipment and facilities
 - section 74 – Relationships between ministerial officers etc. and employees of departments etc.
- *Freedom of Information Act 1992*
- *State Records Act 2000*
- *Financial Management Act 2006*
 - section 81 – No action is taken or omitted to prevent the provision of information by the Minister to Parliament concerning conduct or operations
- *Criminal Code*
 - section 81 – Disclosing official secrets
 - section 83 – Corruption

- *Corruption, Crime and Misconduct Act 2003*
 - section 4 – Misconduct
- *Public Interest Disclosure Act 2003*
- *Public Service Regulations 1988*
 - regulation 8 – Public comment

Compliance with across government requirements, which commonly include:

- [*Public Sector Commissioner's Circular: 2009-10 Communication arrangements between Ministers and agencies*](#) – section 74 of the *Public Sector Management Act 1994*
 - Outlines Ministers' responsibilities for how communications are made between ministerial staff and government employees
- [*Commissioner's Instruction no.16 - Government representatives contact with registrants and lobbyists*](#)
 - To outline the obligations on government representatives when dealing with registrants and lobbyists, in accordance with the *Integrity (Lobbyists) Act 2016*.
- [*Public Sector Commissioner's Circular: 2009-15 Information for Ministers, ministerial staff and public sector employees called as witnesses before the Corruption and Crime Commission*](#)
 - Guidelines for reimbursement of legal costs incurred by eligible witnesses, where appropriate
- [*Public Sector Commissioner's Circular: 2009-30 Government intellectual property policy*](#)
 - Outlines the protection, management, use and commercialisation of intellectual property
- [*Premier's Circular: 2003/09 Guidelines for dealing with cabinet documents under the Freedom of Information Act 1992*](#)
 - Outlines processing requirements for Cabinet documents falling within the ambit of a freedom of information application
- [*Administrative Instruction 711: Official information*](#)
 - An officer shall not, except in the course of the officer's official duty and with the express permission of the chief executive officer, disclose certain information

- [Administrative Instruction 102: Official communications](#)
 - Unless in the course of official duties or with the express permission of the chief executive officer, an officer shall not communicate with a Minister of the Crown, the Commissioner or with the chief executive officer of another department. The Minister administering a department may request an officer of that department to provide information on any official matter. An officer who has been requested to provide information to the Minister, shall then advise the chief executive officer about the nature of the information supplied
- [Administrative Instruction 728: Media and public communications](#)
 - Chief executive officers will determine which officers shall be authorised to make public comment. Explains how public comment is made by authorised officers
- [Premier's Circular: 2014/03 Government advertising and communications policy](#)
 - Outlines campaign and non-campaign advertising

Fraudulent or corrupt behaviour

Fraud is a dishonest activity that causes actual or potential financial loss to any person or organisation. Corrupt conduct occurs when a public sector employee uses or attempts to use their position for personal advantage or to cause detriment to others.

Community confidence in ethical decision making can be lost when fraudulent or corrupt behaviour occurs. Left unchecked, fraudulent and corrupt behaviour can undermine the culture of a public sector body. It can damage the reputation of a public sector body and its employees, as well as the broader public sector. It may also result in an employee being disciplined, dismissed or possibly facing criminal charges.

Section one

Conduct expectations

The code should communicate the need for employees to:

- not engage in any fraudulent or corrupt behaviour
- report any information about actual or potentially fraudulent, corrupt or illegal activities through the appropriate mechanisms.

Section two

Supporting information

Your public sector body may choose to further explore within its code or associated policies:

- risk management
- promoting integrity (see Public Sector Commission website: publicsector.wa.gov.au/conduct-integrity/promoting-integrity)
- establishing clear employee reporting mechanisms (see the 'Reporting suspected breaches of the code' section in this guide on page 30 for more information)
- corruption resistance (more information can be found on the Corruption and Crime Commission's website www.ccc.wa.gov.au)
- monitoring compliance with the code of conduct and associated policies, for example, through review processes and reporting systems.

Section three

Compliance with applicable legislation, which commonly includes:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 9 – Act with integrity when performing official duties, be scrupulous in the use of official information, equipment and facilities
- *Financial Management Act 2006*
- *State Records Act 2000*
- *Criminal Code*
 - Chapter XIII – Corruption and abuse of office
- *Corruption, Crime and Misconduct Act 2003*
 - section 4 – Misconduct
- *Public Interest Disclosure Act 2003*

Compliance with across government requirements, which commonly include:

- [*Treasurer's Instruction 825: Risk management and security*](#)
 - Public sector bodies should consider material risks at all levels and take necessary actions to manage those risks, including safeguarding assets from misuse and loss due to theft or damage
- State Supply Commission policies – accountable authorities are required to purchase goods and services in accordance with State Supply Commission policies (www.ssc.wa.gov.au)
- Western Australian Government purchasing card (corporate credit card) guidelines (www.finance.wa.gov.au)

Use of public resources

Public sector employees have access to, and use, a range of public resources to carry out their daily duties. Public resources include, but are not limited to, credit cards, motor vehicles, computers, software, photocopiers, mobile telephones, laptops and tablets, printers, other office equipment and public sector employees' time. These resources are public property as they are purchased with public money. Public resources should never be used for private commercial or financial gain, or for party political work.

Section one

Conduct expectations

The code should communicate the need for employees to:

- use the resources of the State with diligence and efficiency
- be accountable for all expenditure, including the use of public money for hospitality and travel. This includes an employee not incurring their own expenditure for credit card payments, travel and other purchases
- not use public resources for party political work or private financial gain
- follow legislation and procurement policies to engage contractors and suppliers
- purchase goods and services following their public sector body's and government policies
- report any damage to, or loss of, property or equipment immediately to the appropriate person.

Section two

Supporting information

Your public sector body may choose to further explore within its code or associated policies:

- **Use of corporate credit cards and incurring expenditure.** Public officers who incur expenses must be authorised incurring officers, as provided for in the *Financial Management Act 2006* and relevant Treasurer's Instructions. Where credit cards are required for business, each corporate credit card is issued to an individual employee and responsibility for its appropriate use rests with that person.
- **Use of resources and equipment, including how and when official resources are not to be used and any 'acceptable use' conditions for equipment.** A public sector body's assets are publicly owned and are not provided to employees for personal use, unless provided for in policy. For example, some employees may have access to a mobile phone for work purposes with a limited amount of personal use allowed. Generally, employees with access to phones should keep personal calls to a minimum.
- **Travel and accommodation.** Clearly establish the requirements and policies for employees to seek and obtain approvals for official travel and accommodation. Guidance around this can be found in *Premier's Circular: 2014/02 Guidelines for official air travel by Ministers, Parliamentary Secretaries and Government Officers*.
- **Providing hospitality and entertainment.** Any hospitality provided must be consistent with the public sector body's genuine needs, its public duty and in keeping with *Public Sector Commissioner's Circular: 2009-18 Guidelines for expenditure on official hospitality*. Hospitality should not appear overly generous compared to the potential benefits to the public sector body or stakeholder involved.

Section three

Compliance with applicable legislation, which commonly includes:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 7 – Public administration and management principles
 - section 9 – Act with integrity when performing official duties and be scrupulous in the use of official information, equipment and facilities
- *Financial Management Act 2006*
- *State Supply Commission Act 1991*
- *Criminal Code*
 - Chapter XIII – Corruption and abuse of office
- *Corruption, Crime and Misconduct Act 2003*
 - section 4 – Misconduct

Compliance with across government requirements, which commonly include:

- [Premier's Circular: 2014/02 Guidelines for official air travel by Ministers, Parliamentary Secretaries and Government Officers](#)
 - Provides guidance for official air travel arrangements, including information regarding frequent flyer programs
- [Public Sector Commissioner's Circular: 2009-18 Guidelines for expenditure on official hospitality](#)
 - Expenditure on hospitality is to be consistent with responsibilities of public sector officers. All officers are to be scrupulous in their use of public funds
- [Department of Mines, Industry Regulation and Safety Circular to departments and authorities: No 7 of 2013 Policies on payment of overseas travel expenses](#)
 - Where an award or agreement provides for the payment of overseas travel expenses, the award or agreement should be applied, over any agency developed policy
- [Premier's Circular: 2017/08 State government boards and committees](#)
 - Outlines payment of fees to government officers
- [Premier's Circular: 2014/03 Government advertising and communications policy](#)
 - Outlines the requirements for campaign and non-campaign advertising
- [Premier's Circular 2015-01 Government office accommodation policy](#)
 - Establishes a framework to achieve value-for-money office accommodation that supports agencies' service delivery requirements.
- WA Government fleet policy and guidelines (www.finance.wa.gov.au)
- Western Australian Government purchasing card (corporate credit card) guidelines (www.finance.wa.gov.au)
- Industrial awards and agreements (for example, living away from home allowances, meals and travel allowances)
- Treasurer's Instructions cover all areas of financial management including:
 - [Treasurer's Instruction 321: Credit cards](#)
 - [Treasurer's Instruction 406: Custody of public property](#)
 - [Treasurer's Instruction 411: Motor vehicles](#)
- State Supply Commission policies and guidelines (www.ssc.wa.gov.au)
 - Accountable authorities are required to purchase goods and services in accordance with State Supply Commission policies
 - *Sponsorship in Government guidelines – A handbook to assist public authorities*
- Whole of Government contracts (www.contractswa.finance.wa.gov.au)
- [Public sector standards in human resource management](#)
 - Outline the minimum standards of merit, equity and probity to be complied with in the public sector for a number of human resource activities

Record keeping and use of information

Correspondence and documents created or received in the course of official business are government records. All public sector employees are responsible under the *State Records Act 2000* for creating and managing government records appropriately. Employees need to take particular care in the way information is recorded and handled, including confidential and sensitive information.

Making and maintaining proper records assists with accountability and transparency by demonstrating the basis for decisions and the process used to make the decision. Documentation enables decisions to be reviewed, including by an independent person or authority. Members of the public can also seek access to public sector bodies' information and documents under the *Freedom of Information Act 1992*.

Section one

Conduct expectations

The code should communicate the need for employees to:

- record actions and decisions to assist transparency
- ensure the secure storage of sensitive or confidential information, in both paper and electronic form
- not falsify, destroy, alter or damage public records or back-date information
- understand how and when information may be released
- ensure any personal information is accurate, complete, up-to-date and not misleading, as members of the public may be able to access documents, including through the freedom of information process.

Section two

Supporting information

Your public sector body may choose to further explore within its code, record keeping plan or associated policies:

- how records are to be kept and the requirements for removing files from the office, for example, working from home or using electronic devices
- ensuring the secure and proper disposal of government documents and hard drives
- release of information, which may include freedom of information processes and not inappropriately releasing information to offer an advantage or create disadvantage for any particular person or group
- monitoring compliance with the code and associated policies, for example, through review processes and reporting systems.

Section three

Compliance with applicable legislation and regulations, which commonly include:

- Public sector body's enabling legislation (if any)
- *State Records Act 2000*
- *Public Sector Management Act 1994*
 - section 7 – Public administration and management principles
- *Public Sector Management (General) Regulations 1994*
 - regulation 25 – Personnel records prescribed
- *Industrial Relations Act 1979*
 - section 49(d) – Keeping of employment records
- *Financial Management Act 2006*
- *State Supply Commission Act 1991*
- *Freedom of Information Act 1992*
- *Criminal Code*
 - section 83 – Corruption
 - section 85 – Falsification of records by a public officer
- *Corruption, Crime and Misconduct Act 2003*

Compliance with across government requirements, which commonly include:

- [Public Sector Commissioner's Circular: 2009-29 Policy framework and standards for information sharing between government agencies](#)
 - Facilitates the structures for sharing information
- [Premier's Circular: 2003/17 Requirements for Western Australian Government publications and library collections](#)
 - Outlines requirements to lodge publications with state and national libraries
- Treasurer's Instructions, including:
 - [Treasurer's Instruction 501: Employment records](#)
 - [Treasurer's Instruction 502: Records of attendance and time worked](#)

Conflicts of interest and gifts and benefits

The community has a right to expect public sector employees will perform their duties in the public interest, not for personal gain or to cause detriment to others. As such, employees must not allow their private interests to influence their decisions or actions. This includes appropriately identifying, declaring and managing any conflicts of interest in the public interest.

Conflicts of interest arise where there is a conflict between the performance of public duty and private, or personal, interests. Conflicts may involve personal, financial or political interests and may be actual, perceived or potential.

It is not wrong for an employee to have a conflict of interest, what matters is how it is managed. Conflicts of interest become a problem when an employee's private interests influence their decision making at work.

Section one

Conduct expectations

Conflicts of interest

The code should communicate the need for employees to:

- understand what a conflict of interest is and their responsibility to know how to identify and declare one
- understand that it is not wrong to have a conflict of interest but it needs to be managed in the public interest. Employees should consult a manager or supervisor to develop management strategies in accordance with relevant conflict of interest policies and procedures
- acknowledge that the conflict situation may change over time and will need ongoing monitoring
- not allow any private, commercial or political interests to interfere with their duties as public sector employees.

Gifts and benefits

The code should communicate the need for employees to:

- not accept gifts, benefits or hospitality likely to place them under an actual or perceived financial or moral obligation to other organisations or individuals
- understand in what circumstances gifts, benefits and hospitality may be accepted or offered in accordance with gifts, benefits and hospitality policies and procedures, if at all
- not demand or accept in connection with their official duties any fee, commission, reward, gratuity or remuneration of any kind which is outside the scope of their entitlements
- understand that accepting or offering a gift, benefit or hospitality may create a personal interest where one did not previously exist.

Section two

Supporting information

Your public sector body may choose to further explore within its code or associated policies:

- identifying, declaring and managing conflicts of interest (perceived, potential or actual), including:
 - reference to any legislation prohibiting decision making in certain circumstances
 - any examples specific to your public sector body, such as relationships with service providers or clients
 - how to declare and register a conflict
 - action required to manage a conflict
- the offer and acceptance of gifts and benefits, such as:
 - whether gifts can be accepted at all, and when it is not appropriate to accept gifts
 - gifts that can never be accepted, for example, cash or gifts easily converted to cash
 - reference to any legislation prohibiting decision making in certain circumstances
 - if gifts and benefits are accepted, they are of a token nature only and they are the property of your public sector body, not the employee
 - the need to record all gifts and benefits accepted by employees or given by employees. Your public sector body may also require employees to record any gifts they have been offered but have declined
 - monitoring gifts and benefits registers to identify areas of risk or emerging trends within your public sector body
- public sector employees nominated as candidates for state and federal elections

- secondary employment and approval processes
- providing guidelines to tenderers and contractors to inform them about your public sector body's code of conduct and gifts and benefits policy
- monitoring compliance with the code and associated policies, for example, through review processes and reporting systems.

Section three

Compliance with applicable legislation and regulations, which commonly include:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 9 – Principles of official conduct by public sector bodies etc.
 - section 102 – Employees not to be employed outside Government etc. without permission
- *Financial Management Act 2006*
- *State Records Act 2000*
- *Criminal Code*
 - section 82 – Bribery of a public officer
 - section 83 – Corruption
 - section 88 – Bargaining for public office
- *Electoral Act 1907 and Electoral Regulations 1996*
 - regulation 28(3) – Public employees standing for election
- *Commonwealth of Australia Constitution Act*
 - section 44 – Disqualification, officers of the crown standing for federal elections
- *Corruption, Crime and Misconduct Act 2003*
 - section 4 – Misconduct
- *Public Interest Disclosure Act 2003*

Compliance with across government requirements, which commonly include:

- [Commissioner's Instruction no.16 - Government representatives contact with registrants and lobbyists](#)
 - To outline the obligations on government representatives when dealing with registrants and lobbyists, in accordance with the *Integrity (Lobbyists) Act 2016*.
- [Public Sector Commissioner's Circular: 2009-18 Guidelines for expenditure on official hospitality](#)
 - Expenditure on hospitality is to be consistent with responsibilities of public sector officers. All officers are to be scrupulous in their use of public funds
- [Public Sector Commissioner's Circular: 2012-02 Self-managed superannuation funds \(SMSF\) – Outside employment](#)
 - Treated as outside employment under section 102 of the *Public Sector Management Act 1994*

The Integrity Coordinating Group has a range of resources about conflicts of interest and gifts and benefits, available at www.icg.wa.gov.au

The State Supply Commission's *Sponsorship in Government guidelines – A handbook to assist public authorities* addresses managing conflicts of interest in sponsorship arrangements, available at www.ssc.wa.gov.au

Reporting suspected breaches of the code

The reporting of suspected or actual wrongdoing by public sector employees contributes to the integrity of the public sector. Employees who are prepared to raise their concerns by reporting are one of the most important and accurate sources of information for identifying and addressing issues within a public sector body.

Directors general and chief executive officers can create confidence that reports of suspected breaches of the code made by public sector employees will be treated seriously and appropriate action will be taken.

A public sector body should ensure it establishes and promotes accessible reporting mechanisms, managed by skilled people. It should also have procedures in place for action that may be taken should a breach of the code be found to have occurred.

Section one

Conduct expectations

The code should communicate the need for employees to:

- familiarise themselves with the available reporting mechanisms
- report suspected breaches of the code of conduct
- understand there are consequences for breaching the code of conduct.

Section two

Your public sector body may choose to further explore within its code, associated policies or reporting framework:

- how reports of suspected breaches of the code can be made
- expectations about the type of information that may be reported
- rights and responsibilities of those reporting
- who can receive reports of suspected breaches of the code within your public sector body. These could include internal standards or integrity branches, a confidential ethics line, line managers, human resource officers and your public sector body's public interest disclosure (PID) officer

- circumstances where reports may have to be made externally, for example, misconduct as defined in the *Corruption, Crime and Misconduct Act 2003* must be reported to the:
 - Corruption and Crime Commission (for serious misconduct)
 - Public Sector Commission (for minor misconduct)
- ensuring those identified to receive a report understand their obligations when receiving reports and have the skills to appropriately deal with or refer matters
- promoting reporting avenues to employees to ensure they know how to report suspected breaches of the code
- support available to employees who report suspected breaches of the code.

Section three

Compliance with applicable legislation, which commonly includes:

- Public sector body's enabling legislation (if any)
- *Public Sector Management Act 1994*
 - section 9 – Comply with the provisions of any code of conduct applicable to the public sector body or employee concerned
 - section 21(1)(d) & (e) – Public Sector Commissioner to assist public sector bodies to comply with codes of conduct, and to monitor compliance with the principles in section 9
- *Occupational Safety and Health Act 1984*
- *Criminal Code*
 - Chapter XIII – Corruption and abuse of office
- *Corruption, Crime and Misconduct Act 2003*
 - section 25 – Any person may report misconduct
 - section 28 – Certain officers obliged to notify serious misconduct
 - section 45H – Certain officers obliged to notify minor misconduct
- *Public Interest Disclosure Act 2003*

Compliance with across government requirements, which commonly include:

- [*Public Sector Commissioner's Circular: 2012-05 Code of practice: Occupational safety and health in the Western Australian public sector*](#)
 - Promotes strategies to help CEOs, managers and employees improve the work environment and ensure compliance with the *Occupational Safety and Health Act 1984*

Making the code of conduct operational

Your public sector body may consider a number of activities to ensure its code of conduct becomes part of the accepted way of doing business. These are outlined below.

Raising awareness – promoting the code

The successful integration of the code into behaviour and action will require ongoing promotion, rather than relying on a once-off induction or training program. The following strategies may be useful in raising awareness.

- Include conduct and integrity expectations in role statements and attach a copy of the code to appointment letters to employees.
- Incorporate the code into employee induction programs.
- Introduce the code at a staff event, such as a staff development day or divisional meeting.
- Require all employees to sign the code to confirm they have read it.
- Publish the code on your public sector body's intranet and have hard copies available too.
- Reference the code in other documents, such as your public sector body's strategic plan and website.
- Use the code to discuss and evaluate conduct expectations during performance management meetings.
- Extend communication about the code to stakeholders, including contractors, suppliers and clients.
- Use the code and associated policies and guidelines as the base for your public sector body's Accountable and ethical decision making training.
- Consider times when reminders about the code may be required, for example, at Christmas when gifts are more likely to be offered to employees.

Embodying integrity – senior officers

Codes of conduct and associated policies become custom and practice over time. Senior officers in your public sector body can positively influence employees' behaviour by modelling expected behaviour.

Employees will seek information and advice from senior officers about how to make accountable and ethical decisions. To provide this advice, senior officers need to inform themselves about the code and associated policies, or know where to refer employees. It is also important senior officers make employees aware of the expected standards of conduct and encourage open discussion about integrity risks and issues.

Monitoring compliance with the code

CI No. 8 requires public sector bodies to ensure compliance with their code of conduct. Information about compliance may also be useful when reporting to the Public Sector Commissioner.

To facilitate this, it is helpful to establish a system for monitoring compliance. Monitoring activities may include:

- using review processes to assess compliance with the code and adherence to associated policies and guidelines, for example, by reviewing your public sector body's gifts register or procurement decisions
- analysing information obtained through client perception surveys
- considering any feedback, complaints or issues raised about non-compliance by your public sector body or its employees.

Taking action in response to the code

Acting on suspected non-compliance involves taking fair and prompt action to prevent and deal effectively with the matters. This can create confidence among employees that your public sector body treats conduct issues seriously and will act when suspected breaches are reported.

In taking action, matters may not always need to be taken to an oversight body or the Police; although for certain types of behaviour this is required. There are a range of options available to your public sector body that may include disciplinary action, training and counselling. Prior to taking action on suspected breaches, be sure to understand the nature of the suspected wrongdoing and the most appropriate option to use.

Review and update the code

Regularly reviewing and updating the code ensures it continues to address current and emerging conduct risks. The code may not require an update with every review, however, without a review process it may quickly become out-dated. Designate a position or division within your public sector body to review the code as scheduled.

Codes may also need to be reviewed and updated outside scheduled review periods, in response to:

- new or amended legislation or subsidiary legislation
- changes to government or your public sector body's policies
- findings made by integrity agencies that identify risk areas that have not been addressed within the code
- findings from reviews or feedback from employees
- complaints about how your public sector body manages part or all of its functions.

It is important to note that not all issues will arise from a deficiency in a code. Some may relate to a lack of knowledge or understanding and this may be better addressed through ongoing discussion about the code.

If you have further queries about developing your public sector body's code of conduct, contact a consultant at the Public Sector Commission.

The Commission's Advisory Line (08 6552 8888) provides general advice to assist compliance with the:

- Public sector standards in human resource management and associated Commissioner's Instructions
- applicable sections of the *Public Sector Management Act 1994*, including the principles of human resource management and official conduct (sections 8 and 9)
- *Public Sector Management (Breaches of Public Sector Standards) Regulations 2005*
- *Public Interest Disclosure Act 2003*.

The Commission also handles queries about minor misconduct and notification responsibilities under the *Corruption, Crime and Misconduct Act 2003*.

Visit www.publicsector.wa.gov.au for more information.

Resources

Public Sector Commission www.publicsector.wa.gov.au

- Commissioner's Instructions, including *No. 7 – Code of Ethics* and *No. 8 – Codes of conduct and integrity training*
- Public Sector Commissioner's Circulars
- Accountable and ethical decision making
- Public interest disclosures

Australian Standard on Fraud and Corruption Control AS 8001-2008 www.standards.com.au

Corruption and Crime Commission www.ccc.wa.gov.au

Department of Mines, Industry Regulation and Safety – Circulars to departments and authorities www.commerce.wa.gov.au/labour-relations/public-sector-employers

Department of the Premier and Cabinet – Premier's Circulars www.dpc.wa.gov.au

Department of Treasury – Treasurer's Instructions www.treasury.wa.gov.au

Department of Communities – Disability Services www.disability.wa.gov.au

Information on the working with children check and legislation www.checkwwc.wa.gov.au

Integrity Coordinating Group – for information on integrity in decision making, conflicts of interest and gifts, benefits and hospitality www.icg.wa.gov.au

Office of the Auditor General www.audit.wa.gov.au

Office of the Information Commissioner www.foi.wa.gov.au

Ombudsman Western Australia www.ombudsman.wa.gov.au

Risk management – Principles and guidelines AS/NZS ISO 31000:2009
www.riskmanagement.com.au

State Law Publisher – copies of Western Australian legislation www.slp.wa.gov.au

State Records Office www.sro.wa.gov.au

Appendix A – Sample structure for a code of conduct

A sample structure for a code of conduct is provided on the following pages. It is available in Word format from the Commission’s website.

Sample structure for a code of conduct

[Name of your public sector body goes here] Code of conduct

Message from the Director General/Chief Executive/Managing Director

[Insert message from your Director General/Chief Executive/Managing Director:

- clearly explaining to whom the code applies, including all employees of your public sector body as required by the *Public Sector Management Act 1994*
- encouraging employees to read and be familiar with their code
- outlining that they are expected to comply with the code and other applicable requirements.]

Values, vision and mission/strategic direction

In all our operations and relationships we value:

- [set out your values, vision and/or mission]

Conduct areas

[Refer to ‘section one’ of the seven relevant conduct areas in this guide. Consider including links to associated policies where employees can find more information]:

1. Personal behaviour
2. Communication and official information
3. Fraudulent or corrupt behaviour
4. Use of public resources
5. Record keeping and use of information
6. Conflicts of interest and gifts and benefits
7. Reporting suspected breaches of the code.

Breaches of the code of conduct

- [Include information about how breaches of the code may be dealt with, including any obligations to refer to or notify central agencies, for example, the Corruption and Crime Commission.]

Further information

- [Include contact details of who employees can go to for further advice and information about the code.]

Review date

- [Date the code will be reviewed.]



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