

SUPPLEMENTARY GAZETTE



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*Strong Foundations
Integrity Respect Accountability*

Code of Conduct
for South Australian Public Sector Employees



Government
of South Australia

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Commissioner for Public Employment

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Issued pursuant to Part 2 of the Public Sector Management (PSM) Act 1995

Why have a Code of Conduct?

As a public sector employee you are employed to provide services for the South Australian community in line with the policies of the elected government and your organisation. This places you in a unique position of trust, requiring standards of ethical behaviour that reflect community expectations.

To assist you to meet these expectations, an ethical framework for the South Australian public sector has been developed, comprising three broad underpinning principles:

- Integrity
- Respect
- Accountability.

This Code outlines what these principles mean for you and your work, and provides you with examples of relevant work situations. These examples provide a starting point for you to apply the Code of Conduct to the requirements of your work and your organisation, but do not limit the scope of application of this Code of Conduct. A decision making model is provided to assist you to apply these principles in practice.

The Code and its application to employees in the public sector

This Code of Conduct is issued under Part 2, Section 6 of the *Public Sector Management (PSM) Act 1995*, and applies to all public sector employees.

You are a public sector employee if you are an employee of the Crown, appointed to the public service or employed in any capacity by a public sector organisation, regardless of:

- the type of employment (eg chief executive, executive, non-executive, ministerial staff, public servant, electorate office staff, police officer, doctor, teacher, fire officer, nurse, public health sector employee)
- how you are employed (eg ongoing, temporary, casual, term contract of employment, traineeship, apprenticeship)
- how you are paid (eg hourly, weekly, fortnightly)
- the type of public sector organisation (eg administrative unit, public corporation, statutory authority, public hospitals, schools).

If you are unsure whether this Code applies to you, check with your manager or human resources section.

Underpinning principles

To maintain the trust of the public, the Code of Conduct requires you to behave with integrity, show respect and be accountable. These underpinning principles are defined as follows.

INTEGRITY

- Serve the public in accordance with the direction of the government and your organisation, without fear of reproach, by providing impartial, professional service and advice that is frank and apolitical.
- Act honestly when performing your duties.
- Ensure you declare and appropriately manage interests that may conflict with the way you carry out your duties.
- Do not accept gifts, benefits or favours that may influence or be reasonably seen to influence your decision making.
- Prevent nepotism and patronage.
- Ensure all selection decisions are based on a proper assessment of merit.
- Ensure employment or remunerative work outside the public sector is appropriate and, where necessary, approved by your chief executive or, if required, by the minister.
- Conduct yourself in public in a manner that will not reflect adversely on the public sector, its agencies or other public sector employees.

RESPECT

- Treat the public and other employees with respect and courtesy, having regard for the dignity of the people with whom you interact.
- Recognise the importance of people through training and ongoing development.
- Promote equity, and value and utilise diversity in the work environment and in the South Australian community.
- Prevent unlawful discrimination against employees or persons seeking employment in the public sector. You must ensure that no form of unjustifiable discrimination is exercised against employees or persons seeking employment in the public sector.
- Take reasonable care to ensure your own health and safety at work and avoid adversely affecting the health and safety of others.
- Prevent bullying or other forms of harassment in or outside the workplace.

ACCOUNTABILITY

- Utilise and manage people and the resources, information and authority at your disposal in an efficient, responsible and justifiable manner through implementation of risk management standards and practices.
- Ensure decisions have regard for the well-being of people and the environment, both now and for the future.
- Ensure all decisions are fair and made without excessive formality.
- Ensure all decisions are transparent and in keeping with confidentiality requirements.
- Provide responsive, timely, effective and efficient services to the community and the government.
- Deal with information gained through your work in accordance with legal requirements (including requirements under this Code and your organisation's directions and guidelines).
- Observe all legislative requirements, policies, procedures, and lawful and reasonable instructions from people with authority to give such instructions (including requirements under this Code).
- Endeavour to ensure you, and those for whom you are responsible, perform well in order to meet or exceed performance standards and other organisational requirements.
- Ensure accountability throughout the public sector by reporting inappropriate conduct to the appropriate authority where that conduct might reasonably be considered to be a breach of the PSM Act, other Acts, and/or illegal activity.

CONSEQUENCES

The PSM Act 1995 (Part 2, Section 6) requires chief executives, executives and all public sector employees to observe the Code of Conduct. Breaching the Code may result in consequences ranging from reprimand through to termination of employment for PSM Act employees and warning or termination of employment for non-PSM Act employees.

Some breaches of the Code are also civil or criminal offences and you may face prosecution or civil action.

A MODEL FOR ETHICAL DECISION MAKING

The following decision making model is provided to guide your ethical decision making and does not form part of the legally binding Code of Conduct.

The decision making guide can assist you to determine an appropriate course of action when faced with an ethical dilemma. The model will help to ensure that your behaviour meets the standards required by this Code.

1»»	2»»	3»»	4»»	5»»
Define the problem	Identify the underlying principles, legislation and policies	Identify and consider the options	Sunlight test—ask yourself the following questions:	Choose your course of action
<ul style="list-style-type: none"> • What is difficult about the situation? • What other factors are involved (e.g. whole of government policy)? • Who else is involved and what are their points of view on the matter? Is there a need to work cooperatively? • What effect does your behaviour have on them? 	<ul style="list-style-type: none"> • Do your personal interests conflict, or reasonably appear to conflict, with the public interest? • What are your duties as a public sector employee? • Does the Code of Conduct require you to behave in a certain way? • Is there a relevant guideline, determination or policy? • Are there any legal implications? Where necessary, seek legal advice. 	<ul style="list-style-type: none"> • List all alternative options. For each option apply risk management principles to identify the impact on different stakeholders, the legal implications and the relevant principles of the Code of Conduct. • For decisions that could have a large impact, or if you are still unsure as to the preferred action, get a second opinion from an independent, trusted person. • Where necessary, seek advice from your manager, your organisation's human resources unit or ethics advisor, or other agencies. 	<ul style="list-style-type: none"> • What would your family or chief executive say if your actions were reported on the front page of a newspaper? • How will this decision be viewed by future generations? • Would you be happy if this action was performed on you? 	<ul style="list-style-type: none"> • Your choice of action must be within the legislation, policies and guidelines both for your organisation and the whole of government. • Your behaviour must reflect the Code of Conduct for SA Public Sector Employees. • You must be able to justify your course of action.

Assistance is also available from your manager, your human resources area or your chief executive.

If you are unsure, seek advice before you act. Remember—*you* are responsible for your actions.

Integrity in practice

Integrity is about the intent or meaning behind your actions. As a public sector employee you are required to behave with integrity.

Service to the public

The service and advice you provide as a public servant must be free from political influence, be based on comprehensive research or professional opinion and allow for objective decision making based on honest and impartial presentation of available options.

Responsibility to the minister

You are required to provide the same support to the elected government regardless of which political party or parties are in office. Your judgment should be exercised within the confines of the law, this Code, government policy and ministerial direction.

Your advice should be honest, based on an accurate representation of the facts, and should identify the possible consequences of the available options. The frankness of your advice should not change regardless of who you are reporting to. Do not allow your private political or personal views and values to inappropriately influence your work.

Behaving honestly

As a public sector employee you are required to act honestly while performing your duties at all times, whether you are within South Australia or elsewhere. Some dishonest acts such as knowingly deceiving the public or parliament, acting dishonestly, inappropriately withholding relevant information, or recklessly disregarding restrictions set by policy and procedures, may give rise to criminal action under section 6Z of the PSM Act.

Dishonest acts that are of a trivial nature or that do not result in significant detriment to the public interest, and do not breach section 6Z of the PSM Act, may breach other criminal legislation and also may be the subject of disciplinary proceedings.

Do you have a conflict of interest?

A conflict of interest is where your financial or other interests or those of an associate are, or may reasonably be seen to be, in opposition to your duties as a public sector employee. The full definition of an associate can be found in Part 1 of the PSM Act 1995 and includes a spouse, parent, child, more distant relative or business associate. If you are unsure if someone is an associate, seek further advice.

A conflict of interest may come in many forms and must be managed at the earliest possible opportunity. For example, becoming involved in decision making where you, a family member or a friend has a financial or personal interest in the outcome, such as making a decision about the valuation of land belonging to a family member, is a conflict of interest.

In this and other cases, you must disclose a conflict of interest or possible potential conflict of interest immediately and in writing to your chief executive and take whatever action they decide is necessary to avoid a conflict of interest. Senior officials (including chief executives) must disclose their pecuniary or other personal interests in writing to their relevant minister.

If you are a member or executive of a corporate agency or an advisory body member, as defined by Part 1 of the PSM Act 1995, refer to the provisions of the Act to determine to whom to report a conflict of interest.

If you are unsure whether a situation is a potential conflict of interest, seek advice from your manager, your organisation's human resources area or other agencies.

Accepting gifts, benefits or favours

You should not accept gifts, benefits or favours where these may influence, or may reasonably be seen to influence, your decision making. For example, accepting gifts from a contractor would normally be perceived as inappropriate regardless of the cost of the gift. This may include meals, a place in a corporate box at a sporting event or acceptance of a bottle of spirits.

Preventing nepotism and patronage

It is unacceptable to favour your relatives (nepotism) or people you know (patronage) in your decision making and provision of service. For example, if your relatives or friends are the subject in a work matter for which you are a responsible decision maker (such as job selection, allocating training and development opportunities, or a tender process) you must ensure that you are not improperly involved.

Ensuring merit and equity

You must not improperly bypass the principle of merit in a selection process. You must ensure selection processes apply merit principles in order to select the most suitable applicants with abilities, aptitudes, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the position. This can include the need to assess applicants' employment backgrounds or duties and their potential for development.

Outside employment

You must refer to the legislative requirements and the policies of your organisation that cover engagement in employment other than your work in the public sector. For example, full time employees may be required to seek permission from their chief executives or, if required, from the minister, whereas, part time employees may be able to work in other employment without formal permission. However, in all cases it is important to refer to other provisions of this Code that may impact on the appropriateness of other employment. In particular, refer to the sections on **confidentiality, conflict of interest and conduct in public**.

Conduct in public

As a public sector employee you must consider the impact of your actions in public whether on duty or not. For example, you should still behave to the same standard if you are at an office social function after work hours. If you have permission to work at another job, you must ensure that the work you do and your conduct upholds the principles expressed in this Code of Conduct and does not adversely affect your work in the public sector.

Respect in practice

Respect is about how you treat other people. You are required to show consideration for other people in your advice, decision making and service delivery.

Respect and courtesy

Members of the public and other employees are entitled to receive personal respect and courtesy and to maintain their dignity in their interaction with you. Employees can reasonably expect to work in an environment that promotes their ability to work with one another and shows regard to the sensitivities of people within the workplace.

The importance of people

The importance of people in providing the services required by the community of South Australia may be recognised and fostered through the provision of career assistance such as mobility options, mentoring, and training and development opportunities appropriate to the work they are undertaking or may be reasonably expected to undertake.

Equity

Equity is about being fair and just to all people, but does not necessarily mean treating everyone in the same way. You may need to treat a person differently according to their circumstances and needs, in order to give them an equal chance in comparison with others. The policy and services that you are involved in developing and delivering must be made inclusive and responsive to all groups. For example, a public service that can be accessed only through the internet may inadvertently disadvantage people who are unable to access the internet or who are sight impaired.

Diversity

An important part of respecting others is valuing their diversity.

By valuing the differences that all employees bring to the workplace, we can better meet the needs of the public and the government of the day. For example, an Aboriginal person or a person from a different cultural background or experience may bring insight and knowledge to the work environment that may assist in providing more effective government services to the community.

No discrimination

You must not discriminate, directly or indirectly, in your treatment of individuals or groups on the grounds of age, gender, race, disability, sexuality, marital status, pregnancy, or any other ground covered by equal opportunity or other anti-discrimination legislation. Sexual harassment is also unlawful.

Discrimination includes treating a candidate in a job selection process less favourably because of a characteristic or circumstance that has no bearing on their capacity to perform the job for which they are competing.

Health and safety in your workplace

You must take reasonable care to protect the health and safety of yourself and of others while at work. You are required to use any equipment provided for health and safety purposes and obey any reasonable instruction the employer gives in relation to health and safety.

Workplace bullying/harassment

Public sector employees must not bully or otherwise harass other employees or members of the public. Behaviours that characterise bullying may include victimisation and unwelcome, offensive, abusive, belittling or threatening behaviour directed at another person or a group of people. Bullying may lead to the person or group of people subjected to the behaviour feeling victimised, offended, demeaned, humiliated, intimidated, or suffering detriment or disadvantage.

Managers and employees must take action to address and prevent bullying and harassment. Behaviour that amounts to bullying or harassment may be an offence under the *Occupational Health, Safety and Welfare Act 1986*, and, in some circumstances, can also be the subject of criminal and/or disciplinary proceedings.

Accountability in practice

Accountability is about fulfilling your responsibility as a public sector employee to the elected government, the community and your organisation.

Utilising and managing people and resources

You must efficiently and effectively utilise resources at your disposal for the public benefit. You need to effectively manage people and your own time in a way that is outcome and performance focused.

Use of all resources must be both sustainable and justifiable and you must not waste or misuse any resource. Your decision making must be based on the implementation of risk management standards and practices. For example, misuse may include inappropriate use of electricity, water or materials such as paper. Care should be taken with technological resources, including the internet and email system, the use of which should be in line with your organisation's policy.

Decision making

Effective decision making takes into account the needs of people both now and into the future, integrating social, environmental and economic factors. For example, the effective use of public property extends to protecting environmental resources through increased efficiency in the use of land, energy and materials by generating less waste and using renewable resources.

Your decisions as a public sector employee affect other employees, clients and the public and, therefore, must be fair and consistent. This means that all your decisions are honest, based on the relevant information, justifiable and understandable both by those who are affected by the decisions and those who may need to review the decision. You should also ensure that decisions are made without excessive formality.

Responsive, timely, effective and efficient services

You need to be able to provide services to the government, the public and your organisation that have the flexibility to respond quickly and effectively to a variety of needs and requirements. You should actively seek innovative solutions that can be implemented to meet government and community needs. This includes working cooperatively across government and the community to achieve the objectives of the government.

Confidentiality, use of information and public comment

Be scrupulous in using information gained through your employment appropriately, that is, for the purpose for which it was gathered. You should comply with your organisation's directions and guidelines on the use of information.

You need to ensure that the privacy of individuals is maintained and release personal information only in accordance with privacy requirements, the *Freedom of Information Act 1991*, organisational guidelines or as otherwise lawfully permitted (including requirements under this Code).

Check your organisation's procedures on who can and can't make official public comment. For example, you should seek and obtain authorisation from the appropriate officer, probably your chief executive, before commenting to the media.

When you leave the public sector you must continue to respect the confidentiality of information gained during your employment. For example, you must ensure that any possible future employer does not benefit from any confidential information you obtained during the course of your employment in the public sector.

Observe all legislative requirements and lawful and reasonable instructions

You must observe all legislative requirements and lawful and reasonable instructions from people with authority to give such instructions (including requirements under this Code). This includes Acts, regulations, guidelines and policies directly relevant to your work and organisation. This Code also requires you to take into account whole of government policies, initiatives and priorities, such as Indigenous employment, social inclusion and sustainability.

Performance

The government and the community expect the public sector to provide responsive, effective and efficient services. Performance management plays a key role in helping you to achieve these expectations and the requirements of this Code. Performance management supports fair and equitable management of staff and aims to build a competent and high performing public sector that is continuously improving its performance in delivering services.

Performance management involves regular, two-way performance discussions between you and your manager or employees. These discussions may be used to plan individual work objectives, review performance, provide regular feedback about progress towards work objectives, acknowledge improved and excellent service and identify development requirements.

Reporting of misconduct, corruption or illegal activity

The government and the community expect the public sector to have a high standard of integrity and be free from misconduct, corruption or other illegal activity.

You have a role in ensuring that all public sector employees are held accountable for inappropriate conduct. This includes reporting to the relevant authorities instances of conduct that may reasonably be considered to be a breach of the PSM Act, other Acts and/or illegal activity. Inappropriate conduct encompasses deliberate acts, a failure to act or a refusal to act, and includes conduct in public or private that reflects adversely on the public sector, its agencies or other public sector employees. However, this responsibility to report does not apply to inappropriate conduct of a trivial nature that does not result in significant detriment to the public interest.

If you do make a report of misconduct, you must have a reasonable belief that the reported conduct is a breach of the PSM Act 1995 or any other Act, is illegal, or both. You must not knowingly make a false disclosure.

Examples of conduct to be reported may include a delegate overlooking the deliberate misuse of a corporate credit card by a staff member, the improper use of resources and equipment for personal benefit, inappropriate disclosure of tender information, or the offer of a bribe.

If you are unsure to whom, or how, to report, you should refer to the existing policies within your organisation in the first instance. Chief executives are ultimately responsible for the conduct of employees within their organisation. Chief executives may also appoint responsible officers to handle reports of inappropriate conduct and related issues. Where a staff member is not able to make a report or disclosure within their organisation, the Commissioner for Public Employment has a statutory role to receive disclosures of public interest information.

Advice about reporting

Prior to making a report you may wish to seek advice. Advice may be obtained from your manager, human resources area or senior management, union or, where appropriate, from a legal advisor. If these options are not appropriate to the situation, you may seek advice from the Commissioner for Public Employment, the Crown Solicitor's Office, or the Anti-Corruption Branch of the South Australia Police.

Acknowledgment of this Code

I _____
Name in full

of _____
Organisation

acknowledge that I received the Code of Conduct on _____
Date

Signed _____
Date

By making this acknowledgment you are confirming the obligation you have to apply this Code to the work you do within the South Australian public sector.

If you have any difficulties or questions regarding this Code, you should discuss this with your manager or human resources area.

Please forward this acknowledgment to the appropriate area for inclusion on your staff record or personnel file.

NEED MORE INFORMATION?

For further information, you can go to:

- your manager
- your contract of employment
- legislation and regulations, including:
 - o Public Sector Management Act 1995
 - o Public Corporations Act 1993
 - o Criminal Law Consolidation Act 1935
 - o Equal Opportunity Act 1984
 - o Freedom of Information Act 1991
 - o Occupational Health, Safety and Welfare Act 1986
 - o Public Finance and Audit Act 1987
 - o Whistleblowers Protection Act 1993
 - o State Records Act 1997
 - o Disability Discrimination Act 1992 (Australian Government)
 - o Acts specific to your organisation or agency
- public sector wide policies issued by Cabinet, the Commissioner for Public Employment and other relevant authorities
- relevant determinations and directives issued by the Commissioner for Public Employment
- policies and codes of conduct specific to your organisation
- Guideline for Ethical Conduct
- Premier and Cabinet Government Boards and Committees—Guidelines for Agencies
- Treasurer's Instructions and The Risk Management Policy Statement
- South Australia Police Anti-Corruption Branch, (08) 8207 2200.

Websites

Commissioner for Public Employment,
<http://www.ope.sa.gov.au>

Parliament of South Australia,
<http://www.parliament.sa.gov.au>

IntraSA,
<http://intra.sa.gov.au>

Greening of Government
<http://www.greening.sa.gov.au>

If you need more help after referring to the documents listed above, and your manager is unable to assist you, seek advice from your human resources unit or your senior management.

If the matter is of a complex or serious nature, you may need to contact the Commissioner for Public Employment or the Crown Solicitor. Refer to your organisation's policies regarding how you make this contact.

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Integrity Respect Accountability*

Code of Conduct

for South Australian Public Sector Employees



**Government
of South Australia**

Office for Public Employment

Ph: (08) 8226 2941

Email: ope.general@saugov.sa.gov.au

Website: www.ope.sa.gov.au

Guide for Ministerial and Electorate Offices 050315

Strong Foundations
Integrity Respect Accountability

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for South Australian Public Sector Employees

GUIDE FOR MINISTERIAL AND ELECTORATE OFFICES



Government
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Guide for Ministerial and Electorate Offices 050315

Guide for Ministerial and Electorate Offices

In addition to the Code of Conduct this guide may be of relevance to those employed in ministerial and electorate offices. Those public sector employees should read this section in conjunction with the Code of Conduct.

INTEGRITY IN PRACTICE

Public sector employees must not be asked to do anything improper or illegal or behave in a way that is contrary to the Code of Conduct for South Australian Public Sector Employees. For example, no public servant can be required to participate in political activities like doorknocking as part of their employment.

Ministerial and electorate office employees must not knowingly make improper use of their position, information, status or authority. For example, they must not use their position to put improper pressure on other public sector employees or the public.

RESPECT IN PRACTICE

Public sector employees' responsibility to provide honest and frank advice must be recognised and respected. For example, a public sector employee must not be asked to change their advice to support a particular policy position if this will compromise the accuracy of the information given.

Ministerial and electorate office employees must not have an improper role in the performance management, selection, discipline or promotion of public sector employees.

ACCOUNTABILITY IN PRACTICE

Information and records must be treated in accordance with legislative provisions and other relevant protocols and, accordingly, information and records must not be improperly used, withheld or destroyed.

There is often public contention about the use of public resources (including employees) for party political activity. Employees in ministerial and electorate offices need to be aware that they may be required to account for their actions and use of public resources.

JEFF WALSH, Commissioner for Public Employment