
Independent Commission Against Corruption

Code of Conduct and Ethics

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1. Policy Statement

As an officer of the Independent Commission Against Corruption, you hold a special position of trust.

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

The Independent Commission Against Corruption is constituted under the *Independent Commission Against Corruption Act 1988* (ICAC Act). Accountable to the public of New South Wales, through the Parliament, it stands independent of the government of the day.

In carrying out their duties, individuals employed as officers of the Commission are obliged to:

“...regard the protection of the public interest and the prevention of breaches of public trust as (their) paramount concerns.” (s.12, ICAC Act)

The ICAC Act confers extraordinary powers on the Commission, and on you as one of its officers. With these powers comes a responsibility to apply and enforce these powers properly, fairly and with integrity.

The work of the Commission may be seriously undermined if any of its officers are seen to be acting in a way which the Commission itself, or right-thinking members of the community, would find reprehensible in any other public organisation.

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

The Code should not be read as a set of rules, where each word is scrutinised for its legal meaning. It is intended to convey in plain words the obligations placed on, and the behaviour expected of, all officers of the Commission.

If you are confronted with an ethical dilemma, or a question regarding your own conduct or the conduct of your colleagues you should use this code to inform your response. If the code does not provide sufficient guidance, you should seek advice from a suitable colleague.

This Code applies to every individual engaged as an officer of the Commission, whether by way of employment contract, term employment (appointment or secondment), temporary arrangement or on a fee for service basis.

2. What principles guide the Code of conduct?

The Code of Conduct is guided by the following principles, which should also assist you in guiding your conduct and informing decisions made in your day to day work:

- At all times, you should be aware that your employment carries an obligation to have due regard to the impact of your professional and personal conduct on the Commission's standing and reputation.
- The reputation of the Commission and the standing of its officers bears on its ability to speak with authority on issues relating to integrity in the New South Wales public sector.
- At a minimum, you must meet the standards of ethical behaviour and accountability that the Commission promotes in its dealings with other government organisations.
- You have an obligation to carry out your work professionally, impartially, with integrity and in the best interests of the Commission.
- You are also required to deal with individuals and organisations fairly, properly and with integrity, recognising their rights as citizens. Discrimination and partiality, either within the Commission or in dealings with people and organisations outside the Commission, are unacceptable.
- The name and powers of the Commission must be used with restraint, and with an awareness of their potential effect on the lives of individuals. These must never be used to gain personal advantage or pursue personal issues.
- The work of the Commission must not be compromised or affected by any personal interest.
- Public resources must be used efficiently and effectively.
- The security of information and the protection of persons working with or dealing with the Commission must be assured.

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- When dealing with an issue of ethics and conduct, you are obliged to be mindful of the principles and guidance given by this Code. Where you are still uncertain about what course of action to take, advice should be sought from another appropriate officer of the Commission.

When you are faced with an ethical dilemma, ask yourself the following questions:

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

The following parts of the Code provide detailed guidance on how you are expected to apply these principles in practice.

Employment

3. What does our employment contract require of Commission staff?

Appointment as a Commission officer is made under the *Independent Commission Against Corruption Act*, with conditions of employment governed by an award and policies and practices issued from time to time.

The Award includes a commitment from the parties to advance certain values in our interactions with other public sector agencies, other organisations, individuals and our staff. These commitments include advancement of the public interest; acting ethically and with integrity; being fair, impartial and accountable; striving for excellence in our work, being tenacious and professional in our aims and respecting colleagues and working collaboratively.

As an employee of the Commission, you have an obligation to be aware of and comply with this Code of Conduct. By accepting employment with the Commission, you have undertaken:

- not to engage in personal or professional conduct that may bring the Commission into disrepute;
- to abide by the secrecy and confidentiality provisions of the ICAC Act; and
- to fully and openly disclose your personal particulars and your financial and other interests to the Commission, and to alert the Commission of any significant changes to your personal or financial status.

Members of staff who are seconded to the Commission from other agencies, or who are engaged temporarily through an employment agency, have an equal responsibility to abide by the standards and behaviour outlined in the Code.

Officers should be continually alert to their individual employment obligations to ensure they are acting ethically, responsibly and productively.

4. What are my obligations regarding employment outside the Commission?

Engaging in outside, or secondary, employment can produce difficulties for ICAC officers. It may not always be immediately apparent to you how a second job might conflict with your duties. A second job with a provider of services to, or which are monitored by, government agencies has the potential to compromise your ability to be, and be seen to be, objective in your duties.

The consequences would be unfortunate or worse if the secondary employer came to the attention of the ICAC in some adverse way. You might not know that a potential employer was of interest to the ICAC or to any other agency. Nor might you be aware of the full implications of being employed in a particular industry or organisation.

In the interests of ensuring that ICAC officers do not engage, unwittingly or otherwise, in inappropriate outside employment, you must ensure that you do not engage in outside employment, paid or unpaid, without the formal authorisation of the Commission.

For details of the Secondary employment policy and information concerning how to apply for authority, see the Secondary Employment policy.

5. What are my obligations to the Commission when I leave to work elsewhere?

If you have been offered, and intend to accept, a position with close or sensitive links to work you perform for the Commission, you should advise your supervisor as soon as possible so that any conflict or potential conflict of interest can be managed.

If you leave the Commission to work elsewhere, you are obliged by the Act to respect the confidentiality of information that you have come across in your work, and you should respect the Commission's intellectual property rights over material produced by the Commission.

Unless otherwise authorised, when you cease duty with the Commission, you cannot take any in house resources such as manuals, processes and materials produced as official functions of the Commission, or download information. These are the property of the Commission.

6. What personal and professional behaviour is expected of Commission officers?

You are expected to treat members of the public, officers of the Commission and other public officials with respect, courtesy, honesty and fairness, and have proper regard to their interests, rights, safety, health and welfare.

You should ensure that your work habits, behaviour and personal and professional relationships at the workplace contribute to a harmonious and productive work environment.

You should perform your work honestly, diligently and with commitment.

You should appreciate that the nature of Commission business requires prudence and discretion about what we do, who we speak to and what we say.

You should make decisions in a fair and timely manner, giving due attention to relevant information and proper regard to legislation and internal Commission policies and procedures.

You should recognise and respect individual and cultural differences amongst staff, the rest of the public sector and the community, and not engage in discrimination or harassment.

You should value diversity of thought, experience and skills

You should observe common courtesies and etiquette in terms of day-to-day relationships with other staff.

You should encourage and contribute to a safe and healthy work environment

You must comply with lawful instructions given by an authorised colleague.

You should provide and accept supervision appropriate to individual situations.

You have an obligation to ensure that personal use of alcohol or other legal drugs does not affect your performance or safety or the performance or safety of others. You should be aware that the consumption of alcohol or other drugs can adversely affect the image of the Commission in its dealings with others.

7. Where might I face a conflict of interest, and how do I deal with it?

Conflicts of interest, or the perception that they have arisen can do great damage to the reputation of both the Commission and its staff. They may also interfere with your ability to do your job with detached objectivity. While you have to take responsibility for identifying and managing any conflict of interest you may have, this needs to be done with the knowledge and advice of your manager.

The potential for conflicts of interest to develop arises when an individual with two or more interests in a matter has to take decisions concerning that matter. In the case of an ICAC officer they are of concern when one interest is a public interest, his or her duty, and another is a private interest.

The conflict arises when the public interest that you must serve comes into conflict with a private interest that you may have. Where this occurs it must always be managed in such a way as to ensure public faith in the process of government. The public interest must come first on all such occasions.

Financial conflicts of interest might arise out of association with business interests, ownership of shares or finding out information that could be of financial benefit to you or someone else.

Other ICAC officer private interests which might arise include those arising out of a member of your family, a family member's business associates, a friend, a current or past work mate, a person who dislikes or is disliked by you and many other relationships.

In order to ensure that conflicts of interests do not interfere with the work of the Commission or of its staff, and in order to ensure that the public has confidence in the impartiality of the Commission, all your interests must be declared at the point of commencement with the Commission. You must also check your declaration of interests at regular intervals, and make amendments to reflect any changes in your interests as they occur.

You should advise your manager if you become aware of a potential conflict of interest, or anything that may appear to be a conflict of interest, that arises in the course of your duties. If in any doubt, seek advice from your manager, the Manager, Planning and Human Resources, the Risk Management Adviser or an Executive Director. It is preferable to err on the side of caution and disclose any interest that you might consider could affect, or be seen to affect, the impartial and fair performance of your duties.

8. What if I am offered gifts, benefits or bribes?

As a Commission officer you may be offered gifts, benefits, travel or hospitality during the course of your work. The acceptance of gifts and other benefits has the potential to compromise your position by creating a sense of obligation in the receiver and so undermining your impartiality. It may also affect the public perception of the integrity and independence of the Commission and its officers. As a general rule such offers should be declined. The only benefits that Commission officers, and public officials generally, should gain from their jobs are their salary and job satisfaction.

It is important that you ensure that the appearance not be created that any person or body is securing or attempting to secure the influence or favour of the Commission or any of its officers.

You should never solicit any money, gift or benefit and should never accept any offer of money. To do so may involve the common law offence of bribery. That is defined as receiving or offering any undue reward by, or to, any person in public office in order to influence his or her behaviour in that office, and to incline that person to act contrary to the known rules of honesty and integrity. Such conduct may also be an offence under the *Crimes Act* and/or the *Independent Commission Against Corruption Act*.

A key notion in the offence of bribery is that of “undue reward.” That is, something that is intended to be of value to the public official. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.

There are some circumstances when to refuse a gift would be perceived as rude or offensive. You must exercise sound judgement when deciding whether or not to accept a gift or other benefit. For example:

- you must decline any offer from an individual or organisation you know to be the subject of an investigation by the Commission, or the subject or originator of a complaint or report to the Commission,

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- you must decline any offer which is individually targeted and not available to colleagues or associates who share a common task and purpose. For example, you may accept a modest lunch which is offered to a working group, but should pay for your own when you are the only person to whom an offer is made,
 - you may accept an item which relates to the work of the Commission, such as a book on a relevant topic, but you must refuse items which are unrelated to your work, for example travel or sporting goods,
 - you may accept a gift, benefit, travel or hospitality only if it is of a token kind, and when to refuse would be unnecessarily rude.

Officers who have agreed to speak officially at functions, should where possible, notify their hosts in advance of the occasion that it is inappropriate to offer gifts or rewards.

Officers should ensure that records are kept of any gifts or other benefits of more than nominal value that have been offered or received. You should inform your supervisor as soon as possible if such an event occurs, preferably in writing. Any evidence of an unsolicited gift should not be destroyed as it may be important. If you believe that you or a colleague has been offered a bribe you must provide a detailed written report to the Commissioner immediately that you become aware of this. A public register of gifts and other benefits is maintained by the Director, Corporate Services.

Commission officers may obtain further guidance on this subject by reading "Gifts, Benefits or Just Plain Bribes? Guidelines for Public Sector Agencies and Officials," published by the Commission in June 1999. That publication is available from the ICAC website.

9. What are my obligations in using public resources?

The Commission's resources can be generally categorised into three areas; equipment, people and finances. All three are funded from public monies. Because they are publicly funded, the use of those resources needs to be both efficient and appropriate. Whilst seeking to ensure that Commission resources are directed toward the performance of public duty, the Commission allows some flexibility in these areas.

In general terms, equipment resources are provided for the work of the Commission, however, a limited degree of private use may be acceptable. For example, staff may utilise Commission phones and facsimile machines for private use if that use is short, infrequent and does not interfere with the work of the Commission.

Similarly, in certain circumstances staff may be authorised to use Commission motor vehicles and computer equipment for private purposes. As the equipment resources of the Commission are shared amongst a number of staff however, any private use needs to take account of competing work priorities and maintaining equipment in good working order.

Also, whilst staff are remunerated for time spent in performing Commission work, it is recognised that they occasionally have pressing commitments which require their attention. Although the Commission's flexible working hours policy will enable staff to deal with most private matters in their own time, staff are permitted to attend to pressing private business (e.g. a telephone call or posting a letter) during work time, so long as it is short, infrequent, and does not interfere with Commission work.

Further guidance on these issues can be found in the Commission's Phone Policy; Private Use of Commission Property; External Systems Access; and Internet Access Policy.

The expenditure of financial resources is subject to the provisions of the *Public Finance and Audit Act 1983*. This legislation and the Purchasing Policy and Procedure provide guidance to staff on this issue. Generally, staff require prior approval to incur expenditure.

10. Can I participate in political activities?

The Commission recognises that individuals attracted to working at the Commission may be interested or involved in issues or activities of a political nature. However, the Commission can be required to deal with matters that are politically controversial and sensitive.

Generally you have the right to participate in party political activities provided you do so in a private capacity and do not allow a conflict of interest to arise. However, you should be aware that involvement in or association with a political party may limit or prevent your involvement in particular Commission investigations and projects.

In participating in any political activity you must ensure that:

- Any comment or discussion does not cast doubt on your ability or willingness to implement Commission policies and guidelines objectively;
- You do not participate in private political activities in the work environment;
- You do not use Commission resources to assist you in your personal political activities;
- You do not use information obtained through your work at the Commission to assist your political activities, or make such information known to any other person;
- You do not misrepresent the position of the Commission on any issue, or allow the Commission's position to be misrepresented.

It is your obligation to take all reasonable steps to ensure that any such involvement is understood to represent your personal views as a private citizen.

It is also your responsibility to ensure that your manager is made aware of any political association that may affect, or be possibly seen to affect, a matter that you encounter in your day to day work.

11. What obligations are there on my use of Commission information?

Commission work often involves access to sensitive or confidential information. For example, during the course of an investigation the Commission may obtain information relating to government policy that would not normally be available to the public. The Commission may also obtain personal or commercial information relating to individuals or companies.

You must ensure that information is dealt with appropriately and only used for the purposes of the Commission. The Commission is often entrusted with sensitive information by other agencies to enable it to carry out its investigative functions or to provide advice on corruption prevention. As a rule you must not disclose any information that you acquire during the course of your work except in the exercise of the Commission's functions. To do so is an offence under s111 of the ICAC Act and may result in your prosecution.

If you believe that disclosure of information is justified you must document the details and the reasons for the disclosure. That material should be submitted through one of the executive directors to the Commissioner. Information may be disclosed if the Commissioner certifies that it is necessary in the public interest to do so.

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. You must not use information to gain a personal or commercial advantage for yourself or another person.

When handling sensitive information you should abide by the Commission's Security of Sensitive Material Policy. You should also exercise caution and sound judgment in discussing such information with other officers. Normally information should be limited to those who need it to conduct their duties or who can assist you to carry out your work because of their expertise.

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 any doubt as to how to manage or secure sensitive material, please contact the Risk Management Adviser.

12. How should I respond if asked to publicly comment on the Commission's work?

The Commission's work is often sensitive and requires confidentiality. The very sensitivity of the Commission's activities often makes it of interest to the community, and in particular, the media.

The unauthorised or improper release of information to the media may have the effect of compromising an investigation, adversely and unnecessarily affecting the reputation of individuals, or undermining public confidence in the Commission.

It is important, therefore, that you ensure that only information considered appropriate for public comment is released. This is generally done by co-ordinating public comment through the Commissioner and the media manager, with advice from appropriate officers of the Commission. Media management responsibilities are presently shared by the Executive Officer to the Commissioner and the Senior Project Officer – Media and Publications.

The Commissioner will authorise officers to make public comment on behalf of the Commission. You must only make public comment with this authorisation. If you receive any media inquiries, these should be referred to the media manager who is the official spokesperson of the Commission. Even if you do not provide any information to the journalist, advise the media manager of any approaches from the media for information or comments.

Except when making authorised comment, discussions about the Commission's work should be confined to material that is already in the public domain. Public domain material includes published reports and discussion papers, annual reports, public relations material, transcripts of public hearings, media releases, and public addresses. If you are uncertain as to whether information is in the public domain you must consult the media manager.

To avoid the appearance that you may be providing information that is confidential, you should ensure that others are aware that you are discussing only material in the public domain. This is also a good rule to observe in discussing public domain material in social settings, such as with friends or informal gatherings.

No comment should be made about any other material relating to the work of the Commission unless the Commissioner or the media manager has given permission.

You are entitled to make personal comment on issues of public and social interest. You should ensure, however, that your personal views are not presented or interpreted as official comment.

If you are aware that comments you have made socially or inadvertently may be used to harm the Commission's reputation or compromise its work, you should notify your supervisor or the media manager immediately.

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

Accountability and Enforcement

13. What if I become aware of or suspect corrupt conduct outside the Commission?

In order to inform its investigation, prevention and education initiatives, the Commission seeks to be well informed about corruption trends and issues. The *Protected Disclosures Act* (1994) makes it an offence for detrimental action to be taken against a person for making a protected disclosure.

The fact that you are an employee of the Commission and the very nature of your work means that from time to time you may become aware of suspected corrupt conduct which has not been otherwise reported. For example, you may personally observe a public official engage in a suspect act; you may overhear a worrying conversation at a conference or seminar; a friend may report something to you because you are a Commission employee; or it may be that a public official seeks to enlist you into an improper arrangement during the course of conducting government business.

It is important therefore, that any act of suspected corrupt conduct encountered by staff in the course of their official duties is promptly reported. This should be done in writing and addressed to your supervisor or to the Solicitor to the Commission. Although there is no general obligation on members of the public to notify suspected corrupt conduct, staff are encouraged to report any such conduct they become aware of outside of their work.

14. What if I become aware of or suspect corrupt conduct inside the Commission?

If the Commission is to be successful at improving public sector integrity, it is critical that it practices the conduct it expects of others. It therefore follows that, if the Commission or any of its employees engage in conduct that was unlawful, unethical or unfair, its own integrity and public image could be seriously compromised. To this end, it is critical that any such conduct is promptly disclosed.

If you become aware of an instance of corrupt conduct, maladministration or serious and substantial waste at the Commission, it is important that it be promptly reported. The report can be made direct to your supervisor, or alternatively to the Solicitor to the Commission or the Commissioner. If the report concerns your supervisor, then it may be reported direct to the Solicitor to the Commission or the Commissioner. If the report concerns the Solicitor to the Commission, it may be reported direct to the Commissioner.

The *Protected Disclosures Act* recognises the difficulty facing public sector employees in notifying cases of suspected corrupt conduct, maladministration or serious and substantial waste within the public sector. To this end, the *Protected Disclosures Act* makes it an offence for detrimental action to be taken against a person for making a protected disclosure.

Similarly, the Commission recognises that reporting the actions of colleagues, and in particular one's superiors, is a difficult thing to do; especially in situations where the parties may have been friends or workmates for some time. It is natural to have mixed emotions in such situations and to be reluctant to report. In fact, it is one of the most personally challenging "conflict of interest" situations one is likely to experience.

Whilst all three types of conduct may be reported to the Commission, cases of suspected corrupt conduct or maladministration can be reported direct to the N.S.W. Ombudsman, whilst matters of serious and substantial waste can be reported direct to the Audit Office.

Any such report by staff which conforms with the *Protected Disclosures Act* will be treated as a ‘protected disclosure’ and be handled in accordance with the Commission’s Protected Disclosure Reporting Policy. Staff can make a protected disclosure in the knowledge that it is an offence to take detrimental action against a person in reprisal for making a protected disclosure. The Commission is committed to ensuring there will be no such recriminations against staff. If you believe that you may have been detrimentally treated for having made a protected disclosure, you should report this directly to the Commissioner.

For further advice on this issue and how to make a protected disclosure, refer to the *Protected Disclosures Act* and the Commission’s Protected Disclosure Reporting Policy.

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

Further information can be found in:

- Procedures Relating to the Handling of Complaints of Misconduct Against Staff;
- Grievance Mediation;
- Reporting of Protected Disclosures by Commission Officers;
- Workplace Harassment Policy and Procedure; and
- Discipline Policy and Procedures for the Management of Breaches of Discipline.

15. How will this Code of Conduct be enforced?

This Code represents a guide to staff as to their obligations as Commission employees and the personal and professional behaviour expected of them.

As individuals, officers are responsible for their own acts and omissions. In the event that an officer witnesses or becomes aware of unsatisfactory acts or omissions by other staff members, an obligation rests with the officer to report the acts or omissions to a senior staff member or to the Solicitor to the Commission.

In exercising appropriate levels of leadership, management and supervision, it is the responsibility of supervisors to ensure that staff under their control understand their duties, know what expectations are placed upon them and that their performance is continually reviewed.

Commission officers that are unsure of any aspect of this Code or who seek clarification in respect of any issue are encouraged to consult their supervisor, a member of executive management or the Manager, Planning and Human Resources.

A breach of this Code may lead to the taking of disciplinary action by the Commission. Disciplinary action may include counselling, official notification of unsatisfactory performance, dismissal or prosecution.

