



# Code of Ethics for the South Australian Public Sector



**Government of South Australia**

Commissioner for Public Sector Employment

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# Introduction

On the 16 July 2009 the Parliament of South Australia enacted the *Public Sector Act 2009*.

The passage of this Act formally brought to an end an era which placed excessive emphasis on the centralisation of management authority within a framework of rigid rules, regulations and procedures.

In its place the new Act establishes a set of principles which define a modern and streamlined employment framework that is designed to support a high performing public sector guided in all of its actions by the highest standards of ethical conduct.

This Code embodies and builds upon those principles and in so doing seeks to advance the objects of the Act in the pursuit of good government in South Australia.

This Code of Ethics is the Code of Conduct for the purposes of the *Public Sector Act 2009*.

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# Objectives of the Code

The Code of Ethics for the South Australian Public Sector has four objectives:

- to guide and support public sector employees in all of their professional activities
- to strengthen public confidence in the public sector
- to earn respect from citizens, government and employees for the public sector as an institution which is critical to good government in South Australia and
- to set out the standards of professional conduct expected of every public sector employee

An important consideration in the design of the Code is a recognition that public sector employees in striving for excellence in a changing world need to be encouraged to be more creative and to rely on the exercise of mature judgement and common sense rather than a set of rigid rules in the performance of their everyday work.

This Code therefore places more emphasis on guiding values and principles of behaviour and less on the punitive measures usually associated with Codes of Conduct of the past.

# Application

This Code applies to and is binding on all public sector employees. It applies regardless of the:

- nature or level of employment
- employment status (eg ongoing, term, casual, traineeship, apprenticeship)
- nature of the public sector organisation (eg administrative unit, attached office, public corporation, statutory authority, public hospitals, schools etc)

The Code recognises that some public sector employees (eg health professionals and lawyers) are also bound by codes of conduct relevant to their profession. In such cases, employees must have regard to their professional codes as well as to the Code of Ethics for the South Australian Public Sector.



# Advancement of the Objects of the *Public Sector Act* and Observance of the Public Sector Principles

The following provisions are directed towards advancement of the objects of the *Public Sector Act 2009* and observance of the public sector principles enunciated in it. They are issued by the Commissioner for Public Sector Employment under Part 4, Section 15(1)(a) of the Act and apply to all public sector employees. They apply regardless of the:

- nature or level of employment
- employment status (eg. ongoing, term, casual, traineeship, apprenticeship)
- nature of the public sector organisation (eg. administrative unit, attached office, public corporation, statutory authority, public hospitals, schools etc)

# Values – Overview

The following values are the foundation of ethical behaviour in the South Australian Public Sector:

- democratic values
- service, respect and courtesy
- honesty and integrity
- accountability
- professional conduct standards



## Democratic Values – helping the government, under the law to serve the people of South Australia

- it is the first duty of the public sector to loyally serve the government in a politically impartial and responsive way through the efficient delivery of services to citizens and through the formulation, implementation and administration of its policies and programs
- the principle of political neutrality of the public sector is at the heart of its professional ethos. In the course of their work public sector employees conduct themselves in such a way as to ensure that the institution always enjoys the confidence of the government no matter from which political party its Ministers are drawn
- public sector employees ensure they are aware of, properly administer and comply with all legislation and regulations relevant to the performance of their duties and/or their role as a public sector employee
- public sector employees are open in all of their dealings. They recognise that public information must be readily accessible and written in plain English and will lend assistance to members of the public to gain access to public information
- public sector employees have a duty to the Parliament in support of the government. The conduct of employees before Parliamentary Committees is governed by the conventions of the day but must always be respectful, honest and frank



## Service, respect and courtesy – serving the people of South Australia

- public sector employees recognise that on behalf of the government, they hold in trust a duty to provide quality services to the citizens of South Australia
- respect for human dignity and the value of every person is at the heart of every action employees take and every decision employees make
- public sector employees understand the importance of collaboration and the genuine engagement of citizens in the design and delivery of public services as fundamental to the achievement of excellence
- in dealing with citizens, public sector employees act impartially, fairly and equitably and with genuine respect for their rights as citizens of South Australia
- public sector employees demonstrate their commitment to serve South Australians by continually striving to improve the quality of service and by responding to changing needs through teamwork, innovation and creativity



## Service, respect and courtesy – serving the people of South Australia (continued)

- in shaping organisational structures, deploying resources, setting goals and priorities and in the training of staff, public sector leaders and all employees recognise that the provision of services to citizens is central to the work and obligations of the public sector
- public sector employees understand the importance of collaboration and information sharing between agencies where it is appropriate to do so. Employees also recognise that respect for privacy and confidentiality are important safeguards against the inappropriate use of information
- public sector employees place a high value on workplace diversity and recognise the contribution diversity makes to innovation and the capacity to provide services that are respectful of the culture of people seeking those services. They therefore strive to create a workplace environment that is free of discrimination, harassment and/or victimisation in any form

## Honesty and Integrity – acting at all times in such a way as to uphold the public trust

- first and foremost, public sector employees respect the rule of law
- they act honestly in every aspect of their work and are open and transparent when making decisions or providing advice
- public sector employees perform their official duties and arrange their private affairs in such a manner as to ensure that public confidence and trust in the integrity and impartiality of government is strong
- decisions are always made and actions taken in the public interest. Other than in exceptional circumstances, where there is a conflict between the private interest and official duties of an employee the matter must be resolved in favour of the public interest
- the decisions and actions of public sector employees must at all times bear the closest public scrutiny; this is an additional test beyond the obligation to act within the law
- public sector employees act impartially by making decisions and providing services on merit and without bias, favouritism or self-interest
- they act fairly and equitably in their dealings with citizens, the government and fellow employees by basing their actions on an objective consideration of all of the relevant issues



## Accountability – holding ourselves accountable for everything we do

- accountability is one of the foundation values of the South Australian Public Sector. Within a broad system of accountability under which Ministers are accountable to Parliament, public sector employees are accountable to Ministers for the exercise of delegated authority
- all public sector employees have an unequivocal obligation to always act both within the letter and the spirit of the law
- when assigned statutory powers, public sector employees are accountable for the manner in which those powers are exercised. The nature of this accountability will vary according to the nature of the power. Of particular importance is the requirement to uphold the principle of independence from Ministerial or agency influence when required to do so by legislation
- public sector employees - whether working in teams or individually - are accountable for the achievement of results. They understand that structured teamwork and a system of performance management and development is critical to the achievement of results
- public sector employees understand the importance of working to clear objectives issued by the government or agency heads of the time

# Professional Conduct Standards – exhibiting the highest standards of professional conduct

- in order to maintain public confidence in the integrity of the South Australian Public Sector, employees exhibit the highest standards of professional conduct in undertaking their duties
- professional standards include the observance at all times of lawful and reasonable direction, policies and procedures and other instruments which define what is expected or required of public sector employees
- these conduct standards are issued by the Commissioner for Public Sector Employment under Part 4, Section 15(1)(b) of the *Public Sector Act 2009*, and apply to all public sector employees. They apply, regardless of the:
  - nature or level of employment
  - employment status (eg. ongoing, term, casual, traineeship, apprenticeship)
  - nature of the public sector organisation (eg. administrative unit, attached office, public corporation, statutory authority, public hospitals, schools etc)



# Professional Conduct Standards – exhibiting the highest standards of professional conduct (continued)

- contravention or failure to comply with these professional conduct standards will constitute misconduct as defined by the *Public Sector Act 2009*. Any employee who contravenes or fails to comply with these conduct standards may be liable to disciplinary action and/or termination. These professional conduct standards are the disciplinary provisions of the Code of Conduct for the purposes of the *Public Sector Act 2009*
- agency heads may choose to issue agency-specific conduct standards. Additional standards must be consistent with these standards, the *Public Sector Act 2009*, the Public Sector Regulations 2009 and any other relevant legislation, industrial instrument or Government policy

## Professional and Courteous Behaviour

- public sector employees will not at any time act in a manner that a reasonable person would view as bringing them, the agency in which they work, the public sector or Government into disrepute; or that is otherwise improper or disgraceful
- public sector employees will comply with a lawful and reasonable direction given to them as an employee by a person with authority to give such direction
- public sector employees will at all times treat other persons with respect and courtesy
- public sector employees will not be absent from duty without appropriate reason (proof of which lies with the employee)
- public sector employees will be diligent in the discharge of their role and duties and not act in a way that is negligent



## Public Comment

- when acting in an official capacity, public sector employees will only make comment in relation to their duties, the public sector or the government – including policy and programs – when specifically authorised to do so. Such comment will be restricted to factual information and professional advice and avoid the expression of personal opinion. Public comment includes providing information or comment to any media (electronic and print), posting comment on the internet and speaking engagements
- notwithstanding the above public sector employees may engage in a private capacity in conduct intended to influence public opinion on an issue, or promote an outcome in relation to an issue of public interest except in the circumstances set out in Section 15(2) of the *Public Sector Act 2009*
- this section does not apply to certain statutory office holders who either through convention or under their legislation are entitled to make independent comment



## Handling Official Information

- by virtue of their duties, public sector employees frequently deal with and/or are aware of information about issues, facts and circumstances that they know, or should realise, needs to be treated as confidential
- public sector employees will not disclose official information acquired through the course of their employment other than is required by law or where appropriately authorised in the agency concerned
- public sector employees will not misuse information gained in their official capacity, including, but not limited to, the following types of circumstances:
  - purchasing shares or other property on the basis of confidential information about the affairs of a business or of a proposed Government action
  - seeking to take advantage for personal benefit or gain or for the personal benefit or gain of another
- public sector employees will maintain the integrity and security of official information for which they are responsible. Employees will also ensure that the privacy of individuals is maintained and will only release information in accordance with relevant legislation, industrial instruments, policy or lawful and reasonable direction

## Use of Government/Public Resources

- public sector employees shall use work resources and equipment efficiently and only for appropriate purposes as authorised
- government/public resources include physical, financial, technological and intellectual property
- the Crown, as the employer, retains ownership of these resources



## Conflicts of Interest

- conflicts of interest can pose a major hazard to honest public administration. It is vital that the public has confidence that the public sector and its employees will act impartially and without prejudice. Public sector employees must not have a personal interest in, or be party to, decisions they take in the performance of their duties
- a conflict of interest can be actual or potential. It relates to circumstances where the employee is or could be influenced, or there is potential for them to be influenced. Employees will avoid actual or potential conflicts of interest
- public sector employees will ensure their personal or financial interests do not influence or interfere with the performance of their role. They will ensure the interests of family members, friends or associates do not influence the performance by them of their duties and/or their role as a public sector employee
- employees will disclose in writing to the agency heads any actual or potential conflicts of interest at the earliest available opportunity and comply with any lawful and reasonable direction issued by a person with authority to issue such direction to resolve the conflict or potential conflict, including written direction by a relevant authority pursuant to the *Public Sector (Honesty and Accountability) Act 1995*



## Outside Employment

- public sector employees employed on a full-time basis must not engage in other employment or other remunerative activity where the activity conflicts or has the potential to conflict with their role as a public sector employee or the performance of such outside employment or activity might affect their capacity to perform their duties
- public sector employees will obtain written permission from their agency head before engaging in any outside employment or remunerative activity (including any employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward)
- in general, it is not necessary for employees to obtain permission to involve themselves in or undertake voluntary or unpaid activities or paid recreational activities (eg. sport coaching) unless there is an actual or potential conflict of interest between such activity and their duties and/or role as a public sector employee
- public sector employees who leave the public sector to work with a non-government employer will avoid situations which would result in an unfair advantage for their new employer. This holds particularly in the case where the employer is bidding for a government contract or is competing for a grant or similar disbursement of public moneys

## Acceptance of Gifts and Benefits

- the acceptance of any gifts or benefits by public sector employees has the potential to secure the influence or favour of an employee. The public expects the public sector and its employees to be impartial and not to be improperly influenced in the performance of their duties
- public sector employees will not, for themselves or others, seek or accept gifts or benefits that could be reasonably perceived as influencing them
- non-pecuniary gifts or benefits offered to employees by representatives of other Governments may be accepted, as may gifts from non-Government sources if they are obviously mementos or gifts of a symbolic nature
- all employees will comply with any policies of their agency in relation to accepting, declaring and/or recording the receipt of gifts or benefits



## Criminal Offences

- public sector employees will at the earliest possible opportunity advise their manager if they are charged with a criminal offence
- public sector employees will comply with all legislation relevant to their role as a public sector employee and/or to the performance of their duties

## Reporting Unethical Behaviour

- public sector employees will comply with legislation, industrial instruments, policies and lawful and reasonable directions in their role as a public sector employee including in the performance of their duties. Employees will report to an appropriate authority, workplace behaviour that a reasonable person would suspect violates any law or represents corrupt conduct, mismanagement of public resources, is a danger to public health or safety or to the environment or amounts to misconduct
- public sector agencies will inform employees of their rights and responsibilities under *Whistleblowers Protection Act 1993* and similar legislation



# Responsibility of public sector employees

- it is the responsibility of every public sector employee to familiarise themselves with the content of this Code and to conduct themselves in a manner that is consistent with the values, behavioural principles and standards of professional conduct that are set out herein
- recognising that the Code is first and foremost an embodiment of the ethos of the public sector community, employees collectively are encouraged to take ownership of it and to shape its future development as a document which defines what it means to be a public sector employee





# Responsibility of Agency Heads

- a critical factor in achieving widespread support for the values, behavioural principles and professional conduct embodied by this Code is strong and visible leadership
- agency heads therefore have a special responsibility to publicly demonstrate their support for both the spirit and letter of the Code through their everyday actions, decisions and behaviours
- in addition to exemplary personal behaviour, agency heads are also responsible for implementing strategies for raising awareness of the Code within their agencies and for ensuring that arrangements are in place to promote it through open discussion and debate and to respond to any issue – including requests for guidance – raised by employees



# Responsibility of the Office of Public Employment and Review (OPER)

- as custodian of the Code, OPER will be responsible for the development and dissemination of information supporting the promotion of the Code. It will also provide advice, when asked, to agency heads and public sector employees on matters of interpretation
- OPER will monitor the implementation of the Code and report to Parliament on the extent to which its underlying values and principles have been observed
- finally, it will be the responsibility of OPER to keep the Code under review to ensure that its vitality is not diminished with the passage of time and that it remains relevant and useful as a behavioural guide for all public sector employees

# Further Sources of Information and Links

- legislation and regulations, including:
  - *Public Sector Act 2009*
  - *Public Sector (Honesty and Accountability Act) 1995*
  - *Public Corporations Act 1993*
  - *Criminal Law Consolidation Act 1935*
  - *Summary Offences Act 1953*
  - *Equal Opportunity Act 1984*
  - *Freedom of Information Act 1991*
  - *Occupational Health, Safety and Welfare Act 1986*
  - *Public Finance and Audit Act 1987*
  - *Whistleblowers Protection Act 1993*
  - *Lobbyist Code of Conduct*
  - *State Records Act 1997*
  - *Disability Discrimination Act 1992 (Commonwealth Government)*
  - any other relevant agency specific legislation
- public sector wide policies issued by Cabinet, and the Commissioner for Public Sector Employment
- determinations and guidelines issued by the Commissioner for Public Sector Employment
- any agency specific policies and ethics/conduct standards
- guidelines for agencies issued by Cabinet or other relevant sources
- Treasurer's Instructions
- South Australia Police Anti-Corruption Branch



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