



ACT Public Service

Code of Ethics

Public Sector Management
Chief Minister's Department

2010

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ACT PUBLIC SERVICE CODE OF ETHICS

INTRODUCTION

The Code of Ethics is outlined in Section 9 of the *Public Sector Management Act 1994* (PSM Act). The Code of Ethics comes in large part from the Commonwealth's original *Public Service Act 1922* on which the PSM Act was based. Given that almost a century has passed since the Code of Ethics for the public sector was written into legislation, it is understandable that a significant body of knowledge has developed around the use of the Code. This guide hopes to bring some of that body of knowledge to light, as well as place the Code of Ethics in its contemporary setting.

PURPOSE OF THIS GUIDE

This guide aims to assist ACT Public Service (ACTPS) agencies with applying the Code. It consists of two parts:

Part 1 – The Ethical Framework

Part 1 is a short section backgrounding the ACT Public Service Code of Ethics. It briefly outlines the consequences of breaching the code. The focus in this part is on the Code of Ethics itself and the procedures for dealing with misconduct established under the *Public Sector Management Act 1994* and ACTPS industrial agreements. Part 1 is brief because the principle aim of this guide is to assist in developing a working knowledge of the concepts contained in the Code of Conduct, which is the reason for a lengthy Part 2.

Part 2 – Practical Guidance

Part 2 comprises the main portion of this guide and provides detailed advice that staff may find useful in furthering their understanding of a public servant's ethical responsibilities. The focus of part two tends toward ethics in practice; it details how the Code of Ethics applies to workplace relationships and behaviours.

A list of further references can be found in an Appendix at the rear of this guide.

PART 1 - THE ETHICAL FRAMEWORK

The *Public Sector Management Act 1994* (the PSM Act), sets out the expectations that the government and the community have about the professionalism and probity of the ACTPS, and the important values and principles that guide public administration. Section 6 of the PSM Act sets out these principles in some detail. The principles are:

SERVICE TO THE PUBLIC

RESPONSIVENESS TO THE GOVERNMENT AND THE NEEDS OF THE PUBLIC

ACCOUNTABILITY

FAIRNESS AND INTEGRITY

EFFICIENCY AND EFFECTIVENESS

These five principles underpin the detailed Code of Ethics contained in section 9 of the PSM Act. The Code of Ethics sets out the obligations that apply to everyone employed under the PSM Act. In combination, the statement of values and principles in section 6 and the Code of Ethics in section 9 provide the primary framework that makes clear the standards of conduct required and expected of the public service.

The Code of Ethics is supplemented by the rules contained in the Public Sector Management Standards 2006 (Standards). Chapter 2 of the Standards in particular provides more detail regarding reasonable care and skill, conflict of interest, equity and diversity, integrity, and personal use of information technology resources. For practical guidance in understanding the ethical responsibilities of ACTPS employment skip to Part 2 of this Guide.



1.1 THE ACTPS **CODE OF ETHICS**

Under section 9 of the PSM Act, in performing their duties a public employee must:

- (a) exercise reasonable care and skill;
- (b) act impartially;
- (c) act with probity;
- (d) treat members of the public and other public employees with courtesy and sensitivity to their rights, duties and aspirations;
- (e) in dealing with members of the public, make all reasonable efforts to assist them to understand their entitlements under the territory laws and to understand any requirements that they are obliged to satisfy under those laws;
- (f) not harass a member of the public or another public employee, whether sexually or otherwise;
- (g) not unlawfully coerce a member of the public or another public employee;
- (h) comply with the PSM Act, the Standards and all other territory laws;
- (i) comply with any lawful and reasonable direction given by a person having authority to give the direction;
- (j) if the employee has an interest, pecuniary or otherwise, that could conflict, or appear to conflict, with the proper performance of his or her duties—
 - i. disclose the interest to his or her supervisor; and
 - ii. take reasonable action to avoid the conflict;as soon as possible after the relevant facts come to the employee's notice;
- (k) not take, or seek to take, improper advantage of his or her position in order to obtain a benefit for the employee or any other person;
- (l) not take, or seek to take, improper advantage, for the benefit of the employee or any other person, of any information acquired, or any document to which the employee has access, as a consequence of his or her employment;
- (m) not disclose, without lawful authority—
 - i. any information acquired by him or her as a consequence of his or her employment; or
 - ii. any information acquired by him or her from any document to which he or she has access as a consequence of his or her employment;
- (n) not make a comment that he or she is not authorised to make where the comment may be expected to be taken to be an official comment;
- (o) not make improper use of the property of the Territory;
- (p) avoid waste and extravagance in the use of the property of the Territory;
- (q) report to an appropriate authority—
 - i. any corrupt or fraudulent conduct in the public sector that comes to his or her attention; or
 - ii. any possible maladministration in the public sector that he or she has reason to suspect.



1.2 CONSEQUENCES OF BREACHING THE *CODE OF ETHICS*

Breaching the Code of Ethics or engaging in other misconduct may result in discipline action being taken according to the procedures laid out in industrial agreements or in the PSM Act.

Discipline Resulting From Misconduct

Discipline procedures for dealing with breaches of the Code of Ethics or other misconduct are for the most part governed by ACTPS industrial agreements. If an employee is not covered by an agreement or the agreement does not include disciplinary procedures, either Part 9 of the PSM Act or another industrial instrument will apply.

Discipline Under Industrial Agreements

A note on application - the following paragraphs articulate the provisions contained in the ACTPS's centrally negotiated template agreement. While ACTPS agreements are agency based, government policy requires that agencies adopt a centrally negotiated Template Agreement as part of their agency agreement. The Template Agreement includes a set of core conditions for staff in the administrative, professional, technical and general service officer classifications, which forms Part One of the agency's agreement. Part Two of the agency agreement includes agency specific conditions. Occupational specific agreements, which cover the nurse, doctor, teacher, fire-fighter and ambulance classifications are not required by government policy to incorporate the Template into their agency agreement (which means the following paragraphs may not apply) but can adopt all or part of the Template Agreement.

Under agency industrial agreements, discipline action may be taken where an employee:

- (a) fails to meet the requirements set out in section 9 of the PSM Act, that is, breaches the Code of Ethics; or
- (b) engages in conduct that –
 - is wilfully or deliberately inconsistent with ensuring the continuation of the contract of employment;
 - causes imminent and serious risk to the health or safety of a person; or the reputation, viability or profitability of the employer's business;
 - constitutes theft, fraud, or assault;
 - demonstrates being intoxicated at work; or
- (c) refuses to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment; or
- (d) returns to duty after a period of unauthorised absence and does not offer a satisfactory reason on returning to work; or
- (e) is convicted of a criminal offence (or has committed an offence but a court chooses not to record a conviction). In deciding whether discipline action will be taken in these cases, the duties of the employee, the interests of the Agency and broader ACTPS, and the seriousness of the offence will be taken into consideration; or
- (f) fails to notify the agency of being charged for a criminal offence.



Where an agency has an industrial instrument in place, discipline issues arising from these types of misconduct will be managed according to the discipline procedures outlined in that agreement.

Agreements typically provide for first and second warnings accompanied by a series of counselling sessions. Investigations are only ever undertaken at the final stage of the discipline process. Agreements also give employees the right to appeal disciplinary action, except where it is decided to terminate the officer's employment. Employees who have been terminated are entitled to appeal these decisions in line with the provisions of the Commonwealth's industrial relations legislation, the *Fair Work Act 2009*.

Discipline Under the *Public Sector Management Act 1994*

The PSM Act establishes the disciplinary procedures for those who are not covered by an industrial agreement, or those whose agreement is silent on discipline procedures. (Note that in some cases, another industrial instrument covering the employee's employment relationship may include clauses detailing disciplinary procedures – in these cases they would apply to the exclusion of the PSM Act). Section 187 of the PSM Act stipulates that any of the following sanctions may apply for breaches of the Code of Ethics.

- Admonishment
- Financial penalty
- Reduction in salary
- Transfer
- Reduction in classification, or
- Dismissal.

For more about discipline procedures, refer to Part 9 of the PSM Act.

For a general discussion about your fundamental rights and obligations as an employee, refer to Chapters 2 and 3 of the *Fair Work Act 2009*, which provide for basic terms and conditions of employment and set out the rights and responsibilities of employers, employees and organisations in relation to employment.



PART 2 – PRACTICAL GUIDANCE

The previous part looked at the theoretical and legislative foundations of the ACTPS Code of Ethics. In contrast, this Part provides practical advice to assist staff to understand their ethical responsibilities as ACTPS employees.

2.1 WHAT ARE “ETHICS”?

Ethics are those values and principles that we use in making decisions. Ethics help us decide whether our actions are right or wrong. We usually think about this in terms of people making decisions about difficult personal situations.

Organisations, as well individuals, have ethical standards. These standards help ensure that the individuals who make up the organisation maintain a consistent approach in carrying out their responsibilities and making decisions in sometimes difficult situations. They also ensure that members of the organisation maintain a consistent and appropriate level of behaviour toward one another and toward the organisation’s clients.

2.2 WHY ARE ETHICS IMPORTANT IN THE PUBLIC SERVICE?

Working in the ACT Public Service carries with it special obligations. We are responsible for managing resources entrusted to us by the community; we must strive to provide the highest quality services to the community from those public resources; and we sometimes make important decisions that can affect a variety of aspects of community life. The community has a right to expect that the ACTPS operate fairly, impartially and efficiently. The community must be able to trust and have confidence in the integrity of the public service decision-making process.

Within the public service, we need to make sure our decisions and actions properly reflect the policies of the government of the day, the government being those people democratically elected to represent majority community views. Our decisions and actions must also meet the general standards the public expects from us as public sector employees. A key element of the Westminster system is the expectation that the public service will maintain the same standards of professionalism, responsiveness and impartiality in serving successive governments, regardless of personal loyalties.

2.3 ETHICAL RULES IN THE ACT PUBLIC SERVICE

All organisations and workplaces have standards of behaviour. The Code of Ethics established by section 9 of the *Public Sector Management Act 1994* set the standards of behaviour for the ACTPS.



Staff should be able to access a copy of the Code of Ethics on agency intranets. In addition to the Code, your agency may have its own rules and guidelines covering various ethical and behavioural issues. For example, your agency may have a policy covering issues such as expenditure, use of resources, gifts and consumption of alcohol.

If you are still unsure of what to do, even after familiarising yourself with the Code, your agency's supporting policies and this Guide, you should be able to discuss the situation with your manager or seek further counsel from your colleagues.

It might also be helpful to ask yourself these questions:

- Is the action or decision within the letter and spirit of the law?
- Is the action or decision in accordance with approved agency guidelines?
- Could you adequately defend your actions to your supervisor, the government and the public if the situation became publicly known?
- Is it possible that another person or organisation expects something from you in return? Can you retain your independence in future dealings? Even where there is no expectation created, could it look like there was?
- What would it be like on the receiving end of your decision?

If you do something that breaches the Code of Ethics or other ethical rules, you may be disciplined under your agency's industrial agreement or the PSM Act. In some cases, you could be subject to criminal prosecution for your behaviour.

For more information about what happens if you breach the Code of Ethics, go back to Part 1.2 or read on to Part 2.5.

2.4 WHAT IS EXPECTED OF PUBLIC SERVANTS

Ethics in the public service are different from those of other sectors or industries because of the particular expectations that the government and the community have about the way that we work and act on their behalf. These expectations can be summarised by the following core characteristics.

Impartiality

Regardless of a public sector employee's personal beliefs and preferences or personal relationships with other employees or with members of the community, the employee must act objectively and bring a neutral mind to their work. They must serve the government of the day in an unbiased fashion free from prejudice. Members of the public and other public employees must be treated fairly and disinterestedly.

Efficiency and Effectiveness

The ACT community finances the resources of the ACTPS. The community expects public employees to make the best use of these resources, which means working



efficiently and effectively, avoiding waste, extravagance and improper use, and maintaining high standards of professionalism, probity and performance.

Procedural Fairness

Public sector decisions must be especially fair and reasonable. Reasons for decisions must be transparent and available. You must be able to explain your actions. In particular, procedural fairness requires decisions to be made without bias (or the apprehension of bias). They must be based on the evidence available and anyone who is adversely affected by the decision must be given the opportunity to provide their views and contribute their voice to the debate before matters are finalised.

Avoiding Conflicts of Interest

To ensure that the community perceive public servants as impartial, effective and fair, you must ensure that your official responsibilities do not conflict, or do not appear to conflict with your personal or financial interests, including the interests of your immediate family. This does not necessarily mean that you cannot have a personal or financial interests in a matter that your agency or organisation is dealing with, but the interest must be declared to an appropriate authority within your agency. This will usually simply mean voicing your concern with your supervisor or manager. In some circumstances it may be necessary to divest yourself of some personal or financial interest, or remove yourself from the decision making process, in order to avoid the conflict of interest.

Accountability

As a member of the ACTPS, you are accountable to your Minister for the responsibility and authority you exercise on his or her behalf. You are accountable for upholding the law and adhering to the policies and guidelines of the government. You are also accountable for ensuring that the programs agreed by the government are delivered effectively, impartially and courteously. Finally, you are accountable for maintaining clear records of the reasons for your activities and decision-making.

Responsiveness

While you must be impartial and fair in serving the government and in delivering services to the public, you must also do your best, within these parameters, to familiarise yourself with the policies and aspirations of the government of the day and ensure that it receives frank, professional, timely and comprehensive advice that is relevant to these policies. Responsiveness also means that service delivery is professional and sensitive to the diversity of the community.

Avoiding Discrimination and Harassment

Impartiality, fairness, efficiency and effectiveness in the ACTPS all depend on objectivity in staffing decisions and a safe and harmonious workforce. This means in particular that you must avoid unlawful discrimination when making staffing decisions or in your relationships with colleagues. This includes acting on the basis of gender, race, linguistic or cultural background or disability. Public servants must also treat colleagues and members of the public with courtesy and with regard to their own desires and aspirations.



Reasonable Care and Skill

You have a duty to act with reasonable care and skill at work, or whilst performing work duties. Displaying reasonable care and skill includes:

- observing legal requirements;
- being prompt;
- taking all reasonable steps to check that the information upon which decisions or actions are based is factually correct, and that all relevant facts are considered;
- ensuring decisions are fair and equitable;
- seeking advice from a manager if the correct course of action is not clear; and
- appreciating the special needs of different groups and individuals.

Public employees are obliged to comply with any lawful and reasonable direction given by a person having authority to give the direction. If you have doubts about the legality of a particular direction, you should discuss your concerns with your manager and, if necessary, a senior manager.

2.5 WHAT HAPPENS IF I BREACH THE CODE OF ETHICS

Where an ACTPS employee fails to comply with the ACTPS Code of Ethics, you may be subject to disciplinary action. The framework for disciplinary action is established in agency industrial agreements or the PSM Act. In more serious cases, criminal prosecution may apply as well - for example, dishonestly taking or retaining Territory property, or dishonestly obtaining financial advantage from the Territory, each being offences under the Criminal Code 2002.

As touched on in part one, most agencies have adopted a centrally negotiated Template Agreement as part of their agency industrial agreement (contact your Corporate or HR area to see if your agency has adopted the Template). If your agency has adopted the generic disciplinary framework from the template into their agreement, then breaches of the Code and other misconduct will be managed according to the procedures reproduced below. The procedures provide for a staged series of counselling sessions with first and second warnings and, where necessary, formal investigation.

Misconduct may be managed through counselling, a written admonishment; a financial penalty, transfer to other duties (at or below current salary), reduction in incremental point, a temporary or permanent reduction in classification/salary, suspension with or without pay; or termination of employment.

ACTPS agreements also give employees a right to appeal against a decision in relation to misconduct, except in situations where employment is terminated (employees may be able to bring an action against termination through the Commonwealth's industrial relations legislation).



If you are a nurse, doctor, teacher ambulance officer or fire-fighter, it is possible that your agency has not adopted the generic disciplinary procedures. Where this is the case, there are two possibilities; first your own industrial agreement may set out other procedures for dealing with misconduct; or second, your agreement may be silent on discipline, in which case the provisions in Part 9 of the PSM Act apply.

Part 9 also applies where misconduct is committed by someone who is not covered by an industrial agreement. That is, if you are not covered by an agreement (for example, you are on an Australian Workplace Agreement (AWA) that does not set out discipline procedures) and you act unethically, you may be disciplined under the procedures set out in Part 9 of the PSM Act.

2.6 KEY RELATIONSHIPS AND BEHAVIOURS

Although the PSM Act does not group ethical responsibilities, this section of the Guide examines conduct in terms of four basic relationships and behaviours:

1. with the Government and the Assembly;
2. with the community;
3. in the way we work; and
4. with each other.

2.6.1. ETHICS IN DEALING WITH THE GOVERNMENT AND THE ASSEMBLY

Serving the Government of the Day

The ACTPS's primary responsibility to the ACT community is to serve the government that it has elected. This means that you must provide the same standard of free, frank, impartial and responsive advice, and the same level of professionalism in the administration and delivery of government policies and programs, irrespective of which party is in power.

Political Activity and Public Comment

The requirement for you to provide impartial advice does not prevent you from having your own views and opinions on political or social issues. However, you may need to be sensitive about how you manage this. You will need to ensure that there is no conflict of interest (and this includes perceived conflict of interest) between your political interests and activities and your official responsibilities. Moreover, as the Code of Ethics makes clear, it is inappropriate to comment where your statement could reasonably be taken as official comment. You also need to be extremely careful about the use of information you have obtained through work, since the Code of Ethics also prohibits the unauthorised disclosure of official information. You should also bear in mind that in some circumstances participation in public debate could undermine public confidence in your ability, or that of your agency, to carry out official functions fairly and impartially.



Judgements about the appropriateness of your political activities and how they might affect perceptions of your neutrality and impartiality will usually depend on the depth of your political involvement and the nature and level of your ACTPS responsibilities. Being an ACT public servant should not normally prevent you from joining a political party or a community interest group, but holding office in or being a spokesperson for a political party could in some circumstances compromise perceptions of your ability to function impartially. This is particularly the case if you are a senior public servant or if your work is politically sensitive or involves issues that are publicly controversial.

You will need to be careful about expressions of political opinion in the workplace. The display or wearing of political material, particularly in areas that are open to the public or in jobs that involve contact with the community, compromises perceptions of political neutrality. Moreover, while people working together ought to be tolerant of one another's political views, wearing or displaying political material at work could affect workplace harmony. It is best to avoid wearing political party badges while at work, and political material should not be displayed on official notice boards. You should not use Territory resources to produce or distribute political material.

You also need to be careful about maintaining a balance between your right to make public comment and the loyalty that the ACTPS, as your employer, should be able to expect from you. You should avoid public personal comment that could undermine public confidence in your agency or the ACTPS. There are internal processes, including those prescribed in the Public Interest Disclosure Act 1994, that provide appropriate channels for complaint about improper conduct or corruption in your areas of work. For further information about reporting fraud and maladministration see paragraph 78.

Relationship to the Legislative Assembly, Ministerial Advisers and the Opposition

Your responsibility to the government includes assisting it in meeting its accountability obligations to the Assembly and the public. This may include giving evidence at Assembly Committees. If you are required to do so, then you must give full and accurate information about factual and technical aspects of government to policies, but your role does not include commenting on policy. This is a matter for your Minister.

Your contacts with the Minister's Office may be through Ministerial advisers. The role of Ministerial advisers is political; they assist the Minister in carrying out political and policy responsibilities. Maintaining effective relations with Ministerial advisers can enable you to better understand and respond to the Minister's policy interests and concerns, but you also need to remain alert to the fact that you are responsible to the Minister through your Chief Executive and that this is the formal channel both for policy advice and for conveying Ministerial decisions.

It is possible that Members of the Opposition or their staff may approach you for information or briefings. These approaches should be responded to courteously and information can be provided if it is already available in a public document. Requests for briefing on issues of policy are matters for the Minister to consider, and should be referred to your Minister's Office.



Caretaker Conventions

The caretaker period is the period between the announcement of an Assembly election and the declaration of the results of that election. The impartiality of the ACTPS is subject to particular scrutiny during this period. Attention is likely to focus in particular on any perceived use of Territory resources to assist a particular party or any perceived conflict of interest between the duties and the personal political opinions of public servants.

The Chief Minister's Department develops guidelines on operating during the caretaker period, and you should familiarise yourself with these. Prior to the commencement of a caretaker period you can contact the Public Sector Management Group for a copy of the latest guidelines.

2.6.2. ETHICS IN OUR RELATIONS WITH THE COMMUNITY

The ACTPS has a close relationship with the ACT community through the variety of face to face services it provides, through the services it purchases from other sectors of ACT industry and because ACT public servants are themselves members of the ACT community. This means that the maintenance of ethical behaviour in dealing with the public is particularly important.

Delivering Services to the Community

The ACTPS serves the community by ensuring that the entitlements and services provided to it under law and government policy are delivered effectively, fairly, courteously, professionally and responsively.

As required by the Code of Ethics, you must help members of the public to understand their entitlements and obligations under the Territory laws. This means that you have a duty of care to your clients, the nature of which may depend on your particular duties. You will need to fully understand the laws, policies and programs that you administer, the level of service you are expected to provide, and the principle of procedural fairness as a basis for decision making. You may have professional responsibilities to particular groups of clients, such as students and their parents if you are a teacher or to patients if you work in health care. It is always best to check or seek further advice rather than give the wrong advice or fail to understand your duty of care. This is not just a courtesy - it is possible for a person to take legal action against the Territory if they suffer a loss as a result of wrong information or failure of duty of care from the public service. In some circumstances, too, the person affected by a decision has a right by law to ask for reasons for the decision.

It is also important to understand that you must be responsive to the needs of the public, treating its members with courtesy and sensitivity to their rights and aspirations. This means, firstly, that you must be professional and effective in the delivery of services. Responsiveness also means that while you cannot make exceptions in individual cases where these are not sanctioned by law, and while you must ensure equality of access for all clients, you should to also try to do your best



to be responsive in the way you administer entitlements or provide services and to avoid unnecessary rigidity. For example, you may need to adjust your approach when you are dealing with members of the public who are from different linguistic and cultural backgrounds.

Your agency may have a client service policy, or may be able to provide client service training, to assist you with your responsibilities in this area. For further client service information contact your HR Area, or try searching your Agency Intranet.

Tendering

Contacts with the private sector are most likely to arise when the ACTPS needs to purchase goods and services from outside. The principle that governs procurement from the private or other sectors is competitive tendering and contracting. This involves evaluating bidders against criteria to select a preferred supplier on the basis of value for money.

If you are involved in a competitive tendering and contracting process, then you will need to maintain the highest ethical standards. You will need to avoid any real or perceived conflict of interest by disclosing any relationship with bidders. You will need to ensure that advertising and selection processes are transparent, free from bias and give each bidder adequate opportunity to demonstrate value for money against criteria. You will also need to provide sufficient documentation to justify your decision.

There are guidelines issued under the Government Procurement Act 2001 that cover the competitive tendering and contracting process in the ACTPS, and which address probity issues. You should make yourself familiar with these guidelines if you are likely to become involved in a competitive tendering and contracting process.

Gifts and Benefits

The reputation of ACTPS for integrity, impartiality and professionalism derives from the public's expectation that its public servants cannot be influenced by bribes. The Code of Ethics prohibits public servants from using their positions to obtaining benefits, and bribery is also covered by criminal legislation.

Accepting a gift from a person who could influence you therefore places you in a difficult position. Even the appearance of influence may damage your reputation or affect the public's trust in your agency's independence and integrity. Because of this, there are strict rules about accepting gifts or other benefits through official duties. This includes sponsored travel and hospitality, as well as receiving benefits through frequent flyer points accrued from work-related travel. These rules also apply to gifts to your immediate family.

The basic rule is not to accept gifts or benefits without the approval of your Chief Executive, unless the gift is of little financial value and there is no reasonable possibility that it could cause a real or apparent conflict of interest.



Examples of this are small thank you gifts given to teachers by their students or to hospital staff by patients.

In other circumstances, if it is not possible to politely decline a gift, you can accept a gift on behalf of the Territory, and then declare it to your Chief Executive.

Particular care needs to be taken where a gift or benefit is offered to you by a person or organisation which is involved in a tender process in your agency or which is subject to a decision making process in which you are involved. In these circumstances you should not accept any gift.

2.6.3. ETHICS IN THE WAY WE WORK

Use of Territory Resources

The ACT community has the right to expect a high degree of professionalism from ACTPS employees who are managing the Territory's resources on their behalf and who are utilising those resources to provide services to the community. In accordance with the Code of Ethics, you must avoid improper use and waste and extravagance in managing the property of the Territory. You must be scrupulous in the way in which you use Territory resources, including money, credit cards, goods and services, vehicles, office equipment, telecommunications and information technology. There are rules, including in the Public Sector Management Standards, covering the proper and effective use of resources and you should familiarise yourself with these.

You will normally have access to Territory office equipment and supplies, including computing, telecommunication, email and Internet facilities. While this equipment is provided for official use, it is generally accepted that you may make limited personal use of Territory resources in circumstances that do not interfere with official use. You may, for example, use the telephone for private local calls but it would not normally be appropriate for you to use it for private interstate or overseas calls. You may occasionally use photocopying resources for single private documents, but it would be inappropriate to use them for a large private run. Your agency's guidelines on the use of resources will include any particular requirements in relation to personal use of resources.

The 'ACT IT Policy' and related ACT Information Management guidelines should be able to assist you in further understanding acceptable uses of information technology resources. These should be available from your HR Area or on your Agency Intranet.

Ethical use of the Internet and Email

You must ensure that your use of the Internet and email does not breach those elements of the Code of Ethics that require you to act with probity; to not make improper use of the property of the Territory resources; to treat other public employees with courtesy and sensitivity and which prohibit you from harassing a member of the public or another public employee, whether sexually or otherwise.



There are strict policies governing the use of both the Internet and email, and you should exercise extreme care in both personal and official use of these resources. You may make limited private use of these resources, but you should avoid wasting time sending private emails or surfing sites that are not work related. You should particularly avoid media streaming, where large amounts of material are downloaded, for example, downloading music, video or graphics. You must not use the Internet to access or display offensive or inappropriate material and this includes not only pornographic or violent material but also any material that might make your fellow employees feel uncomfortable. You should also ask yourself whether the ACT community would approve of the use of their resources in this way. You must not use email to send offensive material or to abuse or harass other employees or members of the public.

The ACTPS's IT provider, InTACT, may monitor your use of email and Internet. For more information please see the 'ACT IT Policy' and ACT Information Management guidelines. These should be available from your HR Area or on your Agency Intranet.

Managing Territory Records

Under the Public Sector Management Standards, if you are involved with the creation and/or management of records (for example, written or electronic files, microfilm, photographs, plans, audio or video, etc) you have a duty of care to ensure that records are managed in accordance with agency's obligations under the *Territory Records Act 2002* and other related legislation. For more information about managing Territory Records please see the standards and guidelines published by the Territory Records Office.

Official and Personal Information

The ACT Government and the ACT public entrusts the ACTPS with extensive and often sensitive information on such things as government policy options, public order, planning, commercial activities and industrial relations issues. This includes personal information on members of the public and ACTPS employees.

As the Code of Ethics makes clear, information obtained through work should not be disclosed without lawful authority. Some official information is specifically protected by confidentiality requirements and you should familiarise yourselves with these. You may disclose official information when you have proper authority to do so or you are required to do so by law; or you are giving evidence in court. As well as protecting the release of official information, you should not use information obtained in your official capacity for personal gain.

The protection of information on individuals is covered by the Commonwealth Privacy Act 1988 and the Privacy Principles. If you are dealing with personal information then you will need to familiarise yourself with these Principles, but their core elements are as follows: that you can only use the information for the purpose for which it was originally collected; that the people you are collecting it from must be informed of this purpose; that you must ensure that the information is accurate, up to date, adequately protected and relevant to the purpose for which it is collected



and used. If it does become necessary to use the information for other purposes, then you must obtain the consent of the person who provided it.

Use of Official Information After Leaving the Service

After leaving the Service, rules about the release of confidential information continue to apply. If you intend using information acquired while in the ACTPS in subsequent employment, you must ask your Chief Executive. There may be circumstances where it is possible to get permission.

Reporting Fraud and Maladministration

A crucial element of the Code of Ethics is to encourage public servants and other people who perform functions on the Government's behalf, to act with the highest integrity. The operation of the Code of Ethics seeks to ensure employees do not abuse their office and also that Government finances, resources and property are properly managed.

Under the Code of Ethics you are required to report any fraud or maladministration that comes to your attention or any reasonable suspicion you may have of fraud or maladministration.

Depending on the seriousness and the nature of the improper conduct will depend on how you may choose to report the incident. There are various internal mechanisms that can be utilised to draw attention to misconduct and allow an agency to investigate. Complaints about a wide range of improper practices can be handled internally by agencies or through existing complaint or reporting mechanisms. For example, complaints about improper conduct in relation to a selection process should be made through the internal review processes related to recruitment.

Misconduct of a criminal or serious nature which could result in disciplinary action against an employee, can be reported under the Public Interest Disclosure Act 1994 (PID Act) to any 'proper authority'. Generally the proper authority is the agency where the misconduct occurred or an agency with investigation powers such as the Ombudsman or the Auditor-General.

Under the PID Act, agencies are required to establish procedures for dealing with reports of breaches or alleged breaches of the Code of Conduct. These procedures must be made publicly available and include a contact officer to provide further information if required. Most agencies make this information available on relevant websites.

Whether a public interest disclosure is investigated will depend on a number of factors. For example, if the Agency head considers the disclosure is frivolous or vexatious or that there is a better way to deal with the disclosure it may not be investigated as a disclosure. If you do not agree then you can lodge your disclosure with the Ombudsman or the Auditor-General for their consideration.

If an investigation into the suspected misconduct is warranted, the agency head may appoint a person to conduct the investigation in accordance with the agency's



misconduct procedures. Under the ACTPS Integrity Policy external investigators are required to hold relevant investigation qualifications.

When you make a disclosure there are also obligations placed on you. For example, you cannot go to the press and information must remain confidential. You may also have to provide information as a witness to an investigation.

It is important that misconduct is reported and to encourage reporting, the PID Act provides protection to people making a disclosure. It does this in practical ways. For example, it discourages 'unlawful reprisals' by making this conduct a criminal offence. "Unlawful reprisal" is discriminatory behaviour or victimisation toward you, resulting from the fact that you have made a disclosure. It also allows in certain circumstance for you being redeployed should you require this protection.

For more information about making a public interest disclosure see either the Public Sector Management guides at www.psm.act.gov.au or Agency procedures.

Outside Employment

You must get approval from your Chief Executive to work outside the Service. This is a requirement of the PSM Act. You will be asked whether the outside job could interfere with your official duties and whether there is any possibility of a conflict of interest. The definition of outside work includes salaried employment, running a business, maintaining a professional practice or consultancy and being a director of an organisation. This may include unpaid employment.

You must not use ACTPS time and resources to conduct a business or to undertake other outside work.

2.6.4. ETHICS IN WORKING WITH EACH OTHER

The efficient and effective use of the resources of the ACT community is dependent upon a workplace that effectively utilises the talents of all staff and which encourages harmonious and therefore productive working relationships.

Courtesy and Inclusiveness in Dealing with Colleagues

The Code of Ethics requires you to treat your colleagues with courtesy and sensitivity to their rights, duties and aspirations. This requirement must be observed on several levels.

The Discrimination Act 1991 prohibits discrimination in employment. This means you must not discriminate in your employment decisions or in your relations with your workmates on grounds that include sex; sexuality, transsexuality, status as a parent or carer, pregnancy, breastfeeding, race, religious or political conviction, disability and age.

The ACTPS promotes equity in employment opportunity and respects and utilises the talents of people from diverse backgrounds. This means that you must be sensitive to the diverse backgrounds of your colleagues, including ethnic and



religious difference. It also means that you must ensure that nobody is disadvantaged in competing for careers. Your agency will have an Equity and Diversity Plan that addresses these issues.

Finally, you must treat all your colleagues courteously and fairly, giving them the opportunity to express their views and opinions on work issues, making allowances for differences in working style, respecting their working spaces and avoiding displaying or distributing material, or using language, that may cause offence. The *Equity and Diversity Framework* may assist further when issues surrounding equity and diversity in the ACTPS arise in your workplace.

Use of Alcohol

Standard 1 of the Public Sector Management Standards (PDF File) provides strict rules relating to the consumption of alcohol.

You must not drink alcohol while at work without the prior approval of a senior manager on special occasions, like Christmas parties, the Melbourne Cup and farewells. You must also obtain special occasion prior approval to carry alcohol in a Government vehicle (including on a motorbike etc). However, under no circumstances can alcohol ever be consumed in or on a Government vehicle.

Avoiding Bullying and Harassment

Workplace harassment involves offensive, belittling or threatening behaviour directed at an individual or group of employees. Harassment may be based on characteristic such as ethnic or gender differences or it may be also be the result of interpersonal differences. It can include sexual harassment.

Bullying is an element of harassment. It can occur in a variety of situations, for example, when a manager or supervisor misuses his or her authority to humiliate or abuse a subordinate. Bullying can also occur between peers, external customers and even upwards, that is, from a subordinate to his or her own manager. Bullying is unacceptable in any relationship, and in any situation.

The Code of Ethics prohibits you from harassing your colleagues, including bullying or sexually harassing them. Your agency will have a policy for dealing with workplace harassment and you should familiarise yourself with your rights and responsibilities under it. This will include procedures for you to follow, and people to contact, if you believe that you are the victim of harassment.

Behaviour After Hours and at Work Related Social Functions

While your behaviour outside work is your own concern, there are some circumstances in which you may need to take care. You need to bear in mind that your relationships with colleagues after hours could have repercussions that affect the harmony and efficiency of the workplace. You should also be aware that your conduct after hours could in some circumstance affect community perceptions of the integrity and professionalism of the ACTPS, particularly if you are in a senior or high profile position.



These issues are particularly relevant at work related social functions, including those held out of working hours or away from the workplace. Occurrences at these functions can impact upon workplace relationships and, as they are often held in public venues, can affect community perceptions of ACT public servants' behaviour.

Fairness and Due Process in Staffing Decisions

A core requirement of a service that is impartial, efficient and effective is that staffing decisions must be objective. The PSM Act prohibits patronage and favouritism in employment decisions, while the Code of Ethics requires you to be impartial and to treat your colleagues with sensitivity.

There are also specific legal requirements that you must comply with when you are selecting people for appointment and promotion. For information about your responsibilities when making staffing decisions please see the Public Sector Management Group's guide 'Recruitment in the ACT Public Service'.

WHERE TO GO FOR FURTHER INFORMATION

There are a number of documents and guidelines that may further assist you to understand your responsibilities in particular situations.

The Public Sector Management Group produces the following policies, guidelines and toolkits that are available on the Group's website at www.cmd.act.gov.au/governance/publications

- ACTPS Integrity Policy may provide further assistance when dealing with fraud and corruption in the ACT Public Service.
- Public Interest Disclosures guidelines provide more information about how to report wrongdoing in the ACT public sector or how to make a public interest disclosure (also known as "whistleblowing").
- 'Equity & Diversity Framework' and 'Equity & Diversity Toolkit' may assist when issues surrounding equity and diversity in the ACTPS.
- 'Recruitment in the ACT Public Service' – provides further information about fairness in staffing decisions.

Information is also available from other ACTPS agencies, for example:

- For more information about managing records see the standards and guidelines published by the Territory Records Office. You can access these documents by searching the Office's website at <http://www.territoryrecords.act.gov.au/> or by contacting them on (02) 6207 0194.
- The 'ACT IT Policy' and related ACT Information Management guidelines will assist you to understand what acceptable use of information technology resources means. These should be available from your HR Area or on your Agency Intranet.



APPENDIX - REFERENCES

ACT Legislation Register
<http://www.legislation.act.gov.au>

Commonwealth legislation
<http://www.comlaw.gov.au>

Legislation Act 2001
<http://www.legislation.act.gov.au/a/2001-14/default.asp>

Public Sector Management Act 1994
<http://www.legislation.act.gov.au/a/1994-37/default.asp>

Public Sector Management Standards 2006
<http://www.legislation.act.gov.au/di/2006-187/default.asp>

Public Sector Management Publications
<http://www.cmd.act.gov.au/governance/public/publications>

Territory Records Office
<http://www.territoryrecords.act.gov.au>

Fair Work Act 2009 (Cth)
<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/BEE85568F51875E8CA2576080001E3A4?OpenDocument&mostrecent=1>

Centre for Public Sector Ethics
<http://www.ethicscentre.org>

