Foreword

This booklet is issued by the Chief Minister’s Department to provide an accessible guide to the Code of Ethics that applies to all ACT public employees. These requirements should be understood and applied by all. They contribute to good decision-making and assist us to maintain the high reputation and standing of the ACT Public Service in the ACT community. Failure to comply with the Code can also leave individuals open to disciplinary action.

The ACT public sector has undergone a period of significant reform in a relatively short time, particularly in relation to financial and management practices. Consistent with changes across all Australian public sectors, decision-making has devolved to a greater extent to agency level, and there is less reliance on complex and prescriptive rules. Individual performance measures focus increasingly on results. At the same time, accountability measures are more rigorous and extensive.

These reforms are directed at improving the public sector; at giving the public value for money; and promoting a more responsive Public Service. They also mean that public employees have a quite different operational environment.

What remains constant is the expectation of high standards of integrity. This is expected by both the Government of the day and the ACT community. In this new environment, an ethical framework provides the key to meeting these different expectations.

This booklet aims to support public employees in applying the ethical code that applies across the ACT Public Service. It covers some of the main questions about ethics, and points to sources of more detailed information.

Commissioner for Public Administration

The Chief Minister’s Department acknowledges reference to publications of other Australian public sector agencies
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**What do we mean by “ethics”?**

Ethics are those values and principles that we use in making decisions. They 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. However, ethics are important for people working in organisations as well. Ethical standards help ensure consistent approaches and high standards. They tell us what is expected of us, they help us think through difficult situations and reach proper conclusions.

**Why is this important in the public service?**

Working in the public sector carries with it special obligations because we make important decisions that impact on all aspects of community life. The public has a right to expect that the ACT Public Service operates fairly, impartially and efficiently. The public 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 and the standards the public expects from us as public sector employees.

To achieve this, the *Public Sector Management Act 1994* includes important values and principles to guide public administration. These values and principles underpin a detailed Code of Ethics in section 9 of the Act which sets out the obligations that apply to every public employee - this is the term applied to everyone employed under the Act.

The statement of values and principles, together with the Code of Ethics set out below, provide the framework for standards of conduct in the public service. These specific rules set the requirements of acceptable behaviour.

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**Values and principles for the ACT Public Service**

- Service to the public
- Responsiveness to the government and the needs of the public
- Accountability to the government
- Fairness and integrity
- Efficiency and effectiveness
For ACT public servants, being ethical means:

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<thead>
<tr>
<th>Act legally</th>
<th>Be honest and fair</th>
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<tr>
<td>• act within the letter and the spirit of the law</td>
<td>• be impartial</td>
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<tr>
<td>• act within your authority</td>
<td>• be honest</td>
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<tr>
<td>• follow lawful and reasonable directions</td>
<td>• avoid conflicts of interest</td>
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<tr>
<td>• protect official information</td>
<td>• do not take personal benefits from your official position or information acquired through work</td>
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<td>• do not misuse government property</td>
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<tr>
<th>Serve the public</th>
<th>Respect other people</th>
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<td>• help the public understand their entitlements and obligations under the laws of the Territory</td>
<td>• treat members of the public and colleagues with courtesy and sensitivity</td>
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<tr>
<td>• avoid waste of public property</td>
<td>• do not harass others sexually or in other ways</td>
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<tr>
<td>• report corruption, fraud or maladministration</td>
<td>• do not coerce others unlawfully</td>
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<th>Work to the best of your ability</th>
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<td>• exercise reasonable care and skill in doing your job</td>
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How to make ethical decisions

Rules such as those in section 9 of the Public Sector Management Act 1994 cannot cover every situation where you are required to make a decision. In practice, deciding on the right course of action will often involve weighing up competing priorities and responsibilities. In most cases, the answer will be fairly clear.

If you are unsure of what to do, you can discuss the situation with your manager and, where necessary, seek further advice, eg. from your colleagues or someone with an objective point of view. You can also refer to Standard 1 Parts 1 & 2 in the Public Sector Management Standards and Group 1 of the accompanying Best Practice Notes, which provides a detailed discussion of the Code of Ethics and the ethical standards expected of public employees.

Finally, if you are not certain what to do in a particular situation, it is helpful to ask yourself these questions.

- Is the action/decision within the letter and spirit of the law?
- Is the action/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 if that is not the case, could it look like that?
- What would it be like on the receiving end of your decision?
- What you would do if it was your money, your time or your equipment?

Remember, ethical behaviour is not just a matter of following the letter of the law, or sticking to rules and regulations. We should also act within the spirit of the law. It is not enough that we think our behaviour is ethical, it must also be seen to be so. The appearance of unethical behaviour can be just as damaging to public confidence in the public service as unethical conduct itself.
What is expected of you as a public employee?

The way you perform your duties is critically important to the integrity of the ACT Public Service. An individual’s performance not only affects the rights and entitlements of citizens, including other ACT employees, it affects the public image of the service in the eyes of the community.

It is your responsibility to work efficiently and to the best of your ability. You are expected to approach your work impartially, irrespective of your own views or political beliefs. You are expected to use official resources properly - you can be disciplined for unauthorised use of Territory property.

Outside working hours

Some of the ethical rules apply to outside work situations. For example, there are special rules about disclosing and dealing with conflicts between official duties and any personal or financial interest. There are also rules about second jobs.
Service to the Government

Responsiveness to the needs of the Government of the day and providing impartial advice are key elements of a public servant’s duty. This doesn’t mean you cannot have your own political views and affiliations. It does mean that those views should not interfere with the way you perform your duties.

You have the same rights as everyone else to make public comment and express your personal views, although you need to be extremely careful about the use of information you have obtained through work. There are specific rules about this. It is inappropriate to comment where your comment could reasonably be taken as an official statement or where participation in public debate creates a conflict between your official duties and your private interests or activities.

Service to the public

All ACT Government agencies now have Commitment To Service Statements which set out the standards of service that each agency’s clients can expect. These Statements will help you meet your own obligations as a public employee. Sensitivity to the rights, duties and aspirations of customers and colleagues is essential to both good customer service and good working relationships.

In addition to this, the Code of Ethics tells us to help members of the public understand their entitlements under the Territory’s laws. This means you need to fully understand the laws you administer. It is always best to check or seek further advice rather than give the wrong advice. 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 from the public service.

Decisions about entitlements should be fair and impartial; based on correct information and appropriate rules and regulations. You also should be able to justify your decisions. In some circumstances, the person affected by a decision has a right by law to ask for reasons for the decision.

Customers and colleagues can expect courteous and fair treatment. They have a right to dealings that are free of harassment or unlawful discrimination.

Leading by example

Managers and supervisors have special responsibilities. Their obligation to display high standards of efficiency and professionalism means they will have a clear understanding of ethical issues likely to arise in their area. They will help staff understand the issues involved and play an active role in helping
staff resolve ethical questions. Most importantly, they will lead by example and set the standards of conduct in their work area.

Questions about ethical conduct

What is conflict of interest?

A conflict of duty and interest arises where your private interests are, or may be, in conflict with your official duties. A conflict of interest can be either actual or potential (ie. an onlooker might assume there is a conflict), financial or personal, and can sometimes extend to the interests of immediate family.

As a public employee, you must disclose any conflict of interest to your supervisor and take reasonable action to avoid the conflict. Disclosing a possible conflict means you can deal with the issue at an early stage and you do not leave yourself open to criticism or disciplinary action.

Executives and Chief Executives are required to make written disclosures of personal and financial interests on appointment and to update the disclosures every year.

Are there rules about accepting gifts?

Accepting a gift from a person who could benefit from influencing you 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, hospitality, as well as receiving benefits through frequent flier points accrued from work-related travel.

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 minor thank you gifts given to teachers by their pupils 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.
What about second jobs?

You must get approval from your Chief Executive to work outside the Service. This is a requirement of section 244 of the *Public Sector Management Act 1994*. 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. It is a matter of judgement for you and your manager to decide whether formal approval is required to engage in unpaid voluntary work. However, conflicts of interest can still arise between these activities and official duties.

If in doubt, it is always best to ask.

Handling official information

You need to be extremely careful about using information obtained through work. You can judge the right course of action by asking yourself if ordinary citizens have access to the same information. If the answer is no, then you should make sure you are familiar with the confidentiality requirements in your work area.

The general rule can be summarised as follows: do not disclose information obtained through work unless you do so in the course of duty; you have proper authority to do so; you are required to do so by law; or you are giving evidence in court. Special rules about the use of personal information under the *Privacy Act 1988* also apply to the ACT Public Service.

What about private rights?

These rules do not mean you cannot participate in your private capacity in public discussions and debates about community issues. They do mean you should be alert to your ethical obligations to perform your official duties with probity and impartiality.

This means you may need to consider:
- could public statements in your private capacity be mistaken for official comment?
- does it involve any use of official information not publicly available?
- could your public comment undermine public confidence in your ability, or that of your agency, to carry out official functions fairly and impartially?

Leaving the public service

After leaving the Service, rules about 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. Otherwise, you place yourself at risk of breaking the rules.

**Reporting fraud or wrongdoing**

You may report fraud or other wrongdoing to your own agency, to the fraud prevention manager in Chief Minister’s Department, to the ACT Ombudsman, or to the ACT Auditor General.

The *Public Interest Disclosure Act 1994* means that agencies must deal with reports of wrongdoing. The agency must investigate the matter; refer it to a more appropriate agency; or, if the decision is made not to take action, the agency must give you the reason for this in accordance with the provisions of the Act.

The Act also provides protection for informants. For example, the Act limits legal action, including disciplinary action, that may be taken against you because you have made the disclosure. This means penalties for breaking rules about confidentiality will not apply if you make the report through government agencies. This protection does not apply if you go to the press.

**What happens if I break the rules of ethical conduct?**

Failure to comply with the code set out in section 9 of the *Public Sector Management Act 1994* may lead to disciplinary action. The only exception is with respect to the obligation to report fraud, corruption and maladministration.

Sanctions under the disciplinary provisions range from counselling and fines to dismissal. In some cases, you may be liable to criminal prosecution as well - for example, misconduct involving misuse of confidential information or Territory property may be an offence under the *Crimes (Offences Against the Government) Act 1989*.

The Code of Ethics also applies to Executives employed under Executive contracts. This is enforced by terms in each contract that require compliance with section 9 of the *Public Sector Management Act 1994*.

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Where to go for more information

- The Public Sector Management Act 1994, especially sections 6 - 9 and 65.

- Standard 1 Parts 1 and 2 on Ethics in the Public Sector Management Standards and Best Practice Notes (BPN) 1, but also:
  - BPN 6.3 Management
  - Std1:Pt 3, BPN 1.2 Fairness and Equity
  - Std1:Pt 3 Anti-Sexual Harassment
  - BPN 6.4 Occupational Health and Safety
  - Std2:Pt 2, BPN 2.3 Selection
  - Std4:Pt10-12, BPN 4.2 Leaving the Service
  - Std5:Pt3, BPN 5 Discipline
  - Std6:Pt5, BPN 6.6 Training and Development
  - Std1:Pt4 Fraud Prevention

Information on the Intranet

The following information is accessible through the Ethics Homepage http://ppc/INTRA/Homepages/ethics/ethicond.htm:

- section 9 of the Public Sector Management Act 1994
- Public Sector Management Standards and BPN on Ethics
- Guides to the Public Interest Disclosure Act 1994
- Guidelines on dealing with Fraud and Corruption
- Confidentiality Framework

You can also contact

- Public Sector Accountability, Chief Minister’s Department.
  Phone: 620 76136, 620 50503
- Fraud Prevention and Anti-Corruption, Chief Minister’s Department.
  Phone: 620 50540
Section 9 of the Public Sector Management Act 1994

General obligations of public employees

9. A public employee shall, in performing his or her duties:

(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 laws of the Territory and to understand any requirements which 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 this Act, the management standards and all other laws of the Territory;
(j) comply with any lawful and reasonable direction given by a person having authority to give the direction;
(k) 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;
(m) 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;
(n) 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;
(p) 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;
(q) not make a comment which he or she is not authorised to make where the comment may be expected to be taken to be an official comment;
(r) not make improper use of the property of the Territory;
(s) avoid waste and extravagance in the use of the property of the Territory;
(t) 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.