Code of Ethics and Conduct
Message from the Chief Executive Officer

The Western City and Aerotropolis Authority (WCAA) is a NSW Government Executive agency within the NSW Treasury cluster under Schedule 1 of the Government Sector Employment Act 2013 (NSW) (GSE Act). This Code of Conduct (Code) for the WCAA is based on the Treasury Code of Ethics and Conduct (TIPP2.05), which was developed in accordance with the GSE Act and the Public Service Commissioner's Direction No 1, 2015.

The Ethical Framework, outlined in Part 2 of the GSE Act, is mandatory for all government sector employees and is contained in the Code. The Code forms part of each employee’s contract of employment and requires employees to always act in the public interest and demonstrate standards of professional behaviour that promote and maintain public trust and confidence.

The Ethical Framework sets out core values for all government sector employees. These are Integrity, Trust, Service and Accountability - and at the WCAA we include Excellence. I endorse these core values and principles and expect all staff to demonstrate them in their working relations with other employees, clients and customers, stakeholders and the government of the day.

The Code employs a principles-based approach to ethics, rather than a prescriptive one, since it is not possible to address every issue we may face as public servants in one code. For this reason, it is important that we look to the core values and principles when implementing the Code and generate discussions within the WCAA to promote ethical decision making. Employees who remain uncertain about how the Code might apply to a situation are urged to speak with their manager or a member of the executive.

At the WCAA we put our values at the centre of what we do and adhering to the Code, as individuals and as an organisation, is critical to our success in building a high-performance organisation.

Sam Sangster
CEO
Scope

The Code applies to all WCAA employees and senior executives. The Code extends to contractors and volunteers engaged by the WCAA. It applies at all times when acting in the course of, or in connection with, WCAA employment, including during official office functions. While the Code refers to officers of the Authority, the principles in the Code may be adopted by the WCAA Board as part of its policies and procedures.

Review

The Code may be amended from time to time by the Chief Executive Officer (CEO) and as directed by the WCAA Board and Public Service Commissioner.
1 Overview

1.1 Purpose

The purpose of the Code is to assist all WCAA employees:

- to understand expected standards of conduct and behaviour;
- to comply with relevant laws and policies;
- to demonstrate and promote good ethical practice;
- to deal with ethical problems they may encounter; and
- to maintain the integrity and reputation of the Authority and the NSW Government.

The Code also specifies actions to be taken if there are breaches or allegations of breaches of the Code.

1.2 Core Values and Principles of Conduct

All employees are to uphold the four government sector core values of Integrity, Trust, Service and Accountability and their principles in their actions, decisions, and dealings with colleagues, clients, stakeholders and the government of the day:

**Integrity**

- Consider people equally without prejudice or favour
- Act professionally with honesty, consistency and impartiality
- Take responsibility for situations, showing leadership and courage
- Place the public interest over personal interest.

**Trust**

- Appreciate difference and welcome learning from others
- Build relationships based on mutual respect
- Uphold the law, institutions of government and democratic principles
- Communicate intentions clearly and invite teamwork and collaboration
- Provide apolitical and non-partisan advice.

**Service**

- Provide services fairly with a focus on customer needs
- Be flexible, innovative and reliable in service delivery
- Engage with the not-for-profit and business sectors to develop and implement service solutions
- Focus on quality while maximising service delivery.

**Accountability**

- Recruit and promote employees on merit
- Take responsibility for decisions and actions
- Provide transparency to enable public scrutiny
• Observe standards for safety
• Be fiscally responsible and focus on efficient, effective and prudent use of resources.

WCAA employees are to also uphold the core value of ‘Excellence’:

Excellence
• Strive for excellence in everything we do.
• Demand high standards from ourselves and continually look for ways to improve.
• Be influential, inspirational and motivational.
• Apply rigour and innovation in our advice.
• Focus on results.
• Work as one.

There is no hierarchy among the core values and each is of equal importance.
2 Mandatory Conduct

This section sets out the mandatory provisions of the Code for NSW government sector employees, which apply to all government sector employees and heads of government sector agencies.

2.1 Responsibilities of employees

All employees have responsibilities:

- to demonstrate high levels of personal conduct consistent with the Ethical Framework;
- to seek assistance when unsure about how to implement the Ethical Framework;
- to promote the implementation of the Ethical Framework to their colleagues; and
- to report possible breaches of the Ethical Framework to relevant officers.

All managers and executives have the above employee responsibilities plus additional responsibilities:

- to lead and promote implementation of the Ethical Framework in the workplace;
- to ensure that workplace culture, practices and systems (including recruitment and promotion) operate consistently with the Ethical Framework;
- to recognise and promote employee and team conduct that exemplifies the Ethical Framework;
- to act promptly and with due process to prevent and address any breaches of the Ethical Framework;
- in the case of a senior executive (including an acting senior executive or in the case of the WCAA, any contracted members of the Planning and Commercial team), to declare in writing private interests that have the potential to influence, or could be perceived to influence, decisions made or advice given by the senior executive; and
- to ensure that any real or perceived conflicts of interests are avoided or effectively managed.

The CEO has the responsibilities of executives (above) and, in addition, has responsibilities:

- to lead and promote implementation of the Ethical Framework in their agency;
- to ensure the general conduct and management of the functions and activities of the department are in accordance with the core values of the Ethical Framework; and
- to oversee the implementation of the Ethical Framework and make improvements where necessary.

2.2 When is the Ethical Framework to be applied?

The Ethical Framework must be applied at all times in working relations with colleagues, clients and customers, stakeholders and the government of the day. These working relations are depicted in the following diagram:
2.3 How do I act in the public interest?

You should treat all people with whom you have contact in the course of your work:

- equally without prejudice or favour; and
- with honesty, consistency and impartiality.

You should also, in the course of your work:

- place the public interest over your personal interest;
- uphold the law, institutions of government and democratic principles;
- provide apolitical and non-partisan advice;
- provide transparency to enable public scrutiny; and
- be fiscally responsible and focus on efficient, effective and prudent use of resources.

Acting in the public interest requires leadership, courage and innovation to develop practical recommendations and actions that are consistent with the core values and will help the government of the day achieve its objectives. Acting in ways that are expedient or convenient, but which do not promote the integrity, trust, service and accountability of the public sector, are not in the public interest.

2.4 How do I manage conflicts of interests?

Sometimes you may find that your private interests make it difficult for you to perform your duties impartially in the public interest. This may happen:

- when there is a direct conflict between your current duties and responsibilities and your private interests (an ‘actual’ conflict of interests);
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- when a person could reasonably perceive that your private interests are likely to improperly influence the performance of your official duties, whether or not this is in fact the case (a ‘reasonably perceived’ conflict of interests); or
- when you have a private interest that could conflict with your official duties in the future (a ‘potential’ conflict of interests).

Actions you should take include:
- always disclose actual, potential or reasonably perceived conflicts of interests to your manager as soon as you become aware of the conflict.
- where a conflict of interests occurs it should always be resolved in favour of the public interest, rather than your own.

To resolve any conflicts of interests that occur, or could occur, a range of options is available depending on the significance of the conflict. These options include:
- The manager records the details of the conflict and takes no further action because the potential impact is minimal or can be eliminated by disclosure or effective supervision
- The manager removes the employee from the particular activity or decision where the conflict arises and documents this action
- The manager checks and, if appropriate, endorses all action with respect to the matter creating conflict
- The employee relinquishes the personal interest
- The employee transfers from the area of work or particular task where the conflict arises, without disadvantage in terms of status or remuneration.

2.5 How do I declare private interests?

Each of the following (a Relevant Person):
- senior executive (including acting senior executives) of the WCAA; and
- WCAA staff member and contractors in the WCAA Planning and Commercial teams,

must make a written declaration of private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given.

Where a Relevant Person has no such private interests to declare, s/he must declare a “nil return”.

After a Relevant Person makes an initial declaration, a fresh declaration must be made:
- as soon as practicable, following any relevant change in the Relevant Person’s private interests;
- as soon as practicable, following the Relevant Person’s assignment to a new role or responsibility; and
- at least annually.

A private interests declaration form may be accessed through Protecht.

A Relevant Person must provide their declaration to the CEO.

1 For further detail on how to manage actual, potential or reasonably perceived conflicts of interests, see the NSW Ombudsman Fact Sheet Conflicts of Interests at www.ombo.nsw.gov.au/__data/assets/pdf_file/0004/3685/FS_PSA_03_Conflict_of_Interest.pdf.
• The CEO must provide their declaration to the Secretary of NSW Treasury.
A person to whom a declaration is to be provided is responsible for ensuring:
• each Relevant Person completes declarations; and
• handling and storage of declarations complies with the requirements of the

2.6 How do I treat colleagues, customers, clients and stakeholders?
All government sector employees are to treat their colleagues, customers, clients and
stakeholders in their agency and in other agencies, and the government of the day by:
• considering people equally without prejudice or favour;
• acting professionally with honesty, consistency and impartiality;
• taking responsibility for situations, showing leadership and courage;
• placing the public interest over personal interest;
• appreciating difference and welcoming learning from others;
• building relationships based on mutual respect;
• upholding the law, institutions of government and democratic principles;
• communicating intentions clearly and inviting teamwork and collaboration;
• providing apolitical and non-partisan advice;
• providing services fairly with a focus on customer needs;
• being flexible, innovative and reliable in service delivery;
• engaging with the not-for-profit and business sectors to develop and implement
  service solutions;
• focusing on quality while maximising service delivery;
• recruiting and promoting employees on merit;
• taking responsibility for decisions and actions;
• providing transparency to enable public scrutiny;
• observing standards for safety; and
• being fiscally responsible and focus on efficient, effective and prudent use of
  resources.

2.7 How do I treat lobbyists?
All government sector employees and heads of government sector agencies must comply
with Premier's Memorandum M2014-13- NSW Lobbyists Code of Conduct published on
the Department of Premier and Cabinet's website, as amended from time to time.

2.8 How do I use public resources appropriately?
You must use public resources in an efficient, effective and prudent way. Never use
public resources – money, property, equipment or consumables – in a way that benefits
you personally, or for an unauthorised purpose (see 5.9 Use of facilities and equipment).
If you are responsible for receiving, spending or accounting for money, ensure you know,
understand and comply with the requirements of the Public Finance and Audit Act 1983,
3 Behaviour contrary to the Code

3.1 The effect of behaviour that is contrary to the Code

Behaviour contrary to the Code and to the Ethical Framework for the government sector can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder customer service delivery, and damage public trust in the WCAA, NSW Treasury or the broader government sector.

If you are unsure of what is appropriate conduct under any particular circumstances, discuss the matter with your supervisor, manager or a member of the executive.

3.2 If you see behaviour contrary to the Code

If you see someone act in ways that are contrary to the Code, you should in the first instance discuss that person’s behaviour with your immediate supervisor or manager, or report your concerns to any member of the executive.

If you believe certain conduct is not just unethical, but may also be corrupt, a serious and substantial waste of government resources, maladministration or a breach of government information and privacy rights, then report your concerns to one of the Public Interest Disclosures Coordinators – who in the WCAA are the CFO and General Counsel, or the relevant investigating authority (such as the Ombudsman, Independent Commission Against Corruption or the Auditor-General).

Under the Public Interest Disclosures Act 1994, it is both a criminal offence and misconduct to take reprisals against an employee who makes a public interest disclosure. See Section 5 of the Code and WCAA’s Public Interest Disclosures Internal Reporting Policy for further information.

3.3 Actions when allegations are made

If it is alleged that you have acted in a way that is contrary to the Code, you will have an opportunity to provide your version of events. How this will happen will be proportionate to the seriousness of the matter. In those cases where the allegation is minor or of a low level, your manager will usually discuss this matter directly with you. If the allegations are more serious, a formal process may be required.

If you are investigating an allegation of a behaviour that is contrary to the Code, you must ensure your decision-making is fair and reasonable by acting consistently with four principles:

• procedural fairness for both the complainant and staff member;
• expeditious handling of investigations – this minimises the potential for breaches of confidentiality and lack of procedural fairness;
• confidentiality for all parties, where practicable and appropriate; and
• meticulous recordkeeping, including recording of reasons for all significant decisions.

For employees of Public Service agencies, the GSE Act and GSE Rules set out how allegations of misconduct are to be dealt with. Part 8 of the GSE Rules sets out the procedural requirements for dealing with allegations of misconduct, which include requirements that you be advised of the detail of the allegation; the process to be undertaken to investigate and resolve the matter; and that you be provided an opportunity to respond to the allegations.
The GSE Act sets out the actions that a Public Service agency head, in this case the WCAA CEO, may take where there is a finding of misconduct against an employee. These actions are as follows:\textsuperscript{2}

- terminate the employment of the employee (without giving the employee an opportunity to resign);
- terminate the employment of the employee (after giving the employee an opportunity to resign);
- impose a fine on the employee (which may be deducted from the remuneration payable to the employee);
- reduce the remuneration payable to the employee;
- reduce the classification or grade of the employee;
- assign the employee to a different role; or
- caution or reprimand the employee.

4 Legislation

A principle of the Ethical Framework for the government sector is to uphold the law. It is important that all employees are aware of their legal obligations. The law includes, but is not limited to:

- *Western City and Aerotropolis Authority Act 2018* (WCAA Act) sections 21 to 23 (regarding offences, liability and exclusion of personal liability for the disclosure and misuse of information)
- *Government Sector Employment Act 2013* sections 25 and 30 (regarding the general conduct and management of organisations in accordance with the core values) and section 63 (regarding workforce diversity and the integration of workforce diversity into agency workforce planning)
- *Public Finance and Audit Act 1983* sections 11 and 45C (regarding the system of internal control over the financial and related operations of agencies)
- *Anti-Discrimination Act 1977* (regarding equal employment opportunity and equal access to services)
- *Government Information (Public Access) Act 2009* (regarding public access arrangements to agency information)
- *Public Interest Disclosures Act 1994* (regarding receiving, assessing and dealing with public interest disclosures)
- *Independent Commission Against Corruption Act 1988* (regarding reporting of any matter suspected on reasonable grounds to involve corrupt conduct and to comply with any requirement or direction of the ICAC in relation to a referral of matters by the ICAC)
- *Privacy and Personal Information Protection Act 1998* (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- *Public Works and Procurement Act 1912* (regarding the procurement of goods and services by government agencies)
- *Health Records and Information Privacy Act 2002* (regarding the fair and responsible handling of health information)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy and safe workplaces)
- *Government Advertising Act 2011* (regarding requirements to issue advertising compliance certificates)
- *Ombudsman Act 1974* (regarding obligations to cooperate with investigations by the Ombudsman and obligations relating to reportable conduct concerning child protection matters)
- *State Records Act 1998* (regarding the creation, management and protection of agency records and public access to those records)
- *Children and Young Persons (Care and Protection) Act 1998* (regarding obligations relating to the care and protection of, and provision of services to, children and young persons, including obligations relating to exchange of information and co-ordination of services between agencies)
- *Child Protection (Working with Children) Act 2012* (regarding obligations to obtain checks and clearances for employees engaged in child-related work)
- *Crimes Act 1900* (regarding criminal offences).
5 Applying the Code in the WCAA – specific conduct issues

The previous part of the Code deals with the mandatory principles and issues that apply to all employees in the government sector. This section applies only to WCAA employees (including any contractors in the Planning and Commercial teams).

WCAA employees have an obligation to know, understand and comply with all WCAA policies and legal obligations relating to their role and to discuss any matter requiring clarification with their manager.

The following section deals with some of the conduct issues that arise in organisations such as ours. Please refer to other applicable WCAA policies for additional information.

5.1 Use of position

Corrupt conduct occurs when an employee improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain. Employees must not use their official WCAA position to influence or to obtain a benefit in private matters. For example, it is not appropriate to use your departmental email or signature when lodging a complaint about a personal matter. It is a breach of the Code to influence a private matter by stating or inferring that your opinions are representing those of the WCAA, NSW Treasury or the NSW Government.

5.2 Use of Information and Influence – specific criminal offences

The WCAA Act includes specific provisions in relation to the use of information and influence by persons who have an ‘association with the Authority’ (Relevant Provisions). These are criminal offences. All members of the WCAA must familiarise themselves with these provisions.

WCAA employees should follow the WCAA’s Use of Information and Influence Protocol at Appendix 2 for guidance on:

- who the Relevant Provisions apply to;
- an overview of the Relevant Provisions, including the key considerations as to whether a Relevant Provision is triggered; and
- a procedure to assist the WCAA (including its officers and employees) to deal with information in a way that minimises the risk of contravening s 23 of the WCAA Act.

5.3 Public comment

Employees have the right to make public comment and publicly debate political and social issues as a member of the community. ‘Public comment’ includes public speaking engagements, comments on radio and television or in letters to newspapers and expressing views in books, journals or notices, on internet sites (including social media) or in any other circumstances where it is expected that the comments will spread to the community at large.

WCAA employees must, however, make it clear that their comments are made in a private capacity and do not represent the official view of the WCAA, NSW Treasury, the government sector or the Government. Employees must not comment publicly on matters where such comment could give rise to a real or perceived conflict of interest between your work and personal interests. Employees should only make official comments if authorised to do so and direct enquiries to the WCAA executive.
5.4 Speaking engagements

Employees must obtain the approval of the CEO prior to accepting a speaking engagement relating to WCAA activities with professional, educational and community groups.

Any fee received must be paid into an appropriate WCAA revenue account and not retained by the employee.

5.5 Secondary employment

The duties of an employee's WCAA job must always come first. An employee may engage in other paid employment outside their official duties provided certain conditions are met and that they have prior approval to do so.

The work should not arise from or interfere with the employee’s work at WCAA and should be done outside working hours. The employee must carefully consider whether the organisation offering them secondary employment may adversely affect the performance of their public duties and responsibilities or give rise to a conflict of interest.

Employees seeking to engage in private employment, or to significantly vary an existing approval, should submit a Secondary Employment Application Form to their manager for approval by the relevant delegate – see the Delegations Manual. Approvals are to be placed on the employee’s personal file.

While contractors, casuals and part time employees are not required to obtain approval for employment performed outside their contracted work hours, they must however ensure that no potential conflict of interest or adverse effect on the WCAA role exists. These factors should also apply to employees considering unpaid (voluntary) employment.

5.6 Post separation employment

An employee should not use their position to obtain opportunities for future employment in a way that would cast doubt on their integrity, the integrity of the WCAA, NSW Treasury or the public sector generally.

An employee should not allow themselves or their work to be influenced by plans for, or offers of employment outside the WCAA. If this occurs, then there is a conflict of interest and their integrity, the integrity of the WCAA, NSW Treasury and the public sector is at risk.

Former employees should not use or take advantage of confidential information gained in the course of their official duties.

5.7 Political participation

An employee who is active in any political party or a representative for a political party, cause or movement, must be especially careful about the possibility of conflicts of interest with the duties of their position in WCAA.

The employee must ensure that they are always able to serve the government in an apolitical, non-partisan manner. A person who becomes aware of a potential conflict must immediately inform their Executive Director, or the CEO if the employee is an Executive Director. The Executive Director should raise any concerns it has with a disclosure from an employee.

At the same time, employees should not be required to perform duties that are of a political rather than public sector nature. If an employee considers that a duty is substantially political, they should discuss it with their Executive Director, or the CEO if
the employee is an Executive Director. The Executive Director should raise any concerns it has with a disclosure from an employee.

5.8 Gifts and benefits

A gift or benefit is anything that is offered to a public sector employee in the course of their work, apart from their normal employment entitlements.

Gifts and benefits, including hospitality, should not be accepted by an employee if they are given with the intention of making them change how they do their work, or if other people could reasonably believe they were intended for that purpose. Soliciting personal gifts or benefits is strictly prohibited in all circumstances.

Token gifts and benefits may be accepted if they are not likely to be seen as compromising the employee or the WCAA. The WCAA Gifts and Benefits policy outlines our responsibilities and procedures to follow, including declaring in the WCAA register of gifts and benefits through Protecht.

5.9 Use of facilities and equipment

WCAA employees must be efficient, economical and ethical in their use and management of public resources. Reasonable and limited personal use is permitted, provided it is done in the employee’s own time, does not affect the performance of any employee, does not benefit the employee or other person financially, involves minimal cost to the department and permission is gained prior to taking any equipment off site.

The WCAA’s Use of Communication Devices Policy deals with the proper use of devices such as telephones, computers, email and internet. These are provided for business purposes and their use must be lawful, appropriate and ethical. Making or sending fraudulent, unlawful or abusive information, calls or messages is prohibited. This includes using facilities in any way that:

- is misleading or deceptive
- could damage the WCAA’s or NSW Treasury’s reputation
- could result in victimisation, harassment or vilification
- is offensive, obscene, threatening or defamatory e.g. to view pornography
- violates Australian or State regulations or laws, including ‘computer hacking’
- is intended to have a destructive effect on storage, processing or communications network facilities.

5.10 Travel

When travelling on official business, seeking or accepting frequent flyer points for your personal use is not permitted. Corporate mobile phones, Purchasing Cards and CabCharge facilities provided for official travel may only be used for work purposes.

Refer to the WCAA’s policies on Cabcharge Cards and Taxi eTickets and Use of Purchasing Cards.

5.11 Drugs, alcohol and tobacco

While at work employees must not be in possession of a drug or substance that is illegal to possess or distribute. Employees are not permitted to be in the workplace or conduct business on behalf of the department if under the influence of alcohol or other drugs that are likely to adversely affect their ability to do their job or may pose a risk to themselves, their colleagues or members of the public.
‘Workplace’ includes off-site areas where work is performed and government vehicles.

‘Under the influence’ is defined as an obvious state of disturbance to one’s physical and/or mental faculties that impairs performance, or that may pose a risk to the employee or other employees or members of the public.

Smoking in any office of the WCAA, or enclosed area is not permitted (section 6A of the Smoke-free Environment Act 2000 bans smoking within 4 metres of a pedestrian access point to a public building).

5.12 Work health and safety

The WCAA is committed to protecting the health and safety of all its employees and has obligations to do so under the Work Health and Safety Act 2011. WCAA employees must seek to understand and follow all organisational Work Health and Safety (WHS) requirements.

While at work, all employees must take care of their health and safety and the health and safety of other people in the workplace. ‘Health’ includes psychological health as well as physical health.

Managers at all levels have a responsibility to promote and maintain the health and safety of all persons in the workplace. All employees must comply with any reasonable direction from management and cooperate to ensure resolution of any WHS issues. Any real or perceived hazard must be reported to a manager.

5.13 Bullying and harassment

The WCAA promotes a healthy and safe work environment that is free from bullying and harassment. All employees have a right to be treated with courtesy and respect.

All employees have responsibilities in preventing and eliminating bullying and harassment under the Work Health and Safety Act 2011 and the Anti-Discrimination Act 1977.

Any reports of bullying or harassment will be treated seriously and will act upon in accordance with the WCAA’s Prevention and Management of Bullying and Harassment Policy.

Bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety to those who experience or witness it. Examples include:

- offensive language or comments
- unjustified criticism
- deliberately excluding someone from workplace activities
- withholding information that is vital for workers to perform effectively.

Bullying does not include reasonable management action carried out in a reasonable manner. Reasonable management action may include:

- performance management processes
- disciplinary action for misconduct
- informing an employee about unsatisfactory work performance or inappropriate behaviour
- asking an employee to perform reasonable duties within the scope of their role.

Harassment is defined as any unwelcome behaviour that offends, humiliates or intimidates a person because of their sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status or carer’s responsibilities.
Employees who believe that they or a colleague are being bullied or harassed at work may contact the manager in the first instance, Human Resources or a senior executive.

5.14 **Discrimination**

NSW and Commonwealth legislation protects people from discrimination on the grounds of their sex; gender identity; sexual orientation; marital, parental or carer status; pregnancy; age; disability; race; and political or religious belief.

If you believe there is discrimination at work, contact your manager in the first instance, Human Resources or a senior executive. Refer to the [Anti-Discrimination Board](#).

5.15 **Privacy and personal information**

Employees need to be aware of and comply with the *Privacy and Personal Information Protection Act 1998*. Particular care must be taken with the collection, storage, use and disclosure of personal information in order to protect the privacy of individuals.

Employees must not use or disclose personal information, for a purpose other than that for which it was collected, without obtaining consent from the person to whom the information relates.

The *Privacy and Personal Information Protection Act 1998* also contains criminal sanctions for the unauthorised use and disclosure of personal information by employees.

Employees must not reveal personal information such as home addresses or telephone numbers to enquirers, even when they claim to be a relative or friend. You should offer to take the enquirer’s details and pass them on to the person concerned.

Refer to WCAA’s *Privacy Management Plan & Guidelines* and the [Information and Privacy Commission](#).

5.16 **Record keeping**

In accordance with the *State Records Act 1998*, all employees have a responsibility to create and maintain full and accurate records of your activities, decisions and other business transactions, to capture records into official records systems, and not to destroy records without appropriate authority. Managers have a responsibility to ensure that employees reporting to them comply with their records management obligations.

Refer to the WCAA Records Management Framework and related procedure documents, State Records Authority, [Recordkeeping in the NSW public sector](#).

5.17 **Tendering for and procuring goods and services**

When purchasing goods and services for the WCAA, you must follow the corporate policies and procedures listed below in this section 5.17 (except to the extent that the Commercial Governance Policy and Commercial Governance Framework referred to in section 5.18 applies). You are responsible for understanding the procedures that apply to the type of procurement you are undertaking on behalf of the WCAA. For advice and assistance, contact the Commercial Executive Director.

Refer to the [NSW Government’s Procurement Policy Framework](#), [Consultant and Contractor Policy](#) and the WCAA Delegations Manual.

5.18 **Commercial Governance Policy and Framework**

Section 13 of the *Western City and Aerotropolis Authority Act 2018* (NSW) *(Act)* grants various functions to the WCAA. Amongst those functions are the functions of:
• carrying out development on the WCAA’s own behalf or on behalf of other persons or bodies (section 13(1)(b));
• coordinating, securing and attracting investment (section 13(1)(d));
• developing and, if directed by the Minister, implementing schemes for funding the provision of public infrastructure, facilities, places and services (section 13(1)(e)); and
• entering into joint ventures, project delivery agreements and other arrangements with landowners, developers, State and Commonwealth government agencies and local councils in the Western City (section 13(1)(h)).

The WCAA must carry out its functions, including investment, delivery, financing and procurement, consistently with the statutory objects set out in section 3 of the Act. The objects of the Act therefore establish the parameters under which the WCAA can make commercial (including investment) decisions.

The WCAA Commercial Governance Policy provides further definition to the parameters within which the Authority can carry out commercial and investment functions.

This WCAA Commercial Governance Policy forms part of, and operates in conjunction with, the overarching WCAA Commercial Governance Framework.

The WCAA Commercial Governance Framework is designed to ensure that the WCAA makes commercial (including investment) decisions having regard to accepted and endorsed financial and commercial parameters and how such decisions are applied and monitored to achieve the WCAA’s overall objectives.

5.19 Disclosure of criminal charges, convictions and bankruptcy

All WCAA employees are required by law to immediately notify the CEO in writing if you have been charged with an offence with a possible penalty of imprisonment for 12 months or more, or if you have been convicted of any such criminal offence. Failure to do so may result in formal action. If you are facing charges where the penalty is less than 12 months imprisonment, the charge should only be reported if it is possibly connected to, or has a bearing on, your employment with the WCAA.

You are to immediately notify the CEO in writing if you:
• become bankrupt; or
• make a composition, arrangement or assignment for the benefit of creditors.

Action taken by the WCAA, if any, will depend on the nature/circumstances of the situation, its relevance to your work and any mitigating factors.

If unsure, employees are advised to contact General Counsel to discuss the matter in confidence.
6 Corruption, maladministration, waste and Government information contravention

WCAA employees are encouraged to report any suspected corruption, maladministration, substantial waste and government information contravention. Disclosures can be made to the CEO. A disclosure may also be made to the Independent Commission Against Corruption concerning corrupt conduct, the Ombudsman concerning maladministration, the Auditor-General concerning substantial waste of public resources, or the Information Commissioner concerning government information contravention.

The Public Interest Disclosures Act 1994 provides protection against reprisals for staff members who report wrongdoing (note: the disclosure must be made in accordance with the provisions of the Act).

Refer to the WCAA’s Public Interest Disclosures Internal Reporting Policy.

6.1 Corrupt Conduct

Corrupt conduct is conduct of any person (public employee or not) that adversely affects the honest or impartial exercise of official functions by any public official or authority. Examples of corrupt conduct may include:

- providing a contractor with work in return for a personal benefit;
- theft and misappropriation of departmental material or financial resources;
- offering or accepting bribes, commissions or secret payments to provide unfair advantage to contractors or particular clients;
- accepting a personal gift or benefit from a client in return for providing services;
- partiality (i.e. bias);
- breach of trust (i.e. misuse of your position);
- fraud and attempts at fraud;
- forgery, and making false or fraudulent claims (e.g. time-sheets, expenses, vehicle usage log and creating false evidence); and
- misuse or unauthorised disclosure of information held or maintained by the department for personal gain.

The CEO has a responsibility under section 11 of the Independent Commission Against Corruption Act 1988 to report suspected corruption.

Refer to the WCAA's Fraud and Corruption Prevention policy, Fraud & Corruption Control Framework and the ICAC.

6.2 Fraud

Fraud is any practice that involves the use of deceit; confers some form of financial benefit upon the alleged offender (either directly or indirectly); and results in some form of material loss to the entity.

Refer to the WCAA’s Fraud and Corruption Prevention policy, Fraud & Corruption Control Framework and the Audit Office of NSW.
6.3 Maladministration

Maladministration involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory or based on improper motives.

The following examples could be considered maladministration:

- approving allowances for employees that they are not entitled to;
- unauthorised disclosures of confidential information;
- making decisions without authority;
- serious delays in making a decision or taking action;
- applying a policy inflexibly without regard to the merits of an individual case;
- decisions or actions not justified by any evidence or that are unreasonable;
- abuses of power, intimidation or harassment; and
- inconsistent application of a law, policy or practices when there is no reasonable, justifiable or appropriate reason to do so.

Refer to the NSW Ombudsman.

6.4 Serious and substantial waste

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources which results in a loss/wastage of public funds or resources. Less serious forms of waste are also to be avoided. For example, use black and white and/or double sided printing, where possible, and switch off computers at the end of the day and over weekends.

Refer to the Audit Office of NSW.

6.5 Government information contravention

Government information contravention means a failure to carry out the functions required by the Government Information (Public Access) Act 2009 (GIPA Act). Under this Act, citizens have a right to access most information held by the NSW Government to foster a government that is open, accountable, fair and effective. If you receive a GIPA enquiry, please direct the enquirer to the General Counsel, WCAA, at thomas.kwok@wcaa.sydney.

Refer to the WCAA’s Proactive Release Procedure, Procedure for managing formal access requests under the GIPA Act and the Information and Privacy Commission.
7 Further reference

The Public Service Commission has developed *Behaving Ethically* to help government sector employees better understand their ethical obligations.
Appendix 1 Good practice guides

Good practice guide 1 – Deciding and acting ethically

To make the best-available decision:

Scope the problem

Clarify the scope of the problem, and consider carefully how the problem affects (or may affect in the future) work colleagues; clients and customers; stakeholders; and the government of the day. Wherever possible, consult affected people and communities.

Develop options

Develop a mix of options that address these questions:

- **Duties**: What are your responsibilities as defined by the law, Government policies, agency procedures, and your role description? Is it legal? Is it consistent with the principles & policies of the agency and the NSW government sector?
- **Results**: Which options will yield the greatest benefit (or least harm) to the most people, and minimise the number of people who might be disadvantaged – in the short and longer term? What will the consequences be for my colleagues, the agency and yourself? What will the consequences be for other parties?
- **Justice**: Which options support due process, transparency, fair compensation for any loss, and fair treatment of those affected by any decision?
- **Rights**: Which options support the legal rights of citizens?
- **Public interest**: Which options best advance the public interest, without regard to your own reputation, career, personal views or potential for personal gain or loss?
- **Resources**: What is the likely impact on government finances, workforce, infrastructure and other assets?
- **Innovation**: Can the issue be addressed in new ways (such as the redesign of services, reengineering of work practices, or a new model of service delivery)?

Evaluate and decide

Choose the option that best addresses the above issues and is in the public interest, supports integrity, builds trust, delivers better services and ensures accountability. To establish if your actions are consistent with the Ethical Framework consider your answers to the following questions:

- **Integrity**: Would your colleagues say you had considered the views of all interested parties and acted in the right way, even if it was at your personal cost?
- **Trust**: Would your action, if it became public, build confidence in the public sector?
- **Service**: Would your clients and customers say your actions improved the quality of the services they receive?
- **Accountability**: Would the head of your agency say your actions are consistent with the Ethical Framework and the law?

Implement

Implement the decision in ways that are consistent with the objectives, values and principles of the Ethical Framework. Review and identify opportunities for continuous improvement.
Good practice guide 2 – Encouraging ethical behaviour by other employees

Ways to support the ethical behaviour of other employees include:

**Personal**
Encourage your colleagues to act ethically by making ethical decisions and acting ethically yourself.

**Interpersonal**
Encourage all employees to openly discuss ways to better implement the Ethical Framework in their individual actions, your team’s practices and in your services to clients and customers.

**Organisational**
Ensure the leadership, culture, governance, management and work practices, individual employee behaviour and customer services of your workplace are consistent with the Ethical Framework.
Appendix 1 Use of Information and Influence Protocol
1 Introduction

The Western City and Aerotropolis Authority (Authority) is constituted under, and governed by, the Western City and Aerotropolis Authority Act 2018 (NSW) (Act).

The Act contains, amongst other things, provisions in relation to the use of information and influence by persons who have an ‘association with the Authority’. These requirements are contained in sections 23(1) (Information Provision) and (2) (Influence Provision) of the Act (together, the Relevant Provisions) and are set out in Schedule 1, together with other relevant sections of the Act.

This Protocol sets out:
- who the Relevant Provisions apply to;
- an overview of the Relevant Provisions, including the key considerations as to whether a Relevant Provision is triggered; and
- a procedure to assist the Authority (including its officers and employees) to deal with information in a way that minimises the risk of contravening the Information Provision.

2 Who the Relevant Provisions apply to

A person is subject to the Relevant Provisions if that person has an ‘association with the Authority’. A person is considered to be ‘associated with the Authority’ if that person is:

- a member of the Authority’s Board or a member of a committee of the Authority’s Board;
- a member of staff of the Authority; or
- a person of whose services the Authority makes use, or who is otherwise appointed, employed or engaged, under the Act.

It also includes an officer or employee of a local council and persons acting for the Authority, the Minister or a local council in any capacity (including bankers, Australian legal practitioners, auditors or professional advisers). To the extent any of these persons so acting are a corporation, it will include that corporation’s director, manager or secretary.

3 The Relevant Provisions

3.1 Information in respect of dealings in land (section 23(1))

The Information Provision relates to information in respect of dealings in land.

A person (Person A) contravenes the Information Provision if (through association with the Authority) all of the elements set out in the table below are present.

We have also set out some of the key considerations arising in respect of each element.
<table>
<thead>
<tr>
<th>Element</th>
<th>Key considerations</th>
</tr>
</thead>
</table>
| **1** Knowledge: | - Person A has specific information relating to a proposal of the Authority.  
- The proposal has been made or is to be made.  
- The proposal is in respect of the acquisition, development or disposal of land.  
- **Is there a ‘proposal’?**  
  The information needs to relate to a proposal of the Authority.  
  ‘Proposal’ is not defined in the Act and no further guidance is provided.  
  ‘Proposal’ should be taken to include anything put (or to be put) forward for consideration, acceptance or action and may include an intention to do such a thing. This may even be the case if the matter put (or to be put) forward only has some element of formality and is still considered vague.  
- **Is it in respect of the acquisition, development or disposal of land?**  
  This will include (but is not limited to):  
  - acquisitions of land from private owners and the Commonwealth; and  
  - any proposed development on Aerotropolis land, including for example, the developments contemplated with the foundational partners. |
| **2** Information not generally known: | - The relevant information is not generally known.  
- If the information was generally known it would reasonably be expected to affect materially the market price of the land.  
- **Is the information generally known?**  
  Typically, information is considered to be ‘generally known’ if it is in the public domain.  
- **What is a material effect on market price?**  
  The Act does not prescribe a materiality test – i.e. what would constitute a ‘material’ effect on the market price of the land. This means that this will be a subjective test applied by a Court. |
| **3** A person gains an advantage: | - Person A:  
  - deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for Person A by the use of that information; OR  
  - divulges information  
- **When will the purpose of dealing or divulging be to gain an advantage?**  
  We consider that the dealing or divulgence would not be for the purposes of gaining an advantage if it is for the sole purpose of identifying future possible proposals or developments.  
  The Act does not provide any
for the purpose of enabling another person (Person B) to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

guidance on whether a person contravenes this provision if the purpose of the dealing or divulgence is to gain an advantage, but this is not the sole purpose.

However, it is considered that this element will likely be present if the purpose of gaining an advantage is the material or substantial purpose – even if there are other purposes.

**What is an indirect dealing?**

We consider ‘indirect dealings’ should be construed very broadly and include any dealing that could ultimately be traced to the land transaction. This may include, for example, the transfer of shares in a company which owns or intends to procure the land.

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### 3.2 Influencing dealings in land (section 23(2))

The Influence Provision relates to influencing dealings in land.

A person (Person A) contravenes the Influence Provision if (through association with the Authority) all of the elements set out in the table below are present. We have also set out some of the key considerations arising in respect of each element.

<table>
<thead>
<tr>
<th>Element</th>
<th>Key considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Position of influence:</strong></td>
<td></td>
</tr>
<tr>
<td>Person A is in a position to influence proposals made, or to be made, by the Authority.</td>
<td></td>
</tr>
<tr>
<td>The proposal is in respect of the acquisition, development or disposal of land.</td>
<td></td>
</tr>
<tr>
<td>Is there a ‘proposal’?</td>
<td>See section 3.1.</td>
</tr>
<tr>
<td>Is it in respect of the acquisition, development or disposal of land?</td>
<td>See section 3.1.</td>
</tr>
</tbody>
</table>

| **Actual influence:** | |
| Person A influences the proposals by securing the inclusion or alteration of a matter in, or the exclusion or omission of a matter from, the proposals. | When will Person A influence a proposal? |
| Person A person does so for the purpose of: | The provision is drafted such that it identifies what constitutes ‘influence’. That is, Person A influences a proposal if they secure the inclusion, amendment, exclusion or omission or any matter from a proposal. |
| – gaining an advantage for Person A; or | When will the purpose of dealing be to gain an advantage? |
| – enabling another person (Person B) to gain an advantage. | See section 3.1. |
4 Information processes

In light of the Information Provision, careful consideration must be given to the use and provision of information concerning the acquisition, development or disposal of land in connection with the Aerotropolis.

Set out below is a process to be followed by the Authority (including its officers, contractors and employees) in relation to use or divulgence of any information concerning the acquisition, development or disposal of land in connection with the Aerotropolis. This process is designed to mitigate the risk that the use or divulgence is construed as contravening the Information Provision. These steps include:

1. **Consider whether the information relates to a ‘proposal’**

   A person should carefully consider whether the information relates to a ‘proposal’. We have set out some details on what is likely to constitute a ‘proposal’ in section 3.1.

   If it doesn’t relate to a ‘proposal’ (for example, because it relates to a proof of concept or market sounding required to determine how to develop a proposal) then s 23(1) does not apply.

2. **Consider whether the information is publicly available, and if it is not, consider whether you can make it publicly available**

   If the information is publicly available then it will be generally known and s 23(1) will not apply.

   If appropriate, consider publishing the information on the Authority’s website promptly after divulging it to a party. The longer the period between disclosing it to a party and making it publicly available the greater the risk.

3. **Consider the purpose of the use or divulgence**

   A person should carefully consider whether the sole purpose or a material or substantive purpose of the relevant use or divulgence is:
   
   - the gaining of an advantage; or
   - enabling another person to gain an advantage.

   We have set out some details on what purpose is likely to be construed this way, in section 3.1.

4. **Document all relevant aspects of any divulgence of the information**

   Ensure that you keep a record of information that has been disclosed and the purpose for which it has been disclosed.

A draft script for discussions with potential future Foundational Partners is included as Attachment 1.
The Authority intends to review and update this Protocol on an ongoing basis, including so that examples or case studies of broad relevance can be added to the document. These case studies are contained in Attachment 2.

This Protocol is intended to supplement (and not replace) any negotiation protocols or other procedures in place.

If in doubt or you otherwise wish to discuss a particular set of circumstances, please contact Thomas Kwok (General Counsel – WCAA). It may be necessary for legal or probity advice to be obtained before the relevant use or divulgence occurs.

5 Other relevant matters

5.1 Consequences of contravention

There can be no imprisonment imposed for a contravention of the Information Provisions.

A contravention of an Information Provision may:

- attract a fine of up to $2200 (being 20 penalty units under the Act);
- give rise to a personal liability for any loss incurred as follows:
  - if Person A gains an advantage from dealing in land relating to a contravention (which can be the person associated with the Authority or a recipient of the divulged information, depending on who has gained the advantage); and
  - Person C incurred loss because of the advantage gained by Person A;

Person A is liable to Person C for the amount of the loss.

The Act also contains provisions in relation to the calculation of the loss and timing restrictions on recovery of the loss.

5.2 Exclusion of personal liability

The Act excludes the liability of certain persons for actions, liabilities, claims or demands under the Act (including under the Relevant Provisions) to the extent something is done in good faith for the purpose of executing the Act.

This exclusion applies to the liability of:

- a member of the Authority’s Board or a member of a committee of the Authority’s Board,
- a member of staff of the Authority, or
- a person acting under the direction of any of these individuals,

This does not exculpate the Authority from the Information Provisions. In addition, no guidance is provided on how the exclusion will be applied. Therefore the Authority (including its officers and employees) should not seek to rely on this exclusion in order to bypass the Relevant Provisions.
Schedule 1

Section 21 Exclusion of personal liability

(1) A matter or thing done or omitted to be done by:

   (a) a member of the Board, or
   (b) a member of a committee of the Board, or
   (c) a member of staff of the Authority, or
   (d) a person acting under the direction of any person referred to in paragraphs (a)–(c),

does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing the Act, subject any such member or person so acting personally to any action, liability, claim or demand.

(2) A reference in subsection (1) to the execution of the Act includes a reference to the execution of the provisions of any other Act that confer or impose functions on the Authority.

Section 23 Misuse of information

(1) If, through association with the Authority, a person has knowledge of specific information relating to proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, the person contravenes this subsection if the person:

   (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for the person by the use of that information, or
   (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

Maximum penalty: 20 penalty units.

(2) If, through association with the Authority, a person is in a position to influence proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, the person contravenes this subsection if:

   (a) the person does so for the purpose of gaining an advantage for the person, or
   (b) the person does so for the purpose of enabling another person to gain an advantage.

Maximum penalty: 20 penalty units.

(3) If:

   (a) a contravention of subsection (1) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, or
   (b) a contravention of subsection (2) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, being an advantage which would not have been gained if the proposals concerned had not been influenced,
any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in respect of a contravention of subsection (1) or (2), liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4) If a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and:

(a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time, or

(b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss referred to in subsection (3) may not be brought more than 5 years after the dealing in land in relation to which the loss was incurred.

(6) For the purposes of this section, a person is associated with the Authority:

(a) if the person is a member of the Board, a member of a committee of the Board, a member of staff of the Authority or a person of whose services the Authority makes use, or who is otherwise appointed, employed or engaged, under the Act, or

(b) if the person is an officer or employee of a local council, or

(c) if the person acts or has acted as banker, Australian legal practitioner, auditor or professional adviser or in any other capacity for the Authority, the Minister or a local council, or

(d) in the case where the person associated by virtue of paragraph (c) is a corporation—if the person is a director, manager or secretary of that corporation.
Draft script for discussions with potential future Foundational Partners

1. [Introduction]
2. Thank you for your recent letter dated [X].
3. Before discussing the specifics of the letter and the process for converting it into an [Heads of Agreement (HOA)/Memorandum of Understanding (MOU)], we wanted to reiterate a few key points.
4. Firstly, as you know, the HOA/MOU will be:
   a. non-binding (other than in respect of confidentiality); and
   b. non-exclusive.
5. Importantly, it will not confer on you any advantage over other parties in relation to potential future transactions or procurements.
6. The second matter relates to information about the project.
7. We want to ensure that clear and consistent information is provided to parties interested in the project, including [insert Foundational Partner name]. We also want to ensure that access to relevant information regarding the project is provided to you on a timely basis.
8. We [have/will] ask you to provide a confidentiality deed, confidentiality undertakings and conflict of interest declarations, prior to negotiation of the HOA/MOU. One of the reasons for this [is/was] so that we can give you access to project information from the very start.
9. We are also very focused on ensuring the ongoing integrity of the process. Going back to what I said earlier, we are unable to disclose information that will confer on you an advantage in relation to potential future transactions or procurements. This means that the information provided to you may also be provided to other parties, including through future procurements.
10. Should you have any concerns from a probity perspective, you should contact [insert contact details of probity advisor.]