

Commissioners Code of Ethics & Conduct

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1. Code statement

The Greater Cities Commission (Commission) has significant statutory responsibilities, and each Commissioner is appointed by the Responsible Minister for their specific expertise. The Commission is committed to promoting confidence in the integrity of public administration and always acting in the public interest.

It is imperative that the Commission and each Commissioner, are respected and their expertise is sought and relied upon by stakeholders. This requires high standards of behaviour at all times.

Commissioners have a responsibility to act honestly and ethically, for a proper purpose, without exceeding their powers, and to have a clear understanding of their public duty and legal responsibilities. Commissioners also have a responsibility to treat Commission staff, other Commissioners, and stakeholders fairly, consistently, without discrimination, and with proper regard for their rights and obligations.

This Code:

- outlines the values and standards necessary to guide each Commissioner's decisions, actions, and ethical behaviour in the performance of their duties; and
- provides a framework for appropriate behaviour for Commissioner interactions with Commission staff, stakeholders, members of the public and each other.

Appendix 1 contains defined terms used in this Code.

2. Who does this Code apply to?

This Code applies to Commissioners of the Greater Cities Commission.

For purposes of this Code, a reference to a Commissioner is a reference to the Chief Commissioner; a City Commissioner or a Greater Cities Commissioner appointed under s 6 of the *Greater Cities Commission Act 2022* (GCC Act).

Ex-officio members are not required to comply with this Code. Ex-officio members are covered by and must comply with the relevant Code of Ethics and Conduct of their Department or agency and any applicable policies and procedures.

3. Key responsibilities

Commissioners must

- demonstrate leadership and provide strategic guidance for the Commission and its staff.
- carry out their official duties in accordance with:
 - section 7 of the *NSW Government Boards and Committee Guidelines 2015*
 - the values of the Commission and the *NSW Government's Ethical Framework for the government sector* contained in pt 2 of the *Government Sector Employment Act 2013* (GSE Act) and set out below in **Section 4** of this Code.
- behave in a lawful, professional, and reasonable manner and always act in the best interests of the Commission.
- understand the duties, responsibilities, and accountabilities of their roles, and perform these safely, honestly, courteously, and fairly.
- promote confidence in the integrity of public administration.
- report unethical, dishonest, or corrupt conduct.

- maintain the integrity, confidentiality and security of information and not use and/or disclose information for a private purpose or to obtain personal advantage.
- make and keep full and accurate records of the activities of the Commission and take such action to ensure the safe custody and proper preservation of the records.
- comply with relevant legislation, and relevant Premier's Memoranda and DPC Circulars, including those at **Section 13** of this Code.
- treat colleagues, Commission staff, members of the public and stakeholders fairly, consistently and with respect.
- not discriminate, harass, bully, or engage in inappropriate conduct while performing their duties.

4. Ethical framework

Commissioners must conduct themselves in accordance with the Ethical Framework contained in pt 2 of the *GSE Act*.

The objectives of the Ethical Framework are to:

- (a) recognise the role of the government sector in preserving the public interest, defending public value and adding professional quality and value to the commitments of the Government of the day; and
- (b) establish an ethical framework for a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day.

Section 7 of the *GSE Act* outlines the core values for the government sector and the principles that guide their implementation:

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.

There is no hierarchy amongst the core values, and each is of equal importance.

5. Commission's values

The Commission has its own Values Framework which is aligned with the Ethical Framework in the GSE Act. Commissioners must ensure that their behaviour and any work they do on behalf of the Commission is aligned with this Values Framework.

Integrity

- Make evidence-based decisions that are transparent and accountable.
- Provide independent advice.
- Embrace and welcome collaboration.
- Persevere when we have hard problems to solve.

Trust

- Have respectful, open and honest conversations – even if they are difficult.
- Welcome and respect people who are different from us.
- Include and empower others in decision-making.
- Say what we mean and do what we say.

Service

- Welcome creative, bold and fearless thinking to secure the best possible outcomes.
- Deliver quality solutions.
- Consult and collaborate with stakeholders in a meaningful way, recognising we don't have all the answers.

Accountability

- Take responsibility for our decisions and actions.
- Open ourselves up to scrutiny.
- Take care of our own wellbeing and safety, and that of the people around us.
- Use resources responsibly and sustainably.
- Keep good records.

6. Conflicts of interest

Commissioners must perform their duties impartially and in the public interest. They must avoid any conflict of interest.

A conflict of interest exists when a reasonable person might perceive that a Commissioner's personal interest(s) could be favoured over their public duties.

A conflict of interest can relate to:

- **Pecuniary interest** – for example, arising from property or share ownership, secondary employment, the receipt of gifts, benefits or hospitality, or other sources of income;
- or
- **Non-pecuniary interests** – which can lead to personal feelings affecting a Commissioner’s judgement, duties, or decisions – for example, personal or family relationships, or involvement in sporting, social or cultural activities, or workplace relationships or associations.

Commissioners must disclose every instance of any potential conflict of interest as outlined in **Appendix 2**.

If a Commissioner is unsure whether a conflict exists, they should discuss the issue in the first instance with the Chief Commissioner or the Chief Executive Officer.

Commissioners are also required to declare conflicts of interest at meetings with external stakeholders when a probity officer has been engaged by the Commission to attend.

Specific considerations apply when assessing pecuniary interests. These conditions are specified in sch 2 cl 7 of the GCC Act and are explored in further detail in **Appendix 2**.

7. Gifts, benefits, and hospitality

Commissioners must never seek or accept any payment, gift, benefit, inducement, or offer of hospitality that is intended, or that could be reasonably perceived to be intended, to induce them to:

- act in a particular way, including making a particular decision; or
- fail to act in a particular circumstance; or
- deviate in any way from the proper exercise of their official duties.

Commissioners must immediately report any offer of a bribe or inducement to the Chief Executive Officer.

When considering whether it may be appropriate to accept an offer of a gift, benefit or hospitality, Commissioners should consider the following questions:

Giver: Who is providing the gift or benefit and what is their relationship to me, the Commission, and the NSW Government?

Influence: Is the giver seeking to influence my decisions or actions?

Favour: Is the giver seeking a favour in return for the gift or benefit?

Trust: Would accepting the gift or benefit diminish public trust?

Commissioners must make appropriate disclosures of gifts, benefits, and hospitality in accordance with the Commission guidelines outlined in Appendix 3.

8. Lobbyists

In NSW all lobbyists, whether third-party or any other individual or business that lobbies Government officials (including an individual engaged to undertake lobbying for a third-party lobbyist) must comply with the requirements of the *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014* (the Lobbyists Code of Conduct).

NSW Government officials also have obligations under the *Lobbying of Government Officials Act 2011* (the Lobbying Act). Commissioners are classified as ‘Government officials’ under s 3 of the Lobbying Act. Accordingly, Commissioners must always adhere to the Lobbyists Code of Conduct and the Lobbying Act.

Commissioners must notify their Executive Assistant of any contact from a third-party lobbyist. The Executive Assistant will record this contact on the Commission's Third-party lobbyist Register that is published on the Commission's website.

Where a Commissioner has agreed to meet with a third-party lobbyist then a probity officer must be engaged to attend, as well as another person from the Commission.

Further requirements apply for meeting with lobbyists. These requirements are set out in Appendix 4.

9. Handling information

9.1. Confidentiality

Commissioners must maintain the security and confidentiality of all information that is not made available to the public. Confidentiality must be maintained in relation to the operations of the Commission, and the discussions and deliberations of Commissioners. Unauthorised disclosure may cause harm to individuals or give an individual or organisation an improper advantage.

9.2. Records Management

Commissioners are required to comply with the State Records Act 1998 by fulfilling such obligations as:

- making and keeping full and accurate records in respect of their official activities;
- ensuring the safe custody and proper preservation of records;
- capturing records into the Commission's official records management system; and
- not destroying records without the appropriate authority to do so.

Records include but are not limited to:

- written or electronic communication (such as emails, correspondence, or SMS or WhatsApp messages) sent or received by Commissioners, regardless of whether they involve private email addresses or private telephone numbers or are sent or received using personal devices (i.e non-Commission owned devices);
- briefing papers, meeting minutes or notes taken during (or after) a meeting;
- advice, background research or other documents which are used in the course of the decision making; and
- draft documents (including those that are stored electronically).

9.3. Information access

To promote open, accountable, fair and effective government the Government Information (Public Access) Act 2009 (GIPA Act) gives members of the public a right to access government information. This right is restricted only when there is an overriding public interest against disclosing the requested information.

The Commission also responds in a timely and coordinated manner to:

- Orders for papers issued by the NSW Legislative Council under Standing Order 52;
- Notices for information issued by government bodies with investigative powers; and

- All legal documents issued by a court or tribunal addressed to the Commission for production of documents, e.g. subpoenas or notices to produce.

Commissioners have a responsibility to support the Commission in fulfilling its information access obligations and may be requested to provide advice to Commission staff to assist with:

- the timely identification and location of information; or
- identifying any potentially sensitive or confidential information that may restrict its eligibility for release.

9.4. Information Security

Commissioners are to ensure that information in any form (printed or electronic) cannot be accessed by unauthorised persons and that sensitive information is only discussed with persons who are authorised to have access to it.

Commissioners are not to access information unless it is immediately relevant to the work Commissioners are performing.

The NSW Government owns all intellectual property rights in the work of Government employees in the course of their employment. Commissioners must not use any material owned by the Commission other than in the course of their official duties.

Where a Commissioner suspects that unauthorised access to government information has taken place then they must report the incident to the Commission's Technology team immediately.

9.5. Misuse of information

Commissioners must not misuse Commission information for private purposes. Misuse of Commission information, whether for monetary gain or not, may attract misconduct action and may be classed as corrupt conduct. Approval may be given for Commissioners to make use of official documents in defence of defamation and associated legal actions.

Commissioners must not misuse their role or their access to the Commission or other Government-held information to secure future employment advantages, or to benefit any other person or organisation, including former staff.

Misuse of information may include preferential treatment given to or by a Commissioner to exchange information with a former workplace, colleague, or client. Any attempt to unduly influence a Commissioner or Commission staff member for information must be reported.

For further guidance relating to the ethical management of Conflicts of Interests (including former working relationships), please refer to **Section 6** and **Appendix 2** in this Code.

9.6. Privacy

Commissioners must protect personal and health information in accordance with the *Privacy and Personal Information Act 1998* (the PPIP Act) and the *Health Records and Information Privacy Act 2002*.

Personal information is defined in s 4 of the PPIP Act as 'information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can be reasonably ascertained from the information or opinion'.

Stakeholder collaboration and strategic community engagement are central functions that serve the principal objectives of the Commission. These functions may require the collection and

appropriate storage of specific personal information, including (but not limited to):

- contact information for meeting contacts and committee or panel members;
- personal information in meeting request forms, meeting record forms, meeting minutes and meeting agendas;
- contact information and any other personal information contained in a formal submission to a draft plan on exhibition;
- contact information and any other information contained in general correspondence (letter or email) to the Commission.

Commissioners can refer to the Commission's Privacy Management Plan for how the agency collects, handles, and stores personal information in accordance with the PPIP Act.

9.7. Signatures

Commissioners must carefully review any document they are asked to sign (including approving the use of their electronic signature). Commissioners must not sign any document which they know is not true and correct.

Commissioners are responsible for granting their approval for the use of their signature in writing and should not give any staff member, including their Executive Assistant, permission to grant approval of their signature on their behalf.

9.8. Intellectual property

Commissioners need to ensure when creating materials that the intellectual property rights of others are not infringed. Any third-party copyright or other rights information is to be recorded in the materials.

The copyright of material created by Commissioners in the course of their work belongs to the Commission.

Commissioners must not use the Commission's intellectual property (including copyright) for private purposes without obtaining written permission from the Chief Executive Officer.

9.9. Use of information when appointment ceased

When Commissioners cease their appointment with the Commission, they should not use or take advantage of any confidential information obtained in the course of their official duties unless it has become lawfully available.

10. Use of official resources

Commissioners must be economical and efficient in the use and management of official resources. Official resources include laptops, mobile phones, photocopiers, emails, and the internet.

All Commission property and assets should be treated with care and Commissioners must ensure they are secured against theft or misuse.

10.1. Private use of official resources

Limited personal use of Commission communication devices, such as computers, printers, mobile phones or similar, by Commissioners is permitted provided the use is infrequent, brief, involves minimal cost and does not interfere with the performance of work. Use must also comply with relevant NSW Government policies and procedures including those listed at Section 15.2.

Official facilities and equipment may only be used for private purposes when approval has been given by the Executive Director, People and Corporate Services.

Stationery, letterhead, and official logos must only be used for official business. Commission facilities and equipment (including software) must not be used for private employment or for private financial gain by Commissioners.

10.2. Prohibited use of official resources

All use of the Commission's electronic communication facilities (computers or similar devices, network, software, internet, email) should be lawful, appropriate, and ethical. These facilities are not to be used in any way that:

- is misleading or deceptive;
- could damage the Commission's reputation;
- could result in victimisation, harassment or vilification;
- is offensive, obscene, threatening or defamatory;
- violates Australian or State regulations – including 'computer hacking'; or
- is intended to have a destructive effect on storage, processing, or communications network facilities.

10.3. Conducting official duties on personal devices

Use of personal devices to conduct official business may be permitted where certain security, storage and maintenance guidelines are followed. The Commission provides this service as a convenience to Commissioners and as such all-usage charges associated with this service will be the responsibility of the Commissioner.

Personal devices should never be used to store or transmit proprietary information that belongs to the Commission or any third-party organisation.

Minimum security requirements must be maintained for all personal devices, including:

- password/PIN protection using the features of the device to prevent unauthorised access;
- auto-lock with password/PIN protection within 2 minutes of the device being idle;
- antivirus software should be installed and kept up to date; and
- operating systems must be kept up to date with manufacturer patches.

Where personal devices are used to conduct official business, the user accepts personal liability for that device including responsibility to resolve technical support or maintenance issues.

10.4. Delegations and procurement

Commissioners do not have any financial or administrative delegations. This means Commissioners cannot commit to any services (e.g. provide advice) or hire staff without the prior approval of the Chief Executive Officer.

Additionally, Commissioners should not commit to activities or events that have a resource, whether

staff or financial, implication on the Commission.

10.5. Travel

Commissioners are required to travel extensively within the Six Cities Region. Travel outside of the Six Cities Region, and associated expenses, is subject to prior approval by the Chief Executive Officer.

Overseas travel on Commission business (including to New Zealand and Papua New Guinea) requires, pursuant to Government policy, approval from the Responsible Minister. The Responsible Minister may also delegate this authority to their Department Secretary.

11. Participation in political or other activities

Commissioners must ensure that their involvement in any political, community, volunteering or personal activity does not conflict with or influence their employment or their official duties in an impartial and objective manner.

Commissioners have a right to participate in political and community activities and to pursue private interests, provided that:

- their participation does not interfere with their official duties;
- their participation does not conflict with their duty as a public servant to serve the Government of the day in a politically neutral manner; and
- any conflict of interest that arises is dealt with in accordance with this Code.

If there is a conflict of interest, Commissioners may be required to cease the activity or withdraw from the area of work where the conflict of interest is occurring. In determining the conflict of interest and how it should be managed, consideration will be given to the nature of the issues, the extent of their participation and their public prominence.

12. Media enquiries, speaking engagements and public comment

Commissioners may receive requests to speak to the media or at an external event on behalf of the Commission. If a Commissioner receives such a request, then this must be forwarded to the Executive Director, Thought Leadership & Engagement who will support the Commissioner in handling the request.

Where comment has been authorised to be given on behalf of the Commission, comments made must be confined to factual information. Opinions on government policies and decisions must be avoided unless required by law.

13. Professional behaviour

13.1. Workplace health and safety

As leaders, Commissioners have a duty to ensure that the Commission maintains a safe and healthy working environment that ensures, so far as is reasonably practicable, the safety and well-being of staff and others in the Commission's places of work.

Commissioners have a duty to:

- take reasonable care for the health, safety and welfare of themselves and others when performing their work;
- adhere to the Commission's security and emergency procedures, including participating in evacuation drills and following the direction of floor wardens;
- report any identified risks, hazards, or incidents; and
- cooperate with the Commission to ensure compliance with all relevant work, health, and safety laws.

13.2. Use of alcohol and drugs

Commissioners must, while at work or on duty, be in a fit and proper state to perform their duties, so to not put at risk the health and safety of themselves or others. Commissioners are responsible to ensure that their capacity to perform their duties is not impaired by the use of alcohol or drugs.

Commissioners must not have illegal drugs in their possession while at work.

Smoking or use of electronic cigarettes is not permitted in or near any of the Commission's offices.

13.3. Treating people with dignity and respect

Commissioners are expected to relate professionally to colleagues, Commission staff, stakeholders, and members of the public and to act with courtesy and fairness. In dealing with others, Commissioners should ensure to not prejudice the operations, security, or reputation of the Commission.

The Commission has zero tolerance for bullying, harassment, discrimination and inappropriate or unreasonable workplace conduct. Any allegation against a Commissioner will be handled in accordance with the Commission's Handling of Complaints By or Against Commissioners Procedure.

14. Breaches of this Code

Public Interest Disclosures

Commissioners are encouraged to make a report about serious wrongdoing which they honestly believe, on reasonable grounds, show or tends to show, instances of:

- corrupt conduct
- maladministration
- serious or substantial waste of public money; or
- government information contravention.

A report that is made as a public interest disclosure will be managed under the Commission's Public Interest Disclosures Policy and Procedure.

Reporting suspected wrongdoing

Commissioners have a responsibility to report any behaviour that is contrary to this Code and/or the Ethical Framework for the government sector.

Commissioners must submit a report to the Chief Executive Officer in accordance with the Commission's Handling Complaints by or Against Commissioners Handling Procedure.

Delegation for Breaches of this Code

Without limiting the powers of the Chief Executive Officer or the Commission under ss 7 and 12 of the GCC Act, the Chief Commissioner may in their absolute discretion authorise the Chief Executive Officer of the Commission to carry out any of the actions or steps in dealing with a report.

15. Further information and resources

15.1. Legislation

NSW

- [Anti-Discrimination Act 1977](#)
- [Constitution Act 1902](#)
- [Crimes Act 1900](#)
- [Government Information \(Public Access\) Act 2009](#)
- [Government Sector Employment Act 2013](#)
- [Government Sector Employment Regulation 2014](#)
- [Government Sector Employment \(General\) Rules 2014](#)
- [Greater Cities Commission Act 2022](#)
- [Health Records and Information Privacy Act 2002](#)
- [Independent Commission Against Corruption Act 1988](#)
- [Industrial Relations Act 1996](#)
- [Lobbying of Government Officials Act 2011](#)
- [Lobbying of Government Officials \(Lobbyist Code of Conduct\) Regulation 2014](#)
- [Privacy and Personal Information Act 1998](#)
- [Public Interest Disclosures Act 1994](#)
- [State Records Act 1998](#)
- [Work Health and Safety Act 2011](#)

Commonwealth

- [Age Discrimination Act 2004](#)
- [Australian Human Rights Commission Act 1986](#)
- [Disability Discrimination Act 1992](#)
- [Fair Work Act 2009](#)
- [Racial Discrimination Act 1975](#)
- [Sex Discrimination Act 1984](#)
- [Workplace Gender Equality Act 2012](#)

15.2. Other resources

Governance of NSW Boards and Committees

NSW Public Service Commission, *Appointment Standards: Boards and Committees in the NSW Public Sector*

Department of Premier and Cabinet, *NSW Government Board and Committee Guidelines*

ICAC advice

ICAC 'Conflict of interest' see report 'Managing conflicts of interest in the public sector', April 2019

ICAC What is a Conflict of Interest?

Public Service Commission resources

NSW Government, *Public Service Industrial Relations Guide*

NSW Public Service Commission, *The Code of Ethics and Conduct for NSW Government Sector Employees*

NSW Public Service Commission, *Behaving Ethically: a guide for NSW government sector employees*

Safework NSW

Safework NSW, *Bullying Prevention Policy and Related Procedures*

Safework NSW, *The basics: Physical safety at work*

Safework NSW, *Mental health at work*

Safework NSW, *Code of Practice: Managing psychosocial hazards at work*

Engaging with Lobbyists

The Commission's Registered Lobbyists Contact Register

Premier's Memorandum M2019-02-NSW Lobbyists Code of Conduct

NSW Electoral Commission Lobbyists Register

NSW Electoral Commission Online Lobbyist Training

NSW Government Policies or Procedures

Cyber Security Policy

16. Document management

Approver	Chief Executive Officer Finance and Governance Committee
Author	Manager, Governance & Legal
Revision history	Version 1 - April 2017 Version 2 - March 2022
Reviewed by	Governance Officer, Governance & Legal Senior Manager, Governance & Legal
Next review date	March 2024
Responsible branch	People and Corporate Services
CM9 Reference	DOC22/2380

Appendix

Form/Template/Info/Guide

Appendix 1 – Definitions

Appendix 2 – Declaring Conflict of Interest & Pecuniary Interest

Appendix 3 – Gifts, Benefits & Hospitality

Appendix 4 – Engaging with Lobbyists

Appendix 1: Definitions

<p>Bullying</p>	<p>means repeated behaviour and unreasonable behaviour directed towards a worker or group of workers that creates a risk to health, safety, or wellbeing.</p> <p><i>Note: a single incident of unreasonable behaviour is not considered to be workplace bullying; however, it may have the potential to escalate and should not be ignored.</i></p>
<p>Corrupt conduct</p>	<p>has the same meaning as in s 8 of the <u><i>Independent Commission Against Corruption Act 1988 (ICAC Act)</i></u> and is:</p> <ul style="list-style-type: none"> • any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or • any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or • any conduct of a public official or former public official that constitutes or involves a breach of public trust, or • any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person. • any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters: <ul style="list-style-type: none"> – official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion, or imposition), – bribery, – blackmail, – obtaining or offering secret commissions, – fraud, – theft, – perverting the course of justice, – embezzlement, – election bribery,

	<ul style="list-style-type: none"> – election funding offences, – election fraud, – treating, – tax evasion, – revenue evasion, – currency violations, – illegal drug dealings, – illegal gambling, – obtaining financial benefit by vice engaged in by others, – bankruptcy and company violations, – harbouring criminals, – forgery, – treason or other offences against the Sovereign, – homicide or violence, – matters of the same or a similar nature to any listed above, – any conspiracy or attempt in relation to any of the above. <ul style="list-style-type: none"> • Corrupt conduct is also any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters: <ul style="list-style-type: none"> – collusive tendering, – fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources, – dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage, – defrauding the public revenue, – fraudulently obtaining or retaining employment or appointment as a public official. <p>However, under s 9 of the <i>ICAC Act</i>, in order to be corrupt conduct, the conduct must constitute or involve a criminal offence, a disciplinary offence or reasonable grounds for dismissing, dispensing with the services of or otherwise terminating the services of a public official.</p>
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Discrimination	means where a person is treated unfairly because they may belong to a particular group of people or have a particular characteristic (e.g. gender, pregnancy, breastfeeding, race, age, marital or domestic status, sexual orientation, disability, carer's responsibility).
Ethical Framework	is contained in pt <u>2</u> of the GSE Act
Fraud	means dishonest activity by any employee that causes actual or potential financial loss to the Commission or the Government, including theft of money or other property. It includes deliberate fabrication, concealment, destruction, or improper use of documentation used for a normal business purpose or the improper use of other information or position.
Government official	<p>is defined under s <u>3</u> of the <i>Lobbying of Government Officials Act 2011</i> and means:</p> <ul style="list-style-type: none"> • A Minister or Parliamentary Secretary; • A staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office); • The head of a Public Service agency; • A person employed in the Public Service of New South Wales, the Transport Service of New South Wales, or any other service of the Crown; • An individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown; or • A member (however expressed) of, or of the governing body of, a statutory body. <p>but does not include (except in Parts 5 and 6) a local government official.</p>
Harassment	<p>in the workplace means subjecting a person to repeated behaviour that:</p> <ul style="list-style-type: none"> • a reasonable person would consider to be offensive, humiliating, intimidating or threatening; • is unwelcome and unsolicited; or • the person considers to be offensive, intimidating, humiliating or threatening.

Lobbying	means communicating with a Government official for the purposes of representing the interest of others in relation to: <ul style="list-style-type: none"> • legislation or proposed legislation; • a government decision or proposed government decision; • a planning application; or • the exercise by a Government official of their official functions.
Lobbyists Code	means the <u>Lobbyists Code of Conduct</u>
Lobbyists Register	means the <u>Register of Third-Party Lobbyists</u> , which is kept and maintained by the NSW Electoral Commission.
Lobbyist Watch List	means the list maintained by the <u>NSW Electoral Commission</u> that contains the names and other identifying details of any third-party or other lobbyist place there by the Electoral Commission as a result of contraventions of the <u>Lobbyist Code of Conduct</u> or the Act.
Maladministration	means conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, or improperly discriminatory or based wholly or partly on improper motives.
Other lobbyist	means any individual or body that lobbies a Government official other than a third-party lobbyist; this includes individuals engaged to undertake lobbying for a third-party lobbyist.
Procedural fairness	means ensuring any person whose rights, interests or legitimate expectations will be affected by a decision or finding is entitled to an adequate opportunity to be heard.
Public official	is defined under s <u>4A</u> of the <u>Public Interest Disclosure Act 1994</u> and means: <p>(a) an individual who is an employee of or otherwise in the service of a public authority, and includes (without limitation) each of the following —</p> <p>(i) a Public Service employee,</p> <p>(ii) a member of Parliament, but not for the purposes of a disclosure made by the member,</p> <p>(iii) a person employed by either or both of the President of the Legislative Council or the Speaker of the Legislative Assembly,</p> <p>(iv) any other individual having public official functions or acting in a public official capacity whose conduct and activities may be investigated by an investigating authority,</p> <p>(v) an individual in the service of the Crown, or</p> <p>(a1) a person employed under the <u>Members of Parliament Staff Act</u></p>

	<p><u>2013</u>, or</p> <p>(b) an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority, or</p> <p>(c) if a corporation is engaged by a public authority under a contract to provide services to or on behalf of the public authority, an employee or officer of the corporation who provides or is to provide the contracted services or any part of those services.</p>
Repeated behaviour	means the persistent nature of the behaviour and can involve a range of behaviours over time.
Report	means the reporting of a concern or complaint, whether informally or formally made, by or about behaviour or conduct that is contrary to this Code and/or Ethical Framework.
Serious and substantial waste	means that uneconomical, inefficient, or ineffective use of resources that could result in the loss or wastage of public resources.
Serious criminal offence	means an offence committed in NSW that is punishable by imprisonment of 12 months or more, or an offence committed elsewhere that, if it had been committed in NSW, would be an offence so punishable.
Unreasonable behaviour	means behaviour that a reasonable person in the circumstances would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

Appendix 2: Declaring Conflict of Interest & Pecuniary Interest

Commissioners must perform their duties impartially and in the public interest. They must avoid any conflict of interest.

A conflict of interest exists when a reasonable person might perceive that a Commissioner's personal interest(s) could be favoured over their public duties.

A conflict of interest can relate to:

- **Pecuniary interest** – for example, arising from property or share ownership, secondary employment, the receipt of gifts, benefits or hospitality, or other sources of income;
or
- **Non-pecuniary interest** – which can lead to personal feelings affecting a Commissioner's judgement, duties, or decisions – for example, personal or family relationships, or involvement in sporting, social or cultural activities, or workplace relationships or associations.

Guidance is provided below to assist Commissioners when considering whether a conflict of interest exists and how this conflict should be appropriately managed. However, if there is any doubt about whether a conflict of interest exists then Commissioners should always in the first instance consult with the Chief Commissioner or Chief Executive Officer.

Frequency of declarations

Commissioners are required to declare conflicts of interests when:

- they first commence in their role with the Commission,
- every 12 months thereafter; and
- wherever a new conflict arises.

Meetings with external stakeholders where probity has been engaged to attend, may also require that Commissioners make a verbal disclosure of conflicts of interest.

Identifying a conflict of interest

There are four elements to consider when Commissioners are determining whether a conflict of interest exists.

1. Does the Commissioner have a personal interest?
2. Does the Commissioner have a public duty?
3. Is there a connection between the personal interest and the public duty?
4. Could a reasonable person perceive that the personal interest might be favoured?

Types of interests (pecuniary or non-pecuniary) to declare

Interests Commissioners may declare include but are not limited to:

- sources of income, shareholdings, trusts or nominee companies, superannuation, other significant sources of income, significant liabilities;
- membership of other Boards and Committees;
- membership or association with voluntary organisations;
- interests and positions in corporations;
- interests and positions in trade unions and professional business associations;
- property holdings;
- immediate family or business relationships that would or could be perceived to have an impact on the duties and responsibilities of the Commissioner.

Declaring and managing a conflict of interest (pecuniary or non-pecuniary)

If a Commissioner declares a conflict of interest(s) then that person must work collaboratively with the Commission to develop an appropriate Management Strategy Plan. The authority to approve the Management Strategy Plan sits with the Chief Commissioner, who may delegate any of these functions to the Chief Executive Officer.

The Board Secretary is responsible for handling all declarations of conflicts of interest and for recording these in the Commissioners Conflicts of Interest Register which is reported to the Responsible Minister's Office annually. This information is considered as confidential and is handled in accordance with the *Privacy and Personal Information Protection Act 1998* and the Commission's Privacy Management Plan.

Disclosing pecuniary Interests

Commissioners have an obligation under sch 2, cl 7 of the GCC Act to disclose any direct or indirect pecuniary interest.

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain to the person.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant it could not reasonably be regarded as likely to influence any decision that person might make.

In accordance with sch 2, cl 7(1) of the GCC Act if a Commissioner has a direct or indirect pecuniary interest in a matter that is being considered or is to be considered at a Commission meeting and that interest appears to raise a conflict with the Commissioner's proper performance of their duties with regard to that matter then the Commissioner must disclose the nature of the interest as soon as possible after the relevant facts have come to the Commissioner's knowledge.

A Commissioner has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- the Commissioner;
- the Commissioner's spouse, or de facto partner or a relative of the Commissioner;
- a partner or employer of the Commissioner; or
- any company or other body of which the Commissioner, or their nominee, partner or employer, is a member.

Managing pecuniary Interests

Where a Commissioner becomes aware of a pecuniary interest about to be considered at a Commission or Committee meeting, the Commissioner must disclose the nature of this interest as soon as possible.

After a Commissioner has disclosed the nature of an interest in any matter, the Commissioner must not, unless the Minister or the Commission otherwise determines:

- be present during any deliberation of the Commission or Committee with respect to the matter; or
- take part in any decision of the Commission or Committee with respect to the matter.

Declaring non-pecuniary Interests

A non-pecuniary interest is a private or personal interest which does not relate to money - for example:

- an interest based on a family or personal relationship,
- membership of an association, society, council, industry group or trade union, or
- involvement or interest in an activity which may include an interest of a financial nature.

Commissioners should consider possible non-pecuniary interests that may arise while carrying out their duties as a Commissioner.

Where a Commissioner has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of the Commissioner's duties, the Commissioner must follow the procedure set out in set out in sch 2, cl 7 of the GCC Act.

Appendix 3: Gifts, Benefits & Hospitality

Prohibited offers of gifts, benefits and hospitality

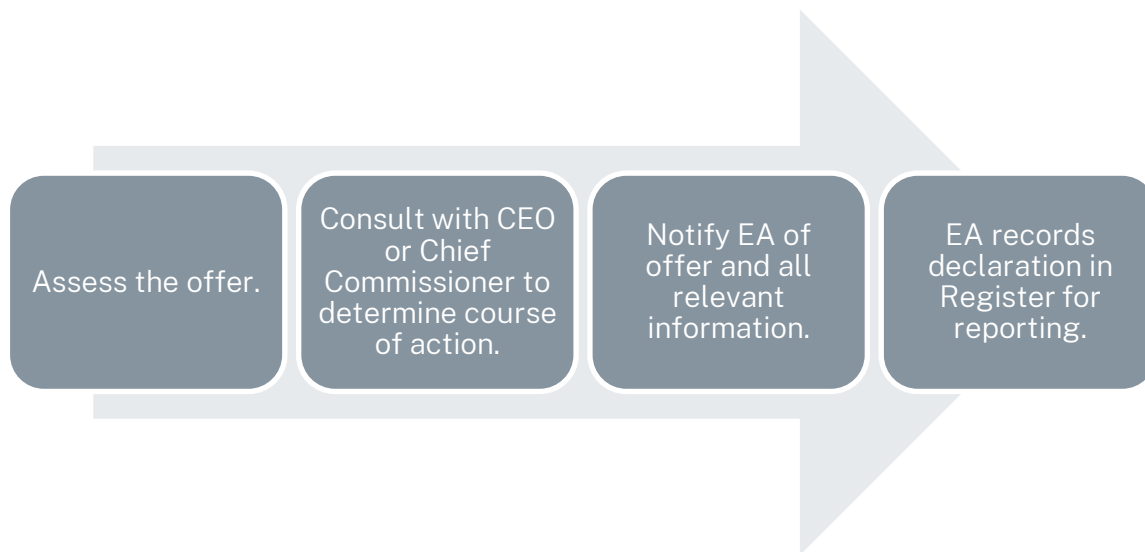
Commissioners must not:

- seek or accept a bribe or other improper inducement;
- seek gifts or benefits or any kind;
- accept any gift or benefit that may create a sense of obligation on their part, or which might be, or appear to be, intended to influence them in carrying out their public duty as a Commissioner;
- accept any gift or benefit of more than token value (see below); or
- accept any offer of money (or a gift card), regardless of the amount.

Managing an offer of a gift, benefit or hospitality

Commissioners must work with Executive Assistants to ensure that all offers of gifts, benefits or hospitality (whether accepted or declined) are recorded in the Commission's Gifts, Benefits and Hospitality Register.

The following process should be followed when making a declaration, Commissioner's should always seek confirmation by their Executive Assistant that the declaration has been completed.



Gifts

Commissioners may accept a personal gift of low value (\$150 or less).

Gifts of a value greater than \$150 should not become personal property. In the first instance, such gifts should be politely refused. However, there may be circumstances where a gift with a value greater than \$150 may not easily be returned, for example:

- gifts accepted for ceremonial, cultural, protocol or other reasons, where returning it would be inappropriate;
- a wrapped gift that the recipient does not open in the presence of the gift giver;

- anonymous gifts received through the mail or left for the Commissioner without a return address; or
- a gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.

In such circumstances, and to ensure that no perception of undue influence may be created, the gift must be declared by the Commissioner and given to the Executive Director People and Corporate Services. The Chief Executive Officer of the Commission will determine the appropriate action for disposal of items, on a case-by-case basis, and the decision must be recorded in the Commission's Register of Gifts.

Examples of gifts

Examples of gifts to which this policy applies include:

- gifts of a type commonly given for hospitality purposes, such as flowers, bottles of wine or books;
- promotional materials, including clothing, DVDs, or manufacturers' samples;
- provision of goods or services for personal use, such as labour or building materials;
- sponsored travel;
- use of facilities, such as gyms or holiday homes;
- accommodation and car hire discounts;
- discounts on commercial items;
- gifts to family members that arise in connection with a Commissioner's official duties;
- prizes obtained during work-related functions being organised by a third party;
- prizes, gifts and/or benefits that are won as a result of entering a competition while engaging in official duties, e.g. lucky door prizes at seminars, supplier-run competitions;
- invitations to potential or actual supplier-organised events including a conference/award dinner, Christmas party; and
- personal benefits gained from purchases under a purchase incentive scheme.

Register of gifts

The Commission maintains a Register of Gifts to ensure the receipt and disposal of gifts is conducted in an open and transparent manner. When offered a gift or benefit, Commissioners must disclose the following information in the Register of Gifts:

- the person/organisation who made the offer and the date on which the offer was made;
- whether or not the gift or benefit was accepted;
- whether the gift or benefit was allocated to another person or body;
- the value of the gift or benefit.

Hospitality, events, and travel

Low-risk hospitality

An offer of hospitality that is valued under \$150 and is not otherwise prohibited, after an assessment that deems it low risk, may be accepted.

An offer of hospitality valued at \$150 or more, that is not prohibited or high risk, may be considered as low-risk if the hospitality is proportionate:

- where the same meal is given to everyone, the meal is proportionate for the event and preferential treatment is not being given (i.e. a reasonable person would not think that the

hospitality was intended to influence the recipient to act in the interests of the giver, either now or in the future); and

- the hospitality fits into the Commission’s portfolio interests or business operations or for government networking purposes.

Incidental low-risk hospitality below the value of \$50, such as refreshments in a meeting, do not need to be declared in the Gifts, Benefits and Hospitality Register.

This does not include invitations that are mass circulated and not directed or addressed to a particular staff member.

High-risk hospitality: sporting, entertainment and cultural events

In many cases, the value of some invitations and tickets will be significant, possibly beyond the acceptance threshold of a gift. It is important to distinguish between situations where Commissioner attendance at an event is unrelated to their official responsibilities. If there is no relation, then offers of these types should not be accepted.

Invitations and tickets from unrelated third parties – that is, from parties not directly involved in the event – should always be treated as gifts and benefits.

Offers of high-risk hospitality, whether accepted or declined must be declared in the Commission’s Gifts, Benefits and Hospitality Register.

Travel and accommodation

Occasionally, Commissioners may be offered travel or accommodation upgrades during official travel within Australia or overseas.

Commissioners should never seek or solicit an upgrade from a travel or accommodation provider in relation to official travel.

Where a travel or accommodation provider seeks to upgrade a Commissioner for operational reasons, at no charge, Commissioners may accept the upgrade, but should record receipt of the upgrade in the Commission’s Gifts, Benefits and Hospitality Register.

Approvals for gift, benefit or hospitality

Commissioners generally are not required to seek approval to accept offers of gifts, benefits or hospitality where the value does not exceed \$150. However, Executive Assistants will notify the Executive Director, People and Corporate Services of any offers of gifts, benefits and hospitality.

For all event invitations or speaking engagements Executive Assistants must notify the Executive Director, Thought Leadership and Engagement. Attendance at a high-risk event, such as a corporate box at a sporting event, must be approved by the Chief Executive Officer and the Executive Director, Thought Leadership and Engagement.

Where an offer of high-risk hospitality is made or the value of an offer of gifts, benefits or hospitality exceeds \$150 the Chief Executive Officer and Chief Commissioner must be notified and approval sought. Where appropriate, the Chief Executive Officer may notify the Department Secretary who will provide advice on the appropriate management of the offer.

Type of Gift, Benefit or Hospitality	Must be approved by
Any gift, benefit or hospitality that exceeds \$150; or Any offer of high-risk hospitality that is less than \$150	Chief Executive Officer; and Chief Commissioner
Attendance of high-risk events	Chief Executive Officer; and Executive Director, Thought Leadership

	and Engagement
Speaking engagements	Executive Director, Thought Leadership and Engagement; and Chief Commissioner
Professional development programs	Chief Commissioner; and Chief Executive Officer

Bribes

If a Commissioner is ever offered a bribe (ie, anything given in order to persuade a person to act improperly), they must refuse it, explain why it is not appropriate, and immediately report the matter to the Chief Commissioner or the Commission's Chief Executive Officer.

Appendix 4: Engaging with lobbyists

Commissioners are considered 'Government officials' under s 3 of the *Lobbying of Government Officials Act 2011* (the *Lobbying Act*).

Commissioners must adhere to the *NSW Government Lobbyist Code of Conduct* and the *Lobbying Act* at all times.

Forms of lobbying

Lobbying is communicating with a Government official for the purpose of representing the interests of others in relation to:

- legislation or proposed legislation;
- a Government decision or proposed Government decision;
- a Government policy or proposed Government policy;
- a planning application; or
- the exercise by the Government official of their official functions.

Lobbying does not include any communications by a Member of Parliament or a Government official who is acting in the ordinary course of their duties.

Third-party lobbyists

Third-party lobbyists must be registered on the NSW Electoral Commission's Lobbyists Register and must comply with the Lobbyist Code of Conduct. This includes individuals involved in operating on behalf of an organisation listed as conducting third-party lobbying.

Third-party lobbyists, and any individuals they engage to lobby on their behalf must disclose:

- if they are third-party lobbyists;
- the names of any individuals they have engaged to undertake the lobbying;
- the name of the person whose interests the lobbyist is representing; and
- if their client is a foreign principal and from which country their client is from.

This information must be disclosed before any meeting for the purpose of the lobbying is held, or other communication made.

Third-party lobbyists must not:

- lobby on a matter that relates to an NSW Government board or committee of which they, or the individuals they engage to lobby on their behalf, are a member;
- make exaggerated or misleading claims to their clients about the nature or extent of their access to political parties or Government;
- keep separate from their lobbying activities any personal involvement with a political party; and
- receive success fees for lobbying a Government official.

The following are not third-party lobbyists but may be other lobbyists:

- members of a professional institute or association who are representing that institute or association; and

- persons where lobbying is incidental to the provision of professional services to a client in the course of their work, such as technical specialists and consultants.

Other lobbyists

Other lobbyists are individuals or organisations that are not third-party lobbyists, but their representational activities are still captured under the Lobbying Act if they lobby Government officials. They are known as other lobbyists because some of their activities are captured under the definition of lobbying.

Examples of other lobbyists include:

- representatives of corporations who are promoting the interests of their organisation;
- representatives of industry or trade associations;
- representatives of religious or charitable organisations;
- representatives of business, community, or environmental groups;
- planning consultants; or
- professional service providers, such as economists, lawyers, or accountants.

Business contacts

A business contact is an individual, organisation or Government agency that communicates with the Commission about a specific application or proposal, funding decision, policy, or regulatory issue, who is not a third-party lobbyist or other lobbyist.

Lobbyist requirements

Schedule 1 of the Regulation sets out standards and requirements for lobbyists.

All lobbyists must:

- disclose the matter that they wish to discuss in advance when seeking a meeting with a Government official;
- disclose any financial or other interest they may have in the matter to be discussed before the meeting commences;
- not engage in any misleading, dishonest, corrupt, or other unlawful conduct in relation to their lobbying;
- use all reasonable endeavours to satisfy themselves of the truth and accuracy of all material information they provide; and
- not have held office as a Minister or Parliamentary Secretary in the past 18 months unless they are lobbying in their capacity as a Member of Parliament or a Government official.

Prohibited lobbying: obligations for Government officials

As a Government official, Commissioners must not permit lobbying by:

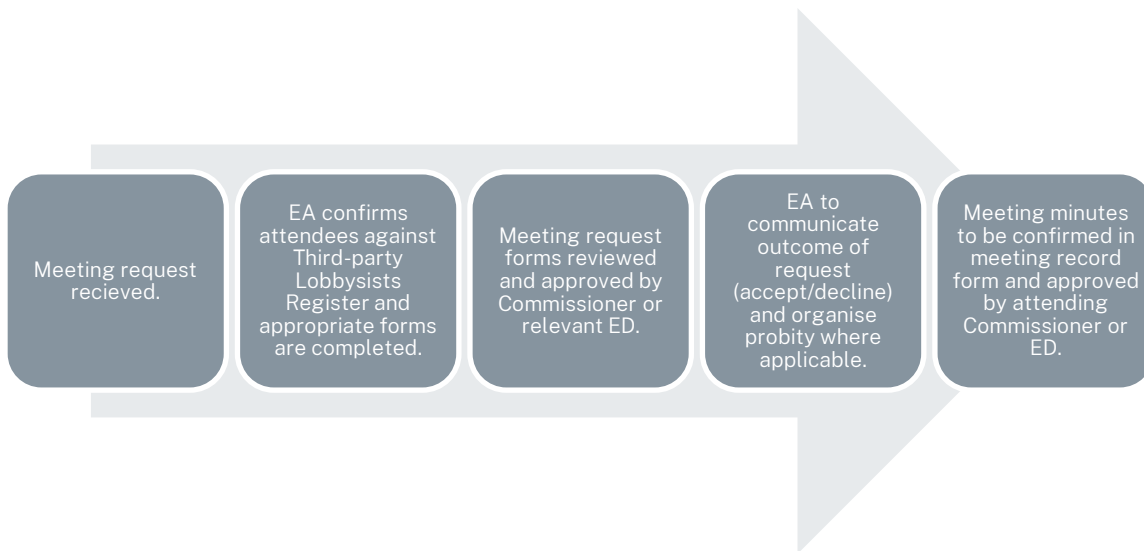
- a third-party lobbyist who is not registered on the Lobbyist Register;
- an individual engaged to undertake lobbying for a third-party lobbyist who is not themselves registered;
- any lobbyist who has failed to make the disclosures required under the Act and the Lobbyists Code of Conduct;
- a third-party lobbyist engaging in lobbying on behalf of a client not listed on the Lobbyist Register.
- a lobbyist whose name has been placed on the Lobbyist Watch List, unless:

- at least two Commission staff (including at least one senior executive manager) are present during any communication with the lobbyist; and
- at least one employee takes notes of the communications with the lobbyist and provides those notes to the Chief Executive Officer.

Meeting request process

The Commission has record keeping standards and procedures that assist government officials in fulfilling their requirements under the Lobbyist Code and the Lobbying Act.

Commissioners must work with their Executive Assistants to ensure that these standards and procedures are maintained.



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