Guidelines for developing and implementing a code of conduct

(These guidelines were issued in 1997 as part of the Model Code of Conduct for NSW Public Sector Agencies in M1997-10 (B1997_002). The Model Code of Conduct for NSW Public Sector Agencies was subsequently incorporated into the Personnel Handbook, Chapter 8 Model Code of Conduct.

The purpose of a code of conduct

A code of conduct is an important management tool which can positively shape the culture of an organisation. Many organisations have found that adopting a clearly defined approach to ethical issues improves the organisation’s reputation, helps to develop pride among staff and is good for business.

Staff in any organisation need to behave in a way which promotes public confidence and trust in the organisation. Public sector staff in particular are expected to do their work with efficiency, fairness, impartiality and integrity. There is a community expectation that the modern public sector will use taxation dollars in an increasingly open and accountable way.

A code of conduct sets out the standards of behaviour expected of staff in an organisation, and should help them to solve ethical dilemmas they face at work. While there is no one set of rules capable of providing answers to all the ethical issues which could arise in an organisation, a code of conduct provides a framework within which staff agree to work. It can also help to prevent corruption by alerting staff to behaviour that could potentially be corrupt, or may appear as corrupt to others.

For example, the code might include guidance about dealing with conflicts of interest, how to respond to offers of gifts or benefits and what to do if you think corruption has occurred. Although the emphasis should be on encouraging good ethical conduct, staff also need to be given clear information about what may or will happen if they breach the code.

To be effective, a code must contain more than vague principles. If it is really going to help staff in the conduct of their day-to-day activities, it must include clearly stated principles and examples that are relevant to the particular functions of the organisation. It should also refer staff to other documents in the organisation, such as guidelines, policies and regulations and other mechanisms, such as talking to a colleague or supervisor, which may help them to resolve issues not directly covered by the code.

Developing a code of conduct

Basis of codes of conduct

The Model Code of Conduct for NSW public agencies produced by the Premier’s Department in 1997, is the minimum standard for all public sector staff in NSW. It
provides the basis for agencies to develop your own individual codes. As an agency you have to decide:

- what topics you need to include in your Code of conduct
- how much information you need on each topic
- what processes will be used to develop the code of conduct
- how you are going to involve all staff in developing, implementing and abiding by the code, and
- how and how often you will need to review the code.

**Content of codes**

At a minimum, all public sector codes of conduct should include the standard topics outlined in the Premier’s Department Model Code of Conduct. Additional topics which reflect the specific needs of your agency should be added.

Depending on the nature of your operations, you may also want to include information on topics such as:

- employment responsibilities of the employer and employees
- security considerations and requirements
- dress standards
- customer service standards and requirements
- specific occupational health and safety requirements, and
- references to other professional codes of ethics or accountability requirements that may apply to agency staff, but may not be covered in the model code.

A code should function as an active guide to decision making. It should provide examples to illustrate the ethical problems that staff might encounter and strategies for dealing with them. Areas of specific concern or risk to your organisation should be carefully considered and included in the code, such as examples that reflect the particular charter, structures, or functions of your organisation. For example, a section on Conflicts of Interest could include information about how to recognise a conflict of interest, such as a purchasing officer who gets three quotes for a piece of equipment, one of which is from a relative or friend.

It could also include practical information on managing a conflict if it occurs, such as referring the matter to an independent third-party (eg the Ombudsman) or an ethics committee established in the public agency, if the employee and manager cannot resolve the matter.

A section on confidential information could:

- explain that confidential information may be written, stored on a computer, or might be something that you overhear or are told at work, and
- give examples of the improper use of confidential information, such as swapping information with staff of other organisations or speculating in property or shares based on information about government decisions.
You may also wish to clarify what is and what is not acceptable behaviour in terms of, for example, the use of the organisation’s resources. You could include points such as:

- you may use the phone for private calls if they are short, infrequent and don’t interfere with your work
- you may, with a supervisor’s permission, use the organisation’s resources such as computer equipment for approved personal purposes
- if you use the organisation’s equipment for authorised personal purposes, you must make sure that you use it only in your own time, that the equipment is secure and properly cared for, you provide consumables such as paper, and your use does not prevent you or your colleagues from doing the organisation’s work.

Staff need general guiding principles but they also need practical help in deciding what to do in a range of situations. For example, in a section on gifts and benefits different organisations might give specific advice such as:

- you may accept a modest lunch which is offered to a working group, but you should pay for your own lunch if you are the only person who is offered a meal
- hospital staff may accept a token gift, such as a box of chocolates or flowers from a grateful patient, but may not accept a gift if it is intended to influence decisions about how work is done or goods are purchased.

The code should also include information about relevant policies, procedures and regulations and how staff can access them if they need more information about a particular area. For example, in a section on Reporting Corrupt Conduct you could put something like:

You will get more information about what should be reported, who to report to and what will happen with the information you provide in the organisation’s Internal Reporting Policy document which is [the policy manual/attached to this code at appendix xl.

**Consulting staff on codes of conduct**

If a code is to have real meaning, it cannot be a set of rules imposed conduct from above. It must be developed by each organisation and its staff to meet their specific needs, and should promote an ethical culture within the organisation.

Codes should be developed through a consultative process, This enables all staff in all locations, not just senior managers at head office, to comment on the issues to be included. Make sure you ask staff to contribute in the early stages of development, not just to comment on a final draft.

To help you develop the code, you could:

- seek input from staff of various classifications, work levels and different work areas
- ask staff to identify the most common ethical problem areas they face in their work, and
- discuss the issues with existing groups such as an internal employee consultative committee or external union bodies.

You might also want to get input from other public agencies that have already developed their own codes, or from external agencies doing business with your organisation. Look at as many relevant codes as you can and decide which parts you find or do not find useful and what issues are relevant to the staff in your organisation.

**Writing codes of conduct**

Codes of conduct should be clearly written in a personal and positive conduct style. The emphasis of the code should be on positively shaping the ethical climate of the organisation rather than on compliance and discipline. Guidelines defined mainly in negative terms, such as ‘partiality and discrimination will not be tolerated’, tend to take the form of statements about what staff must not do.

Although you need to make it clear to staff who breach the code that they may face disciplinary action or other consequences, you also need to stress that staff who act honestly and follow the code can expect the full support of the organisation against unfair allegations of corrupt conduct.

A code that is written in an overly bureaucratic or legalistic style of language is not an effective document because it will not be read or referred to by most staff. Using a personal tone and pronouns such as ‘you’ and ‘we’, helps to focus responsibility and encourages staff to see the code as a document that is relevant to them and the work they do.

There is no point in establishing a code if you do not back it up with regular on-going training, awareness raising or information sessions. To some extent, it may also be appropriate to extend this communication role to include elected officials, contractors and organisations that you do business with.

Senior managers need to advocate the core values of the code and guide by example. It is important that managers are seen to abide by the same standard of behaviour that is expected of staff. In addition, managers are to a significant degree, responsible for the behaviour of their staff. You may need to provide training so that dealing with ethical questions and discussing them with staff becomes a regular and comfortable part of a manager’s role.

Managers also need to be aware of the range of sanctions, from discipline counselling through to dismissal or prosecution, that may be applied if staff breach the code of conduct, depending on how serious the breaches are.

**Promoting codes of conduct**

Codes of conduct need to be active policy documents which make a continuing contribution to the ethical culture of the organisation and the decisions that staff make.
Some possible promotion strategies are:

- attaching a copy of the code to the letter of offer to new employees regularly including segments from the code in staff circulars and newsletters, and discussing the code on a regular basis at branch/team meetings
- preparing a video presentation on the code, including some scenarios of possible ethical dilemmas
- including a copy of the code in the organisation’s induction manual, in the staff library, and on the computer network where appropriate, translating the code into major community languages
- preparing posters about the code and displaying them in workplaces throughout the organisation
- including a session on the code of conduct as a regular part of staff training courses
- making reference to the code where performance agreements are in place, as a regular part of the employee’s professional development and workplan discussion and implementation
- issuing the code to contractors and asking that they conduct business with staff of the organisation in accordance with its content
- informing clients of the ethical standards of the organisation and how they can make a complaint if these have been breached, and publishing the code in the annual report (this is a legal requirement under the Annual Reports Acts if the code is new or substantially amended).

**Reviewing codes**

Including features of the code in the corporate plan and other documents related to the work of the organisation can help to integrate the code’s ethical objectives into the mainstream work of the organisation. On a regular basis, for instance annually, you need to monitor and evaluate whether the code remains relevant and how well it is understood and followed by staff. The extent to which it has influenced the ethical culture of the organisation should also be monitored.

When reviewing the code, you should involve as wide a range of staff as possible, but stress to them that your focus in the review is on the quality and usefulness of the code, not their personal conduct or ethics. The information you get from your review should help you improve the actual code and develop better strategies for increasing awareness and use of the code in all functional areas of the organisation.

**Contact points for further information**

For more information on developing, implementing and reviewing a code of conduct please contact:

The Premier’s Department (02) 9228 5516
The Independent Commission Against Corruption (02) 9318 5999
Office of the NSW Ombudsman (02) 9286 1000
Checklist for reviewing and developing a code of conduct

- Does your organisation have a code of conduct?
- Was your organisation’s code of conduct developed in consultation with a range of staff from various areas of the organisation, and with key external stakeholders?
- Was your organisation’s code of conduct negotiated in good faith with relevant union bodies or staff associations?
- Does your code include the standard topics from the Premier’s Department Model Code of Conduct?
- Have you included additional topics to meet the particular needs of your organisation?
- Does the code provide a range of practical examples and guidance for dealing with ethical issues?
- Is the code written in clear, straightforward language?
- Does the code have a personal and positive tone rather than a focus on compliance and discipline?
- Do you clearly communicate the content of the code to all staff and stakeholders on a regular basis?
- Do senior managers actively promote the code and lead by example with regard to ethical conduct?
- Is the code actively reinforced throughout the organisation using promotional strategies?
- Are new provisions included in the code as the need arises?
- What methods do you use to assess the use staff make of the code and how has it affected the ethical culture of the organisation?
- Do you regularly review your code of conduct and update it when necessary?

Case study: Review of the ICAC code of conduct

The ICAC Code of Conduct was developed over a three month period in 1990 and issued to ICAC staff in September of that year. The development phase involved progressive consultation with senior management, middle management and all other staff. Since then, the code has been included in information packages sent with offers of employment and when new staff join the ICAC they are required to sign a statement confirming they have read and accept the code.

In late 1991 the ICAC decided to review its code of conduct to see how useful it was in helping staff resolve ethical dilemmas at work. The review process was also seen as an opportunity to:

- raise staff awareness of the content and role of the code
- collect information about how the code could be improved, and
- identify strategies for making the code a more active document.

All ICAC staff were given the opportunity to respond, on a voluntary basis, to a three part questionnaire. The first part asked staff to rate how helpful the code was in helping them to solve some hypothetical ethical dilemmas such as:
- You have participated in a conference on the ICAC’s behalf and the organisers thank you with an expensive bottle of champagne.
- What should you do with it?
- You have witnessed unjust or discriminatory behaviour by a colleague during working hours. You feel loyal to your colleague but wonder if you have an obligation to report the behaviour.

Each dilemma matched a specific section of the code. If staff did not find the particular section of the code helpful in solving the dilemma, they were asked for suggestions about how this section could be improved.

The second part of the questionnaire assessed when and why staff consulted the code. The third part asked staff to rate the extent to which they agreed or disagreed with a series of statements about the code such as:

- the code is a clear, well-written document
- there is generally a match between my views and the document’s views on ethical conduct, and
- there is a conflict between the code and other requirements by which I am bound.

The review questions were designed to assess the quality of the code, not the ethics of the staff using it. Once the review had been completed, a seminar was held with staff to explain the findings and discuss possible strategies for making the code a more effective and active document. The main findings of the review were that:

1. The majority of staff found most sections of the code helpful in resolving the ethical dilemmas, but felt they also needed to do something more, such as talk to a colleague, before they decided what to do about an ethical issue they were facing.
2. One section, on security, was considered unhelpful by a significant majority of respondents and needed to be changed. The comments from staff suggested that the section was too vague, needed examples and should refer to written ICAC security policies and procedures.
3. The review process made staff more familiar with the code and therefore more likely to consult it in the future.
4. Giving staff the opportunity to make suggestions for improving the code helped to make it a more active and useable document. Some of the revisions made were: the language was updated; examples were added; and more detailed explanation was given within the code.

The ICAC is now looking at how the code might be more effectively packaged to increase its visibility within the organisation and to encourage staff to refer to it for guidance. The review helped the ICAC to improve its code and identify several strategies for promoting discussion about ethical issues.
Publication on public sector ethics and codes of conduct

1. Review of ICAC Code of Conduct ICAC (May 1993)
The findings of the review are relevant to other public sector organisations who should be able to adapt the methods used to meet their own needs.

2. NSW Codes of Conduct Review Premiers Department/ICAC (April 1996)
This review was a joint project between the ICAC and the Premier’s Department. It looked at the content of a sample of codes from public sector organisations in NSW, and how the codes were developed and implemented within agencies.

This guide was prepared by ICAC to provide practical assistance on public sector agencies on establishing systems to prevent corruption from occurring.

These guidelines were prepared to promote awareness of ethical issues. Topics covered include relationships between politicians and public servants, use of official information, participation in public interest groups and financial and private interests.

5. Codes of Conduct for Public Officials Legislative Assembly of Queensland (May 1993)
A report by the Parliamentary Committee for Electoral and Administrative Review, proposing the development of an ethics scheme for public employment in Queensland.

A good introduction to education and training in relation to public sector ethics and different approaches to developing ethical workplaces.

7. "Ethics and fuzzy worlds", K Denhardt, Australian Journal of Public Administration volume 50, issue 3 (September 1991) A good introduction to the principles underlying public sector ethics and how they can be incorporated into organisations.