

# CODE OF CONDUCT

FOR DIRECTORS OF  
VICTORIAN PUBLIC ENTITIES

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**This Code of Conduct for Directors of Victorian Public Entities is no longer in effect as of 1 March 2024. This Code was in effect from 29 March 2016 - 29 February 2024.**

**It is replaced by the Code of Conduct for Directors of Victorian Public Entities 2024, which is available on [vpsc.vic.gov.au](http://vpsc.vic.gov.au) and [boards.vic.gov.au](http://boards.vic.gov.au).**

VPSC

Victorian Public Sector Commission





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FOR DIRECTORS OF  
VICTORIAN PUBLIC ENTITIES

The Victorian Government has vested the Victorian Public Sector Commission with functions designed to enhance the performance of the public sector – fostering the development of an efficient, integrated and responsive public sector which is highly ethical, accountable and professional in the ways it delivers services to the Victorian community.

The key functions of the Commission are to:

- > strengthen the efficiency, effectiveness and capability of the public sector in order to meet existing and emerging needs and deliver high quality services; and
- > maintain and advocate for public sector professionalism and integrity.

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# Code of Conduct for Directors of Victorian Public Entities 2016

## ***Public Administration Act 2004***

### **Section 61**

#### **Code of Conduct Issued by the Victorian Public Sector Commissioner**

I, Belinda Clark, Victorian Public Sector Commissioner, under section 61 of the *Public Administration Act 2004* (“the Act”), issue the Code of Conduct for Directors of Victorian Public Entities 2016 (“2016 Directors’ Code of Conduct”) as attached, in substitution of the Directors’ Code of Conduct previously issued on 11 October 2006.

I determine that the 2016 Directors’ Code of Conduct applies to and is binding on all Directors of public entities and statutory office holders, as defined in section 4 of the Act, other than the statutory office holders of a special body, or unless excluded by a specific declaration issued by the Victorian Public Sector Commissioner.

The 2016 Directors’ Code of Conduct takes effect on 29 March 2016.



**Belinda Clark QSO**

Victorian Public Sector Commissioner

**Date:** 29 March 2016



# Foreword

The *Code of Conduct for Directors of Victorian Public Entities* reflects the special role of the Board, Chairperson and Directors, and the behaviours that exemplify the duties and values contained in the *Public Administration Act 2004* (the Act). The duties, values and this Code build on our public sector's long tradition of striving to meet the high standards the community rightly expects of it and provide the foundation of the integrity and accountability framework for all public officials.

As the public sector continues to adapt and evolve, it is essential that it retains the key attributes that have allowed it to play its critical role with the full confidence of Government and the wider community for over a century. Those key attributes are its apolitical nature, responsiveness, effectiveness and accountability; and it is precisely these things that the public sector values and this Code seek to reinforce and protect.

Directors work in a vast array of public entities. It is important that the Code be expressed in a way that is relevant across this diverse environment and as a result, the Code will need to be supported by additional information and guidance at the local level.

As it is not possible to provide a detailed rule for every conceivable situation, public entities ultimately must rely on the accountability of individuals for their own actions and behaviour.

I urge all Directors to take the opportunity to consider how the Code of Conduct guides their behaviour and to engage with their fellow Directors about how they can best adhere to its requirements.

# Public Sector Values

Section 7 of the *Public Administration Act 2004* requires public officials, including Directors and statutory office holders, to demonstrate the public sector values by behaving in a particular way.

**Responsiveness** – public officials should demonstrate responsiveness by:

- (i) providing frank, impartial and timely advice to the Government; and
- (ii) providing high quality services to the Victorian community; and
- (iii) identifying and promoting best practice.

**Integrity** – public officials should demonstrate integrity by:

- (i) being honest, open and transparent in their dealings; and
- (ii) using powers responsibly; and
- (iii) reporting improper conduct; and
- (iv) avoiding any real or apparent conflicts of interest; and
- (v) striving to earn and sustain public trust of a high level.

**Impartiality** – public officials should demonstrate impartiality by:

- (i) making decisions and providing advice on merit and without bias, caprice, favouritism or self-interest; and
- (ii) acting fairly by objectively considering all relevant facts and fair criteria; and
- (iii) implementing Government policies and programs equitably.

**Accountability** – public officials should demonstrate accountability by:

- (i) working to clear objectives in a transparent manner; and
- (ii) accepting responsibility for their decisions and actions; and
- (iii) seeking to achieve best use of resources; and
- (iv) submitting themselves to appropriate scrutiny.

**Respect** – public officials should demonstrate respect for colleagues, other public officials and members of the Victorian community by:

- (i) treating them fairly and objectively; and
- (ii) ensuring freedom from discrimination, harassment and bullying; and
- (iii) using their views to improve outcomes on an ongoing basis.

**Leadership** – public officials should demonstrate leadership by actively implementing, promoting and supporting these values.

**Human Rights** – public officials should respect and promote the human rights set out in the *Charter of Human Rights and Responsibilities* by:

- (i) making decisions and providing advice consistent with human rights; and
- (ii) actively implementing, promoting and supporting human rights.



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# Introduction

## 1

### 1.1 Purpose of the Code

This Code of Conduct is based on the Victorian public sector values and sets the standard of behaviour expected of Directors and statutory office holders from the date of their appointment. The behaviours are essential to how Directors and statutory office holders perform their duties and to the relationship they have with their portfolio Minister, departmental and public entity staff, and the community.

### 1.2 Other Available Guidance

The behaviours required by this Code exemplify the duties and values contained in the *Public Administration Act 2004* (the Act). In addition to the standard of behaviour set by this Code, there may be specific guidance that is contained in other legislation, or a policy or procedure set down by the public entity or by some other relevant authority.

Directors who are unsure of the appropriate action to take in a particular situation should seek advice from their Chairperson. The Chairperson may seek advice from the Secretary of the portfolio department.

A Code of Conduct cannot anticipate every possible situation. Where policies and procedures are unclear or prove insufficient in particular circumstances, it is advisable to go back to first principles. This means considering the core ideas contained in both the Code and the public sector values on which it is based. Directors should also consider their duties under the Act.

### **1.3 Professional Codes of Conduct**

Certain professions have professional codes of conduct that establish specific behaviours relevant to that profession. This Code specifies the behaviour expected of Directors and should be read in conjunction with any professional code of conduct. Relevant Directors need to be aware of their professional code of conduct as well as the provisions of this Code.

Professional codes set out a range of matters relating to the profession including dealing with breaches of the professional code. A breach of a professional code may affect the capacity of a relevant Director to continue to act in that profession and may also affect the ability of that Director to undertake duties as a Board member. However a breach of this Code and any sanctions arising can only be determined in accordance with procedures established for this Code.

## 1.4 Breach of this Code

Directors must familiarise themselves with this Code.

A failure to behave in the ways described in the Code may be considered misconduct and in the most serious cases may lead to suspension or removal from office. Additionally a Director who improperly uses their position to gain an advantage for themselves or someone else or to cause detriment to the public entity will be liable for their actions under both civil and criminal law.



Directors are members of the public entity's Board. As such, they have both individual and collective responsibilities. This section of the Code outlines the behaviours expected of Boards.

### 2.1 Leadership and Stewardship

The Board safeguards and oversees management of the public entity. Effective stewardship includes managing the public entity's reputation, intellectual capital and relationship with stakeholders such as the portfolio department and Minister on matters of public administration and governance. The Board should provide sufficient information for the department to advise the Minister on the public entity's activities.

The Board when it meets focuses mainly on strategic matters to ensure that the public entity continues to fulfil its purpose for Government and other stakeholders.

The Board ensures that the public entity has appropriate arrangements in place to meet its legal, ethical and policy obligations.

## **2.2 Board Authority and Delegation**

The Board ensures that matters reserved for the Board are clearly identified. It also ensures that necessary delegations are in place.

The Board makes decisions within its power. If the Board wishes to do something not authorised under the public entity's establishing legislation, but in the public interest or consistent with the objectives of the public entity, then it raises the matter with the department or Minister for consideration. The Minister may be able to issue directions to facilitate the action or may consider potential legislative change.

The Board is accountable for the actions of its delegates and sub-committees. Directors of a sub-committee who are delegated to consider a matter cannot lawfully delegate that power or function to any other individual or body unless the law expressly authorises such delegation.

## **2.3 Best Interests of the Public Entity**

The Board acts consistently with the functions and objectives of the public entity and with any business or strategic plan or other document relevant to its work program.

## 2.4 Risk Management and Financial Responsibility

The Board plays an important role in overseeing the management of risks faced by a public entity. As part of this role, the Board informs the portfolio department and Minister of known major risks to the effective operation of the public entity and of the processes in place to address those risks. It also ensures there are adequate controls in place to prevent fraudulent behaviour.

The Board assures itself that the public entity's financial management system is adequate and designed to minimise processes that can lead to errors. It also ensures that the financial statements or accounts are audited at regular intervals.

## 2.5 Conflicts of Interest and Duty

The Board manages any conflicts of interest and duty in the public interest. Depending on the nature of the conflict, the Board may recommend that Directors restrict their involvement in a matter, step down from the position they hold on a temporary or permanent basis or relinquish their private interest. If the Board determines that a conflict is material, it makes sure that affected Directors do not participate in the matter at all. The Board may seek advice from a disinterested third party such as a probity adviser, lawyer or governance expert when deciding the best option.

The Board records Directors' private interest disclosures in the minutes of its meetings and notifies the Minister in writing of any breach of process.

The Board does not make loans, or give guarantees to provide security for loans or other undertakings, to Directors or their families or associates.

# Directors

## 3

### 3.1 Duties of the Chairperson

The Chairperson<sup>1</sup> presides at meetings of the public entity Board. The Chairperson gives Directors ready access to up-to-date copies of relevant legislation, policies and procedures. The policies and procedures are tailored to the public entity's operating environment and support application of the Code.

### 3.2 Leadership and Stewardship

Directors promote the public sector values to employees through their exemplary behaviour. They encourage a strong culture of accountability where issues are raised early, Board decisions are implemented quickly and people operate within their delegated authority and cooperate with one another.

1 Except for a Commissioner entity, which consists of one person

### 3.3 Complying with Establishing Legislation and Board Policies

Directors comply with the legislation, ministerial charter, constitution, terms of reference or other document under which the public entity was established. They also comply with any government policies and priorities or any ministerial directions that affect the public entity.

Directors are required to comply with the policies and procedures of their public entity including those relating to:

- > assessing the Board's performance;
- > assessing the performance of individual Directors;
- > dealing with poor performance by Directors;
- > resolving disputes between Directors;
- > dealing with conflicts of interest including the offer of gifts; and
- > conducting meetings, making decisions and keeping appropriate records.

### 3.4 Care, Diligence and Skill

Directors exercise their powers with a reasonable degree of care, diligence and skill. They understand the business of the public entity and the role of the Board. They act responsibly, drawing on any knowledge they possess when considering matters before the Board.

Directors regularly attend Board meetings, are actively involved in matters before the Board and consider the financial, strategic and other implications of Board decisions.

Directors seek and consider all relevant information and ignore irrelevant information. They base their decisions on the best information available at the time, seek further information if necessary, and accept responsibility for their actions.

Directors ask questions about matters before the Board. They may ask management for detailed briefings on the public entity's business to inform strategic planning and risk minimisation.

### **3.5 Best Interests of the Public Entity**

Directors act in good faith in the best interests of the public entity. They are active members of the Board and professional in all dealings with fellow Directors.

Directors do not allow their personal or professional interests or relationships to influence their judgement. This impartiality means they are objective when participating in Board discussions and decisions.

They behave in a way that reflects well on their standing as a Director and on the reputation of the public entity.

### **3.6 Proper Use of Position**

Directors use their position to promote the best interests of the public entity. They do not use their position to seek an advantage for themselves or another person or to cause detriment to the public entity.

Directors do not seek gifts or favours for themselves, members of their family or other close personal or business associates. In addition, they decline gifts or favours that may cast doubt on their ability to apply independent judgement.

Directors do not join a Board where they consider that the impartiality of their decisions may be compromised or would reasonably be perceived to be compromised.

### **3.7 Proper Use of Information**

Directors use the information they gain in the course of their Board duties only for its intended purpose. They do not use the information, including privileged information or commercially sensitive information, to obtain an advantage for themselves or another person or to cause detriment to the public entity.

Directors are well informed about freedom of information, privacy and protected disclosure legislation. They respect confidentiality and use their discretion, prudence and good judgement when deciding how to treat information.

Directors only disclose official information or documents when required to do so by law, in the legitimate course of duty, when called to give evidence in court or when proper authority has been given. They confine their comments to facts and do not express personal opinion on official policy or practice.

Directors make a protected disclosure to the Independent Broad-based Anti-corruption Commission if they believe improper conduct is occurring within the public entity. They do not leak information internally or externally.

### **3.8 Standing for Election**

Directors notify the Board if they become a candidate for an election in any state, local or federal election. They do not use the public entity's resources in connection with their candidature.

### **3.9 Fairness and Impartiality**

Directors act fairly and impartially. When participating in Board deliberations and decisions or when resolving disputes between Directors, they behave in a manner that is free of favouritism and self-interest.

Directors consider all relevant facts objectively when implementing government policy and programs to ensure equitable outcomes. They act in accordance with equal opportunity legislation which protects people from discrimination.

Directors are courteous to others. They respect human rights and foster a culture that is free of intimidation and bullying.

### 3.10 Financial Responsibility

Directors act in a financially responsible manner. They exercise care in relation to public funds and assets and, if applicable, comply with the Standing Directions of the Minister for Finance and the rules of the Financial Management Compliance Framework.

Directors demonstrate due diligence through active monitoring of the public entity's financial accounts and financial position. They regularly review financial statements and management reports.

Directors ask questions about the financial material put before the Board, if that material is unclear or raises matters that may be of concern from a financial perspective. They understand the financial justification for decisions taken by the Board. They vote to record their disagreement if they do not believe the financial implications are sufficiently clear or if a Board resolution has financial implications that they consider imprudent.

### 3.11 Honesty and Integrity

Directors act with honesty and integrity. They comply with laws, policies and generally accepted standards of behaviour. They are open and transparent in their dealings.

Directors give proper consideration to matters before the Board. They express their views genuinely, clearly and without ambiguity. They disclose the information or considerations they relied upon in coming to their view.

They speak up when a decision or advice is being considered that may be detrimental to the public interest and vote to record their view.

### 3.12 Conflicts of Interest and Duty

Directors follow Board policy on managing conflicts of interest and duty. Wherever possible, they avoid any real, potential or perceived conflicts. They declare any financial or other outside interests in an annual declaration of private interests. They update this declaration when they are appointed to a new role, their circumstances change or before they consider particular matters.

At the start of each Board meeting, Directors confirm that their entries in the register of interests are complete and correct. They also disclose any interests that relate to particular agenda items.

Directors who have a material conflict of interest or duty in a matter, as determined by the Board, leave the room while the matter is being considered. They do not discuss or take part in any decisions on the matter.

Directors who are appointed as nominees or representatives of industry groups, other government agencies or stakeholders act in the best interests of their public entity.





