FOREWORD

This *Code of Conduct and Ethics* sets a framework for ethical decision-making and defines the standards of behaviour expected of all of us who work in the Department of Corrective Services.

The Code has been developed from the *Model Code of Conduct for NSW public agencies*, feedback from workplace focus groups and comments from union representatives, the Independent Commission Against Corruption (ICAC) and other key stakeholders.

I recognise that decisions are not always straightforward and occasionally there will be a need to balance competing values. I believe that active and open discussion of ethical issues and potential dilemmas will foster integrity and a healthy organisational culture.

I expect all staff to familiarise themselves thoroughly with the contents of this Code.

The current investigations into corrupt conduct within the Department by the ICAC and the resultant private and public hearings, give all of us cause to reflect on our own personal behaviour. Wrongdoers will be exposed and should expect no support from the Department or their work colleagues.

The vast majority of you act responsibly and have nothing to fear. It is, therefore, in your interests to report suspected corrupt conduct or unethical practices, so that public confidence in the Department and your standing in the community is enhanced.

Each of us is entitled to be proud to be an employee of this Department and to feel valued, respected and supported by the Department.

I wish to acknowledge the valuable input to this Code of many individuals. I seek feedback from you to ensure that this Code remains relevant and meaningful. Please contact Human Resource Management on 9289 1480 or 1041 (or facsimile 9289 1399) with any comments or suggestions.

*Leo Keliher*
Commissioner
15 April 1998

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1 INTRODUCTION

Policy statement

The people of New South Wales have a right to expect the business of the State to be conducted with efficiency, fairness, impartiality and integrity.

Public employment carries with it a particular obligation to the public interest. It requires standards of professional behaviour from staff that promote and maintain public confidence and trust in the work of government agencies.

At the same time, people should not be subject to unnecessary restrictions simply because they work in the public sector. State employees have all the normal rights of employees under common law and statute law.

As an employee of the New South Wales Department of Corrective Services, you need to be aware that the general community has a high expectation for you to behave ethically. It is therefore very important not only to behave in accordance with the Department’s Code of Conduct and Ethics, but also to be seen to be abiding by it.

You are accountable for your own acts and omissions in the course of your duties. In addition, if you are a supervisor or manager you may be accountable for the acts and omissions of the employees you supervise.

The Code of Conduct and Ethics covers all employees of the Department. It provides an ethical framework to guide your decisions, actions and behaviour, so that they will, at all times, be rational and fair. It advocates values which require integrity, efficiency, economy, honesty and impartiality.

Statement of ethical principles

You are required to follow the principles listed below when carrying out your duties:

♦ Place the public interest and integrity above private interest

You must promote confidence in the integrity of the Department and always act in the public interest, not in your private interest.

You must protect the reputation of the Department. You should not engage in activities, at work or outside work, that would bring the Department into disrepute.
4. Do these outcomes raise a potential conflict of interest or lead to private gain at public expense?

5. Can the conduct or decision be justified in terms of the public interest and would it withstand public scrutiny?

2 LEGISLATION AND STATUTORY OBLIGATIONS

Relevant legislation The main legislation that applies to State employees is the Public Sector Management Act 1988 and the Public Finance and Audit Act 1983. A number of provisions of the Correctional Centres Act 1952 and Regulations apply to all employees of the Department. The principal Acts and Regulations relevant to employees of the Department are listed in Appendix A.

3 PROFESSIONAL BEHAVIOUR AND PRIVATE CONDUCT

Professional qualities The Department expects you to act with integrity, impartiality and compassion.

Association with offenders You must not knowingly have any personal, social or business association with an offender, former offender or the family or friends of an offender or former offender, without the written permission of your supervisor or manager. If you have any such association, even if it were unintended, you should report it in writing to your supervisor or manager.

You must not behave towards an offender or the family or friends of an offender in a way that prejudices the operation, security or reputation of the Department (Section 8 - Conflicts of Interest).

Nothing in this section prohibits you associating with offenders in exercising your official functions.

Behaviour towards staff You must not behave towards any other employee, particularly an employee under your supervision, in a way that prejudices the operation, security or reputation of the Department.

Private conduct Your behaviour while off duty is not of concern unless it is unlawful or brings, or has the potential to bring, discredit to the Department.

You have an obligation to act, and be seen to act, in accordance with the spirit and the letter of the law and the terms of this Code, whether on or off duty.

Any private activity which may adversely affect your job performance will be regarded as a work-related issue. Such activity could include alcohol abuse, drug use or violent behaviour.
Harassment is any form of behaviour that is not wanted and not asked for and that:

♦ humiliated and/or intimidates someone, and
♦ is generally intended to cause offence.

You must not behave in ways which are unwelcome, demeaning, unreciprocated and/or offensive to an individual or a group of people.

Discrimination and harassment on the grounds of sex, marital status, pregnancy, age, race, ethnic or ethno-religious background, disability, homosexuality and transgender are unlawful in various areas of public life, for example employment.

6 FAIRNESS AND EQUITY

Decisions
You must deal with issues or cases consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, in a non-discriminatory manner, and consistent with the rules of natural justice.

You must act in a fair manner to achieve equitable outcomes. Unfairness such as favouritism, inconsistency or discrimination affects morale and efficiency.

Established procedures
You must always comply with established procedures for recruitment, selection, promotion and conditions of employment, based on equal employment opportunity and anti-discrimination legislation.

Using discretionary powers
You should consider each case on its merits and, where no established policy or procedure exists for an activity, be guided by the following principles:

♦ necessary information and access to programs and activities should be made equally available to all potential participants
♦ each person must be tested against the same criteria or conditions
♦ procedures should give no advantage to any person or organisation, and
♦ selection and other decisions must be based on established facts.

You should seek advice if in any doubt as to the appropriate course of action, so as to ensure that fair decisions are made and good working relationships are maintained.
Any conflict of interest, or potential conflict of interest, may be resolved by your supervisor or manager, using one of the following options:

♦ recording the details of the disclosure and taking no further action because the potential for conflict is minimal or can be eliminated by effective supervision

♦ requesting or, if necessary, directing you to relinquish the personal interest

♦ removing you from the decision-making process.

If uncertain, you should contact one of the people referred to in Appendix B for advice as to whether the particular situation is classed as a conflict of interest.

9 GIFTS AND BENEFITS

Seeking gifts or benefits

You must not take advantage, or attempt to take advantage, of your position by seeking or demanding, from any person or organisation, any reward, payment, gratuity, gift, donation or other benefit for yourself or for any other person or organisation.

Accepting gifts or benefits

You must not accept offers of gifts or other benefits, other than in the circumstances specified below. In this way, there will be no situations where you might be, or might appear to be, compromised.

The general rule is to discourage or politely decline any gift, no matter how small. You may accept benefits of a token kind or moderate acts of hospitality, such as an offer of tea or coffee, where appropriate.

Approval may be given for the acceptance of a token gift. You should make a written request to your supervisor or manager to retain the gift. It should state:

♦ what the gift is

♦ the approximate monetary value of the gift, and

♦ from whom the gift was received.

A record of all such requests and approvals must be kept by the supervisor or manager for audit purposes.
Obtaining permission

You must obtain official permission from the Media and Public Relations Unit before making a public comment about your work or the activities of the Department.

Public debate

As a member of the community, you have the right to make public comment and enter into public debate on political and social issues. However, you must make it clear that you are speaking on your own behalf. For example, it would be inappropriate without official permission to:

♦ sign a letter to a newspaper “Jane Doe, Correctional Officer, XYZ Correctional Centre”
♦ make a personal statement for radio, television or print media, as a representative of the Department
♦ be photographed or filmed by the media while wearing a Departmental uniform, except in circumstances beyond your control.

When public comment is inappropriate

There are some circumstances in which public comment on the work of the Department is particularly inappropriate. For example:

♦ where the comment would appear to compromise your ability to administer Departmental policy in an efficient and professional manner

♦ where the comment gives the impression that you are not prepared to implement the policies of the Department.

Comments on union business

Comments made on union matters by a member of a union in his or her capacity as a local delegate, or as a union office holder employed by the Department, are permissible under this Code.

12 OFFICIAL INFORMATION

Care and use

The integrity and credibility of the Department must be maintained by keeping its information secure.

All information gained in the course of official duties must be treated with due care and confidentiality to protect the welfare of others and for the proper security of Departmental operations.

Protecting information

You must only access information in which you have a legitimate work interest and must not release or otherwise disclose any Departmental information without authorisation, except in accordance with policy.
Contesting State or Federal elections

Commissioner in writing immediately. Before making a decision on the activity, the Commissioner will take into consideration the nature of the issue, the extent of your participation, your position in the Department and your public prominence. The Commissioner may direct you to stop the political activity or withdraw from the areas of work affected.

Special arrangements apply to public employees who have been pre-selected as candidates for or who propose to contest State or Federal elections. Details of these arrangements can be obtained from the Personnel Handbook.

15 SECONDARY EMPLOYMENT

Priority to public employment

Priority must always be given to your public employment. This applies whether you are working full-time, part-time or in a temporary capacity.

Any secondary employment should be performed in your private time and should not affect the efficiency or performance of your official duties.

Approval for secondary employment

You must obtain written approval from the Commissioner or an authorised delegate before you engage in any form of employment (paid or unpaid) outside your official duties. Each case will be considered on its merits in accordance with Departmental policy.

Community participation

The Department encourages participation in voluntary community organisations, charities and professional associations. Such participation does not require approval, unless the involvement is likely to conflict with your official duties. Where you are an office holder of such a body, you should seek approval as above.

16 FUTURE EMPLOYMENT

Future employment

You must not use your position improperly to obtain opportunities for future employment. To do so would put the integrity of the Department at risk and would constitute a conflict of interest.

You should not at any time allow your actions to be influenced by future employment prospects.

You should not use, or take advantage of, information obtained in the course of your employment with the Department in any future employment, unless the information has become publicly available.
You are entitled to report suspected corrupt conduct to certain external organisations. Depending on the nature of an allegation, employees may contact the following external bodies: the ICAC, the Ombudsman, or the Auditor-General.

**Support for staff**
You are encouraged to report suspected corrupt conduct and will be supported by the Department if you do so.

**Responsibility of supervisors and managers**
If you are a supervisor or manager, you must ensure that all employees have appropriate information about the Department’s internal reporting procedures.

**Protected disclosures**
If you wish to make a report of suspected corrupt conduct, maladministration or serious and substantial waste under the *Protected Disclosures Act 1994*, you must use the approved reporting system for protected disclosures.

The *Protected Disclosures Act* also provides certain protection from reprisals. You should refer to the *Protected Disclosures Policy* for further information.

You may make a protected disclosure to the Commissioner or to one of the following officers:

- Corporate Counsel
- Director Security and Investigations
- Manager Corruption Prevention.

19 FAILURE TO COMPLY WITH THIS CODE AND/OR LEGISLATION

**Consequences**
If you breach this Code, the laws under which the Department operates or laws that apply to employees as citizens or residents of Australia, you may be liable to disciplinary and/or criminal charges.

**Sanctions**
Sanctions may include:

- counselling
- a warning
- disciplinary action or criminal prosecution (which may result in dismissal).
APPENDIX A - RELEVANT LEGISLATION

Legislation administered by the Department:

Community Service Orders Act 1979
Correctional Centres Act 1952
Home Detention Act 1996
Parole Orders (Transfer) Act 1983
Periodic Detention of Prisoners Act 1981
Prisoners (Interstate Transfer) Act 1982
Sentencing Act 1989

Other legislation:

Anti-Discrimination Act 1977
Crimes Act 1900
Freedom of Information Act 1989
Government and Related Employees Appeal Tribunal Act 1988
Independent Commission Against Corruption Act 1988
Industrial Relations Act 1996
Occupational Health and Safety Act 1983
Ombudsman Act 1974
Protected Disclosures Act 1994
Public Finance and Audit Act 1983
Public Sector Management Act 1988

APPENDIX B - REFERENCE POINTS IN THE DEPARTMENT

- Corporate Counsel
- Director Audit
- Director Professional Standards Unit or nominee
- Director Security & Investigations
- Executive Director Human Resource Management or nominee
- Manager Corruption Prevention
APPENDIX D - RELEVANT DEPARTMENTAL POLICIES

Listed below are some relevant Departmental policies, with the corresponding Branch or Unit responsible for generating the policy. The list is intended as a further source of reference and assistance. The list is sorted alphabetically and is not a complete list of all policies. A copy of a listed policy can be obtained from the Branch or Unit responsible for the policy.

There are other sources of information, both internal and external, such as the Operations Procedures Manual, Delegations Manual, and the Personnel Handbook.

Audit:
• Corruption prevention strategy
• Protected disclosures policy

Freedom Of Information Unit:
• Freedom Of Information (FOI) - delegations and procedures
• FOI - charging fees policy
• FOI - Governors’ responsibilities

Information Management Branch
• Information technology security policy

Media and Public Relations:
• Media policy

Personnel Services:
• Grievance resolution policy and procedures
• Performance management for non-SES staff
• Prevention of harassment policy and guidelines
• Recruitment policy
• Secondary employment policy
• Senior executive performance management system
• Working where close relationships exist policy

Records Unit:
• Retention of records policy
• Public access to semi-current and archival records policy

Security and Investigations:
• Reporting of serious criminal offences