

COMMISSIONER FOR PUBLIC EMPLOYMENT

# GUIDELINE

*for the South Australian Public Service*

## Ethical Conduct

*OCTOBER 2001*



Government  
of South Australia

## ***INTRODUCTION***

Ethics in the context of the South Australian public sector is about fostering and maintaining the standards of behaviour that ensure public trust and the successful operation of the public sector.

The core ethical standards and behaviours for public sector agencies and employees are informed by public expectation and incorporated in the General Public Sector Aims and Standards outlined in the Public Sector Management Act, 1995.

The principles outlined in this Guideline reflect the various levels at which ethical considerations should be addressed within an agency. They guide agencies on the expected ethical standards that form the basis for public sector policies and the conduct of all public sector employees.

The principles reflect best practice outcomes for all public sector agencies and their employees. They also highlight the specific requirements relating to Public Sector Management Act employees.

It is acknowledged that the principles have been adapted from the 1998 Recommendation of the Organisation for Economic Co-operation and Development Council on Improving Ethical Conduct in the Public Service (2000).

## ***KEY RESULT AREA***

This guideline is linked to the Managed Performance key result area of the Strategic Human Resource Management Framework for the South Australian Public Sector:

### ***Managed Performance***

Define fair performance requirements and standards of ethical conduct for all employees, provide support for their achievement of identified goals, review performance and provide clear feedback, and agreed rewards and sanctions where appropriate.

(eg ethical conduct standards, whistleblowers policy, performance development, disciplinary processes)



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## *An Ethical Framework - Legislative Requirements*

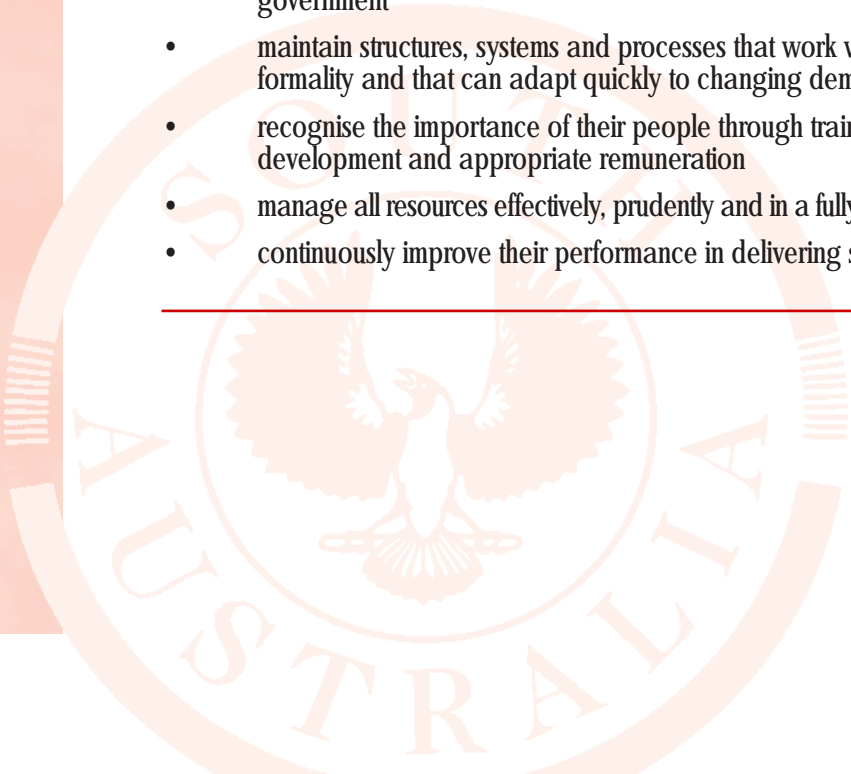
The public sector exists to serve the government of the day and, through the Government's policies and programs, the South Australian community. It comprises different types of organisations that are created under a range of legislative and administrative arrangements. The employees of public sector agencies also have varied conditions of employment established under a range of Acts, awards and enterprise agreements.

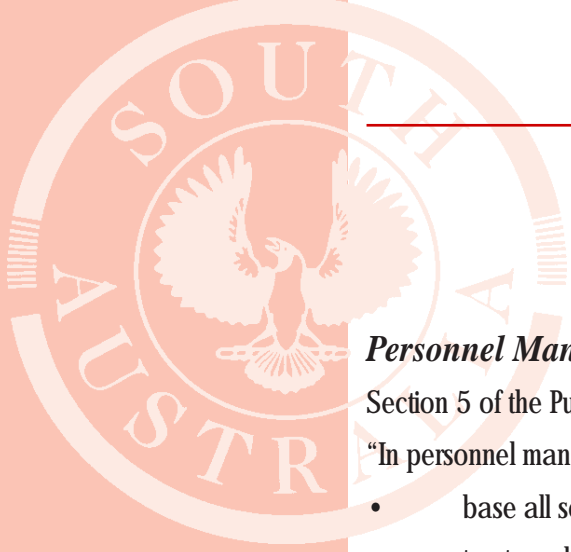
The General Public Sector Aims and Standards outlined in Part 2 of the Public Sector Management Act apply to all public sector agencies and all public sector employees, regardless of how they are established or employed.

### *General Management Aims*

Section 4 of the Public Sector Management Act states:

“Public sector agencies will aim to -

- provide responsive, effective and efficient services to the community and the government
  - maintain structures, systems and processes that work without excessive formality and that can adapt quickly to changing demands
  - recognise the importance of their people through training, ongoing development and appropriate remuneration
  - manage all resources effectively, prudently and in a fully accountable manner
  - continuously improve their performance in delivering services.”
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### ***Personnel Management Standards***

Section 5 of the Public Sector Management Act states:

“In personnel management, public sector agencies will -

- base all selection decisions on a proper assessment of merit
- treat employees fairly and consistently and not subject employees to arbitrary or capricious administrative decisions
- prevent unlawful discrimination against employees or persons seeking employment in the public sector on the ground of sex, sexuality, marital status, pregnancy, race, physical impairment or any other ground and ensure that no form of unjustifiable discrimination is exercised against employees or persons seeking employment in the public sector
- use diversity in their workforces to advantage and afford employees equal opportunities to secure promotion and advancement in their employment
- afford employees reasonable avenues of redress against improper or unreasonable administrative decisions
- provide safe and healthy working conditions
- prevent nepotism and patronage.”

### ***Employee Conduct Standards***

Section 6 of the Public Sector Management Act states:

“Public sector employees are expected to -

- treat the public and other employees with respect and courtesy
  - utilise resources at their disposal in an efficient, responsible and accountable manner
  - deal with information of which they have knowledge as a result of their work only in accordance with the requirements of their agencies
  - endeavour to give their best to meet performance standards and other organisational requirements
  - conduct themselves in public in a manner that will not reflect adversely on the public sector, their agencies and other employees
  - observe all relevant legislative requirements.”
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# PRINCIPLES

## *1. Public sector chief executives and managers model and promote high ethical standards*

Public sector leaders, including but not limited to chief executives, executives and managers, have a responsibility to embrace and communicate the behaviours and values that are the basis of the ethical framework for the public sector.

Public sector leaders must:

- (a) abide by the laws, regulations and policies determining their public sector activities
  - in particular by abiding by the General Public Sector Aims and Standards as outlined in the Public Sector Management Act
- (b) be accountable and transparent in their administration and conduct of public sector business
- (c) model and promote high ethical standards in all public sector related activities.

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## *2. Ethical principles are integrated into the agency's business*

Agency structures, policies and processes should be designed to promote and build ethical behaviour.

Agencies need to:

- (a) demonstrate their commitment to ethical standards through their management policies and practices
  - (b) ensure that all agency policies, procedures and practices reflect the requirements of the General Public Sector Aims and Standards of the Public Sector Management Act
  - (c) ensure decision making is transparent and open to scrutiny. This allows the community and employees to understand how the public resources and power entrusted to them are utilised. This is particularly important where the public sector interfaces with the private sector, such as during processes of contracting out, procurement and using consultants
  - (d) put in place a regular review process to ensure that any potential or real systemic ethical issues are recognised and dealt with in a timely manner
  - (e) ensure human resource management policies and conditions of employment create an environment conducive to ethical behaviour.
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### ***3. Expected ethical standards are promoted to all employees***

All employees need to know the ethical framework they are expected to apply to their work and where the boundaries of acceptable behaviour lie.

Agencies must:

- (a) clearly articulate expected ethical standards to employees and make it clear that employees must comply with agency policies and ethical standards specific to their employment
- (b) provide access to the Code of Conduct for South Australian Public Sector Employees and ethical conduct standards at each work site. Agencies may also develop an agency code of conduct that addresses their core business. Where appropriate these may also incorporate professional codes of practice that have been established by industry bodies for specific professional or occupational groups
- (c) ensure induction processes for employees address the expectations of behaviour and the ethical responsibilities related to the public sector, the agency and the position. This should occur when employees enter the public sector for the first time, move between agencies, and move between positions.

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### ***4. Education and support in ethics is provided to employees***

Agencies should promote awareness of and facilitate ethical decision making by public sector employees by supporting the development of necessary judgement and skills to enable them to apply ethical principles in their work.

Agencies should develop and provide:

- (a) an ethics education program. This program should reflect both the general public sector requirements and the specific requirements of the agency and should be aimed at all levels and groups of employees
  - (b) mechanisms which enable the open and frank discussion of ethical issues and the provision of impartial advice on ethical issues.
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## 5. Breaches of conduct are dealt with appropriately

Mechanisms for the detection and independent investigation of inappropriate conduct are a necessary part of an ethics infrastructure. It is essential to have reliable procedures and resources for monitoring, reporting and investigating breaches of ethical standards, as well as appropriate penalties to discourage misconduct.

Agencies must:

- (a) have a policy or processes for dealing with breaches of conduct by employees. The policy should address:
  - processes for employees to report or discuss possible breaches of conduct. Information should also be provided on independent reporting mechanisms such as those provided under the *Whistleblowers Protection Act 1993* and the *Equal Opportunity Act 1984*
  - disciplinary measures that reflect the relevant legislative provisions. For Public Sector Management Act employees this is Part 8 of the Act
  - support mechanisms for employees such as counselling, employee assistance programs and performance management
- (b) ensure managers and supervisors are able to monitor and guide behaviour and exercise appropriate judgement in managing employee misconduct
- (c) ensure that the severity of action taken against an employee for breaches of misconduct reflects the severity of the misconduct.

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## ***OTHER INFORMATION***

### ***Legislation***

- Public Sector Management Act, 1995
- Industrial and Employee Relations Act, 1994
- Equal Opportunity Act, 1984
- Occupational Health Safety & Welfare Act, 1986
- Disability Discrimination Act (Cth), 1996
- State Supply Act, 1985
- Public Finance and Audit Act, 1987
- Whistleblowers Protection Act, 1993

### ***Publications issued by the Commissioner for Public Employment***

- Code of Conduct for South Australian Public Sector Employees
- PSM Act Determination 9: Ethical Conduct

### ***Other Publications***

- Premier and Cabinet Circulars
  - Treasury and Finance Instructions
  - Internal agency policies that reflect the specific needs of the agency
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### *About Guidelines*

The Commissioner for Public Employment issues guidelines in accordance with Section 22 of the Public Sector Management Act 1995.

The guidelines detail the principles underpinning the eight key result areas of the Strategic Human Resource Management Framework for the South Australian Public Sector.

This guideline has been prepared in consultation with agencies with a view to facilitating agency level decision making. Where a requirement exists under legislation, or in government policy, the guideline indicates this.

Where necessary, the Commissioner issues PSM Act Determinations and supporting material. The determinations are binding, so as to ensure the effective implementation of Government public sector workforce policies and the personnel management standards of the Act, and the protection of key employment conditions. The supporting materials explain best practice in human resource management and provide additional information to agencies.