



# CODE OF CONDUCT

## 1. POLICY PURPOSE

A Code of Conduct is a set of standards and behaviours related to the way we do our work. It puts a responsibility on each of us to use sound judgement while at work.

It aims to deliver best practice by ensuring those standards are clear and guided by sound ethics. By consistently applying these standards, we enhance public trust and confidence in each of us. Nothing in this Code interferes with your rights as a private citizen or a ratepayer.

The Code does not cover every situation. However, the values, ethics, standards and behaviours it outlines are a reference point to help make decisions in situations it does not cover. If you act in good faith and in keeping with the spirit of the Code, you can expect to be supported by your colleagues, your team leader/supervisor/Director and by Council.

A 'Guide for ethical decision-making' is included at [Appendix B](#) to help you in situations not covered by the Code.

## 2. LEGISLATIVE PRINCIPLES AND CORPORATE VALUES

The *Public Sector Ethics Act 1994* (QLD) identifies four ethics principles fundamental to good public administration that guide our behaviour as Public Officials and form the basis for a local government Code of Conduct. The four principles are:

1. Integrity and impartiality;
2. Promoting the public good;
3. Commitment to the system of government; and
4. Accountability and transparency.

The *Local Government Act 2009* (QLD) sets out the way in which a local government is constituted and the nature and extent of its responsibilities and powers. The Act requires Council's actions are consistent with the following local government principles:

- (a) transparent and effective processes, and decision-making in the public interest; and
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) democratic representation, social inclusion and meaningful community engagement; and
- (d) good governance of, and by, local government; and
- (e) ethical and legal behaviour of councillors, local government employees and councillor advisors.

These legislated principles, together with Council's corporate values, form the basis of this Code of Conduct. They apply to all employees and guide our thinking, actions and decision-making.

The values we share as employees of Council are:

1. Passion for McKinlay Shire Council area and its people
2. Responsive customer service
3. Respect for people

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Date of Approval: 15<sup>th</sup> October 2025  
Approved By: Council Resolution 086/2526

Effective Date: 16/10/2025  
Version: 4.0  
Review Date: September 2028

4. Courage to make a difference
5. Working together
6. Getting things done
7. Value for money.

### **3. POLICY STATEMENT**

We are in the business of providing community value. This means that, among other things, we ensure our day to day conduct is of a high standard - in keeping with the trust held in us by the Community. This Code provides an outline of minimum behavioural standards required of all employees of the Council, regardless of employment status.

Council conducts its business with integrity, honesty and fairness and complies with all relevant laws, regulations, codes and corporate standards.

Everyone working for Council must follow the highest standards of behaviour when dealing with customers and each other. Our leaders must encourage a culture where ethical conduct is recognised, valued and followed at all levels.

Council actively supports, encourages and develops its employees to:

- work safely;
- be customer focused;
- use technology and Council assets effectively;
- adapt to changes;
- improve their own capabilities; and
- contribute to Council's Community, Corporate and Operational Plans.

### **4. APPLICATION OF THE POLICY**

All Council employees (regardless of their employment status, role or position – e.g. permanent, temporary, casual or part-time employees, managers, supervisors, team leaders, team members or individuals), contractors, consultants, volunteers and students (workers) must be familiar with and follow the spirit and content of the Code of Conduct.

The Code is concerned with our conduct as Public Officials and behaviour as individuals at work and outside the workplace where particular behaviour may be directly related to our employment and Council activities and in other circumstances where our actions may impact upon the reputation and activities of Council.

### **5. POLICY CONTENT**

#### **Ethical Principles, Values and Conduct**

#### **1. The First Principle – Integrity and Impartiality**

*Public Sector Ethics Act 1994 (QLD)* section 6 states:

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Date of Approval: 15<sup>th</sup> October 2025  
Approved By: Council Resolution 086/2526

Effective Date: 16/10/2025  
Version: 4.0  
Review Date: September 2028

*“In recognition that public office involves a public trust, public service agencies, public sector entities and Public Officials seek to promote public confidence in the integrity of the public sector and—*

- 1. are committed to the highest ethical standards; and*
- 2. accept and value their duty to provide advice which is objective, independent, apolitical and impartial; and*
- 3. show respect towards all persons, including employees, clients and the general public; and*
- 4. acknowledge the primacy of the public interest and undertake that any Conflict of Interest issue will be resolved or appropriately managed in favour of the public interest; and*
- 5. are committed to honest, fair and respectful engagement with the community.”*

This means employees should, for example:

- Avoid acting in a way that may cause public concern about the integrity of the council
- Provide expert and comprehensive advice to Elected Officials in accordance with operating guidelines
- Ensure that individual behaviour is not harassing or discriminatory
- Disclose all conflicts of interest
- Avoid favouritism in employment matters
- Act honestly and disclose fraud, corruption and maladministration.

The following standards of behaviour are required:

## **1.2 Conflicts of Interest**

When making decisions, you must declare any conflicts of interest that could affect your objectivity in carrying out your duties.

A Conflict of Interest involves a conflict between your official duties and responsibilities in serving the public interest and your private interests. A Conflict of Interest can arise from avoiding personal losses as well as gaining personal advantage – whether financial or otherwise. This includes advantages to relatives and friends.

If you believe you have a Conflict of Interest, whether real, potential or perceived, you must tell your team leader/supervisor/Director promptly. Your team leader/supervisor/Director will then provide further direction on how to resolve the matter giving rise to the Conflict of Interest.

Until the matter is resolved, you must make sure you are not part of any decision-making processes related to the matter.

If you feel you have a Conflict of Interest between professional and corporate values, discuss it with your team leader/supervisor/Director.

Where required by Chapter 8, Part 5 of the *Local Government Regulation 2012* (QLD) you may be required to supply details of interests to the CEO or Mayor to be included in a Register of Interests and ensure particulars contained in a Register of Interests remain current and correct.

### **1.3 Influences on decision-making**

You must not influence any person in an improper way with the aim to obtain personal advantage or favours.

All decisions need to be, and be seen to be, fair and transparent. This can be achieved in a number of ways, including clear record-keeping and showing how decisions were made.

You must not in any way misrepresent your qualifications, experience or expertise in any recruitment and selection process.

[Appendix B](#) has more information about how to undertake ethical decision making: see 'A guide to ethical decision-making'.

You must ensure that any contact with lobbyists complies with any Policy of Council and the requirements of the *Integrity Act 2009* (QLD) (as outlined at [Appendix C](#)).

### **1.4 Accepting Gifts and Benefits**

Occasionally you may be offered gifts or benefits from people with whom you do business.

Pursuant to the *Local Government Act 2009* (QLD) s199, it is an offence for an employee to ask for, or accept, a fee or other benefit for doing something as a local government employee. However, this does not apply to remuneration paid by Council or a benefit that has only a nominal value.

The acceptance of Gifts or Benefits of a nominal value may be permitted in limited circumstances, however as a rule you must not accept any gifts or benefits if there is a possibility that in doing so, you could create a real, potential or perceived Conflict of Interest or be seen to be receiving a bribe.

The test to apply is whether you could be (not whether you are) influenced by your private interests in carrying out your official duties, or whether people are likely to believe that you could be influenced.

For example, ask yourself if accepting the gift or benefit could suggest that the giver may or would receive favourable treatment.

Where required by Chapter 8, Part 5 of the *Local Government Regulation 2012* (QLD), senior contract employees (including the CEO and Councillors) must ensure that gifts are recorded in their Register of Interests.

### **1.5 Employment outside Council**

It is not Council's intention to stop people from holding secondary employment over and above your official duties as a Council employee. Approval for secondary employment is automatically granted for you to undertake private employment outside of your normal working hours as long as the following requirements are met:

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- a) That no Conflict of Interest exists or develops, between private employment and your official duties.
- b) That your private employment has no effect on the performance of your official duties. This includes effects from a safety/fatigue management perspective.
- c) That your private employment does not involve use of Council resources (physical, technological or intellectual); and
- d) You must ensure that your work outside Council continues to meet the requirements at (a); (b) and (c); and
- e) Pursuant to the *Local Government Act 2009* (QLD) s198, where you seek to be employed by more than 1 local government at the same time, approval of each of the local governments is required prior to you being appointed to the second position.

Although you do not need written approval, if you undertake voluntary work or a hobby you also need to ensure that these activities meet the above requirements. If you are unsure, you should discuss this with your team leader/supervisor/Director.

### **1.6 Public Comments on Council Business**

As a general rule, Councillors and the Chief Executive Officer may comment publicly on Council business. Council business can be topical, sensitive and controversial and there is a process to be followed when making public comments.

If you are asked to comment on any Council matter via the media or other public relations firms, you should do so only with express permission from the Chief Executive Officer.

You must also ensure that to the extent you collect, handle or give access to personal information, you comply with Council's Information Privacy Policy and the Privacy Principles outlined under the *Information Privacy Act 2009* (QLD). A copy of the Privacy Principles as applying to Council is outlined at [Appendix D](#).

### **1.7 Advice given to Elected Officials**

Councillors may, from time to time, ask local government employees for advice for the purpose of assisting the Councillor carry out their responsibilities under the *Local Government Act 2009* (QLD). Where requests for advice are made, these must be consistent with the Councillor Code of Conduct and the 'Acceptable Requests Guidelines' which has been adopted by resolution of Council. Council employees have a responsibility to provide such relevant advice as requested by a Councillor, and in doing so must ensure that such advice is thorough, responsive, objective, independent, apolitical and impartial. Furthermore, the employee is required to fully inform the CEO of the interaction with a Councillor.

Where an employee believes that a request for advice by a Councillor is not in accordance with Council's adopted 'Acceptable Requests Guidelines, you must discuss this with the CEO.

Similarly, it is inappropriate for employees to approach Councillors with queries or concerns regarding staffing or operational matters

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## **1.8 External Activities**

Council supports and is committed to ensuring all staff are free to engage in trade union, party-political, professional, interest group or charity activities of their choosing. However, you must make sure that your participation in such activities does not cause either a Conflict of Interest, and/or unduly restricts the performance of your official duties with Council.

You must not allow your involvement in any external organisation to intrude upon your duties, as a Council employee, which includes Council's confidence in you to give sound advice to Council that is objective, independent, apolitical and impartial.

You are not to take part in political affairs whilst on duty. Council's IT systems, including internet access and email, Council newsletters and workplaces must not be used for political messages or circulating defamatory or disparaging remarks against individuals, groups or Council itself.

If you comment publicly in connection with external activities, you must make a clear distinction between your opinion as a member of the external organisation, and your opinion as a Council employee.

You must not use your role in Council, Council information, or information gained in the course of your official duties as a Council employee, to advance your position or standing within an external organisation, nor for the benefit or promotion of an external organisation. You must not provide Council information to members of other groups or related persons, except where this information is publicly available.

As a member of an external organisation, you need to be aware that participating in activities in the public arena, where you may be identified as a Council employee, can give rise to a perception of Conflict of Interest in some circumstances. Where such a situation arises, you must declare and manage the conflict in accordance with this Code of Conduct and any other relevant policy adopted by Council.

## **1.9 Behaviour towards each other**

Employees should treat other employees with respect, honesty, courtesy, fairness, sensitivity and dignity, regardless of their employment status within the council.

This includes being tolerant of, and not dismissing the views held by others, which may be different from the employee's own view. As members of an increasingly multicultural and tolerant society, employees must make all reasonable efforts to gain an understanding and appreciation of cultural, gender, religious, and sexual differences.

Employees who supervise or manage other employees have a special responsibility to model this kind of behaviour, and to ensure that the people they supervise understand the standard of performance and behaviour that is expected of them at work when dealing with internal and external customers.

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Council values diversity, and expects all its employees, contractors and volunteers to accommodate and respect different opinions and perspectives, make reasonable efforts to gain an understanding and appreciation of cultural differences, and manage interpersonal disagreements by rational and respectful discussion.

Employees must not behave towards any other person in a way that could be perceived as intimidating, overbearing or bullying, or that may constitute unwelcome conduct of a sexual nature. This includes assault as defined in the *Criminal Code Act 1899* (QLD) (see section 245), and unlawful stalking (see section 359B).

Effective teamwork is an essential part of a productive workplace culture. Each team member needs to work co-operatively with fellow employees and actively and willingly take part in team activities (eg. team meetings). Staff in leadership positions (such as Supervisors, Team Leaders, Managers and Directors) are expected to behave in an exemplary manner and lead by example regarding their overall conduct. This includes but is not limited to an obligation to:

- behave in accordance with the Code of Conduct and all of Council's policies;
- maintain open and honest face to face communication with their staff;
- treat staff fairly, equitably and consistently;
- provide training and development opportunities to staff;
- ensure staff understand performance expectations and provide clear and constructive feedback regarding performance;
- address performance issues promptly;
- ensure staff can operate in a safe and healthy environment;
- intervene at the earliest possible opportunity and address any inappropriate behaviour; and
- encourage teamwork

#### **1.10 Discrimination and harassment**

Council is committed to creating and maintaining a workplace free from discrimination and harassment. Employees must not discriminate against, harass (including sexually harass), bully, insult, intimidate or mistreat customers, employees or members of the public.

Managers are expected to provide leadership in eliminating bullying and other aggressive or coercive behaviours.

#### **1.11 Human Rights**

Council is committed to creating and maintaining a workplace that values and recognises people's human rights. Human rights recognise the inherent value of each person, regardless of background, where we live, what we look like, what we think or what we believe.

They are based on principles of dignity, equality and mutual respect, which are shared across cultures, religions and philosophies. They are about being treated fairly, treating others fairly and

having the ability to make genuine choices in our daily lives. Respect for human rights is the cornerstone of strong communities in which everyone can make a contribution and feel included.

### **1.12 Equal Employment Opportunity (EEO)**

Council is strongly committed to ensuring that the principles of EEO and equity are integral to all management processes, working conditions and to all aspects of service delivery.

Employees must ensure that they have a thorough understanding of EEO and anti-discrimination obligations and are familiar with council's Policies relating to EEO and anti-discrimination.

### **1.13 Safety, health and the environment**

Council is committed to zero harm in the way we conduct our business and activities.

Council will endeavour to ensure that persons are free from:

- death, injury or illness caused by the workplace, relevant workplace area, work activities, or plant or substances for use at work; and
- the risk of death, injury or illness caused by the workplace, relevant workplace area, work activities, or plant or substances for use at work.

You must take reasonable steps to ensure your own safety, health and welfare in the workplace. You also have a duty of care to both fellow employees and members of the public.

For more information refer to Council's Health and Safety Policy

## **2. The Second Principle – Promoting The Public Good**

*Public Sector Ethics Act 1994 (QLD) section 7 states*

*"In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public service agencies, public sector entities and Public officials –*

- (a) accept and value their duty to be responsive to both the requirements of government and to the public interest; and*
- (b) accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions; and*
- (c) accept and value their duty to manage public resources effectively, efficiently and economically; and*
- (d) value and seek to achieve excellence in service delivery; and*
- (e) value and seek to achieve enhanced integration of services to better service clients."*

This means employees should, for example:

- Manage all forms of public resources in accordance with the program goals
- Use or manage customer's money in accordance with council policy
- Ensure terms of any grants and funding agreements are complied with
- Allocate resources consistent with council policy
- Ensure that customers are treated with respect and know their rights



The following standards of behaviour are required:

### **2.1     *Customer service***

As a Council employee it is expected that you will strive to provide excellent customer service. You must treat members of the public equitably and with honesty, fairness, sensitivity and dignity.

All Council employees serve ratepayers directly or indirectly. If your role in Council involves regular contact with the public, it is important to know how to deal comfortably and calmly with difficult situations and difficult people.

You are expected to treat complaints from customers, ratepayers, and the community or fellow employees seriously and respond to constructive feedback as an opportunity for improvement.

Customers have a right to complain or criticise Council. Council expects its employees to show respect towards complainants. While you must make all reasonable efforts to help customers lodge complaints, if you think a situation is threatening or intimidating, you are entitled to withdraw. If in doubt, ask for help from a more experienced colleague, or a team leader/supervisor/Director. Council will support any employee who believes they are under threat from a member of the public.

### **2.2     *Corporate Image***

Council's image can be impacted by the presentation of staff. Council requires its office-based employees to appear neat and tidy and maintain a professional business standard of dress. If you are unsure about what constitutes appropriate dress please discuss this with your supervisor or refer to Council's Uniform Policy. Where you have been provided with Council uniforms, you are required to wear all components of the uniform without alteration (other than alterations designed to ensure a proper fit) and ensure that uniforms are clean and tidy. If you are a supervisor you are expected to ensure that staff are appropriately presented at all times.

Should employees find themselves in a public area and still in uniform when off duty, they must always be aware that they may be perceived as representing council and must act accordingly.

### **2.3     *Use of resources***

Council's resources include property, plant, equipment, information systems, computing resources, goods, products and valuables. All resources must be used economically, efficiently, carefully, protected from misuse or theft and stored, maintained and repaired in good working order. All employees share the responsibility for looking after Council resources and must also avoid waste or extravagance, ensuring that resources are used only for legitimate activities of Council.

Council resources are not to be consumed or borrowed for personal use. Where materials are set aside for a particular job and are not completely used, the remaining material is to be returned to stock for future use. You must not store personal files on Council's IT assets. Any files stored on, or information accessed using Council assets, are discoverable by Council.

Council allows limited personal use of electronic mail and World Wide Web browsing, subject to and in accordance with Council Policy. Limited personal use means use that is infrequent and brief, and is performed during your non-paid time, that is, before and after work or during meal breaks.

You can use telephones on a limited basis for local calls that you cannot make conveniently outside working hours.

Council vehicles are a significant and valuable part of Council's resources and must be treated with care. When using Council vehicles, employees must be aware that they are subject to public scrutiny and ensure that the vehicle is used in a safe and efficient manner at all times. If employees have approved personal use of a Council vehicle, they must ensure that it is used and maintained in accordance with relevant Council policy and contractual agreements. Upon conclusion of your employment with Council, you must return all Council property and work-related documents immediately

## **2.4 Fairness to suppliers**

Council's contracting activities are regulated pursuant to the *Local Government Act 2009* (QLD) s104. Further, Council has established procedures and delegations of authority for various stages of procurement of goods and services which reflect sound contracting principles as defined pursuant to the *Local Government Act 2009* (QLD) s104 (3). You must ensure you comply with the sound contracting principles as defined by the *Local Government Act 2009* (QLD) s104(3) and the Council Procurement Policy, and follow all Council procedures when seeking suppliers for goods or services. If you have been approved to be involved in offering contracts or buying goods and services from outside Council, you must be sure you have taken reasonable, fair and consistent steps to allow all potential suppliers to bid for work.

You also need to ensure that you do not incur any liability or enter into any contract on behalf of Council, or alter the terms or conditions of any contract which Council has already entered, unless you are authorised to do so.

## **2.5 Public money**

You must maintain high standards of accountability if you collect and use public money.

You are not to borrow or use Council money for private purposes. This also applies to items such as taxi vouchers or other vouchers.

Officers using Council monies for the purpose of entertainment and/or hospitality expenditure on Council's behalf must do so strictly in accordance with McKinlay Shire Council's Entertainment and Hospitality Policy.

## **2.6 Intellectual property and Record keeping**

Council expects its employees to ensure that their actions do not breach or infringe the *Copyright Act 1968* (Cth), by unlawfully using the intellectual property of any individual or organisation.

You must respect the copyrights, trademarks and patents of suppliers and other organisations outside Council and which includes that you do not reproduce or quote suppliers' material unless your license specifically allows it. Similarly you must not store or copy audio, video or image files, printed media and software on Council assets without an appropriate license or approval. Where this is unclear you must seek written approval before arranging to publish, disclose or reproduce any articles or materials as part of your official duties.

Any original work, invention or product you have contributed to in association with your official duties as a Council employee remains the property of Council. Similarly, you must not publish or disclose any matters relating to Council's intellectual property without appropriate authority. This does not stop you from sharing with other organisations information relating to your official duties. However, if you do, and if you are unaware of whether such action may breach this Code, you must first seek clarification from your supervisor/manager.

The *Public Records Act 2002* (QLD) requires Council to maintain full and accurate record of its activities. This Act also outlines that Council officers must manage records responsibly and it specifically states that unlawful disposal of a record by any person is a criminal offence punishable by law.

Obligations also under this Act are consistent with the *Right to Information Act 2009* (QLD) and the *Information Privacy Act 2009* (QLD) stating that all Council employees must maintain proper records to assist performance and accountability, ensuring records are managed as openly as practicable, and that contents may, in specified circumstances, become known to the public

## **2.7 Concern for the environment**

We all share the responsibility to protect our natural environment, creating healthy surroundings for our community, and for managing the impacts of air, water, land and noise pollution. This includes individual responsibility for our own actions (e.g. taking care in disposing of waste and using and storing chemicals, reducing energy consumption and waste in our work spaces where we can and applying high standards of environmental protection across the region).

In performing your duties at Council, you must ensure that you comply with your general environmental duty and where applicable, your duty to notify of environmental harm: Refer to Chapter 7, Part 1 of the *Environmental Protection Act 1994* (QLD).

## **3. The Third Principle – Commitment to the system of government**

*Public Sector Ethics Act 1994* (QLD) section 8 states:

*In recognition that the public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public service agencies, public sector entities and Public officials -*

- (i) accept and value their duty to uphold the system of government and the laws of the state, the Commonwealth and local government; and*

- (ii) are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and*
- (iii) accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.*

*Subsection (1) does not limit the responsibility of a public service agency, public sector entity or Public official to act independently of government if the independence of the agency, entity or official is required by legislation or government policy, or is a customary feature of the work of the agency, entity or official.*

This means employees should, for example:

- Ensure individual actions are in accordance with legislation and council policy
- Exercise powers lawfully
- Use powers and resources for the purpose for which they were intended

The following standards of behaviour are required:

### **3.1     *Acting within the law***

As an employee of Council, you are expected to comply with applicable legislation, awards, certified agreements, Council policies and local laws.

You have the right and responsibility to respectfully question how you do your work, particularly if you think there is an imminent risk to the safety of yourself or others, or there is a better way of doing something, or if you think that a direction may be in breach of the law. When you have recorded your suggestion or concern you are required to work as directed by your team leader/supervisor/Director, except where there is an imminent risk to safety. If the matter cannot be resolved within the workgroup, it should be immediately referred to your manager.

If you are charged with having committed any indictable offence, are subject to an indictable offence conviction, or are subject to a summary conviction, you should immediately report the circumstances to your divisional manager. Such disclosure shall be treated as confidential.

### **3.2     *Public Comments***

As a general rule, councillors comment publicly on council business. Council business can be topical, sensitive and controversial and the issuing of public comments is guided by Council Policy.

However, the rights of employees to free speech is acknowledged. Where an employee feels the need to speak out in public in a private capacity on a political or social matter, they should adhere to the following:

- It should be made very clear that the employee's personal views are being expressed and that these do not represent the views of council

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Date of Approval: 15<sup>th</sup> October 2025  
Approved By: Council Resolution 086/2526

Effective Date: 16/10/2025  
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- Think about what is being said or written and how it might be perceived
- Avoid any comment that may be perceived as being made on behalf of council rather than a personal view
- Ensure that any comments do not compromise the employee's ability to be unbiased in their work and their decisions
- Avoid comments that compromises the ability of other council employees to undertake their duties in an unbiased way
- Avoid any comments that amounts to criticism sufficiently strong or persistent to give rise to the public perception that the employee is not prepared to implement or administer the policies of council or the Government of the day as they relate to their duties
- Avoid any comments that amounts to criticism or perceived criticism of council decisions, operations or direction
- The comments should not lead to a breach of confidentiality
- Be mindful that they show respect for the opinions of others, do not injure a person's reputation or create a basis for defamation action

The above applies to all public arenas including but not limited to, social networking websites such as Facebook, Instagram, community email, etc., letters or public/ community meetings.

### **3.3 *Raising concerns***

You have the right to comment on or raise concerns with your team leader/supervisor/Director about Council policies, practices or priorities where they impact on your employment. However, you must do this in a reasonable and constructive way and take responsibility for your comments and views. Further, you must accept that Council has the right to determine its policy, practices and priorities and that you must comply with all reasonable and lawful instructions, whether or not you personally agree with a given policy direction.

When raising complaints or grievances, employees are expected to act with honesty and in good faith. Complaints that are considered vexatious or frivolous will not be progressed, and such complaints may be managed as acts of misconduct in accordance with the Council's Performance and Misconduct Policy / Disciplinary Procedures.

### **3.4 *Fraud and Corruption***

Fraud and corruption pose a serious risk to council. The potential damage extends well beyond any financial losses but threatens both council's integrity and that of the individual.

It is the responsibility of all employees to prevent fraud. Employees have an obligation to prevent fraud and corruption, and all employees have a duty to report suspected fraud or corruption. It is unacceptable for any Councillor, employee or associated party to engage or participate in corruption or fraud. Please refer to the Fraud Policy and Fraud Control Plan.

#### **4. The Fourth Principle – Accountability and transparency**

*Public Sector Ethics Act 1994* (QLD) section 9 states:

In recognition that public trust in public office requires high standard of public administration, public service agencies, public sector entities and public officials -

- (a) are committed to exercising proper diligence, care and attention; and
- (b) are committed to using public resources in an effective and accountable way; and
- (c) are committed to managing information as openly as practicable within the legal framework; and
- (d) value and seek to achieve high standards of public administration; and
- (e) value and seek to innovate and continuously improve performance; and
- (f) value and seek to operate within a framework of mutual obligation and shared responsibility between public services agencies, public sector entities and Public Officials.

This means employees should, for example:

- Perform their duties to the best of their ability
- Carry out lawful and reasonable instructions
- Perform individual functions fairly and equitably

The following standards of behaviour are required:

##### **4.1 Procedural Fairness**

Procedural fairness or “natural justice” is integral to fair and proper administrative decision making. It is concerned with ensuring a fair and correct decision is reached. Procedural fairness involves:

- Decision makers informing individuals of the case against them or their interests
- Giving them a right to be heard and present their case
- The decision makers not having a personal interest or bias in the matter
- Ensuring that a decision is based upon sound reasoning and relevant evidence

##### **4.2 Acting in accordance with delegations and signing documents on behalf of Council**

If you are requested to undertake an action on behalf of the CEO or Council, prior to exercising any power on behalf of the Chief Executive Officer you must ensure there exists an appropriate delegation pursuant to State or Federal legislation that allows you to exercise the power. Refer to Council’s Register of Delegations.

The following persons are the only persons who may sign a document on behalf of Council:-

- (i) the Mayor;
- (ii) a delegate of Council, such as the CEO; or

- (iii) a Councillor or Council employee who is authorised, in writing, by the Mayor or CEO to sign documents.

### **4.3     *Diligence, care and attention***

Council aims to conduct its business with integrity, honesty and fairness and to achieve the highest standards in service delivery. You contribute to this aim by carrying out your duties honestly, responsibly, in a conscientious manner and to the best of your ability. This includes:

- maintaining punctuality and not being absent from your work station/location during work time without reason;
- giving priority to official duties over personal activities during work time;
- ensuring you do not undertake personal work during work time;
- not wasting time chatting about personal matters and interrupting other staff;
- helping Council achieve its mission and goals by acting to improve systems and practices;
- conducting yourself in a way so others gain confidence and trust in the way Council does business;
- not allowing your conduct to distract or prevent others from working;
- not exposing Council to a judgment for damages against it, as a result of your negligence or breach of any law or policy.

If you are responsible for managing or supervising others, you must also ensure that:

- you model the values and principles outlined in this Code and ensure that employees within your area of responsibility understand and comply with the Code;
- you do not come under a financial obligation to any employee you supervise or manage;
- your work and the work of those you supervise contribute to the achievement of Council's goals;
- employee performance is monitored and individuals are given constructive and regular feedback on their performance in line with procedures;
- where practicable, employees are given training opportunities to assist them in developing their careers;
- employees are provided with information that is vital for effective work performance;
- the opinions of employees are respected and considered;
- workloads are fairly distributed;
- resourcing for a work team is neither excessive nor inadequate for the job;
- employees who collect, handle or disburse public money are properly supervised;
- employee work times, overtime, allowances and absences are correctly recorded on time/flex sheets and pay summary reports;
- appropriate action is taken if breaches of this Code occur.

#### **4.4 Attendance at and absence from duty**

You are expected to follow Council employment and working arrangements, agreements and rulings on attendance at work and leave. This includes not being absent without approval and accurately and truthfully recording work and leave periods.

Council's operational efficiency depends on your punctuality and attendance at your work station/location. If you are unavoidably detained you are required to advise your team leader/supervisor/Director as soon as reasonably possible before your expected start time.

Absence without approval and without reasonable excuse can create concerns for your safety and lead to unproductive time for others. All employees have an obligation to ensure that they promptly notify Council as soon as practicable upon becoming aware that they are going to be absent from work. Failure to promptly notify Council may result in the non-payment of salary/wages for the period of absence and/or may result in Council taking disciplinary action.

#### **4.5 Self-development**

All Local Government employees have an obligation to be proactive in the continual improvement of all aspects of their work performance: refer to *Local Government Act 2009* (QLD) s13. You should aim to maintain and improve your work performance and that of your work unit in the delivery of customer service. You have a continuing responsibility to maintain and enhance your skills and expertise and keep up to date the knowledge associated with your area of work.

Council will assist you by providing equitable access to training and development opportunities. This may include accessing the study assistance program, learning new work duties, participating in project work or undertaking internal or external training.

#### **4.6 Confidentiality and Privacy**

Council maintains information about individuals, businesses and commercial issues which is private and sensitive and which could be harmful to a person's interest if released. If you have access to this information, it is with the condition that it will only be used for specific Council purposes and will remain secure and confidential. You must only access such information and records if you are authorised to in order to perform your official Council duties and you must not share it in any way with anyone who does not have a legitimate right to access it.

If you leave a work area of Council and take up employment in another area of Council, or leave Council altogether, you must continue to respect the confidentiality of the information that you may have had access to in the course of your duties.

You must ensure that the collection, storage and use of personal information is done so in accordance with the Privacy Principles outlined in the *Information Privacy Act 2009*. Only certain employees specifically delegated by the CEO can provide access to information requested under the *Right to Information Act 2009* and *Information Privacy Act 2009*.



You must preserve the confidentiality of Council's information. Unauthorised release of any non-public information is a breach of Council policy and may be a legal offence. Union Representatives and Delegates may have access to confidential information about Council employees in the normal course of their duties but must not access, share or use that information for other purposes

## **6. BREACHES OF THE CODE**

Council expects all employees whilst engaged in official duties, to ensure they demonstrate the basic standards of acceptable conduct as enshrined in this Code. All employees have the responsibility to comply with this Code of Conduct and all other policies which Council implements and/or varies from time to time.

A breach of the Code of Conduct damages business effectiveness, public perception of Council and interpersonal work relationships. Any act or lack of action by an employee of Council that contravenes this Code may result in Council taking disciplinary action against that employee, and which may include dismissal. All suspected breaches will be dealt with on a case by case basis.

Suspected Official Misconduct must be referred to Council's Chief Executive Officer, and the Chief Executive Officer has a duty to notify the Crime and Corruption Commission of the suspected Official Misconduct.

In cases where a suspected breach of this Code is under investigation, and if the Chief Executive Officer deems it appropriate and believes disciplinary action in some form will occur, any employee suspected of a breach of this Code may be suspended from duty on full pay until such time as the investigation has been completed.

All disciplinary action taken by Council against an employee for suspected breaches of this Code will be in accordance with Council's Performance and Misconduct Policy /Disciplinary Procedures and in compliance with Council's obligations pursuant to Part 3 of Chapter 8 of the *Local Government Regulation 2012* (QLD).

## **7. IF YOU HAVE A CONCERN**

The *Public Interest Disclosure Act 2010* (QLD) and the *Public Sector Ethics Act 1994* (QLD) aim to create a work environment where public sector and local government employees understand and maintain appropriate standards of conduct.

Where you honestly believe on reasonable grounds that you possess information about another Council Officer's conduct that relates to:

- Official Misconduct; or
- maladministration that adversely affects a person's interests; or
- a substantial misuse of public resources, other than an alleged misuse based on mere disagreement over policy that may properly be adopted about amounts, purposes or priorities of expenditure; or
- a substantial and specific danger to public health or safety; or
- a substantial and specific danger to the environment

you have the right to make a Public Interest Disclosure to a proper authority subject to, and in accordance with, the *Public Interest Disclosure Act 2010* (QLD).

Should you wish to make such a disclosure please contact:

- internally, the Director Corporate and Community Services; or
- externally, in accordance with Division 2 of the *Public Interest Disclosure Act 2010* (e.g. Crime and Corruption Commission, Anti-Discrimination Commission etc).

## **8. PUBLICATION**

In accordance with the requirements of section 20 of the *Public Sector Ethics Act 1994*, the Chief Executive Officer will keep printed copies of the Code available for inspection at the Council Administration Office and the Depot Administration Office and Council will publish the Code on its public website for all employees to access.

## **9. TRAINING**

Education and training about public sector ethics will be offered at induction and as frequently as the Chief Executive Officer determines.

## **10. AUTHORITY**

In accordance with Section 16 of the *Public Sector Ethics Act 1994*, the following consultation process was followed in development of this Code:

*Consultation process*

This Code was approved by the Chief Executive Officer in accordance with Section 17 of the *Public Sector Ethics Act 1994*.

## **11. FURTHER ASSISTANCE**

If you read the Code and are still unsure of how it applies to you, it is important that you discuss this with your manager, team leader or divisional manager. In most cases, they will be able to answer your enquiries.

If you have concerns about approaching any of these people, contact the next most senior person in your area.

Alternatively, you might wish to contact the Director Corporate and Community Services.

There are McKinlay Shire Council Policies underlying this Code of Conduct. You are required to read and understand the policies that govern your employment with council.

## **12. RESPONSIBILITIES**

We are all responsible for implementing the Code in our workplace.

All employees are responsible for ensuring that their behaviour reflects the standard of conduct in the Code and builds a positive workplace culture.

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Date of Approval: 15<sup>th</sup> October 2025  
Approved By: Council Resolution 086/2526

Effective Date: 16/10/2025  
Version: 4.0  
Review Date: September 2028

Leaders have a special responsibility to support employees in achieving the goals of the Code and to lead by example. In this Code, a leader is any employee with supervisory responsibilities, such as a Directors, Manager, Supervisor, Team Leader, Leading Hand or Coordinator.

## **APPENDIX A - Definitions**

**Benefit** – means something that is similar to a Gift in that it is of value to the recipient, but it is less tangible in nature (e.g. a new job or promotion, preferential treatment, or access to confidential information).

**Conflict of Interest** – means a conflict between a Council employee's work responsibilities and their personal or private interests. A Conflict of Interest can arise from either gaining a personal advantage or avoiding a personal loss. Conflicts of interest can be real (actual) or perceived (apparent).

A real Conflict of Interest is a conflict between the employee's duties and their private interests. For example Ron is on a recruitment and selection panel and his sister is applying for a position to be decided by that panel.

A perceived Conflict of Interest arises where a person is likely to believe an employee's private interests could improperly influence them at work. Such a perception is judged having regard to what a fair and reasonable member of the public could be expected to believe. For example Frida works for Council as a community grants funding program manager. On the weekend she plays tennis with the director of a community organisation applying for funding through the funding program Frida is managing. A reasonable person is likely to believe that Frida could be improperly influenced by the relationship she has developed with the director at tennis.

**Types of interests** – interests can be financial, non-financial, personal, private, family or business.

A financial interest is when the employee could gain a personal financial benefit including having shares, receiving gifts, benefits or bribes or receiving hospitality or travel. For example Kim's partner owns a company which is tendering for work with Council.

Some examples of non-financial interests are below.

- (a) You work in the strategic procurement area and one of your regular fishing friends asks you to keep an eye on his tender application.
- (b) You work in the funding application area and you are also president of a local group applying for funding from Council.
- (c) You work in the development applications area and your children's school will be affected by a new development and the development proposal has been submitted to Council for approval.

**Gift** – means an item of value – money, voucher, entertainment, hospitality, travel, commodity, property – that one person gives to another. Gifts may be offered as an expression of gratitude with no obligation to repay, or given to create a feeling of obligation.

**Impaired by the effects of alcohol or drugs means:**

- for employees operating/driving heavy vehicles and buses, a blood alcohol content greater than 0.00% (consistent with Queensland Transport Regulations);
- for employees driving light vehicles or operating mechanical tools or equipment, a blood alcohol content equal to or greater than 0.05% (consistent with Queensland Transport Regulations);
- for all employees – a positive drug test result in excess of the cut-off levels specified in Australian Standard AS 4308 (urine testing) and/or Australian Standard AS4760 (saliva testing); and/or physical or mental condition and/or behaviour which limits the employee's ability to undertake work in a safe and effective manner.

**Indictable offence** – means a crime or misdemeanour for which an offender cannot, unless otherwise expressly allowed, be prosecuted or convicted except upon indictment.

**Indictable offence conviction** – means a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded, in relation to an indictable offence.

**Limited Personal Use (Electronic Mail and World Wide Web) – means the following:**

- Use that is infrequent and brief and is performed during the employee's non-paid time. That is, before and after work or during meal breaks.
- Use that does not breach this Code of Conduct, Council policy, *Public Sector Ethics Act 1994* (QLD), *Local Government Act 2009* (including Regulations) (QLD), *Crime and Corruption Act 2001* (QLD) or related State and Federal legislation and regulations.
- Personal use is activity conducted for purposes other than undertaking official business, professional duties, and/or professional development.
- Personal use refers to personal related activities which do not interfere with the operations of the Council.
- Examples of permitted limited personal use of the internet include:
  - (a) internet access that is incidental to employment or personal business transactions such as accessing government information sites and online banking and bill paying;
  - (b) participation in approved online training or personal development programs;
  - (c) sending or receiving infrequent personal messages by email, providing the content of the message does not breach Council's Code of Conduct or Corporate Policies.
- Examples of limited personal use of the internet that is NOT permitted (not an exhaustive list) include:
  - (a) gambling (including gaming, online betting, bookmaker odds, lottery pages, bingo, football tipping);
  - (b) games (including traditional board games, card games and role playing games, for example, Solitaire and World of Warcraft);
  - (c) participation in online auctions (including eBay);

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- (d) dating (including the use of online dating services);
- (e) downloading and storage of music, video files and pictures (including the use of YouTube, iTunes, Napster, BitTorrent and similar sites/programs);
- (f) accessing social networking sites (including Facebook, Twitter, MySpace and similar sites) unless the use is directly connected with your duties, is for the purpose of communicating approved Council publications and/or media releases and has been approved by your team leader/supervisor/manager;
- (g) accessing, downloading, storing or sending racially and/or sexually offensive, obscene and/or other threatening, belligerent or libellous electronic communications.

**Official Misconduct** – means wrongdoing by a public sector official (including police) in carrying out their official duties or exercising their powers. It must involve one of the following:

- (a) dishonesty or lack of impartiality;
- (b) a breach of the trust put in a person by virtue of their position; or
- (c) a misuse of officially obtained information.

It must also be a criminal offence or serious enough to justify dismissal of the person from their position.

**Public official** – means an employee of Council.

**Summary conviction** – means a summary conviction of an Indictable offence by a Magistrates Court.

## **APPENDIX B - A guide to ethical decision-making**

The following guide is designed to help you reach an ethical decision based on the relevant facts and circumstances of a situation.

### **Step 1: Assess the situation.**

- What is your aim?
- What are the facts and circumstances?
- Does it break the law or go against Council policy?
- Is it in line with the Code's principles?
- What principles does it relate to? Why?
- Who is affected? What rights do they have?
- What are your obligations or responsibilities?

### **Step 2: Look at the situation from Council's viewpoint.**

- As a Public official, what should you do?
- What are the relevant laws, rules and guidelines?
- Who else should you consult?

### **Step 3: How would others see your actions?**

- Would a reasonable person think you used your powers or position improperly?
- Would the public see your action or decision as honest and impartial?
- Do you face a Conflict of Interest?
- Will your decision or action stand up to public scrutiny?

### **Step 4: Consider the options.**

- Ask your team leader/supervisor/manager, or any person who is able to give sound, relevant advice.
- What options and consequences are consistent with Council's values, the five local government principles, the four ethics principles fundamental to good public administration and your obligations?
- What are the costs and long-term consequences of each option?
- How would the public view each option?
- What will be the outcome for Council, your colleagues, others and you?

### **Step 5: Choose your course of action.**

Make sure your actions are:

- within your power to take, legal and in line with policy and this Code;
- fair and able to be justified to your manager and the public;
- documented so a statement of reasons can be supplied;
- consistent with Council's mission, goals and values; and
- backed by advice from Council specialists, if this is appropriate.

## APPENDIX C – Contact with Lobbyists

The following guide is designed to help you deal with lobbyists appropriately and in compliance with provisions of the *Integrity Act 2009*.

### 1. Contact by Registered Lobbyists

Councillors and Council employees who receive contact from a lobbyist must establish whether the lobbyist is registered. The Lobbyist Register may be viewed at:

<https://www.integrity.qld.gov.au/lobbyists/the-lobbying-register.aspx>

Councillors and Council employees who receive contact by a registered lobbyist must create a record of that contact and forward the following core information to the Chief Executive Officer:

- Date of Contact
- Name and title of Councillors and Council employees present
- Name and title of Lobbyist/s present
- Name and title of Lobbyist's clients/s present
- Method of contact (e.g. telephone call)
- Purpose of contact (e.g. follow up of progress with application)
- Brief description of issue
- Outcome of contact

### 2. Contact by Unregistered Lobbyists

Councillors and Council employees must not engage in lobbying activity with unregistered lobbyists. If you reasonably believe someone is an unregistered lobbyist and undertaking a lobbying activity, please follow the below steps:

1. Advise the person (in a professional manner) that you believe that:-
  - (a) This contact may be a "lobbying activity" under the *Integrity Act 2009*;
  - (b) You are required under that Act to seek some clarification as to the person's standing as a unregistered lobbyist under the *Integrity Act 2009*;
  - (c) You can no longer discuss with this person any lobbying activity matters, but you can assist with any "unrelated lobbying activity" discussions.
2. Make a note of the person's details and circumstances of the lobbying activity (i.e. time, date and place of incident, who were the people involved in the incident and how you believe this was a "lobbying activity");
3. Report the matter (including a copy of your notes of the incident) to Director Corporate and Community Services; and
4. Discontinue contact with the person on any "lobbying activity", until the matter is resolved. This does not mean you cannot assist the person with other "unrelated lobbying activity" matters.

## **APPENDIX D – Information Privacy Principles**

### **1. IPP 1 - Collection of personal information (lawful and fair)**

- (1) An agency must not collect personal information for inclusion in a document or generally available publication unless-
  - (a) the information is collected for a lawful purpose directly related to a function or activity of the agency; and
  - (b) the collection of the information is necessary to fulfil the purpose or is directly related to fulfilling the purpose.
- (2) An agency must not collect personal information in a way that is unfair or unlawful.

### **2. IPP 2 - Collection of personal information (requested from individual)**

- (1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.
- (2) However, this section applies only if the agency asks the individual the subject of the personal information for either-
  - (a) the personal information; or
  - (b) information of a type that would include the personal information.
- (3) The agency must take all reasonable steps to ensure that the individual is generally aware of-
  - (a) the purpose of the collection; and
  - (b) if the collection of the personal information is authorised or required under a law-
    - (i) the fact that the collection of the information is authorised or required under a law; and
    - (ii) the law authorising or requiring the collection; and
  - (c) if it is the agency's usual practice to disclose personal information of the type collected to any entity (the first entity)--the identity of the first entity; and
  - (d) if the agency is aware that it is the usual practice of the first entity to pass on information of the type collected to another entity (the second entity)--the identity of the second entity.
- (4) The agency must take the reasonable steps required under subsection (3)-
  - (a) if practicable--before the personal information is collected; or
  - (b) otherwise--as soon as practicable after the personal information is collected.
- (5) However, the agency is not required to act under subsection (3) if-
  - (a) the personal information is collected in the context of the delivery of an emergency service; and

Example--  
personal information collected during a triple 0 emergency call or during the giving of treatment or assistance to a person in need of an emergency service

  - (b) the agency reasonably believes there would be little practical benefit to the individual in complying with subsection (3) in the circumstances; and
  - (c) the individual would not reasonably expect to be made aware of the matters mentioned in subsection (3).

### **3. IPP 3 - Collection of personal information (relevance etc.)**

- (1) This section applies to the collection by an agency of personal information for inclusion in a document or generally available publication.



- (2) However, this section applies to personal information only if the agency asks for the personal information from any person.
- (3) The agency must take all reasonable steps to ensure that-
  - (a) the personal information collected is-
    - (i) relevant to the purpose for which it is collected; and
    - (ii) complete and up to date; and
  - (b) the extent to which personal information is collected from the individual the subject of it, and the way personal information is collected, are not an unreasonable intrusion into the personal affairs of the individual.

#### **4. IPP 4 – Storage and security of personal information**

- (1) An agency having control of a document containing personal information must ensure that-
  - (a) the document is protected against-
    - (i) loss; and
    - (ii) unauthorised access, use, modification or disclosure; and
    - (iii) any other misuse; and
  - (b) if it is necessary for the document to be given to a person in connection with the provision of a service to the agency, the agency takes all reasonable steps to prevent unauthorised use or disclosure of the personal information by the person.
- (2) Protection under subsection (1) must include the security safeguards adequate to provide the level of protection that can reasonably be expected to be provided.

#### **5. IPP 5 – Providing information about documents containing personal information**

- (1) An agency having control of documents containing personal information must take all reasonable steps to ensure that a person can find out-
  - (a) whether the agency has control of any documents containing personal information; and
  - (b) the type of personal information contained in the documents; and
  - (c) the main purposes for which personal information included in the documents is used; and
  - (d) what an individual should do to obtain access to a document containing personal information about the individual.
- (2) An agency is not required to give a person information under subsection (1) if, under an access law, the agency is authorised or required to refuse to give that information to the person.

#### **6. IPP 6 – Access to documents containing personal information**

- (1) An agency having control of a document containing personal information must give an individual the subject of the personal information access to the document if the individual asks for access.
- (2) An agency is not required to give an individual access to a document under subsection (1) if--
  - (a) the agency is authorised or required under an access law to refuse to give the access to the individual; or
  - (b) the document is expressly excluded from the operation of an access law.

#### **7. IPP 7 – Amendment of documents containing personal information**

- (1) An agency having control of a document containing personal information must take all reasonable steps, including by the making of an appropriate amendment, to ensure the personal information-
  - (a) is accurate; and
  - (b) having regard to the purpose for which it was collected or is to be used and to any purpose directly related to fulfilling the purpose, is relevant, complete, up to date and not misleading.
- (2) Subsection (1) applies subject to any limitation in a law of the State providing for the amendment of personal information held by the agency.
- (3) Subsection (4) applies if-
  - (a) an agency considers it is not required to amend personal information included in a document under the agency's control in a way asked for by the individual the subject of the personal information; and
  - (b) no decision or recommendation to the effect that the document should be amended wholly or partly in the way asked for has been made under a law mentioned in subsection (2).
- (4) The agency must, if the individual asks, take all reasonable steps to attach to the document any statement provided by the individual of the amendment asked for.

#### **8. IPP 8 – Checking of accuracy etc. of personal information before use by agency**

Before an agency uses personal information contained in a document under its control, the agency must take all reasonable steps to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, complete and up to date.

#### **9. IPP 9 – Use of personal information only for relevant purpose**

- (1) This section applies if an agency having control of a document containing personal information proposes to use the information for a particular purpose.
- (2) The agency must use only the parts of the personal information that are directly relevant to fulfilling the particular purpose.

#### **10. IPP 10 – Limits on use of personal information**

- (1) An agency having control of a document containing personal information that was obtained for a particular purpose must not use the information for another purpose unless-
  - (a) the individual the subject of the personal information has expressly or impliedly agreed to the use of the information for the other purpose; or
  - (b) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
  - (c) use of the information for the other purpose is authorised or required under a law; or
  - (d) the agency is satisfied on reasonable grounds that use of the information for the other purpose is necessary for 1 or more of the following by or for a law enforcement agency-
    - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
    - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
    - (iii) the protection of the public revenue;

- (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
- (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or
- (e) the other purpose is directly related to the purpose for which the information was obtained; or

Examples for paragraph (e)—

1 An agency collects personal information for staff administration purposes. A new system of staff administration is introduced into the agency, with much greater functionality. Under this paragraph, it would be appropriate to transfer the personal information into the new system.

2 An agency uses personal information, obtained for the purposes of operating core services, for the purposes of planning and delivering improvements to the core services.

- (f) all of the following apply-
  - (i) the use is necessary for research, or the compilation or analysis of statistics, in the public interest;
  - (ii) the use does not involve the publication of all or any of the personal information in a form that identifies any particular individual the subject of the personal information;
  - (iii) it is not practicable to obtain the express or implied agreement of each individual the subject of the personal information before the use.
- (2) If the agency uses the personal information under subsection (1)(d), the agency must include with the document a note of the use.

## **11. IPP 10 – Limits on disclosure**

- (1) An agency having control of a document containing an individual's personal information must not disclose the personal information to an entity (the relevant entity), other than the individual the subject of the personal information, unless-
  - (a) the individual is reasonably likely to have been aware, or to have been made aware, under IPP 2 or under a policy or other arrangement in operation before the commencement of this schedule, that it is the agency's usual practice to disclose that type of personal information to the relevant entity; or
  - (b) the individual has expressly or impliedly agreed to the disclosure; or
  - (c) the agency is satisfied on reasonable grounds that the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare; or
  - (d) the disclosure is authorised or required under a law; or
  - (e) the agency is satisfied on reasonable grounds that the disclosure of the information is necessary for 1 or more of the following by or for a law enforcement agency-
    - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions;
    - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
    - (iii) the protection of the public revenue;
    - (iv) the prevention, detection, investigation or remedying of seriously improper conduct;
    - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal; or

- (f) all of the following apply-
  - (i) the disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest;
  - (ii) the disclosure does not involve the publication of all or any of the personal information in a form that identifies the individual;
  - (iii) it is not practicable to obtain the express or implied agreement of the individual before the disclosure;
  - (iv) the agency is satisfied on reasonable grounds that the relevant entity will not disclose the personal information to another entity.
- (2) If the agency discloses the personal information under subsection (1)(e), the agency must include with the document a note of the disclosure.
- (3) If the agency discloses personal information under subsection (1), it must take all reasonable steps to ensure that the relevant entity will not use or disclose the information for a purpose other than the purpose for which the information was disclosed to the agency.
- (4) The agency may disclose the personal information under subsection (1) if the information may be used for a commercial purpose involving the relevant entity's marketing of anything to the individual only if, without limiting subsection (3), the agency is satisfied on reasonable grounds that-
  - (a) it is impracticable for the relevant entity to seek the consent of the individual before the personal information is used for the purposes of the marketing; and
  - (b) the relevant entity will not charge the individual for giving effect to a request from the individual to the entity that the individual not receive any marketing communications; and
  - (c) the individual has not made a request mentioned in paragraph (b); and
  - (d) in each marketing communication with the individual, the relevant entity will draw to the individual's attention, or prominently display a notice, that the individual may ask not to receive any further marketing communications; and
  - (e) each written marketing communication from the relevant entity to the individual, up to and including the communication that involves the use, will state the relevant entity's business address and telephone number and, if the communication with the individual is made by fax, or other electronic means, a number or address at which the relevant entity can be directly contacted electronically.