

Australian Capital Territory

Public Sector Management Amendment Standards 2012 (No 3)

Disallowable instrument DI2012-238

made under the

Public Sector Management Act 1994, s 251 (Management Standards)

I amend the Standards as set out below.

Andrew Kefford
Commissioner for Public Administration

Date 29/10/2012

Approved under the Public Sector Management Act 1994, s 251 (Management
Standards)

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1 Name of instrument

This instrument is the *Public Sector Management Amendment Standards 2012 (No 3)*.

2 Commencement

This instrument is taken to have commenced on 1 July 2012.

3 Legislation amended

This instrument amends the *Public Sector Management Standards 2006*.

4 Chapter 2

substitute

Chapter 2 Administration and management of the public sector

Part 2.1 Code of conduct

5 Purposes of pt 2.1

The purpose of this part is to facilitate the development of a code of conduct that assists—

- (a) government agencies to implement the values and principles set out in the Act, section 6; and
- (b) the administration of the public sector in a way that gives effect to the Act, section 7; and

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- (c) government agencies to give effect to the principles set out in the Act, section 8; and
 - (d) public employees to understand and meet the requirements of the Act, section 9.

6 ACTPS code of conduct

- (1) The Commissioner must develop a code of conduct that applies to all government agencies and all public employees (the *ACTPS code of conduct*).
- (2) The Commissioner must consult the head of service in the development of the ACTPS code of conduct.
- (3) The ACTPS Code of Conduct under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

7 Supplementary code of conduct

- (1) A head of a government agency may develop additional conduct requirements that apply to that agency (a *supplementary code of conduct*).
- (2) A supplementary code of conduct may be developed to apply to—
 - (a) all of the relevant government agency; or
 - (b) a part of the relevant government agency; or
 - (c) a class of public employees in the relevant government agency.
- (3) The Commissioner must determine that a supplementary code of conduct is consistent with the ACTPS code of conduct before it can be applied.
- (4) A supplementary Code of Conduct under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

Part 2.2 Employee values

8 Purposes of pt 2.2

- (1) The purpose of this part is to assist a person to perform their duties as a public employee—
 - (a) under the Act, section 9; and
 - (b) in a way that supports the values, principles and objectives set out in the Act, Division 2.1.
- (2) This purpose is to be achieved by setting out values that inform the conduct of a public employee (*employee values*).

9 Application—pt 2.2

- (1) This part applies to public employees when performing their duties.

Examples—performing duties

1. making a decision as part of undertaking duties
2. making a decision that affects other public employees
3. making a decision about the means or timing of service delivery
4. making a recommendation to a delegate
5. interacting with colleagues
6. interacting with the public
7. representing the Territory or a government agency
8. attending a conference or undertaking official travel
9. using and allocating Territory resources
10. working towards the goals of the service and the goals of their team
11. developing or following procedures for decisions or actions carried out by staff
12. making a decision about a social function for the workplace

Note An example is part of the Standards, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This part must be applied in a way that is appropriate and meaningful for each public employee, taking into consideration the nature of the duties that the public employee undertakes, and the environment that those duties are undertaken in.

Note The ACTPS is a diverse work force; in practice the values will manifest in different ways depending on the nature of work a public employee undertakes and the classification the employee holds.

10 The employee values

The employee values are—

- (a) respect; and
- (b) integrity; and
- (c) collaboration; and
- (d) innovation.

11 Promoting the employee values

The employee values must be used to inform and evaluate the operation of the service, including—

- (a) management practices; and
- (b) the performance of a public employee; and
- (c) the implementation of government policy.

Part 2.3 Fraud and corruption

12 Interpretation—pt 2.3

In this part:

Audit Committee means a body created in accordance with the then Department of the Treasury's policy document entitled *Internal Audit Framework*, promulgated in 2003. Agency Audit Committees monitor and review the effectiveness of corporate governance mechanisms in agencies.

corruption in relation to an officer or employee means that the officer or employee seeks, obtains or receives any benefit, other than lawful salary and allowances, on the understanding that the officer or employee will do or refrain from doing anything in the course of their duties or will attempt to influence any other officer or employee on behalf of any person.

fraud means taking or obtaining by deception, money or another benefit from the government when not entitled to the money or benefit, or attempting to do so - this includes evading a liability to government.

integrity means the exercise of authority in accordance with the stated values and principles of the ACTPS and includes the control of fraud and corruption.

manager means a person who has responsibility for planning, organising and leading a work unit or group activity.

Risk Management Standard means the current Risk Management Standard AS/NZS 4360: (31 August 2004) issued by Standards Australia.

13 Fraud and corruption prevention

- (1) In accordance with the Act, section 6 and section 28AA, a director-general must pursue a systematic approach to integrity.
- (2) A director-general must ensure that risks to the integrity of the agency are—
 - (a) assessed and treated in accordance with the Risk Management Standard and the associated policy guidance; and

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- (b) addressed in detailed fraud and corruption prevention plans.
 - (3) A director-general must ensure that the Agency's integrity arrangements are assessed and reviewed every two years, or more frequently if—
 - (a) any significant suspected fraud or corruption is discovered; or
 - (b) there is a significant change in the nature or scope of operations, procedures or systems.
 - (4) The director-general should explore opportunities to actively detect fraud and corruption within the Agency's programs, in accordance with privacy considerations and noting the requirements for cost effectiveness of these strategies.

14 Monitoring and recording integrity strategies

- (1) The director-general of an agency should request the Audit Committee to oversight the effectiveness of the integrity arrangements, in particular the conduct of the risk assessment and the implementation of the fraud and corruption prevention plans.
- (2) Managers must regularly and systematically assess the potential within their area of responsibility for theft, fraud and corruption to ensure that relevant control procedures are being followed and are effective.
- (3) An agency must establish and maintain an information system that records—
 - (a) all instances of fraud and corruption; and
 - (b) losses to the Agency or potential for damage to the reputation of the Agency or service; and
 - (c) investigative action taken; and
 - (d) disciplinary action taken or outcomes of matters which have been prosecuted; and

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- (e) any changes to procedures and practices arising from the incident.
 - (4) The Audit Committee should have access to regular reports of information from the fraud and corruption reporting system.
 - (5) A director-general must include details of the implementation of fraud and corruption prevention plan in the Annual Report to the Minister.
 - (6) In the Annual Report to the Minister, the director-general must certify that—
 - (a) an assessment of the risks to the integrity of the Agency has been conducted in accordance with the Risk Management Standard and the associated policy guidance; and
 - (b) treatments for adequately dealing with the integrity risks identified have been addressed in the fraud and corruption prevention plan as described in the policy guidance; and
 - (c) where the Agency has engaged, or is contemplating engaging, service providers from outside the service, that the integrity risks have been assessed and dealt with in the fraud and corruption prevention plan; and
 - (d) progress during the reporting year on the implementation of the fraud and corruption prevention plan.
 - (7) A director-general must select an Executive to be responsible for the implementation of the integrity strategies and the processes for the detection and investigation of fraud and corruption.
 - (8) Details of the appointment must be forwarded to the Commissioner.

15 Investigation of fraud and corruption

- (1) The director-general must ensure that where cases of fraud and corruption are detected or notified, that action is taken to investigate those cases.

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- (2) Where the case is considered to be serious and complex, the Australian Federal Police must be notified.
 - (3) Agencies should recover losses caused by illegal activity through proceeds of crime legislation and civil recovery processes and, in the absence of criminal prosecution, to apply appropriate civil, administrative or disciplinary penalties.

Part 2.4 Miscellaneous

16 Interpretation—pt 2.4

In this part:

IT resources means information technology owned and/or controlled by the Territory, including computers, printers, network infrastructure and electronic mail.

officer includes an employee.

17 Alcohol

An officer must not, without the prior approval of the director-general—

- (a) consume alcohol while on duty; or
- (b) consume alcohol while on government premises during working hours; or
- (c) carry alcohol in a government vehicle.

18 Unauthorised disclosure of information

An officer who ceases employment with the ACTPS must not disclose confidential information acquired while employed in the ACTPS without the approval of the relevant director-general.

19 Personal use of IT resources

- (1) An officer must not access, download or store inappropriate electronic material.
- (2) An officer must not use IT Resources to publish or communicate inappropriate material, including material which could be considered defamatory.
- (3) An officer must not save unofficial software and/or large personal files, including personal cc:Mail archives, to any network drive.
- (4) An officer must ensure that personal correspondence does not interfere with their duties and wherever possible deal with this correspondence outside working hours.

20 Public holiday for the ACTPS

The Commissioner may declare that any day will be observed as a holiday in respect of any class of officers or employees in the ACTPS.

21 Equal employment opportunity programs

For the Act, section 40 the *ACT Public Service Respect, Equity and Diversity Framework* is the equal employment opportunity program for the service.

22 Second jobs

For the Act, section 244—

- (a) a second job includes—
 - (i) a second ACT Government position; or
 - (ii) a part-time job outside of core hours; or
 - (iii) employment taken up while on leave; or
 - (iv) a profitable activity outside official duties; and

Note An example is part of this standard, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) an officer must request approval for a second job as early as practical and before commencing the second job; and

Example

An office wishing to undertake a second job while on a period of extended leave should include an application for a second job with the leave application.

- (c) the head of service must—
- (i) consider the best outcome for the service;
 - (ii) not approve a second job that the head of service reasonably believes would create a real or perceived conflict of interest for the officer.

Endnotes

1 Notification

Notified under the Legislation Act on 30 October 2012.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
