



# **STAFF & MEMBERS CODE OF CONDUCT**

**February 2022 and throughout**

## Schedule 1 – Definitions of Terms

The terms below have the following meanings for the purposes of the Code of Conduct.

**'benefit'** includes:

- property, advantage or service;
- anything that is for a person's good;
- the causing of detriment; or
- direct or indirect relief and covers any gifts, gratuities, remuneration, allowances, fees, subsidies, considerations, incentives, discounts, entry fees, memberships or loans provided under special conditions.

**'conflict of interest'** includes an actual conflict of interest and an apparent conflict of interest. An *actual* conflict of interest exists when a reasonable bystander, in possession of the relevant facts, would conclude that the person's private interests are likely to interfere with the proper performance of their official duties. An *apparent* conflict of interest exists when a reasonable bystander might reasonably suspect that a person's private interests have the potential to interfere with the proper performance of their official duties. Amongst other cases, a conflict of interest can arise from the holding of a relevant pecuniary interest, as defined in the *Harness Racing Act*, and includes the examples set out in Section 3.3 of this Code. A conflict of interest also includes any actual bias that affects an officer's impartiality and any perceived bias, where a fair-minded observer might reasonably suspect that an officer will not act impartially.

**'employee'** includes a person directly employed by HRNSW or who contracts to provide services to HRNSW.

**'fraud'** includes the broad range of deceitful acts that people may perform to benefit themselves or some other person at the expense of others. Fraud can be committed by officers and contractors (internal fraud) or by other people outside HRNSW (external fraud).

**'officer'** is an employee or staff member of HRNSW, whether employed on a permanent, temporary, part time, job share or contract basis and in these guidelines includes a Board member of HRNSW.

**'member'** means a member of the board of HRNSW and in this Code, is also referred to as a director.

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## MESSAGE FROM THE CHAIRMAN

The employees and directors of HRNSW face increasing expectations from the industry for greater accountability regarding our use of resources and the outcomes that we achieve. To operate effectively HRNSW needs to maintain the confidence of the industry and broader community. At the same time modern workplace standards demand greater customer focus, better risk management and increased emphasis on individual responsibility. This requires high levels of accountability and fairness, as well as care and skill in using industry assets and resources.

In this environment reliance on rules and procedures is not enough and deciding on the 'right thing to do' sometimes requires difficult and delicate judgements. The HRNSW Code of Conduct for Staff and Members has been designed as a guide to help each of us resolve ethical issues in going about the business of administering the harness racing industry.

The Code of Conduct is based upon the principle that behaving ethically is central to achieving HRNSW's purpose and supporting its values which involve commitments to customers, business partners, stakeholders and the community. It is imperative that we all ensure that the highest standards of integrity underpin everything that we do. Indeed HRNSW's reputation depends upon the conduct of all officers in carrying out their duties. For this reason, this Code should not be interpreted in a legalistic manner. HRNSW expects staff and members to have regard to the underlying intention of the Code in promoting ethical and respectful conduct.

The Code has strong links to customer service, professionalism and good management practice. Its purpose is to provide common guiding principles and standards of conduct for all officers which will protect and enhance HRNSW's public image and business reputation. As well as helping each of us in our duties the Code is a public statement of how we conduct our business and how we treat our customers, business partners and colleagues.

The Code covers a range of issues which we all may face in our work and addresses the most appropriate procedures to follow. When applying the Code to particular circumstances we are expected to follow its spirit and intent as much as its explicit provisions.

The Code of Conduct is part of HRNSW's official policy. Without exception, all employees and members are required to adhere to the standards of conduct which it outlines. We must all ensure that the highest standards of integrity underpin everything that we do.

We are committed to the content of the Code and the principles on which it is based. We will strive to abide by them and require others to demonstrate a similar commitment. We are confident that by supporting each other in addressing these principles we will all ensure that our industry and stakeholders are well served by HRNSW and its officers.

**Ken Brown AM**  
Chairman HRNSW

## SECTION ONE

### 1. INTRODUCTION

Working as industry administrators involves a position of trust. Within HRNSW we are all responsible for administering substantial industry resources. Moreover the decisions we make can have significant effects on the lives of participants and stakeholders and the image/perceptions of our organisation.

HRNSW's reputation depends upon the conduct of its officers and relies on duties being carried out in a professional and responsible manner.

How we use our official positions, our powers and the resources available to us are the central concerns of the Code of Conduct. The purpose of the Code is to provide us with a framework for ethical behaviour, actions and decisions – to help us know what standards are expected. HRNSW expects all officers to have regard to the purpose and intention of the Code, when making ethical decisions. The Code is not to be interpreted in a legalistic manner.

The Code of Conduct applies to every person employed by HRNSW, including its directors. Staff should make consultants and contractors of HRNSW aware of the Code and of their responsibility to observe the standards set out in it.

In addition to this Code of Conduct, directors are subject to a Code of Conduct that addresses issues that are likely to arise at Board level. In the case of directors, the two codes of conduct are to be read cumulatively (meaning both standards of conduct apply). Both these Codes have been adopted by HRNSW under clause 16, Schedule One of the *Harness Racing Act*.

#### 1.1. Why Do We Need a Code of Conduct?

HRNSW is made up of individuals from a variety of backgrounds. Each of us has our own set of experiences and expectations which can often influence our own views of what is right and proper.

Sometimes we are called upon to make decisions or implement policy in circumstances in which our personal values and beliefs or our individual interests may be in conflict with HRNSW policy.

We are also required to recommend courses of action in matters involving conflicting interests or competing views about what is in the best interests of the industry. In many cases deciding what is the right thing to do can involve quite difficult and delicate judgments.

To ensure that consistent standards and approaches are adopted in our actions and that other views are considered, HRNSW's Code of Conduct is designed to provide common guiding principles and standards of behaviour. The Code also sets out a minimum standard of conduct for officers in a range of situations that they may face.

Ethics are the principles that help determine the choices and decisions we make – especially in cases where no specific rule exists or where there may be conflicting interests or opinions.

Officers have an important role to play in improving the profile and visible productivity of HRNSW particularly through an awareness that their actions affect the general perception of HRNSW.

#### 1.2. To Whom does the Code apply?

The Code of Conduct applies to all permanent, temporary, casual, part-time and job share employees of HRNSW regardless of their level of seniority, including directors. Any other persons who may be engaged to undertake activities or control resources on behalf of HRNSW are also bound by the requirements of the Code of Conduct.

### **1.3. When does the Code apply?**

The Code is concerned with our conduct as industry administrators and behaviour as individuals at work and outside the workplace where our actions may impact upon the reputation and activities of the HRNSW.

### **1.4. Principles Underlying the Code**

Under the *Harness Racing Act 2009*, HRNSW is required to develop and implement a Code of Conduct. HRNSW has adopted four principles to serve as the basis for its operations and dealings with the industry and public.

These principles are:

- Respect for the Law and the System of Government;
- Integrity
- Respect for Individuals; and
- Economy and Efficiency.

From these core principles, obligations have been derived upon which the HRNSW Code of Conduct is based.

#### **Principle 1: *Respect for the Law and System of Government***

**Obligation:** All HRNSW officers and contractors are to uphold the laws and regulations of Local, State and Commonwealth Governments, and carry out official decisions and policies faithfully and impartially. You should be particularly aware of the obligations and requirements of HRNSW's enabling legislation, the *Harness Racing Act 2009*. In addition to express statutory obligations, HRNSW actions and decisions are also subject to administrative law principles such as procedural fairness. We are committed to observance of those principles.

#### **Principle 2: *Integrity***

**Obligation:** In recognition that being an administrator involves a public trust, HRNSW officers and contractors should seek to maintain and enhance public confidence in the integrity of HRNSW and its administration of harness racing.

In this respect HRNSW officers and contractors should not improperly use their official powers or position, or allow them to be improperly used. They also should ensure that any conflict that may arise between personal interests and official duties is resolved in favour of the public interest, and they should disclose fraud, corruption, and maladministration of which the officer or contractor becomes aware. If an officer or contractor is concerned about the repercussions of making such a disclosure, they are able to rely on HRNSW's Whistleblower Policy, which provides appropriate protections, providing a disclosure is made in accordance with that policy. This Whistleblower Policy is available on HRNSW's website.

#### **Principle 3: *Respect for Individuals***

**Obligation:** HRNSW is committed to providing a workplace free of discrimination, harassment and bullying. Discrimination, harassment and bullying both within HRNSW and in dealings with those outside HRNSW are unacceptable.

All officers and contractors are obliged to take all necessary steps to prevent and deal with discrimination, harassment and bullying in the workplace and in our dealings with those outside HRNSW and to report it if it occurs.

### **Principle 4: *Economy and Efficiency***

**Obligation:** In performing their official duties HRNSW officers and contractors should ensure that industry resources are not wasted, abused, or used improperly or extravagantly.

### **Covid 19 and Public Health**

An important aspect of these principles is that all action by HRNSW must promote the health of the community. At all times the HRNSW workplace and its regulatory framework must comply with all public health directives and policies. On occasions these policies and directives are questioned by members of the public. However, HRNSW recognizes that they are based on expert advice and intend to promote the health of all members of the community, including older and vulnerable people.

## SECTION TWO

### 2. HRNSW'S CORPORATE VALUES

The regulation and commercial development of the harness racing industry is the focus of all HRNSW actions. These actions are supported by the following corporate values:

- Serve the industry to the best of our ability.
- Behave responsibly, ethically and with integrity.
- Treat customers and colleagues with respect and fairness.
- Exercise initiative and effort.
- Recognise new ideas and achievement.
- Encourage teamwork and loyalty.
- Take individual responsibility for this Code and, using appropriate channels, speak out when we see conduct that we believe is criminal, unethical or a breach of this Code.

The Code has been developed to create an appropriate framework for ethical conduct and to give us as individuals the understanding and tools to do what is expected of us as officers of HRNSW. As such we are responsible for our own actions and for ensuring that the requirements of the Code are complied with. It is important to “call out” wrong or improper conduct and where an officer or contractor is concerned about the repercussions of doing so, they can take advantage of HRNSW's Whistleblower Policy.

#### 2.1. Resolving Ethical Dilemmas

It is not possible to have a rule for every situation or to detail in the Code every possible ethical dilemma that may arise in the workplace.

Where it is not immediately clear what should be done in any given situation, the following process can be used.

#### Steps to take in resolving an ethical dilemma:

- 1 Identify and assess the situation. What are the facts, alternatives, and consequences? Who are the stakeholders? As you feel necessary or appropriate, discuss the situation with your Supervisor, Manager or the Chief Executive Officer or, in the case of directors, the HRNSW Chair.
- 2 Refer to the Code of Conduct and any relevant HRNSW guidelines and policy documents for direction.
- 3 Try asking these questions:
  - Is there any breach of the Code, official misconduct, fraud or corruption involved?
  - Is the decision consistent with HRNSW policy directions and administrative procedures?
  - Is there any perceived, real or potential conflict of interest in this situation?
  - Does this situation compromise me in terms of my obligations to HRNSW or the industry?
  - Does this situation compromise public confidence in my actions or the activities of



### HRNSW?

- Would I be comfortable defending my actions or decisions, if they were challenged in a public forum or reported in the media?
- 4 Document the proposed decision, giving supporting reasons and justifications. If the supporting reasons and justifications cannot be articulated in a clear and logical manner, is the proposed decision the most appropriate course?

If, however, you are unable to resolve a situation, the matter should be referred to your Supervisor, Manager, or the Chief Executive Officer for advice or decision. If you are in any doubt, it is important to discuss the situation with a supervisor, especially as we are not always objective in resolving issues directly affecting us. A sounding board or wise counsel can provide important guidance.

## SECTION THREE

### 3. USING THE CODE OF CONDUCT

The standards of conduct that apply in HRNSW are set out in the Code of Conduct together with guidance on where to obtain further information or other supporting material. Each topic explains HRNSW's position, contains examples and provides guidance.

Where a particular situation may not be explicitly addressed by the Code, it is an officer or contractor's responsibility to determine the correct course of action, using the process set out in Section 2.1.

#### 3.1. Offences and Disciplinary Action

HRNSW acknowledges that the overwhelming majority of its officers are committed to excellent standards in relation to all issues covered by the Code. HRNSW has a commitment to building an ethical workplace environment and, in order to maintain and enhance public confidence in the integrity of HRNSW and its officers, seeks to ensure that anyone who behaves unethically is subject to appropriate and consistent sanctions.

While reasonable efforts to behave ethically will be supported, failure to comply with the Code or unethical behaviour may result in:

- formal or informal counselling;
- application of a disciplinary procedure; or
- dismissal/termination of contract

depending on the severity and/or frequency of the breach or unethical behaviour.

Additionally serious breaches of the Code of Conduct that could amount to a criminal offence will be referred to the Police and/or other appropriate authorities, such as the Integrity Auditor.

#### 3.2. Respect for the Law and System of Government

##### Our Responsibility to HRNSW and the Industry

We are accountable to the community through the HRNSW Board and Chief Executive Officer and are therefore required to be responsive by implementing decisions and policies conscientiously and impartially accepting that the Board and Chief Executive Officer have the right to determine policy and priorities.

In fulfilling our responsibilities to HRNSW and the public there can sometimes be a conflict between the expectations of the Chief Executive Officer, the law, our supervisor or profession.. There also may be occasions when government policy or HRNSW practice may be perceived by us to have negative consequences for the public good.

Examples:

1. An employee tasked with implementing a policy that affects a segment of the industry may face a conflict between the application of HRNSW policy and a sincere professional belief of what is in the best interests of the industry, or
2. An employee deliberately delays or does not action an HRNSW Board resolution because:
  - (a) it is contrary to their moral beliefs;

- (b) they believe HRNSW is wrong; or
- (c) they believe that they are more qualified than HRNSW and therefore better understand what is required to meet the public good.

### **Guidance:**

- If you experience conflicting political, legal, organisational and professional responsibilities, you are expected to assess the situation and consider ways in which the matter may be resolved which are not in breach of the Code.
- If you are unable to resolve the matter, you should seek advice from your supervisor or manager to balance and resolve these issues, and to contribute to healthy internal debate about competing obligations.
- If you feel that HRNSW policies, resolutions or practices are not in 'the public interest', you should raise the issue within HRNSW through the appropriate management structure and internal reporting processes to maintain open and informed communication on crucial issues.
- Where a conflict arises involving professional or personal standards and the requirements of HRNSW's Code of Conduct, the employer's right to determine what is to be done should be recognised, within the framework and processes set out in this Code.

***By being aware of our workplace role and employer expectations, we can all contribute more effectively to HRNSW's efficiency in implementing HRNSW policies.***

### **Challenging Official Instructions**

It is expected that as officers of HRNSW we will follow lawful instructions. However HRNSW recognises the right of the individual to challenge any instruction that is genuinely considered to be unlawful, unreasonable, excessive or a breach of workplace, health and safety requirements. HRNSW also affirms its right as the employer to resolve perceived conflicts of obligation with staff through its established internal processes.

We are each entitled initially to refuse to comply with an instruction that appears to be unlawful. We also have the right and an obligation to test what appears to be an unreasonable or excessive instruction against the standards of the community. This test may be made in relation to procedural fairness or human rights matters, especially where the safety and well being of ourselves and/or others is involved.

Example:

An employee is instructed to deal with an industry issue in a manner that they believe is likely to cause unnecessary conflict within the industry, when alternative courses of action are open that would achieve the same result.

### **Guidance:**

- If you think that you have been given an inappropriate official instruction, you should first seek further information and clarification from the person issuing the instruction.
- If the response still gives you concern, you should apply a test of reasonableness to help you determine the right course of action.

Ask yourself these questions:

- Is the instruction lawful or consistent with HRNSW's standard procedures and legislation?
- Is the instruction in keeping with the goals and objectives of the organisation?
- If the instruction is carried out, could it have an impact on the reputation of HRNSW?
- If you still believe the instruction may be inappropriate or illegal, you should discuss the matter with the manager to whom the person issuing the instruction reports. In the interim, however, you are expected to carry out the instruction unless it is clearly HRNSW has a non-negotiable obligation to ensure that you have a safe place of work and that our activities do not endanger members of the public (in that regard see the Workplace Health and Safety section below).
- If you are a manager approached by someone questioning an official instruction, you must provide guidance and direction in a supportive and unprejudiced environment. If necessary, you should mediate between the officer and the person issuing the instruction to resolve the matter.
- If the instruction is deemed to be lawful and reasonable but you still object strongly as a matter of personal conscience and cannot accept a proposed resolution of the situation, you are expected to comply with the instruction.

**If criminal conduct is suspected, notify an appropriate authority. This may be the Chief Executive Officer, the Chairman or a Director of HRNSW, the Police or other authority depending on the circumstances. To ensure that appropriate reporting mechanisms are adhered to in this situation HRNSW's policy and procedures for handling public interest disclosures should be referred to, including HRNSW's Whistleblower Policy. These are discussed further below under 'Reporting Unethical or Fraudulent Conduct'.**

***Understanding our individual right to challenge an official instruction increases our sense of accountability and responsibility, and helps to maintain the integrity of HRNSW by ensuring that official instructions are legal and appropriate.***

### 3.3. Integrity

#### Conflicts of Interest

As officers of HRNSW we have an obligation to maintain HRNSW's integrity and good public image. This should be kept in mind when personal interests differ from the interests of HRNSW. If a conflict arises, it should be resolved in favour of the public interest.

An *actual* conflict of interest exists when a reasonable bystander, in possession of the relevant facts, would conclude that the person's private interests are likely to interfere with the proper performance of their official duties. An *apparent* conflict of interest exists when it would appear to a reasonable bystander that a person's private interests have the potential to interfere with the proper performance of their official duties.

Responsibility for identifying and disclosing a real or an apparent conflict of interest rests with the individual staff member of HRNSW.

You should particularly be aware of the obligations imposed by HRNSW's enabling legislation, the *Harness Racing Act 2009*, in relation to conflicts of interest. Members have various duties under that Act, including:

- To disclose pecuniary interests in a matter being considered by the HRNSW Board, if that interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter (Clause 10, Schedule One of the Act). Note that clause 11 gives an extended definition of what constitutes a "pecuniary

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interest"; and

- To act in the public interest and the interests of the NSW harness racing industry as a whole (clause 12, Schedule One of the Act).
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While these duties are cast on members, under this Code all officers are expected to meet the same standards of conduct. In the case of staff-related pecuniary interests, the appropriate disclosure is to your supervisor or the Chief Executive Officer, where you are dealing with a matter that could involve the appearance of conflict due to a pecuniary interest.

In addition to pecuniary interests, officers need to consider whether a non-pecuniary interest (such as membership of or an affiliation with a club or other entity) could give rise to a perceived conflict requiring disclosure under this Code.

Examples of improper conduct:

1. An employee engages a relative as a consultant to complete some work with HRNSW but does not disclose the relationship.
2. An employee agrees to purchase several pieces of equipment from a particular company if the company supplies one for their personal use at no extra cost.
3. An employee with specific integrity and probity conditions attached to their position that prohibit betting or gambling, engages in betting or gambling either directly, through third parties or through the use of a false identity.
4. An employee recommends engaging a person, association, organisation, trading partnership or company etc with whom the employee has a private or business relationship eg. silent partner, owns a material shareholding in the company, office holder, member or is related to a person acting in such a capacity.
5. An employee prepares a report to HRNSW recommending a course of action knowing that it will benefit them privately or an associate directly or indirectly, such as a family member.

### **Guidance:**

The following steps may provide assistance when determining how to handle a potential conflict of interest:

- Determine your position on the matter and identify any inconsistency with that of HRNSW. Where any position, affiliation or interest you have, or a person connected with you such as a family member or business partner has, is likely to give rise to an actual or perceived conflict, you must immediately disclose that matter. In the normal course the disclosure should be made in writing, to protect both yourself and HRNSW.
- If you are in any doubt about whether an actual or perceived conflict may exist, HRNSW expects you to make a disclosure. This code requires you to err on the side of caution.
- As a general rule full disclosure of the conflict should be made in writing via your manager or the Chief Executive Officer. A determination will then be made as to the materiality of the conflict and the best way to resolve the conflict in the public interest. Unless you are given a written clearance that the conflict is not material or for other reasons requires no action, you should not make any decisions in relation to the matter involving the possible conflict. Where action by HRNSW is pending and requires immediate resolution, you should bring that to the attention of your manager or the Chief Executive Officer.
- To serve the public interest the main issues are to disclose the conflict of interest to management and for management make a determination regarding the level of materiality of the conflict. HRNSW may seek legal assistance to assess the level of materiality.

***By ensuring that potential conflicts of interest are identified early and resolved in the public interest, we are able to promote objective and transparent decision-making processes, and enhance the good reputation of both HRNSW and ourselves.***

### **Gifts and Benefits**

It is vital that the integrity of HRNSW is never compromised. To this end it is essential that HRNSW's functioning is not influenced in any way by unethical behaviour, and that no person or organisation is seen to be improperly influencing the decision-making processes of HRNSW or compromising its position.

HRNSW officers must not solicit or accept gifts, rewards or benefits:

- in connection with the performance of their duties; or
- in any circumstances (including social occasions) that could give rise to an actual or perceived conflict of interest; or
- that are otherwise inconsistent with the standards of integrity expected of an impartial administrator. Guidance regarding acceptable hospitality or gifts of a minor and incidental nature, and the circumstances in which they can be accepted, is given below.

Please note that asking for and/or accepting unauthorised money, goods or services in exchange for favourable treatment is likely to constitute criminal conduct and will be referred to the Police or other appropriate authority.

HRNSW personnel may accept reasonable hospitality offered in the course of their duties if the following conditions are satisfied-

- The offer and level of hospitality is in accord with normal social practice and accepted standards of behaviour by public officials; and
- The offer is the same as that provided to others in the same circumstance ie there is no favoured treatment; and
- All offers made to staff are reported to the Chief Executive, who has a right of veto, and in the case of the Chief Executive, the Chair.

As example, HRNSW personnel might:

- attend an industry meeting at which catering is provided. In the normal course acceptance of catering provided to all attendees is acceptable.
- attend an event at which all attendees are provided with a memento, such as a photograph of themselves at the event. In the normal course acceptance of such a photograph would be acceptable.

HRNSW personnel should never accept:

- Money or goods that have an exchange equivalent (such as a lottery ticket)
- Gifts, service or favoured treatment, even if of no measurable value, relating to harness racing or the functions of HRNSW.

An offer of an unacceptable benefit must be reported to your supervisor, the Chief Executive Officer or the Chair, as appropriate. Even when a gift is offered in a private capacity, HRNSW personnel must be sensitive to their responsibilities under this Code and decline such gifts, if they could not be accepted in an official capacity.

Examples of improper conduct:

1. An employee offers to give favourable consideration to a consultant's tender submitted with HRNSW in return for the consultant's assistance with a personal project.
2. An employee accepts a 'fee' from a participant to prevent or change the outcome of an official inquiry.
3. An employee accepts a private company's offer of season tickets to the football before nominating the company as a preferred supplier of goods to HRNSW.

### **Guidance:**

- If you think that you have been offered a bribe, refuse it and make a written report to the Chief Executive Officer immediately.
- Benefits accrued through the use of HRNSW resources rightly belong to HRNSW as the party funding the resource.
- Acceptance of certain benefits may be regarded as an 'accepted practice' within your own work area. This does not mean that it is acceptable to HRNSW and accepted practice should not be regarded as a guide.

***By refusing to seek actual or perceived benefits and by following the correct procedures when offered unsolicited gifts and benefits, we maintain our personal reputation and the integrity of the HRNSW.***

### **Second Jobs and Outside Interests**

HRNSW seeks to avoid unnecessary intrusion into private activities. However when we take up a second job or a major hobby our ability to function efficiently in the workplace may be adversely affected. This concern is even greater where our private interests lie in areas related to our official work for HRNSW.

Examples of improper conduct:

1. A finance officer is also a partner in a financial consultancy firm that regularly tenders for the provision of accounting advice to HRNSW.
2. An employee takes on a second job after hours but, as a consequence of the demands of this job, consistently performs below standard at work in the HRNSW during the day.

### **Guidance:**

- If you intend to undertake external employment (including self-employment) that could give rise to a potential conflict of interest, or where the outside employment will involve some relationship with HRNSW, you are required to inform and receive approval from the Chief Executive Officer prior to undertaking the employment.
- If your outside interests adversely impact upon your work performance, your manager will be obliged to instigate appropriate performance measurement and management procedures to rectify the situation.

***By understanding and meeting our obligations to HRNSW as our official employer, we assist HRNSW in achieving a balance between its legitimate need to protect its integrity, and our rights to lead our private lives without unnecessary intrusion by HRNSW.***



### Confidentiality and Privacy

In the course of our employment with HRNSW, we may have access to confidential information. This information may be of a sensitive nature and may have the potential to seriously impact upon the activities of HRNSW, individuals or private sector organisations if it were to become widely known. Appropriate levels of confidentiality must be maintained by us at all times.

Information about HRNSW's activities may be considered to be confidential prior to its public release.

Any information relating to individual stakeholders is considered to be confidential, and should not be discussed outside the workplace or with people not directly involved in the matter concerned. It should be noted that the identity of individuals and their personal attributes, such as their address, phone number, email, health details, marital and religious status and other personal identifiers can be particularly sensitive and the *Privacy and Personal Information Protection Act 1998* provides specific protections regarding that information.

Examples of improper conduct:

1. An officer discloses to an external lobby group details of a confidential study commissioned by HRNSW for a land use planning proposal.
2. An officer discloses confidential or privileged information to a tenderer to further his personal interests. Such disclosure involves a conflict of interest and possibly a criminal offence.
3. An officer discloses details of a confidential submission handled by HRNSW, in the belief that it is in the public interest to do so. Such disclosure jeopardises confidence in HRNSW's ability to participate responsibly in future submission processes on matters impacting upon its program areas.

### Guidance:

- Generally the determination of disclosure is a matter that should be assessed at a managerial level. If you believe that information, which is generally not made publicly available, should be made publicly available (for example, where the safety of self and/or others is involved) you should refer the matter to your supervisor or manager for advice.
- Further queries involving specific provisions of the *Government Information (Public Access) Act 2009* should be referred to the Chief Executive Officer.

***By ensuring that information held or generated by HRNSW is not used or disclosed inappropriately, we provide an assurance to our clients, business partners and stakeholders that confidential information is treated responsibly and, where applicable, that their right to privacy will be respected.***

### Public Comment

In the course of our employment with HRNSW we may be asked to make public comments upon a variety of issues. Prior to doing so we must ensure that we are duly authorised by the Chief Executive Officer.

HRNSW accepts that those of us who take pride in our work may from time to time wish to make our personal opinions public. However it is not acceptable or appropriate to make public comment on issues affecting HRNSW or which purport to express a HRNSW position unless we are authorised to do so. Public comment includes social media, including Facebook, Twitter and Instagram.

Examples of improper conduct:

1. During an election campaign an employee engages in party political activity and publicly criticises the activities of HRNSW as a known HRNSW employee. This action compromises the employee's willingness to objectively implement HRNSW resolutions.
2. An employee enters into a discussion on HRNSW policy at a local community group meeting but fails to make clear to the audience that such comment is being made in the employee's capacity as a private citizen rather than on behalf of the HRNSW.

### **Guidance:**

- Ask yourself – have you been given permission to speak on this issue on HRNSW's behalf?
- Although you maintain the same rights as any other member of the community to enter into discussions of social and community issues in a private capacity, it is your responsibility to ensure that any comment you make will be perceived by others as your personal view as a private citizen.
- In making any such comment the use of privileged information gained through your employment with HRNSW is unacceptable.

In deciding on whether a particular comment is acceptable the following circumstances need to be considered:

- The administrative or political sensitivity of the subject matter.
- The context of the comment.
- The extent and timing of any media coverage.
- Whether you will be perceived to be speaking from a position of knowledge.
- If you make public comment in an official capacity which has been appropriately authorised, you must not misrepresent the facts concerning HRNSW policy or administration.

***By avoiding making unconsidered and/or unauthorised public comment, you will avoid compromising the integrity of HRNSW and incurring personal liability for incorrect or inappropriate statements on controversial issues.***

### **Responsibilities of Former Officers**

Should we leave HRNSW we are generally free to use the skills, knowledge or experience gained during our employment with HRNSW.

However we can not freely use HRNSW's confidential information or documents in subsequent positions of employment. If the information or documentation is publicly available, we have the same right to discuss and use it publicly as any other member of the public, subject to copyright restrictions.

Examples:

1. A former HRNSW officer now working for a marketing firm uses a confidential list of HRNSW's customer names and addresses to target potential customers for a specific service. This action is not acceptable. Because this type of information is unauthorised the officer becomes liable to prosecution.
2. A former HRNSW officer now working as a private consultant uses knowledge of HRNSW's proposal evaluation procedures to prepare a proposal for the provision of services. This action is acceptable if HRNSW's proposal evaluation procedures are explicit

and publicly available. This action is not acceptable if HRNSW's proposal evaluation procedures are not publicly available.

### **Guidance:**

- Prior to your departure from HRNSW you should seek advice from your supervisor or manager regarding authority to use information or documents.
- On departure you are required to return documents and items which relate to the activities of HRNSW and which are not otherwise publicly available.
- If information gained as a consequence of your employment with HRNSW is not publicly available, you are required to seek HRNSW's permission to make public, publish or use such information.

Issues HRNSW will consider in making a determination on whether former officer may use HRNSW information or documents include: purpose of use; sensitivity; likely benefits or impacts on HRNSW, its clients, community, business sector, or individuals; whether the material is intended to be sold for profit; proposals for licensing or royalty arrangements; and accordance with general HRNSW objectives. As a general rule a former officer may use information only if it is available to all others in the same position (such as, for example, a group of tendering bodies briefed about a tender). HRNSW will generally adopt this principle in considering requests by former officers to use information acquired as an officer.

***Our awareness of our rights and responsibilities as former employees of HRNSW assists us in our protection from legal proceedings or questions regarding our professional and personal integrity.***

### **References, Testimonials and Reports**

HRNSW entrusts its officers with responsibility for fair, consistent and objective appraisal of officers through the provision of performance and referee reports and the authority to select officers on the basis of merit. It expects that we will fulfil this responsibility with impartiality and due regard for the principle of equity.

We should be prepared to provide feedback to the individual concerned about the nature of comments we make within these reports, and ensure that any shortfalls identified during the process are addressed as part of the individual's performance management plan.

When we prepare references, testimonials, referee reports, selection reports and performance reports we are to ensure that information given is supported by objectivity. In addition all official references provided on HRNSW letterhead must be signed by the Chief Executive Officer.

Example of improper conduct:

A manager, who is approached by a staff member to act as a referee for their job application, is unsure whether the applicant can do the job effectively. In agreeing to act as a referee, the manager fails to inform the applicant that he/she has reservations about supporting them on certain selection criteria.

By failing to do so, the Manager denies the staff member the opportunity to access full referee support or to receive timely and appropriate feedback. In addition, the Manager is likely to be under pressure not to tell the selection panel the full story and thereby compromise the selection process.

**Guidance:**

- If you are to prepare a report on another staff member you should ensure that you have a clear statement of the criteria against which to make an appraisal.

- If you are on a selection panel you should undertake or have undertaken appropriate training in making staff selections.
- In accessing or preparing information about another person you should treat that information as confidential.
- In preparing information about another person you should be prepared to provide feedback to that person about the nature of your comments.
- In making decisions about another person you should not consider uncorroborated opinions.
- If you are requested to act as a referee for another person you should not accept unless you have the knowledge of the person necessary to make an accurate and fair assessment of that person.

***By observing the correct procedures in preparing testimonials and reports we can ensure that HRNSW's reporting processes are fair, consistent and transparent, and that its reputation is maintained.***

### **Reporting Unethical or Fraudulent Conduct**

HRNSW seeks to ensure that a workplace environment exists which allows all of its officers to report perceived instances of unethical conduct. Reprisals against disclosers of unethical conduct or other persons are not tolerated. To provide support to those disclosing unethical conduct, and to protect their confidentiality, HRNSW has adopted a Whistleblower Policy which is available on its website. In order to take advantage of that policy, it is important that you comply with it. This section of the Code should be read in conjunction with that policy.

As officers of HRNSW, we are all obliged to disclose any fraud, corruption and maladministration of which we may become aware. Where the matter involves your supervisor, you should disclose the matter to the Chief Executive Officer. If the matter involves the Chief Executive Officer, the appropriate disclosure is to the Chair of the HRNSW Board. You should request an acknowledgement that your disclosure has been received.

All disclosures are to be kept confidential and, although frank and open communication is encouraged throughout the HRNSW, we are entitled to remain anonymous if we wish. HRNSW's Whistleblower Policy provides appropriate protections, if an officer making a disclosure has concerns about their anonymity.

Where we are aware of unethical conduct and fail to make a disclosure, appropriate disciplinary processes may be set in place by the HRNSW.

Disciplinary action will be taken against anyone who makes a deliberately false disclosure, maliciously misuses the reporting process or makes a reprisal.

If we are a respondent, we can be assured that confidentiality will be respected, and that we are entitled to answer any allegation before any adverse finding may be made.

Examples of improper conduct:

1. An employee deliberately ignores the activities of a friend and colleague who has a small business and regularly uses HRNSW resources to print and send fliers, to make telephone calls for their business and to interview clients.
2. An employee is engaged in illegal or unethical activities and seeks to place pressure on another HRNSW employee to support, cover up or copy the unethical behaviour, in an

attempt to ensure that the other employee is not in a position to report the unethical conduct.

3. To 'get even' with a colleague for some perceived grievance, an employee lodges a false and malicious allegation about unethical conduct by that person.

### **Guidance:**

- If you become aware of conduct in the workplace that breaches the Code of Conduct, you are obliged to discuss the matter with your supervisor, manager or other appropriate senior officer.
- If for any reason you are unable to approach your supervisor or manager, you should bring the matter to the attention of another manager or appropriate person who has the knowledge of the mechanisms available to deal with the various levels of reported undesirable behaviour.
- If you feel that your report of unethical behaviour may be considered to be a public interest disclosure, you should contact the Chief Executive Officer to ensure that appropriate procedures are observed. A public interest disclosure can be made either orally or in writing, and again you may identify yourself or remain anonymous.

***Our confidence in raising legitimate ethical concerns within HRNSW without fear of retribution, demonstrates to all stakeholders that HRNSW is serious about promoting ethical behaviour, and produces a workplace environment in which unethical behaviour can be appropriately dealt with.***

### **3.4. Respect for Individuals**

#### **Dealing with Colleagues, Clients and Business Partners**

In our workplace conduct we are expected to treat all colleagues, clients and business partners of HRNSW and the general public in a reasonable and courteous manner being responsive to their needs and requests, and ensuring that they receive their entitlements.

Our personal feelings or a lack of tolerance of views held by others which might differ from our own should not be allowed to influence our judgement, decision making or workplace behaviour.

The belittling of another person through overt or implicit language and actions can have a severe impact on that person's self-esteem and well being, and may have significant unintended consequences.

Examples of improper conduct:

1. A manager continually denigrates an employee's abilities in the presence of other staff lowering the morale of the work unit.
2. An officer makes fun of a employee's cultural values and practices potentially provoking legal action against HRNSW.

### **Guidance:**

- If any behaviour might be considered inappropriate or cause unreasonable distress and embarrassment to others it should be avoided.
- You are expected to comply with the principles of equity and social justice, to avoid unfairly

discriminating or harassing colleagues or the public on any grounds including those identified by the *Anti-Discrimination Act 1977*.

***By respecting the rights, dignity and the well-being of others, we can all contribute to improved work performance, morale and job satisfaction with HRNSW.***

### **Responsibility of the Chief Executive Officer, Managers and Supervisors**

In exercising their authority our supervisors, managers and the Chief Executive Officer have added responsibilities in their attitudes towards their staff and colleagues, and are expected to ensure that there is no misuse of their managerial power.

Examples of improper conduct:

1. The leader of a project team marginalises staff members he/she does not like.
2. The manager of a section makes decisions about staff based upon personal friendship rather than organisational needs while ignoring the needs of other staff members.
3. A manager consistently refuses to release staff for cultural, religious or family priorities without considering their personal requirements and well being.

### **Guidance:**

As a Manager or Supervisor you are required to:

- Treat staff fairly, equitably and consistently without favouritism, harassment, victimisation or neglect of any individual.
- Avoid setting unrealistic performance standards or overworking your staff.
- Become aware of the competencies of staff and provide development opportunities.
- Model ethical behaviour in your leadership style.

***In exercising their authority responsibly, management plays an important role in the growth and development of staff and the reduction of workplace stress.***

### **Interpersonal Relations**

All officers of HRNSW must conduct their interpersonal relations in a respectful and courteous manner. Other officers and members of the public are entitled to expect that their dealings with HRNSW will be free of bullying, harassment, racism, sexual innuendo or other forms of belittling or offensive behaviour.

An officer who engages in sexual innuendo, unwanted touching and other inappropriate forms of personal interaction will be disciplined and may be dismissed. In addition, unwanted touching of another person is an assault which can result in referral of the matter to the Police.

Where two officers form a personal relationship, it is not appropriate that either of them has supervisory control over the other or is responsible for work outcomes, such as performance reviews and assessments. Officers who form a personal relationship are therefore required to disclose the matter to their supervisor or the Chief Executive Officer. That disclosure will be treated as confidential. Where necessary, alternative supervisory arrangements will be made.

Examples of improper conduct include:

- Interactions that are sexually suggestive, such as questions about a staff member's personal life. For example, "Did you get some last night?"
- Comments that highlight a staff member's sexuality, religion, race or other personal attributes, such as "Being gay, you'll like pink office décor."

HRNSW is an inclusive work place. It is sometimes said in defence of such comments that they are made in a good-humoured manner. However, that is no defence or justification for such comments, which can negatively impact the subject of the comments in ways that we may not be aware of. We all have a responsibility not to disrespect another person by highlighting or making fun of difference, especially gender, sexual, marital, racial, ethnic, religious and similar differences, including any disability.

All officers of HRNSW are entitled to expect that they also will be treated in a respectful, non-discriminatory and non-harassing manner by stakeholders and members of the public interacting with HRNSW. If you believe that a stakeholder or member of the public is treating you in a manner that contravenes this policy, you should raise the matter with your supervisor, in order that appropriate steps can be taken.

### **Use of Social Media**

HRNSW staff members must be mindful of their use of social media and ensure that all interactions are respectful to HRNSW and members of the community.

It is not appropriate to use social media to promote views that are relevant to your duties or HRNSW, even when defending HRNSW. HRNSW's views should be promoted only through its official channels. On occasion, you may be challenged about your role within HRNSW via a social media comment. Those comments should be referred to your supervisor or the Chief Executive Officer for any appropriate response. In that regard further guidance is provided in this Code under the heading 'Public Comment'.

Your use of social media must also respect the rights of officers and industry participants, including their right to privacy. It is generally not appropriate to post photographs of other officers or industry participants unless they have consented and to immediately take down any photograph by any such person if requested by a person included in the photograph.

Even when communicating privately on social media, officers need to express themselves in a manner that does not reflect adversely on HRNSW or their role as an officer of HRNSW.

### **Workplace, Health & Safety**

HRNSW has a duty of care and legislative obligation to provide us all with a safe working environment. As officers we also have a duty and obligation to take all reasonable steps in ensuring our own safety, health and well being in the workplace as well as that of colleagues, customers and the general public. The safety of all persons involved with HRNSW is a paramount consideration and no one is required to take action that they believe would endanger their own safety or the safety of another person. Where any officer believes they have been asked to risk their own safety or that of another person, they should raise the matter immediately. In addition, unsafe work practices must be addressed immediately, either directly by you or by raising the matter with your supervisor. These can be as simple as removing a trip hazard from a work space.

### **Guidance:**

- Specific details of your workplace, health and safety obligations and responsibilities are set out in the provisions of the *Work Health and Safety 2011*. We should be familiar with and



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support HRNSW's Occupational Health and Safety policies including ensuring that all other employees share the same level of awareness.

***By observing our own duty of care to ourselves and others we can each contribute to the enjoyment of a safe and comfortable workplace.***

### **Procedural Fairness and Fair Treatment**

There may be occasions when we make an administrative decision or take discretionary action which is likely to have an adverse effect upon the rights, liberties, interests or legitimate expectations of another person. In such instances they are entitled to seek 'natural justice' and should be given an effective opportunity to request a review of our decision or action. In addition, HRNSW is expected to treat its stakeholders in accordance with general expectations of fairness, such as ensuring equal access to information and equality of treatment between stakeholders with similar circumstances.

Where applicable, the person should be fully informed of their rights and of the particulars of the case. This should be done in a manner appropriate to the case. Where necessary, HRNSW may obtain legal advice regarding its obligations of procedural fairness, in order to ensure that it complies with those obligations, which can depend on the circumstances of the individual case.

To ensure fair treatment any general administrative guidelines are to be applied in a consistent manner while at the same time taking account of the particular circumstances of each case.

Examples:

1. An officer is accused of making a biased decision by a dissatisfied customer who claims that the officer's personal views influenced the decision-making process.
2. An officer neglects the special needs of a customer seeking information from HRNSW who, through disability, is unable to access information as easily as others.

### **Guidance:**

- To ensure that your decision has not been affected or may be perceived to be affected by a customer's behaviour, you may wish to involve another person in the assessment.
- Where a stakeholder is disadvantaged in accessing information, for example, through geographical location, language difficulties or disability you may be required to give extra assistance to that stakeholder without progressing the stakeholder's advantage over that of another.
- If you are responsible for making decisions, these should be made within a reasonable time frame.
- Reasons for any decision should be given clearly and openly upon request to any individuals affected by that decision.

***When we support objective and impartial decision-making, we reduce the likelihood of prolonged grievances and promote confidence in the fair and consistent procedures of HRNSW.***

## **3.5. Economy and Efficiency**

### **Care of Public Resources**

As officers of HRNSW we are expected to use all HRNSW resources economically for their legitimate purposes, treating them with appropriate care and securing them against misuse or theft. Use of these assets to the best benefit of HRNSW also includes using proper disposal procedures.

In addition, officers are expected to use resources in an energy and resource-efficient manner, which avoids waste and is sensitive to the environmental effects of HRNSW's practices. As an example, officers are encouraged to avoid the unnecessary printing of documents, the wasteful use of energy on unnecessary lighting or by unnecessarily keeping equipment on a standby power mode. We should also be familiar with policies adopted by the NSW Government to encourage all agencies to act in an environmentally responsible manner.

Managers and supervisors have a particular responsibility in using public resources which includes minimising the waste, abuse or misuse of staff time.

Examples of improper conduct:

1. Staff gather during working hours to have an informal discussion on matters unrelated to the workplace.
2. In authorising the purchase of a workplace camera, an employee orders the most expensive model without assessing the real needs of the workplace.

### **Guidance:**

- If you have a reason to incur an expense in the workplace, you should ensure that the expense is for the legitimate activities of HRNSW, seek prior approval and follow the correct documentation procedures.
- If you have the power to approve expenditure or activity, you are not entitled to manipulate existing rules and guidelines for personal benefit or to go beyond the limits of your delegated authority.

HRNSW policies and guidelines exist regarding information security, the reimbursement of expenses, and the use of specific resources such as HRNSW vehicles, mobile phones and credit cards.

***When we adhere to HRNSW's policy and procedures on the appropriate use of public funds and resources, we maintain the integrity and viability of the HRNSW and reduce the public perception of publicly funded 'perks' for officials.***

### **Use of Public Resources for Personal Purposes**

As a general principle public resources of HRNSW should not be used for personal purposes.

Examples of improper conduct:

1. An employee takes an HRNSW computer home for legitimate work purposes but also allows the family to play computer games on it. As the result of careless handling by family members, the computer is damaged. Note also that allowing a family member or other third party to access your work computer is also likely to breach your confidentiality obligations to HRNSW.
2. An employee takes an HRNSW computer home for legitimate work purposes but also uses the computer to assist in undertaking paid private employment.
3. An employee uses an HRNSW vehicle on legitimate HRNSW business but also travels to another destination on personal business, which adds unauthorised mileage to the official journey.

### **Workplace Conduct**

The way in which we perform our official duties has an impact upon HRNSW's ability to appropriately serve the needs of the industry and public. We are therefore expected to act responsibly in the workplace, to be accountable for our actions and decisions, and to provide honest, impartial and comprehensive advice and information.

Examples of improper conduct:

1. An employee fails to report concerns about issues arising from the performance of their duties, and in doing so compromises the soundness of the unit's decision-making processes.
2. An employee takes leave without seeking permission with the result that the work area does not function effectively in their unaccounted absence.
3. An employee deliberately does not implement a lawful resolution of HRNSW.

### **Guidance:**

In performing your duties you should:

- Faithfully serve HRNSW regardless of your personal preferences.
- Fulfil all responsibilities of your own job including duties as appropriately directed by your supervisor or manager.
- Ensure that existing rules and guidelines are followed responsibly within the spirit of their intent.
- Ensure that you implement an HRNSW resolution in a timely manner. If you feel that an HRNSW resolution is not in 'the public interest', you should raise the issue within HRNSW through the appropriate management structure and internal reporting processes to maintain open and informed communication on crucial issues.
- Ensure that decision-making processes are as soundly based, well informed and participative as possible within resource and time constraints;
- Note that you are accountable for your absences from the workplace.

- Refrain from conduct which may adversely affect your work performance or that of others.

***By performing our duties faithfully and to the best of our ability we make an effective contribution towards achieving HRNSW's programs and objectives.***

### THINGS TO REMEMBER

By being aware of our workplace role and employer expectations, we can all contribute more effectively to the HRNSW's efficiency in implementing HRNSW policies and administering the industry.

Understanding our individual right to challenge an official instruction increases our sense of accountability and responsibility, and helps to maintain the integrity of HRNSW by ensuring that official instructions are legal and appropriate.

By respecting the rights, dignity and well-being of others, we can all contribute to our improved work performance, morale and job satisfaction with HRNSW.

In exercising their authority responsibly, our management plays an important role in the growth and development of staff and the reduction of workplace stress.

By observing our own duty of care to ourselves and others, we can each contribute to the enjoyment of a safe and comfortable workplace.

When we support objective and impartial decision-making, we reduce the likelihood of prolonged grievances, and promote confidence in the fair and consistent procedures of HRNSW.

By ensuring that potential conflicts of interest are identified early and resolved in the public interest we are able to promote objective and transparent decision-making processes, and enhance the good reputation of both HRNSW and ourselves.

By refusing to seek actual or perceived benefits and by following the correct procedures when offered unsolicited gifts and benefits, we maintain our personal reputation and the integrity of HRNSW.

By understanding and meeting our obligations to HRNSW as our official employer, we assist HRNSW in achieving a balance between its legitimate need to protect its integrity, and our rights to lead our private lives without unnecessary intrusion by HRNSW.

By ensuring that information held or generated by HRNSW is not used or disclosed inappropriately, we provide an assurance to our clients, business partners and stakeholders that confidential information is treated responsibly and, where applicable, that their right to privacy will be respected.

By avoiding making unconsidered and/or unauthorised public comment, we avoid compromising the integrity of HRNSW and incurring personal liability for incorrect or inappropriate statements on controversial issues.

Our awareness of our rights and responsibilities as former employees of HRNSW assists us in our protection from legal proceedings or questions regarding our professional and personal integrity.

By observing the correct procedures in preparing references, testimonials and reports we can ensure that HRNSW's reporting processes are fair, consistent and transparent.

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## APPLICABLE LEGISLATION

- *Anti-Discrimination Act 1977* (NSW) and Commonwealth legislation relating to discrimination on the grounds of race, sex and disability.
- *Crimes Act 1900* (NSW)
- *Government Information (Public Access) Act 2009* (NSW)
- *Industrial Relations Act 1996* (NSW)
- *Work Health and Safety Act 2011* (NSW) and *Work Health and Safety Regulation 2017*
- *Privacy and Personal Information Protection Act 1998* (NSW)
- *Public Interest Disclosures Act 1994* (NSW)