***Code of Conduct: Audit and Risk Committee Chairs and Members***

**Purpose**

This document outlines fundamental values and principles that define the standards of behaviour expected of chairs and members of Audit and Risk Committees (ARCs). It also provides sources of information and advice on ethical and other relevant accountability issues.

**Scope**

These guidelines apply to members of Audit and Risk Committees established in accordance with the requirements of NSW Treasury Policy Paper *Internal Audit and Risk Management Policy for the NSW Public Sector (*TPP20-08*).*

Each Audit and Risk Committee member should adopt this code of conduct to define their values and behaviour. Members should also be aware of, and act in accordance with the Government sector core values as outlined in section 7 of the *Government Sector Employment Act 2013*.

1. **Principles of Conduct**

All ARC chairs and members have a responsibility to understand their duties and responsibilities and execute the committee’s purpose without exceeding the authority of their position. The primary source of information on the role and functions of the ARC is TPP20-08.

Chairs and members of ARCs must uphold standards of conduct and ethics that maintain public confidence and trust. The public has the right to expect that chairs and members of ARCs demonstrate the highest level of integrity and competence and treat all stakeholders fairly, reasonably and equitably.

As a condition of engagement, independent chairs and members of ARCs must agree to the general principles of conduct consistent with those that apply to public sector employees, executives and boards. These include:

Independence and impartiality

Honesty, Integrity and loyalty to the Public Interest

Take responsibility for decisions and actions

Consider people equally without prejudice or favour

Responsive service

Care, skill anddiligence

*Independence and impartiality*

The value of an ARC depends on its ability to provide independent advice and review. Chairs and members of ARCs must qualify to provide this independent and objective review function to public sector agencies. It is therefore of utmost importance that any impediment or conflict of interest that exists is removed or managed so that it cannot affect decision making. It is the individual’s responsibility to communicate and manage any conflict of interest and seek assistance where required from the Department Head or Governing Board of a statutory body. It is the Chair’s responsibility to ensure that a record of all conflict of interest declarations is maintained.

*Honesty, integrity and public interest*

In performing their duties, chairs and members of ARCs must promote confidence in the integrity of public administration. They should always act honestly and in the public interest, rather than in their private interest. They should use their authority and available resources and information only for the work related purpose intended.

*Take responsibility for decisions and actions*

Chairs and members of ARCs will act lawfully and respect requirements and implementation of policies and decisions of the Government. They will also perform their duties in a professional and responsible manner and ensure that decisions and actions are reasonable, fair and appropriate to the circumstances, based on a consideration of the relevant facts, and supported by adequate documentation.

*Consider people equally without prejudice or favour.*

Chairs and members of ARCs will treat colleagues and others fairly and consistently, in a non-discriminatory manner with proper regard for their rights and obligations.

*Responsive service*

Chairs and members of ARCs should have good understanding of the role of the committee as well as the business nature and role of the organisation to whose ARC they have been appointed.

*Care, Skill and Diligence*

Chairs and members of ARCs should look for ways to improve the performance and function of the committee to enhance the performance of particular organisations.

1. **Accountability and Decision-making**

The nature of work in the public sector requires a high standard of accountability, transparency and fairness. Independent chairs and members should attend all meetings of the ARC as far as is possible, and allow the necessary time to prepare for meetings. Decisions, reasons for those decisions and processes of the ARC must be documented and minutes of all official meetings prepared and retained as official records.

1. **Use of Public Resources**

The relevant agency will provide furniture and equipment and other resources for the board or committee to perform its functions. All such resources are to be used by independent chairs and members only for ARC work and in accordance with any guidelines or rules about the use of those resources.

**4. Use of Official Information**

An ARC chair or member must not disclose official information or documents acquired as a consequence of membership of an ARC other than as required by law or when the member has been given proper authority to do so.

**5. Public Comment**

Chairs and members of an ARC will not make “Public Comment” on the function and operations of the ARC and must confine all external discussion on government matters to material that is in the public domain.

“Public Comment” includes public speaking engagements (including comments on radio and television), expressing views in letters to the press or in books or notices or where it is reasonably foreseeable that publication or circulation of the comment will enter the public domain.

**6. Gifts and Benefits**

ARC chairs and members are required to perform their functions with integrity, impartiality and honesty. During the term of engagement they may be offered certain gifts or benefits. It is critical for ARC chairs and members to be aware that the acceptance of gifts and benefits can place an ARC chair or member in a position where they feel obliged to act contrary to rules of integrity, independence and honesty.

Offering money or gifts in order to obtain a benefit or favour is illegal. It is called bribery and is one form of corruption. Similarly, if a chair or member of an ARC seeks or accepts a bribe it is corruption.

ARC chairs and members must not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to other organisations or to individuals. To avoid the possibility of being compromised, only gifts or hospitality of token or nominal value may be accepted in some circumstances and must always be registered on the gift register of the organisation. Accepting such gifts or benefits is essentially a matter of judgement. ARC chairs and members must be satisfied that their position will not in any way be compromised or appear to be compromised by acceptance of a gift or benefit. Agency guidelines on the subject must also be taken into account.

It is recommended that a Register of Gifts be maintained to enable the receipt and disposal of gifts to be conducted in an open and transparent manner. The information recorded should include who made the offer, who received the gift or benefit, the date, its estimated value and the decision made on its allocation.

**7. Disclosure of Interests**

A chair or member must disclose interests to the ARC (which include positions and pecuniary interests) in corporations, partnerships, or other government agencies that may be relevant to the activities of a particular ARC.

A chair or member’s interests include those of an associate or close relative. A register of such interests should be maintained by the organisation.

**8. Recognising and Managing Conflicts of Interest**

Independent chairs and members of an ARC are appointed for their expertise and skill in particular areas in addition to their impartial perspective as an external member of the committee. As a consequence of their expertise and experience there may be the potential for conflicts of interest to arise between an independent member’s duties to the ARC and his or her other personal and work interests (or the duties or interests of others).

A conflict of interest may arise, for example, from:

any government appointment or employment

professional and business interests and associations

a prior personal or business relationship with a Head of Authority

family relationships

Independent ARC chairs and members should familiarise themselves with Clause 3.1.8 of TPP20-08 which outlines a list of threats to independence as well as relationships that must be avoided. Independent members must notify the Head of Authority immediately if a real or perceived threat to independence arises.

**Disclosure of Interests**

An ARC chair or member has a duty to declare any private interest that may impact upon an ARC decision. When an issue arises, the ARC chair or member must, as soon as practicable, disclose in writing full and accurate details of the interest or issue to the particular ARC, and where it affects more than one ARC, in writing to NSW Treasury.

**Mechanisms for Avoiding or Managing a Conflict of Interest**

Each ARC member is responsible for disclosing conflicts of interest as early as possible to the committee and ensuring that the actions to manage the conflict are recorded in ARC minutes. Actions for managing conflicts of interest might include:

absenting the member from the meeting room during discussions pertaining to the matter;

ensuring that no papers are provided to the member in relation to the matter.

Where managing a conflict of interest is likely to cause significant disruption to the operation of the ARC the following actions may be considered:

resignation by the member from the ARC

divestment of the interest/issue that is creating the conflict, for example the sale of shares;

resignation from a position within an organisation or government department that gives rise to the conflict.

**9. Reporting Suspected Corrupt Conduct**

Corrupt conduct is the dishonest or partial exercise of public official functions. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official’s functions. For conduct to be considered corrupt under the *ICAC Act* definition it must be serious enough to involve a criminal offence, a disciplinary offence, be grounds for dismissal or, in the case of Members of Parliament, involve a substantial breach of their Code of Conduct.

Members of an ARC are urged to report suspected corrupt conduct as well as maladministration and serious and substantial waste of public resources. The *Public Interest Disclosures Act 1994* provides certain protection against reprisals for public officials who voluntarily report such matters (but not vexatious or malicious allegations).

The *Public Interest Disclosures Act 1994* provides protection to public officials (including independent contractors) who voluntarily report suspected corrupt conduct. ARC members can make protected disclosures either to the principal officer of the relevant public authority or to one of the three investigative bodies; the Independent Commission Against Corruption, the Auditor General or the Ombudsman.

A report must be made to a principal officer or ICAC as soon as a member of an ARC reasonably suspects that corrupt conduct may have occurred or may be occurring. Matters must be reported regardless of any duty of secrecy or other restriction on disclosure. It is important that reports be made without advising the person(s) to whom the report relates and without publicity.

If disclosures are made to an external investigating body, those concerning corrupt conduct should be made to the Independent Commission Against Corruption. Disclosures concerning maladministration should be made to the NSW Ombudsman and disclosures concerning serious and substantial waste of public money should be made to the NSW Auditor General.

**10. Sanctions**

Acceptance into the Prequalification Scheme for independent Chairs and Members of ARCs and engagement to ARCs is conditional on agreement to this Code of Conduct. A serious breach of this code by an independent ARC member could result in their removal from the ARC and the Scheme.

Non-independent members must understand that they are required to comply with relevant policies and legislation as employees under the Government Sector Employment Act 2013 and their organisation’s code of conduct. A serious breach of the Code of Conduct could result in removal from the relevant ARC and subsequent disciplinary action by their organisation.

**Relevant Legislation**

* Anti Discrimination Act 1977
* Government Information (Public Access) Act 2009
* Independent Commission Against Corruption Act 1988
* Work Health and Safety Act 2011
* Ombudsman Act 1974
* Public Interest Disclosures Act 1994
* Public Finance & Audit Act 1983
* Government Sector Employment Act 2013
* Government Sector Employment Regulation 2014

**Other Helpful Resources**

Department of Premier and Cabinet NSW *Conduct Guidelines for Members of NSW Government Boards and Committees*

Audit Office NSW. *On Board: Guide to Better Practice for Public Sector Governing and Advisory Boards*

Public Service Commission *Behaving ethically: A Guide for NSW government sector employees*

**Sources of Information/Advice**

**NSW Department of Premier and Cabinet**

52 Martin Place

SYDNEY NSW 2000

Telephone (02) 9228 5555

Web site address

http://www.dpc.nsw.gov.au/

Information on public sector employment, policy and guidelines; board and committee appointments and remuneration.

**NSW Public Service Commission**

Level 16
Bligh House
4-6 Bligh Street
Sydney NSW 2000

(02) 9272 6000

contact-psc@psc.nsw.gov.au

The Public Service Commission, lead by the Public Service Commissioner, is responsible for identifying reform opportunities for the public sector workforce and to advise the Government on policy innovations and strategy in those areas of reform and other matters related to the public sector workforce.

**Australian Institute of Company Directors New South Wales Office**

Level 25, Australia Square,

264-278 George Street

SYDNEY NSW 2000

Telephone (02) 8234 3333

Web site address

[www.companydirectors.com.au](http://www.companydirectors.com.au)

Australian professional organisation for company directors providing education, information

and advocacy.

**Independent Commission**

**Against Corruption (ICAC)**

Level 21, 133 Castlereagh Street Sydney NSW 2000 Telephone (02) 8281 5999Web site address

[www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

Information concerning corruption prevention, investigation and ethics.

**NSW Ombudsman**

Level 24, 580 George St

SYDNEY NSW 2000

Telephone (02) 9286 1000 or

1800 451 524 (toll free)

Web site address

[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

Investigates and reports on complaints about the administrative conduct of NSW government agencies and their employees.

**The Audit Office of New South Wales**

Level 11, 234 Sussex St

SYDNEY NSW 2000

Telephone (02) 9285 0155

Facsimile (02) 9285 0100

Web site address

[www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)

Information concerning public sector accountability requirements and corporate governance.

**Institute of Public Administration Australia (IPAA) NSW Division**

Level 6; 4-6 Bligh St

SYDNEY NSW 2000

Telephone (02) 9228 5225

Facsimile (02) 9241 1920

Web Site address

[www.nsw.ipaa.org.au](http://www.nsw.ipaa.org.au)

Association for professionals in the public sector. IPAA runs conferences, courses, and programs concerning public administration issues including a one-day course on corporate governance for members of government boards, committees and trusts.