

The International Air Services Commission

Code of Conduct for Members

Introduction

This Code of Conduct has been prepared to provide members of the Commission with information about expected standards of conduct and to clarify where the boundaries of such conduct lie.

Core responsibilities

Compliance with this Code requires members to exercise their statutory powers and functions in accordance with four core responsibilities:

1. to act honestly and lawfully
2. to act in good faith
3. to act for a proper purpose
4. to act with due care and skill and
5. to avoid conflicts between personal and official interests.

If any doubt exists as to the propriety of any course of action, members should consult the other members at the earliest opportunity. Where the propriety of any course of action involves or raises legal issues or consequences, members should consult the General Counsel of the Department of Infrastructure and Transport at the earliest opportunity.

Members of the Commission are officials for purposes of the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and are bound to observe the duties of officials under the PGPA Act.

General conduct

Conflicts of interest

Members should perform their official duties without fear or favour and regardless of any expectation that they (or persons associated with them) will benefit or suffer as a consequence.

Members are legally bound by section 47 of the *International Air Services Act 1992* (the Act) in relation to disclosure of interests. Section 47 of the Act states that:

(1) If a member has or acquires any interest, whether monetary or otherwise, that could conflict with the proper performance of his or her functions in relation to proceedings conducted by the Commission:

- (a) the member must disclose the interest to the other members and to any parties to the proceedings; and

(b) except with the consent of the other members and the parties (if any), the member must not take part, or any further part, as the case may be, in the proceedings.

(2) If:

(a) a member becomes aware that another member has, in relation to proceedings conducted by the Commission, an interest of a kind referred to in subsection (1); and

(b) the other member has not disclosed the interest as required by paragraph (1)(a); then:

(c) the first-mentioned member must tell the other member that he or she has become aware that the other member has the interest; and

(d) if the other member does not then disclose the interest as required by paragraph (1)(a), the first-mentioned member must disclose the interest to the remaining member (if any) and the parties (if any) to the proceedings; and

(e) except with the consent of the other members and the parties (if any), the member who has the interest must not take part, or any further part, as the case may be, in the proceedings.

A potential conflict of interest may arise where a member must make a decision concerning a company for or in which that member previously worked or has previously acted as a consultant.

A potential conflict may also arise where a member holds another public office and a decision must be made that overlaps with the subject area of that other office. A member would be in a situation of actual or potential conflict where the member has acquired confidential information in a capacity other than as a member of the Commission (i.e., where there is an interest or duty in that capacity to protect the confidentiality of the information) and where there is or could be an interest or duty as member to make the IASC aware of that information because it is relevant to a matter to be determined by the IASC.

Consistent with section 47, members should raise any such potential conflicts of interest with the other members.

In assessing conflict of interest issues, members should have regard to their own financial and non-financial interests, personal and professional relationships (past or present) and the financial and non-financial interests of their immediate family to the extent that members know such interests. Members should inform each other in writing on a bi-annual basis of all their relevant interests.

Members should be aware that a conflict of interest may arise in the period immediately after their appointment concludes and should take this into consideration in participating in the making of decisions in relation to a company for which he or she is proposing to work post appointment. They should also take this potential conflict into account when making decisions about future work opportunities.

The Commission includes in its annual report the requirement for members to comply with their obligation to disclose their interests in accordance with section 47 of the Act.

Personal benefit

Members should not seek to use their position, or information received in the course of their duties with the Commission, in pursuit of any personal or professional interest. Benefits in the form of gifts, sponsored travel or hospitality (including the promise or inference of future

benefit for a member or their immediate family) should only be accepted in accordance with the principles of this Code. Beyond this requirement, members should not accept any benefit where acceptance might give an appearance that they may be subject to improper influence.

Where gifts, benefits, travel or hospitality are accepted, this should be disclosed in writing in a timely manner to the other members. Such disclosures will be placed on an internal register to be kept by the Secretariat of the Commission.

Members are provided with facilities at public expense in order that public business may be conducted effectively. Facilities include transportation and hotel accommodation when travelling interstate to conduct Commission business. Accordingly, members should avoid giving any appearance of using their statutory office for private purposes or personal benefit. As a general rule, official facilities should be used for official purposes only.

Interaction with members of the Australian Public Service

Members interact with the staff of the IASC Secretariat on a regular basis. The Secretariat officers are employed under the Public Service Act 1999 (Public Service Act) by the Australian Public Service (APS). APS employees are governed by the Public Service Act which requires them to adhere to the APS Values and APS Code of Conduct under ss. 10 and 13 of the Public Service Act¹

Members should avoid asking APS employees to do anything that these principles do not permit. As statutory office holders, members are bound by the APS Code of Conduct, as set out in s.13 of the Public Service Act, to the extent that they are assisted by or deal with APS employees in a supervisory capacity.

Confidentiality

Except in the course of official duties, members should not give or disclose, directly or indirectly, any information they acquire by virtue of their position.

Decision-making

Members may have to account for the exercise of their statutory powers to the Parliament (or one of its committees), the Auditor-General, the Ombudsman and the courts. The general grounds for challenging administrative decisions made under legislation are set out in the Administrative Decisions (Judicial Review) Act 1977. In essence the basic requirements for decision making include:

- each decision needs to be within the scope of the power provided by the legislation;
- the procedure for reaching the decision needs to meet basic standards of fairness, allowing all sides to present their cases, and must also comply with any special requirements set by the legislation;
- each decision needs to be made on the merits of the case, with the decision-maker unbiased and acting in good faith; and
- conclusions must be soundly based in reason, in particular they must reflect a proper

¹ The APS Values and Code of Conduct are attached as Annex 1.

understanding of the law, draw on reasonable evidence for findings of fact, take account of all relevant considerations and not take account of irrelevant considerations.

End of Appointment

Members who commence discussions with potential clients or employers should be aware that this can give rise to real or perceived conflicts of interest. Members should inform the other members of the fact and nature of the discussions.

In the interests of maintaining the confidence of the Government and the public in the ability of the Commission to conduct itself fairly and impartially on behalf of all sectors of the public, on cessation of appointment, members will be required to give an undertaking in writing to the Chairperson, and in the case of the Chairperson to the other members, that:

- they will observe the confidentiality undertaking entered into at the commencement of their appointment; and
- they will neither take, nor use, materials and data which are not ordinarily available to the public.

Dated: 7 December 2017



Ian Douglas
Chairperson



Ian Harris
Member



Karen Gosling
Member

Public Service Act 1999

Section 10 of the Public Service Act 1999 provides for the APS Values, which are as follows:

APS Values

Committed to service

(1) The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.

Ethical

(2) The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

Respectful

(3) The APS respects all people, including their rights and their heritage.

Accountable

(4) The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.

Impartial

(5) The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

Section 13 of the Public Service Act 1999 provides for the APS Code of Conduct, as follows:

The APS Code of Conduct

(1) An APS employee must behave honestly and with integrity in connection with APS employment.

(2) An APS employee must act with care and diligence in connection with APS employment.

(3) An APS employee, when acting in connection with APS employment, must treat everyone with respect and courtesy, and without harassment.

(4) An APS employee, when acting in connection with APS employment, must comply with all applicable Australian laws. For this purpose, *Australian law* means:

(a) any Act (including this Act), or any instrument made under an Act.

(b) any law of a State or Territory, including any instrument made under such a law.

- (5) An APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction.
- (6) An APS employee must maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff.
- (7) An APS employee must:
- (a) take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the employee's APS employment; and
 - (b) disclose details of any material personal interest of the employee in connection with the employee's APS employment.
- (8) An APS employee must use Commonwealth resources in a proper manner and for a proper purpose.
- (9) An APS employee must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment.
- (10) An APS employee must not improperly use inside information or the employee's duties, status, power or authority:
- (a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or
 - (b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person.
- (11) An APS employee must at all times behave in a way that upholds:
- (a) the APS Values and APS Employment Principles; and
 - (b) the integrity and good reputation of the employee's Agency and the APS.
- (12) An APS employee on duty overseas must at all times behave in a way that upholds the good reputation of Australia.
- (13) An APS employee must comply with any other conduct requirement that is prescribed by the regulations.