

Department of Local Government

Privacy and Personal Information Protection Act 1998

Privacy Management Plan

CONTENTS

| | |
|---|----|
| 1. Introduction | 4 |
| 2. Requirements of the Plan | 4 |
| 2.1 Personal information..... | 4 |
| 2.2 The Information Protection Principles..... | 5 |
| 2.3 Privacy Codes of Practice..... | 6 |
| 3. Specific issues relevant to the Department | 7 |
| 3.1 How does the Department deal with personal information?..... | 7 |
| 3.2 Existing policies..... | 10 |
| 4. Implementing the Privacy Management Plan | 10 |
| 4.1 Classes of Personal Information and Compliance with IPPs | 10 |
| 4.1.1 Applications for Ministerial dispensation under section 458 of the Local Government Act 1993..... | 10 |
| 4.1.2 Identification and registration information concerning companion animals..... | 12 |
| 4.1.3 Reports of dog attacks..... | 14 |
| 4.1.4 Dangerous dog declarations and dog and cat nuisance orders..... | 16 |
| 4.1.5 Research projects..... | 17 |
| 4.1.6 Proposals for constituting, dissolving, amalgamating or altering the boundaries of local government areas..... | 20 |
| 4.1.7 The pensioner concession subsidy scheme..... | 22 |
| 4.1.8 Investigations..... | 23 |
| 4.1.9 Personnel records..... | 25 |
| 4.2 The Notification, Access and Alteration Process | 25 |
| 4.3 Compliance with the Public Register provisions | 26 |
| 5. The Internal Review Process | 26 |
| 6. Dissemination of Policies and Practices | 27 |
| 7. Management Plan Table | 28 |
| 8. Review of Plan | 31 |

Appendix A: Section 41 Direction

Appendix B: Code of Conduct

Appendix C: Research Code of Ethics

1. Introduction

The Privacy and Personal Information Protection Act 1998 (“the PPIP Act”) introduces mandatory standards and requirements for New South Wales public sector agencies (“agencies”) and their staff relating to their collection and processing of personal information. The principal requirements imposed on agencies are:

- to comply with the information protection principles as modified by relevant exemptions or privacy codes of practice;
- to prepare and report on privacy management plans;
- to comply with public register provisions;
- to conduct internal reviews of conduct which infringes the information protection principles, privacy codes of practice or public register provisions;
- not to disclose personal information to which they have access otherwise than in accordance with their official functions.

This is the Department of Local Government’s privacy management plan made in accordance with section 33 of the PPIP Act.

2. Requirements of the Plan

2.1 Personal information

Personal information is widely defined in section 4 of the PPIP Act as information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. There are a number of specific inclusions eg. fingerprints and retina prints, and a number of specific exclusions eg. information about an individual who has been dead for more than 30 years or that is contained in a publicly available publication.

Some examples specific to the Department of Local Government are:

- information relating to the identification and registration of companion animals;
- information gathered as a result of research activities;

- information gathered when conducting investigations eg. investigations under section 430 of the Local Government Act 1993 or into pecuniary interest complaints.

2.2 The Information Protection Principles

There are 12 information protection principles (“IPPs”). They are contained in Division 1 of Part 2 of the PPIP Act (sections 8 to 19). The IPPs apply to the way personal information is collected, stored and used or disclosed.

Under the IPPs contained in sections 8 to 11 personal information must be collected:

- for lawful purposes directly related to a function or activity of the Department and where the collection is reasonably necessary for that purpose (section 8);
- from the individual to whom the information relates, unless otherwise authorised (section 9);
- taking reasonable steps to ensure that the individual to whom the information relates is made aware of the fact that it is being collected, the purpose for collecting it, intended recipients of the information, whether the supply is mandatory or voluntary and the consequences if not supplied, relevant rights to access and correct the information and the name and address of the collecting agency and any holding agency (section 10);
- taking reasonable steps to ensure that the information is relevant, not excessive, and is accurate, up to date and complete and that the collection does not unreasonably intrude on the individual’s personal affairs (section 11).

Where personal information is stored by the Department, it must:

- ensure that the information is kept for no longer than is necessary, is disposed of appropriately, is protected by reasonable security safeguards against loss, unauthorised access etc., and is protected from unauthorised use or disclosure when made available to a third party for the provision of a service to the Department (section 12);

- take reasonable steps to enable individuals to obtain information about the Department's holdings of such personal information and how to access their own personal information (section 13);
- at the request of an individual, provide access to any such personal information about themselves without excessive delay or expense (section 14);
- at the request of an individual, amend their personal information to ensure that it is accurate, relevant, up to date and not misleading (section 15).

Where the Department proposes to use or disclose personal information, it must:

- take reasonable steps before use to ensure it is accurate, relevant, up to date and not misleading (section 16);
- use it only for the purpose for which it was collected, for a directly related purpose, for a purpose to which the individual has consented or where the use is necessary to prevent or lessen a serious and imminent threat to the life or health of any person (section 17);
- only disclose it for a purpose directly related to the purpose of collection and where the individual is unlikely to object, where the individual is reasonably likely to be aware or has been made aware that such information is usually disclosed to the relevant person or body, or where the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of any person (section 18);
- not disclose it where it relates to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of any person (section 19).

2.3 Privacy Codes of Practice

The PPIP Act (Part 3) provides for the making of privacy codes of practice. A privacy code of practice ("code") may regulate the collection, use and disclosure of, and the procedures for dealing with, personal information held by agencies. A code may cover a specified class of personal information, a specified agency or class of agency, or a specified activity or class of activity. A code may modify the application to any agency of any one or more of the IPPs or the application of the public register provisions contained in Part 6.

A code, prepared by Privacy NSW, is to be made by the Attorney General modifying some of the IPPs and public register provisions in so far as they apply to agencies that have a lawful investigative function. That code will apply to the Department, and its officers, when exercising their powers of investigation and reporting under Division 1 of Part 5 of Chapter 13 of the Local Government Act 1993. The code will also apply to the Department, and its officers, when investigating (which includes making preliminary enquiries) alleged breaches of the pecuniary interest provisions of the Local Government Act. The code is expected to be made by 31 July 2000. Pending the making of the code, the Privacy Commissioner has made a written direction under section 41 of the PPIP Act which modifies the application of certain IPPs and the public register provisions to the Department. A copy of the Section 41 Direction is attached at Appendix A.

3. Specific issues relevant to the Department

3.1 How does the Department deal with personal information?

The Department is responsible for ensuring an effective and accountable local government in New South Wales. It does this by providing and managing a policy and legislative framework to guide councils and helping to manage the State's relationship with local government.

The Department consists of the following branches:

Business Services

Underpins the Department's core programs through provision of infrastructure co-ordination and contract management of human resources, including EEO and training, financial services, records management and administrative services such as insurance, fleet management, accommodation etc. Co-ordinates the Department's strategic management activities. Manages the Pensioner Concession Subsidy Scheme which reimburses local councils for up to 50% of rebates given to pensioners as a reduction in rates.

Main dealings with personal information -

Payroll, personnel files, leave records, recruitment, staff establishment matters, staff grievance issues etc.

Executive Support

Manages systems for Ministerial and Departmental correspondence, public enquiries and customer services. Production of publications and co-ordination of information. Manages a range of projects including co-ordination of Departmental submissions and service standards.

Finance Management

Monitors various aspects of local government financial matters including the financial position of councils, rates and charges, rebates, loan borrowings, and capital expenditure reviews. Collects information and conducts research and policy development on financial and rating issues. Manages the annual allocation of loan borrowing authority between councils. Advises the Minister on rate pegging levels and applications by councils for exemption from rate limitations. Manages the development and application of the Local Government Accounting Code (AAS27).

Information Services

Manages the computer system infrastructure for the Department which involves the collection and dissemination of information with the Department's client base of councils and other key stakeholders. Manages research databases eg. the election results survey (which includes personal information). Provides strategic advice on future directions and assists councils with matters such as Electronic Service Delivery and new legislative requirements. Manages the Department's computer systems to achieve its business objectives and manages contract arrangements for systems development and maintenance.

Investigations and Review

Assesses and investigates complaints and allegations concerning the conduct and activities of councils, elected members and council staff. Completes special investigations into councils and inquiries on pecuniary interest matters. Identifies areas of local government administration which need more

effective control procedures. Provides advisory and educational information in relation to best practice for elected members and staff in a range of matters related to complaints and probity. Maintains liaison arrangements with the Independent Commission Against Corruption and the Ombudsman's Office in relation to the Department's investigative function.

Main dealings with personal information -

Information gathered when conducting section 430 investigations, investigating pecuniary interest complaints, receiving and investigating unsolicited complaints.

Legal Services

Identifies and reviews the need for changes to local government legislation and formulates legislative proposals. Provides high level legal policy advice to the Government on a wide range of issues affecting local government. Processes leases and land resumptions for councils. Prepares briefs on and presents pecuniary interest matters before the Local Government Pecuniary Interest Tribunal and otherwise supports the Tribunal. Provides support to the Local Government Boundaries Commission.

The main dealings with personal information include applications for dispensations under section 458, surveys and written submissions relating to proposed amalgamations, FOI co-ordination, drafts ministerial and departmental correspondence.

Policy and Research

Identifies critical issues in local government management, develops policy and conducts research to lead toward best practice in the local government sector. Conducts extensive inter-agency consultation to ensure local government related issues are established in the relevant context. Assists councils with the optimum implementation of local government legislation. Responsible for the Department's management of programs in local councils dealing with social planning, sewage management, companion animals, multicultural issues, EEO, State of the Environment Reports and Annual Reporting.

Main dealings with personal information -

Information relating to the identification and registration of companion animals, reports of dog attacks, dangerous dog declarations and nuisance dog and cat orders; information gathered as a result of research projects.

3.2 Existing policies

The Department has a Code of Conduct which sets out the obligations, responsibilities and standards of professional behaviour expected of staff of the Department. The Code of Conduct addresses issues such as conflicts of interest, acceptance of gifts and benefits, personal and professional behaviour and use of official information. A copy of the Code is attached at Appendix B.

The Department also has a Code of Ethics to be followed by staff when carrying out research. A copy of this Code is attached at Appendix C.

4. Implementing the Privacy Management Plan

4.1 Classes of Personal Information and Compliance with the IPPs

This section considers and discusses the major classes of personal information handled by the Department and, in each case, where it complies or not with the IPPs.

4.1.1 Applications for Ministerial dispensation under section 458 of the Local Government Act 1993

Background information

Councillors are required under the Local Government Act to disclose a pecuniary interest in a matter before the council and to refrain from discussing and voting on the matter. There may be occasions when, because of these requirements, a council may be unable to deal with a matter (eg. a local environmental plan) and business is thereby impeded because of the lack of a quorum. Section 458 recognises this possibility and empowers the Minister

to remove the relevant pecuniary interest disabilities thereby permitting council business to proceed.

An application for Ministerial dispensation is required to be supported, amongst other things, by requests by the individual councillors and details of their perceived pecuniary interests. Because a councillor is taken to have a pecuniary interest in a matter if, for example, the spouse or a relative of the councillor has such an interest, the personal information provided may relate to other persons as well as the particular councillor concerned. In most instances the personal information will relate to names of councillors and their spouses and relatives, details of relationships, and addresses of property holdings.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

The Department complies with principles 1 and 4.

The Department does not comply with principle 2 to the extent that it requires the provision of personal information about councillors' spouses and relatives whether or not such provision is authorised by the individual concerned. It is considered that non-compliance is permitted, necessarily implied or reasonably contemplated by the pecuniary interest provisions of the Local Government Act (section 25(b) of the PPIP Act).

With regard to principle 3, councillors seeking dispensation would presumably be aware of the matters referred to in section 10 of the PPIP Act. This may not be the case as regards councillors' spouses and relatives. However, as with principle 2, it is considered that non-compliance is permitted, necessarily implied or reasonably contemplated by the pecuniary interest provisions of the Local Government Act (section 25(b) of the PPIP Act).

B. Storage (principle 5 found in section 12 of the PPIP Act)

The Department complies with this principle.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

The Department complies with these principles. The mechanism for obtaining information about the Department's holdings of personal information, access by individuals to their own personal information and the correction of inaccuracies etc in the information held is explained in section 4.2.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

The Department complies with these principles. This class of personal information is normally used only once, that is, at the time the request for dispensation is made and for the sole purpose of assessing and determining the application. If an allegation of a breach of the exemption is made the information will also be used in assessing the complaint.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department complies with these principles. This personal information is for internal use only and is not disclosed to any other person or body.

4.1.2 Identification and registration information concerning companion animals

Background information

The Companion Animals Act 1998 (the CA Act) provides, amongst other things, for the identification and registration of companion animals and for the duties and responsibilities of their owners. Generally speaking, companion animals (at this point, only dogs and cats) must be identified and registered. The procedures relating to identification and registration are contained in the CA Act and the Companion Animals Regulation 1999 (the CA Regulation).

The CA Regulation specifies the information that is to be the "identification information" and the "registration Information" for companion animals. While much of the information relates to the companion animal itself, some personal information relating to the owner is also required to be provided. The

identification information and registration information are required to be entered on the Register of Companion Animals (the Register) set up under the CA Act. The Register is a government database and has been designed to be used on-line through the Internet both by authorised identifiers and registration agents. Only authorised persons (including police officers and certain council officers) are entitled to access to information contained in the Register (section 75 CA Act). Access is even more restricted if the owner has made a request for confidentiality under clause 31 of the CA Regulation.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

The Department complies with principles 1, 2 and 4.

The Department does not fully comply with principle 3. It is considered however that non-compliance with principle 3 is permitted, necessarily implied or reasonably contemplated by the compulsory identification and registration provisions of the CA Act (section 25(b) of the PPIP Act).

Having said this, the Permanent Identification/Registration Form to be completed by the owner advises that the owner must be a person 18 years or over and that the “owners details” are required under the CA Act and CA Regulation (except where indicated) and will be used only in connection with the requirements of that legislation. The Form further advises that access to that information is restricted to police, council officers and other authorised persons. The Form is not used when the required information is entered electronically directly onto the Register. Steps are however being taken to ensure that owners are similarly advised when direct electronic entry is used.

B. Storage (principle 5 found in section 12 of the PPIP Act)

The Department complies with this principle.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

The Department complies with these principles. The mechanism for obtaining information about the Department's holdings of personal information, access

by individuals to their own personal information and the correction of inaccuracies etc in the information held is explained in section 4.2.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

The Department complies with these principles. With regard to principle 9, the owner commits an offence if he/she fails to notify the Director General of the Department of certain changes and events including changes in identification information and registration information.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department considers that it complies with these principles. In any event, as indicated earlier, authorised persons are entitled under section 75 of the CA Act to access to information contained in the Register. It is considered, therefore, that when giving authorised persons such access, non-compliance with principle 11 is permitted, necessarily implied or reasonably contemplated (section 25(b) of the PPIP Act).

4.1.3 Reports of dog attacks

Background information

The Department conducts surveys of dog attacks reported to councils to compile a profile on the nature of those attacks and the breeds involved. The Department has designed a form for use by councils when reporting such attacks. The information requested includes details of the date and location of the attack, the general nature of the attack, the breed of dog (if known) and the action taken and/or proposed to be taken by the council.

A data base recording all attacks reported is maintained from which quarterly and annual summary reports are prepared. Neither the data base nor the reports produced contain personal information.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

It is not considered that the information requested by the Department is personal information. However, in some cases councils may include personal information such as the name of the victim of the attack. This information is not entered on the data base. As such personal information, when included, is unsolicited (and therefore not collected) it is considered that principles 1 to 4 do not apply to dog attack reports.

B. Storage (principle 5 found in section 12 of the PPIP Act)

Principle 5 is not applicable in the case of dog attack reports as the Department does not hold any personal information other than, in some instances, the name of the victim and then only on the written form itself – not on the data base.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

Principles 6 to 8 are not applicable in the case of dog attack reports for the same reason as referred to above when discussing principle 5.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

Principles 9 and 10 are not applicable as any personal information contained in the written forms is not used by the Department.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department complies with these principles.

4.1.4 Dangerous dog declarations and dog and cat nuisance orders

Background information

Under section 34 of the CA Act, a council can declare a dog to be dangerous. Such a declaration has effect throughout the State. A council that makes a declaration must give notice to the Department within 7 days. There is no prescribed form for such notice. Generally, councils send a copy of the declaration to the Department.

The CA Act also makes provision for councils to issue nuisance orders for dogs (section 21) and cats (section 31). The Department is to be similarly notified of any such order within 7 days of its issue. Such notification is generally in the form of a copy of the order.

The personal information collected by the Department in this way is the name and address of the owner of the relevant dog or cat.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

The Department complies with principles 1 and 4.

It is considered that non-compliance with principles 2 and 3 is permitted, necessarily implied or reasonably contemplated by sections 21(6), 31(6) and 40 of the CA Act (section 25(b) of the PPIP Act).

B. Storage (principle 5 found in section 12 of the PPIP Act)

The Department complies with this principle.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

The Department complies with these principles. The mechanism for obtaining information about the Department's holdings of personal information, access by individuals to their own personal information and the correction of inaccuracies etc in the information held is explained in section 4.2.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

The Department complies with these principles. With regard to principle 9, the owner commits an offence if he/she fails to notify the Director General of the Department of certain changes and events including changes in identification information and registration information (section 11 CA Act). In the case of a dog, the registration information includes whether the animal is a dangerous dog or subject to a nuisance order.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department considers that it complies with these principles. In any event, as indicated earlier, authorised persons are entitled under section 75 of the CA Act to access to information contained in the Register. It is considered, therefore, that when giving authorised persons such access, non-compliance with principle 11 is permitted, necessarily implied or reasonably contemplated (section 25(b) of the PPIP Act).

4.1.5 Research Projects

Background information

As mentioned earlier, the Department is responsible for ensuring an effective and accountable local government system in New South Wales. It does this by providing and managing a policy and legislative framework to guide councils and helping to manage the State's relationship with local government. Also, under section 429 of the Local Government Act, the Department may require councils to provide such information concerning the council or its work and activities as the Department may determine.

In this capacity, the Department from time to time carries out research projects, some of which may involve the collection of personal information.

Some recent examples include:

- **An evaluation of the Aboriginal Mentoring Program**

The Aboriginal Mentoring Program was established by the Department with the pilot Program commencing at Kyogle Council in February 1997. The Program aims to:

- encourage Aboriginal people to run for office at local government elections
- educate the Aboriginal community on the local government process and the importance of Aboriginal input into local government.

The evaluation was designed to assist in assessing the effectiveness of the Program in achieving these aims. At the time of the evaluation, there were 23 councils that had formally adopted the Program. Of these, 20 councils had implemented the Program by establishing a mentoring relationship.

It is not considered that the resulting evaluation report contained any personal information. The quotes used in the report were attributed only to the person's position ie. councillor, general manager, mentor, mentee etc.

- **Youth Consultation Research Project**

There were two components to this project. The first component comprised a survey distributed to all councils concerning the mechanisms they use to consult young people and perceptions about the effectiveness of these mechanisms. The second component involved a series of interviews with young people, council staff and councillors seeking their views on youth consultation. Young people, for example, were asked about how they would like to be consulted and what they would like to be consulted about.

The interviewees were informed about the purpose of the study and how the information they provided was going to be used. They were also informed that they did not have to put their names on the questionnaires used in conjunction with the interviews and that their responses were confidential.

It is not considered that the resulting reports contained any personal information.

- **Local Government Election Results Survey**

The Department monitors the representation of the community on councils through collecting and publishing information about the characteristics of candidates and councillors following local government elections. The local government election results survey has been undertaken with respect to the last four local government ordinary elections which are held every four years.

The purpose of the survey and resulting report is to provide a profile of candidates and councillors and identify changes and current trends. For the most recent local government elections, which were held in September 1999, the information collected was also used to assist in assessing the effectiveness of the Department's Aboriginal Mentoring Program (see above).

Many of the survey questions relating to personal information can be completed by councils using the Statistical Information Sheet (SIS) which is required to be completed by all candidates for election and the ballot paper. There is a note on the SIS informing candidates that the information supplied will be used for statistical purposes only, that the information will be treated confidentially and that all statistics will be published in aggregate or consolidated form only. The Departmental circular to councils accompanying the survey (conducted electronically), and the survey form itself, assures councils that the information provided about individual candidates will be kept confidential and only aggregated information will be published.

While the report contains statistical information relating to the gender, age range, occupation, aboriginality etc of candidates and councillors, it is considered that the information is very general and not individualised.

Compliance with IPPs

The Department has adopted a Code of Ethics (at Appendix C) to be followed by Departmental staff when carrying out research. Contracts with consultants commissioned by the Department to carry out research must also require the consultants to comply with the Code of Ethics. The Code of Ethics is to be reviewed in September 2000.

The Department has formed an Ethics Committee the role of which is to review each research project to be undertaken by the Department whether by

Departmental staff or consultants commissioned by the Department. When reviewing such things as the aim of the research, the type of information sought, the methodology etc., the Committee will have due regard to the IPPs in so far as they apply to the Department.

4.1.6 Proposals for constituting, dissolving, amalgamating or altering the boundaries of local government areas

Background information

Chapter 9 of the Local Government Act sets out the procedures for constituting, dissolving, amalgamating or altering the boundaries of local government areas. This Plan focuses particularly on amalgamation proposals. The comments apply, with some modifications, to other proposals. Divisions 2A and 2B of Part 1 of Chapter 9 specifically address the amalgamation process.

An amalgamation proposal must be referred for examination and report to the Local Government Boundaries Commission (a body corporate established under the Local Government Act) or the Director General of the Department of Local Government. In both cases the views of electors of the affected areas must be sought and this may be done by means of:

- (a) advertised public meetings, and invitations for public submissions, and postal surveys or opinion polls, in which reply-paid questionnaires are distributed to all electors; or
- (b) formal polls (which are conducted along the lines of council elections).

A public inquiry must be held for the purpose of exercising this function. Notices are published in the press advising of the inquiry and of the venue and times of the public hearings.

Postal surveys are not compulsory and do not require the provision of personal information. The survey form directs electors not to place on the form any mark or writing by which they may be identified.

The “notice of inquiry” invites written submissions from interested persons. These written submissions may contain personal information such as names,

property addresses and telephone numbers. The notice advises that copies of written submissions received will be made publicly available, including details of the authors. The public availability of written submissions is also notified on the information paper about each proposed amalgamation on the Department's Internet Homepage.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

The Department does not collect personal information specifically. Rather it invites submissions about amalgamation proposals, as required by the Local Government Act, which may contain personal information. It is considered that the Department complies with principles 1 to 4. In any event, to the extent of any non-compliance, it is considered that such non-compliance is permitted, necessarily implied or reasonably contemplated by section 218F of the Local Government Act (section 25(b) of the PPIP Act).

B. Storage (principle 5 found in section 12 of the PPIP Act)

It is considered that the Department complies with this principle.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

The Department complies with these principles. The mechanism for obtaining information about the Department's holdings of personal information, access by individuals to their own personal information and the correction of inaccuracies etc in the information held is explained in section 4.2.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

The Department complies with these principles.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department complies with these principles.

4.1.7 The pensioner concession subsidy scheme

Background information

Generally speaking, an eligible pensioner, on application to his/her council and on production of sufficient evidence, is entitled to a reduction in his/her local government rates and charges (section 575, Local Government Act). An application is to be made in the form approved by the Director General.

Councils are required to write off any such reductions (section 583). Under section 581, the Minister for Local Government is required, out of money provided by Parliament, to pay to councils an amount equal to half that written off under the scheme.

The application forms approved by the Director General are designed to confirm the applicant's eligibility and require the provision of personal information. Councils assess whether the applications satisfy the eligibility criteria and write off any reductions granted.

At four-monthly intervals councils submit claims to the Department for the Government subsidy. The claims are submitted electronically and must be accompanied by General Manager and audit certificates. The claims do not contain any personal information. The individual application forms are not submitted to the Department.

Compliance with IPPs

As explained above, the Department itself does not collect personal information with regard to the pensioner concession subsidy scheme. Accordingly, the collection principles (principles 1 to 4) do not apply to the Department but rather to councils. The Department does however design the forms to be used by applicants when seeking the concession from the council.

Similarly, the remaining principles (principles 5 to 12) do not apply to the Department as the Department does not hold personal information.

4.1.8 Investigations

Background information

The Department has an active investigative function. Authorised Departmental officers are given specific, formal, powers of investigation and reporting under ss.429 – 434A of the Local Government Act. This includes the power to compel production of documents and evidence from witnesses. The Director General is also responsible for the examination and referral of matters involving breaches of the pecuniary interest declaration requirements of the Local Government Act.

When conducting such investigations there is a process of information gathering which will almost certainly involve the gathering of personal information from the affected person or others, prior to a decision being made as to the action to be taken.

Compliance with IPPs

A. Collection (principles 1 to 4 found in sections 8 to 11 of the PPIP Act)

The Department complies with principles 1 and 4.

The Department, or any Departmental officer, who is investigating or otherwise handling (formally or informally) a complaint or other matter is not required to comply with principle 2 or 3 if compliance with those principles might detrimentally affect (or prevent the proper exercise of) the Department's complaint handling functions or any of its investigative functions (section 24(1) and (5) of the PPIP Act). Paragraph 4 of the Section 41 Direction (Appendix A) is also relevant here.

B. Storage (principle 5 found in section 12 of the PPIP Act)

It is considered that the Department complies with this principle.

C. Notification, Access and Correction (principles 6 to 8 found in sections 13 to 15 of the PPIP Act)

The Department is not required to comply with principle 6, 7 or 8 if compliance might detrimentally affect (or prevent the proper exercise of) any of the Department's investigative functions or its conduct of any lawful investigations (Paragraph 4 of Section 41 Direction – Appendix A).

Otherwise the Department complies with these principles. The mechanism for obtaining information about the Department's holdings of personal information, access by individuals to their own personal information and the correction of inaccuracies etc in the information held is explained in section 4.2.

D. Use (principles 9 and 10 found in sections 16 and 17 of the PPIP Act)

The Department complies with principle 9.

The Department, or any Departmental officer, who is investigating or otherwise handling (formally or informally) a complaint or other matter is not required to comply with principle 10 if the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable the Department to exercise its complaint handling functions or any of its investigative functions (section 24(2) and (5) of the PPIP Act). Paragraph 4 of the Section 41 Direction (Appendix A) is also relevant here.

E. Disclosure (principles 11 and 12 found in sections 18 and 19 of the PPIP Act)

The Department, or any Departmental officer, who is investigating or otherwise handling (formally or informally) a complaint or other matter is not required to comply with principle 11 if the information concerned is disclosed to another investigative agency (section 24(3) and (5) of the PPIP Act). Paragraph 4 of the Section 41 Direction (Appendix A) is also relevant here.

The Department is not required to comply with principle 12 if compliance might detrimentally affect (or prevent the proper exercise of) any of the

Department's investigative functions or its conduct of any lawful investigations (Paragraph 4 of Section 41 Direction – Appendix A).

4.1.9 Personnel records

Background information

Most of the Department's human resources functions are performed under contract by the Department of Gaming and Racing (Gaming and Racing). These functions include payroll, leave, allowances, recruitment and staff establishment matters.

Human resources policy issues and issues such as staff grievances, part time working arrangement applications etc. are handled within the Department.

Compliance with IPPs

Personal information relating to staff of the Department is collected, stored and used both by the Department and Gaming and Racing. The personal information in the possession of Gaming and Racing is still considered to be held by the Department.

The contract with Gaming and Racing is currently being reviewed. Gaming and Racing, as a public sector agency, is itself required to prepare and implement its own privacy management plan. Nevertheless, it is proposed to incorporate appropriate provisions in the new contract relating to the handling of the personal information of the Department's staff to ensure compliance with the IPPs. At the same time, the Department will review the way it handles personal information relating to its staff to similarly ensure compliance.

4.2 The Notification, Access and Alteration Process

The types of personal information held by the Department are outlined in this privacy management plan.

The Department will take such steps as are, in the circumstances, reasonable to enable any person to ascertain whether any personal information is held

relating to them and if so, the nature of that information, the main purposes for which the information is used and their entitlement to gain access to the information.

Any requests for access to personal information must be made in writing by the individual to whom the information relates. Requests should be addressed to the Director General, Department of Local Government, 66 - 72 Rickard Road, Bankstown NSW 2200. Requests for alteration of personal information must also be made in writing by the individual to whom the information relates and should be similarly addressed. Proof of the alterations being requested will also be required – what such proof will be may vary from case to case. No charges are payable with respect to either request.

4.3 Compliance with the Public Register provisions

No public registers are kept by the Department.

5. The Internal Review Process

The Department has established an internal review process to handle applications by aggrieved persons (“the applicant”) alleging conduct by the Department involving:

- the contravention of an IPP applicable to the Department,
- the contravention of a privacy code of practice applicable to the Department, or
- the disclosure of personal information contained in a public register kept by the Department.

An application for a review of such conduct must comply with section 53(3) of the PPIP Act.

The review will be conducted by a Departmental officer so directed by the Director General or, if the Privacy Commissioner agrees and at the Department’s request, by the Privacy Commissioner. Where the review is to be conducted by a Departmental officer it will, as far as is practical, be an officer who was not substantially involved in any matter relating to the conduct complained about and who is otherwise suitably qualified to deal with the matters raised. The Department will consult with the Privacy Commissioner during the review.

The review will be completed as soon as is reasonably practicable in the circumstances. The review may result in the Department doing one or more of the following:

- take no further action on the matter,
- make a formal apology to the applicant,
- take such remedial action as it thinks appropriate,
- provide undertakings that the conduct will not occur again,
- implement administrative measures to ensure that the conduct will not occur again.

The Department will notify the applicant in writing within 14 days after the completion of the review, of:

- the findings of the review (and the reasons for those findings), and
- the action the Department proposes to take (and the reasons for taking that action), and
- the right of the applicant to have those findings, and the proposed action, reviewed by the Administrative Decisions Tribunal.

The applicant may also apply to the Administrative Decisions Tribunal for a review of the alleged conduct if the Departmental review is not completed within 60 days of the application being received.

6. Dissemination of policies and practices

When approved, the Privacy Management Plan will be placed on the Department's Internal Home Page. It is proposed to issue a Departmental circular advising all staff of the existence of the Plan and the importance of complying with the IPPs when handling personal information.

It is also proposed to refer to the Privacy Management Plan in the Department's Statement of Affairs to be published in December 2000 under the Freedom of Information Act. The public will be advised by this means of their rights to obtain information about the Department's holdings of personal information and their rights to access and seek alterations to that information where they believe it is inaccurate, incomplete, misleading etc. The public will also be advised of their rights to apply for

an internal review of conduct by the Department alleged to involve the contravention of an IPP or a code of practice applicable to the Department.

7. Management plan table

The following table sets out certain action proposed to be taken by the Department.

| Current Position | Strategy | Responsibility | Resources | Timeframe | Outcome |
|---|---|---|------------------|-------------------|----------------|
| Applications under section 458 Local Government Act | | | | | |
| It is considered that the Department complies with IPP 5. | However, for more abundant caution, consideration is to be given to restricting access to these files to certain Branches. | Legal Services and Business Services Branches | Within existing | 30 September 2000 | |
| Identification and Registration Information concerning Companion Animals | | | | | |
| It is considered that non-compliance with IPP 3 is permitted, necessarily implied or reasonably contemplated by CA Act. | Nevertheless, steps are being taken to ensure that, when direct electronic entry is used, owners are advised as to how the information will be used and the limits on access. | Policy and Research Branch | Within existing | 30 September 2000 | |

| | | | | | |
|---|---|---|-----------------|-------------------|--|
| Reports of Dog Attacks | | | | | |
| Although not required, in some cases councils may include personal information such as the victim's name. | a. Take steps to emphasise to councils that no personal information is required. | Policy and Research Branch | Within existing | 30 September 2000 | |
| | b. Advise councils to inform complainants that certain details (non-personal) will be provided to the Department for statistical purposes. | Policy and Research Branch | Within existing | 30 September 2000 | |
| Dangerous Dog Declarations and Dog and Cat Nuisance Orders | | | | | |
| It is considered that non-compliance with IPP 3 is permitted, necessarily implied or reasonably contemplated by CA Act. | Nevertheless, councils are to be advised to inform relevant owners that the CA Act requires the Department to be advised of such declarations and orders. | Policy and Research Branch | Within existing | 30 September 2000 | |
| Research Projects | | | | | |
| The Department has adopted a Research Code of Ethics (Appendix C) which recognises the PPIP Act. | An Ethics Committee is also to be formed to review, having regard to the IPPs, the aim, methodology etc of each proposed research project. | Policy and Research and Legal Services Branches | Within existing | 30 June 2000 | |

| | | | | | |
|--|--|---------------------------|-----------------|-------------------|--|
| Pensioner Concession Subsidy Scheme | | | | | |
| The Department does not collect any personal information. It does, however, design the application form. | Review the application form to ensure that it is not at odds with the IPPs. | Finance Management Branch | Within existing | 30 September 2000 | |
| Personnel Records | | | | | |
| Personal information is held by both the Department and Gaming and Racing. The contract with Gaming and Racing is up for review. | Incorporate appropriate provisions in the new contract to ensure compliance with IPPs. Review the Department's handling of personal information. | Business Services Branch | Within existing | 31 December 2000 | |

8. Review of Plan

A review of the Plan will be conducted by 31 December 2000.

Privacy and Personal Information Protection Act 1998

DIRECTION ON PROCESSING OF PERSONAL INFORMATION BY PUBLIC SECTOR AGENCIES IN RELATION TO THEIR INVESTIGATIVE FUNCTIONS

1. I, Chris Puplick, Privacy Commissioner, pursuant to my power under section 41 of the Privacy and Personal Information Protection Act 1998, hereby direct as follows:
2. This Direction is to apply to each public sector agency, as defined in s3 of the Privacy and Personal Information Protection Act (the Act), which is listed in the schedule to the Direction (relevant agency);
3. This Direction applies to the collection storage, use and disclosure of personal information for the purpose of the exercise by a relevant agency of its investigative functions.
4. A relevant agency need not comply with sections 9, 10, 13, 14, 15, 17, 18, or 19(1) if compliance might detrimentally affect (or prevent the proper exercise of) any of the agency's investigative functions or its conduct of any lawful investigations.
5. The provisions of paragraph 4 of this Direction do not override any other legal requirement dealing with the collection use or disclosure of information by a relevant agency.
6. Part 6 of the Privacy and Personal Information Protection Act 1998 does not operate to prevent an agency from obtaining in the exercise of its investigative functions, personal information, including suppressed personal information kept by a public sector agency on a public register.
7. For the purpose of this Direction:

“investigation” of a matter includes any examination of or any preliminary or other inquiry, including but not limited to a preliminary inquiry within the meaning of the Public Sector Management Act, into the matter. This includes matters where it is decided to take no further action on the information and matters which arise by way of complaint or otherwise;

“investigative functions” of an agency refer to those functions that are directly related to a lawful investigation and that are necessary for the conduct of that lawful investigation;

“lawful investigation” means an investigation carried out by an agency under specific legislative authority or where the power to conduct the investigation is necessarily implied or reasonably contemplated under an Act or other law. It covers only those investigations which may lead to the agency taking or instituting formal action in relation to the behaviour under investigation. Such formal action may include, but is not limited to, prosecution, cautioning, the administration of a penalty or the removal of a benefit or approval;

8. This Direction has effect from 1 July 2000 to 30 July 2000.

Signed by me on this day of July 2000

Chris Puplick
Privacy Commissioner

Schedule
Public sector Agencies covered by the Direction

Administrative Decisions Tribunal
Ageing and Disability Department
Ambulance Service of NSW
Art Gallery of New South Wales
Audit Office of New South Wales
Australian College for Seniors Incorporated
Australian Museum
Bicentennial Park Trust
Broken Hill Water Board
Building and Construction Long Service Leave Payments Corporation
Cabinet Office
Casino Control Authority
Charles Sturt University
Cobar Water Board
Community Services Commission
Council of Law Reporting
Council on the Cost of Government
Darling Harbour Authority
Department for Women
Department of Aboriginal Affairs
Department of Community Services
Department of Corrective Services
Department of Education and Training
Department of Fair Trading
Department of Gaming and Racing
Department of Housing
Department of Industrial Relations
Department of Juvenile Justice
Department of Local Government
Department of Mineral Resources
Department of Public Works and Services
Department of Sport and Recreation
Department of Transport
Department of Urban Affairs and Planning
Eastern Creek Raceway
Environmental Protection Authority
Ethnic Affairs Commission
Film and Television Office
Greyhound Racing Authority (NSW)
Harness Racing New South Wales
Hawkesbury Nepean Catchment Management Trust
Health Care Complaints Commission
Hills Centre for the Performing Arts
Historic Houses Trust
Home Care Service of NSW
Independent Commission Against Corruption

Independent Pricing and Regulatory Tribunal of NSW
Internal Audit Bureau
Jenolan Caves Reserve Trust
Judicial Commission of NSW
Justice and Police Museum Limited
Land and Water Conservation
Land Titles Office
Legal Aid Commission of NSW
Lord Howe Island Board
Macquarie University
Mine Subsidence Board
Mines Rescue Service
Ministry for Police
Ministry for the Arts
Ministry of Energy and Utilities
Motor Accidents Authority
Motor Vehicle Repair Industry Council
National Parks and Wildlife Service
NSW Aboriginal Housing Office
NSW Agriculture
NSW Attorney General's Department
NSW Cancer Council
NSW Coal Compensation Board
NSW Crime Commission
NSW Department of State and Regional Development
NSW Fire Brigades
NSW Fisheries
NSW Health Department
NSW Heritage Office
NSW Institute of Sport
NSW Medical Board
NSW Police Service
NSW Rural Fire Service
NSW Treasury
Office of Information Technology
Office of State Revenue
Office of the Board of Studies
Office of the Director of Public Prosecutions
Office of Western Sydney
Olympic Co-ordination Authority
Olympic Roads and Transport Authority
Ombudsman's Office
Parliamentary Counsel's Office
Police Integrity Commission
Powerhouse Museum
Premier's Department
Public Trustee
Roads and Traffic Authority
Royal Botanic Gardens and Domain Trust
Rural Assistance Authority
Safe Food Production NSW
Southern Cross University

State Electoral Office
State Emergency Service
State Forests of New South Wales
State Library of NSW
State Rail Authority of NSW
State Records
State Sports Centre Trust
SAS and FSS Trustee Corporation
Superannuation Administration Corporation
State Transit Authority of New South Wales
State Valuation Office
Surveyor-General's Department
Sustainable Energy & Development Authority
Sydney Catchment Authority
Sydney Cricket Ground and Sports Ground Trust
Sydney Harbour Foreshore Authority
Sydney Markets Limited
Sydney Opera House
Sydney Organising Committee for the Olympic Games
Taronga and Western Plains Zoo
Teacher Housing Authority
Tourism New South Wales
Tow Truck Authority of New South Wales
University of New England
University of New South Wales
University of Newcastle
University of Sydney
University of Technology Sydney
University of Western Sydney
University of Wollongong
Upper Parramatta River Catchment Management Trust
Valuer General's Office
Vocational Education and Training Board
Waste Recycling & Processing Service of NSW
Waterways Authority
Wentworth Park Trust
Wollongong Sports Ground Trust
WorkCover Authority
Zoological Parks Board of NSW



Department of Local Government

**CODE
OF
CONDUCT**

June 1992

INTRODUCTION

The Department of Local Government is a Department of the New South Wales Government.

The Charter of the Local Government Office is:

"To provide, support and administer a policy and Legislative framework for the responsible operation of Local Government in NSW on behalf of the State."

OBJECTIVE OF THE CODE

Certain standards of behavior are required from all NSW Government employees and these are set out in the New South Wales Public Sector Code of Conduct (July 1991).

This Code of Conduct has been developed to meet the specific needs and requirements of the Department of Local Government.

This Code is not intended to be read as a set of rules, where every word is scrutinised for its legal meaning.

It is intended to convey in plain words the obligations, responsibilities and standards of professional behavior expected of all staff of the Department including temporary, contract and part-time staff.

The Code is a guide developed to assist staff in solving ethical issues. While there are no set of rules capable of providing answers to all ethical questions that arise, this Code provides the frame work for appropriate conduct in a variety of contexts.

The Code has been based on the New South Wales Public Sector Code of Conduct issued by the Premier's Department in July, 1991 and also incorporates material from The Independent Commission Against Corruption Guidelines, other public sector agencies and specific requests submitted by Branch Managers.

The Code will be reviewed regularly, updated and expanded to reflect relevant changes that occur both within and outside the Department.

The Code is written primarily in the first person, as it seeks the commitment of each individual to its principles and practices.

GARRY PAYNE,
Director General

PUBLIC CONFIDENCE

I am fully aware that as an employee of the Department I have a responsibility and obligation to the public.

This demands that I must exhibit standards of professional behaviour which will maintain public confidence and trust. The public has a right to expect that I, as an employee of the Department, will act with the highest integrity and competence, treating all citizens fairly, reasonably and equitably.

RESPONSIBILITY TO THE GOVERNMENT OF THE DAY

I will at all times provide impartial and accurate advice to the Government of the day and to implement its policies promptly, efficiently and effectively.

At all times I will give objective, honest, intelligent and responsible advice based on an accurate representation of the facts available.

PUBLIC SERVANT'S RIGHTS AND OBLIGATIONS

I understand that my rights as a NSW Government employee are the normal rights of employees, under Common Law and within the provisions of legislation.

I must comply with the requirements of the Public Sector Management Act, the Public Finance and Audit Act and all operational policies issued in accordance with them.

I will comply with legislation, public sector wide policies and Departmental policies, as determined by the Director General or appropriate delegate (e.g., Equal Employment Opportunity, Freedom of Information, overtime, travel, personnel practices) and endeavour to keep abreast of any changes to policies.

CONFLICTS OF INTEREST

I will avoid any financial or other interest or undertaking that could directly or indirectly compromise the performance of my duties.

If the potential for any conflict of interest does arise, it is my responsibility to notify the Director General regarding the circumstances.

Conflicts of interest will be assessed in terms of the likelihood that an officer possessing a particular interest could be influenced, or may appear to be influenced, in the performance of his/her duties on a particular matter.

Therefore, I will advise the Director General if I, or close family members, have a relationship with the Department's client base or any organisation or individual that may put me in a position of having a conflict of interest.

ACCEPTANCE OF GIFTS AND BENEFITS

I will under **NO** circumstances **solicit** by either word or gesture any meals, drinks, money, gifts, benefits, travel or hospitality.

Under **NO** circumstances will I **accept** any offer of money.

I will not **accept** gifts from Department clients, organisations or individuals for myself or my family where the gift implies I should unduly favour that client, organisation or individual.

I may **accept** gifts or benefits of a token kind or moderate acts of hospitality. I will exercise discretion in the receipt of token gifts, benefits and hospitality and not accept personally targeted gifts.

Token Gifts would include ties, scarves, coasters, tie pins, diaries, chocolates, flowers and small amounts of beverages.

Token benefits would include a meal either at the client's premises or at a venue that is not markedly expensive, provided during discussions on official business or during attendance at an official function.

Token hospitality would include invitations to appropriate out of hours "cocktail parties" or social functions organised by clients.

I will report to the Director General as soon as possible, any substantial gift, offers or suggestions made directly or indirectly to me.

If I am required to undertake or assist in either an inquiry or investigations, under **NO** circumstances will I accept any gifts, benefits, or hospitality from any party involved during or after the conduct of that inquiry or investigation.

PERSONAL AND PROFESSIONAL BEHAVIOUR

I will perform any duties associated with my position diligently, impartially and conscientiously to the best of my ability.

In the performance of my duties I will:

- endeavour to keep up to date with advances and changes in my area of expertise.
- comply with any relevant legislative, industrial or administrative requirements.
- maintain adequate documentation to support any decisions made.
- treat members of the public and other staff members with courtesy and sensitivity to their rights.
- provide all necessary and appropriate assistance to members of the public and the Department's clients.
- strive to obtain value for public money spent and avoid waste and extravagance in the use of public resources.
- deal with cases or matters in accordance with approved procedures consistently, quickly, fairly and without discrimination on any grounds.
- not take or seek to take improper advantage of any official information gained in the course of my employment.
- not engage in any kind of conduct which may bring the Department into disrepute.

I will give my full support to the Government of the day regardless of which political party or parties are in Office. When implementing Government policy, my personal values will not take precedence over those explicit or implicit in Government policy.

When faced with having to implement a policy which is at variance with a personal view, I will discuss the matter with either my Branch Manager, another appropriate officer, or if need be, the Director General, depending on the nature of the matter, to resolve the issue.

I will not harass or discriminate in work practices on the grounds of sex, marital status, pregnancy, age, race, colour, nationality, ethnic or national origin, physical or intellectual impairment, sexual preference, religious or political conviction when dealing with colleagues, members of the public or the Department's other clients.

PUBLIC COMMENT

I will endeavour not to air personal views which may be inaccurate or which may affect adversely the Department's reputation or the exercise of its functions. I will ensure that my personal views are not presented or interpreted as official comment.

I recognise that only nominated official spokespersons may make public comment through the media on departmental matters and will not do so unless authorised by the Director General.

I understand that public comment on Departmental matters includes public speaking engagements, comments on radio and television and expressing views in letters to the newspapers or in books, journals, articles or notices or where it might be expected that the publication or circulation of the comment will spread to the community at large.

USE OF OFFICIAL INFORMATION

I am obliged to disclose official information which is normally given to members of the public seeking that information.

I shall only disclose other official information or documents acquired in the course of my employment when required to do so by law, in the course of duty, when called to give evidence in court, or when proper authority has been given.

In such cases, my comments will be confined to factual information and will not express an opinion on official policy or practices.

In doing the Department's work, I understand that this may at times involve access to sensitive official information which may be the subject of enquiry, investigation or consultation.

I am fully aware and understand that confidential information shall not be used:

- to gain improper advantage for myself or for any other person or body.
- in ways which are inconsistent with the obligation to act impartially.
- to cause harm or detriment to any person, body or the Department.

USE OF OFFICIAL FACILITIES AND EQUIPMENT

I will be:

- efficient and economical in my use and management of public resources.
- scrupulous in the use of public property and services and not permit their abuse by others.

Official facilities and equipment should only be used for private purpose when official permission has been granted.

I am entitled to use the telephone system for private calls provided that they are only local, short, infrequent and do not interfere with work. Any abuse of this privilege may lead to disciplinary action being initiated against me.

OUTSIDE EMPLOYMENT

Should I be considering undertaking outside paid employment, I must obtain the approval of the Director General prior to accepting or starting the employment.

In all cases where outside employment is approved, my first priority will always be my employment with the Department. I will avoid any situations which may arise or give the appearance of a conflict of interest. In particular, I must consider whether the company or organisation concerned is in, or entering into, a contractual relationship with the Government, whether its primary purpose is to lobby Government organisations or Members of Parliament, or whether it is in a regulatory relationship with the Department.

CODE OF DRESS

My standard of attire will project a professional image.

POLITICAL PARTICIPATION

I will ensure that any participation in political matters does not cause any conflict with my primary duty as a public servant which is to serve the Government of the day in a politically neutral manner.

If at any time I become aware that a potential conflict, whether real or apparent, has arisen or is likely to arise, I will immediately inform the Director General.

If a conflict of interest does arise, I am fully aware that my participation in such political activity may have to stop or that I may have to withdraw from areas of duty giving to the conflict of interest.

HOW TO REPORT CORRUPT CONDUCT

I acknowledge that under Section 11 of the Independent Commission Against Corruption Act, 1988, there is an obligation for the Director General to report corrupt conduct to ICAC.

Corrupt conduct is conduct that could constitute or involve a criminal offence, a disciplinary offence or reasonable grounds for dismissal.

I will report any such corrupt conduct that I am aware of to the Director General.

If the conduct concerns the Director General I will report it to the Deputy Director General. I understand that feedback regarding the status of my complaint will be provided.

POST-SEPARATION OF EMPLOYMENT

Should I at any time leave the employment of the Public Service for any reason, I will endeavour not to accept employment or engage in any activities which might cast doubts on my own integrity, the integrity of the Department or the Public Service generally.

BREACHES OF CODE

I understand that any breaches of this Code of Conduct will be dealt with in accordance with procedures detailed in Public Service of New South Wales' Personnel Handbook and the Independent Commission Against Corruption Act 1988.

DEPARTMENT OF LOCAL GOVERNMENT

CODE OF ETHICS FOR THE CONDUCT OF RESEARCH

This Code of Ethics is to be used by the following:

- Department of Local Government staff carrying out research
- consultants commissioned by the Department to carry out research. The Code is to form part of the contract

The Code has been adapted from the Code of Ethics for the National Youth Affairs Research Scheme and the Interim Code of Ethics for the Australasian Evaluation Society and covers the following areas:

- general statement of ethical responsibilities
- Privacy and Personal Information Protection Act 1998
- informed consent
- anonymity and confidentiality
- balance between disadvantage and benefit to participants
- equity issues
- conduct of research projects
- research involving children and young people under the age of 18 years
- ownership, storage and disposal of research material

General statement of ethical responsibilities

Staff carrying out research must be aware of and responsive to all pertinent ethical principles in planning and conducting research. Ethical responsibility lies with the project coordinator but is shared by others working on the project.

Every research project must be conducted with due consideration for the rights of those whom it affects. Staff must protect participants' welfare and must take all reasonable precautions to minimise inconvenience to participants and to avoid causing injurious psychological or social effects. Staff must also use appropriate behaviour when in direct contact with children and young people under the age of 18 years.

To the extent that there is any deviation from the principles outlined below, the project coordinator must seek advice from the Branch Manager.

Privacy and Personal Information Protection Act 1998

The Privacy and Personal Information Protection Act sets out a number of requirements which are relevant to the conduct of research. These requirements include that public sector agencies:

- must not collect personal information, that is, information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion, unless the information is collected for a lawful purpose that is directly related to a function or activity of the agency, and the collection of the information is reasonably necessary for that purpose (s8)
- must not use personal information for a purpose other than that for which it was collected unless
 - the individual to whom the information relates has consented to the use of the information for that other purpose
 - the other purpose is directly related to the original purpose for which the information was collected
 - the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person (s17)

Other requirements under the Act which are relevant to the conduct of research are set out in relevant sections of this Code.

Informed consent

Under the Privacy and Personal Information Protection Act 1998, a public sector agency must:

- take reasonable steps to ensure that before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:
 - the fact that the information is being collected
 - the purposes for which the information is being collected
 - the intended recipients of the information
 - whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information, or any part of it, is not provided
 - the existence of any right of access to, and correction of, the information
 - the name and address of the agency that is collecting the information and the agency that is to hold the information (s10)
- take reasonable steps to ensure that the information collected is relevant to the purpose for which it is being collected, is not excessive, and is accurate, up to date and complete; and the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates (s11)

Except where councils are being asked to provide information in accordance with the Director General's functions under the Local Government Act 1993, participation in any research project should be voluntary and the participant's consent based on:

- a clear communication of the aims of the research. This should be done in writing. If appropriate, it might be supplemented by providing those being interviewed with the interview questions prior to the interview
- awareness of the foreseeable uses of the research data e.g. if a report is to be produced and who it will be distributed to

- awareness of the possible consequences, both positive and negative, on the group being studied

Where the participant is a council employee, the researcher should be aware that they may have been directed to participate in the research by their employer and therefore their participation may not be voluntary. The participant should still be provided with the above information.

The research should begin with a clear agreement between the researcher and the participant concerning the responsibilities of each. The researcher must honour all commitments. The participant must be able to withdraw from the project at any time.

Anonymity and confidentiality

Except where councils are being asked to provide information in accordance with the Director General's functions under the Local Government Act 1993, information given by research participants should be kept anonymous and results reported and stored in such a way as to protect their rights to privacy and the anonymity of their contribution. It is not possible to guarantee confidentiality as somebody reading a research report may be able to identify a participant. However, staff carrying out research must take all reasonable steps to minimise the potential for a participant to be identified.

Under some circumstances, for the benefit of the participant and where their consent is clearly given, it may be appropriate to identify participants.

The protection of the anonymity of participants should be balanced by the desirability of informing participants, and affected groups, of the results of the research.

Balance between disadvantage and benefit to participants

Staff carrying out research must make every effort to minimise the disadvantages to the participant whilst seeking to maximise the benefits to the participant. Amongst the disadvantages that must be minimised are:

- invasion of participants' privacy
- psychological distress
- anxiety caused by perceived or actual demands on participants' knowledge and opinions
- demands on participants' time

In addition to psychological benefits that may be gained through sharing information and assisting in the research process, participation in a research project may be of benefit to participants in other ways that are able to be controlled by staff carrying out research. These include:

- gaining of information e.g. through making the research findings available to participants
- acknowledgment in the research report. If this is done by identifying participants by name or position, this must be agreed to by the participant

- direct reward. As the Department is unable to provide financial rewards, this should be done in other ways e.g. providing refreshments

Equity issues

The research methodology should take reasonable account of the inequalities in society, including those related to race, age, gender, sexual orientation, physical or intellectual ability, religion, socio-economic and ethnic background. Staff carrying out research should deal sensitively and justly with those affected by the research, having particular regard to the special interests of disadvantaged people.

Conduct of research projects

Staff carrying out research should strive to:

- conduct and finish research projects in a timely manner
- conduct research projects in a way which will not prejudice future research projects
- be impartial, and interpret and present findings fairly and honestly. This includes:
 - identifying the limitations of the research
 - where appropriate, those interviewed as part of any research project are provided with a write up of the interview to check its accuracy. This may also be used as an opportunity for interviewees to provide additional information
 - where appropriate, those interviewed are provided with a draft report on research findings to check its accuracy. This report may or may not include conclusions and/or recommendations, depending on the nature of the project

Research involving children and young people under the age of 18 years

Staff should be particularly careful when conducting research which involves direct contact e.g. face-to-face interviews with children and young people under the age of 18 years. As a result of the Wood Royal Commission's inquiry into paedophilia, a number of legislative changes have been made in the area of child protection. These changes include:

- placing a greater emphasis on risk management through screening and monitoring people in direct contact with children and young people
- placing responsibility on organisations to implement a system to ensure allegations of child abuse are appropriately handled
- giving the NSW Ombudsman jurisdiction to oversee and monitor investigations into allegations of child abuse against employees of certain agencies, including the Department of Local Government

It is suggested that when staff are interviewing children and young people they seek the advice of the person normally responsible for supervising the children and young people as to whether or not that person or another person they nominate should be present during the interview. Staff need to be aware of the effect this person has, if any, on the responses provided by children and young people. Having a person they know present can make children and young people feel more comfortable and more likely to answer questions. On the other hand, it may inhibit them.

If another person is not present and an incident occurs that has the potential to become an allegation of abuse, the staff member should:

- report the incident as soon as possible to:
 - the person normally responsible for supervising the children and young people
 - the Branch Manager on return to the office
- document the incident and provide a copy as soon as possible to the Branch Manager

Ownership, storage and disposal of research material

Under the Privacy and Personal Information Protection Act 1998, a public sector agency that holds personal information must ensure that the information is:

- kept for no longer than is necessary (s12)
- disposed of securely and in accordance with any requirements for the retention and disposal of personal information (s12)
- protected, by taking reasonable security safeguards, against loss, unauthorised access, use, modification or disclosure, and against all other misuse (s12)
- made available without excessive delay or expense to the individual to whom the information relates at their request (s14)

The following principles and procedures are to be followed in relation to the ownership, storage and disposal of information collected in the course of carrying out research:

- research material remains the property of the Department of Local Government. It cannot be used for any other purpose than that originally intended unless approved by the Branch Manager
- research material which is not stored on departmental files is to be stored as working papers in accordance with the Department's "Procedures for Retention of Correspondence at Government Records Repository" (these can be obtained from G:\Admin\Procman\GRR transfer procedures.doc). The procedures include proposing a date for disposal. The disposal date is to be determined in conjunction with Administration Section and the relevant Branch Manager
- where interviews are taped:
 - tapes which are being used are to be stored in such a way that they are only accessible to members of the research team
 - when tapes are no longer needed, they are to be taped over or erased as soon as possible
 - the write ups of taped interviews are to be stored and disposed of in the same way as the other principles and procedures in this section

Review of Code of Ethics

This Code of Ethics is to be reviewed in September 2000. The review will be carried out by Policy and Research Branch.