Code of conduct

(1) Model policy – standard

Template for boards of major DELWP agencies

About the model policy

Which agencies does the model policy apply to?

This model policy applies to the over 100 major public entities and other statutory boards, committees, councils, panels, etc. in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including large (category 1 and 2) committees of management of Crown land reserves.

For small (category 3) committees of management, see the Committees of Management support module (www.delwp.vic.gov.au/committees) on DELWP's governance website, On Board (www.delwp.vic.gov.au/onboard).

What does this model policy cover?

This model policy sets out a code of conduct for board members of DELWP agencies. It is a **consolidated statement** of the key standards of conduct, accountabilities and responsibilities that apply to board members.

Policy requirements

Consistent with section 81(1)(e) of the *Public Administration Act 2005* ('PAA'), your board should have a *Code of conduct* policy.[1] Your board's policy should be **consistent with the DELWP model policy**, which incorporates:

- standards of conduct and accountabilities in the PAA, for board members individually and the board collectively
- the Code of Conduct for Directors of Victorian Public Entities ('Directors Code of Conduct')
- good public sector governance practice.

Adapting the model policy

If your agency intends to adapt the model policy it should contact its DELWP relationship manager or team for advice. Your agency can *choose* to adapt the model policy to include stronger or additional requirements. If your agency's establishing Act contains additional or stronger requirements than the model policy, the model policy *must* be adapted to include them.

The model policy uses generic terms. Your agency can substitute its own terms, for example: *board* - committee, council, panel, etc.; *board member* - director, committee member, etc.

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1 Almost all DELWP agencies are public entities and are therefore subject to the *Public Administration Act 2004* (PAA) and related codes and obligations (e.g. Directors' Code of Conduct). Most, except usually small 'category 3' committees of management of Crown land reserves, are bound by Divisions 2 and 3 of Part 5 of the PAA (s 79 to s 85), which apply to public entities that were established after 1 July 2005 OR have had their establishing Act amended to deem that the agency is subject to these provisions (e.g. CMAs and water corporations) OR are included in an Order made by the Governor in Council under section 75(a) of the PAA and published in the Government Gazette (e.g. alpine resort management boards).

Further information

For further information see the Code of conduct support module in the Governance guides and resources section of DELWP's governance website, **On Board** (www.delwp.vic.gov.au/onboard). It includes the DELWP model polices and guidance notes, plus direct links to this topic on the VPSC website.

This document is available from the internet at www.delwp.vic.gov.au/onboard
For more information contact the DELWP Customer Service Centre 136 186
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[insert name of agency]

Code of conduct – board policy

1. Scope

This policy sets out the board's code of conduct. It is a consolidated statement of the key standards of conduct, accountabilities and responsibilities that apply to board members.

2. Key principles

- **Obligations**: the board acts in accordance with its obligations and with good governance practice (item 10).
- **Public interest:** the board acts in the public interest, collectively and individually.
- **Directors' code:** board members comply with the *Public Administration Act 2004* ('PAA') and related codes, including the Code of Conduct for Directors of Victorian Public Entities ('Directors Code of Conduct').
- **Culture of integrity**: the board fosters a culture of integrity. Board members, employees and external stakeholders are supported to raise integrity issues.

The board's policy is consistent with the DELWP model policy on *Code of conduct*, which is published by the Department of Environment, Land, Water and Planning ('DELWP').[1]

3. Directors' Code of conduct

Board members must comply with the Directors' Code of Conduct, which reflects the standards of conduct established by law and good governance practice. This includes standards established by the PAA in relation to:

- **individual board members** (s 79 - see item 4, below); and
- the **board collectively** (ss 81, 82, 85 - see item 5, next page).[2]

The Directors' Code of Conduct also promotes adherence to the public sector values of integrity, impartiality, accountability, respect, responsiveness, human rights, and leadership in s 7 of the PAA, which all board members must uphold.

4. Section 79 of the PAA ('duties of directors')

Board members must act consistently with the 'duties of directors' (board members) in s 79 of the PAA. Each individual board member has a duty to:

- act honestly, in good faith in the best interests of the agency, with integrity, in a financially responsible manner, with a reasonable degree of care, diligence and skill, and in compliance with the establishing Act and any subordinate instrument;
- maintain confidentiality, *even after their appointment expires or otherwise terminates*;

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1 The DELWP model policy is designed specifically for DELWP portfolio agencies. It incorporates binding obligations in the PAA and the Directors' Code of Conduct, and good public sector governance practice.

2 The Directors' Code applies to board members (directors) of all Victorian public entities.

- avoid improperly using their position or any information acquired in their role as a board member to gain advantage for themselves or another person or to cause detriment to the agency; and
- if standing for election to parliament (federal, state or territory) or local council:
  - formally notify the board, for recording in the minutes; and
  - avoid using any resources of the agency in connection with their candidature.[3]

5. Collective accountabilities and responsibilities

The board must comply with its collective accountabilities and responsibilities, including:

- **Accountability to the minister**

  The board must act in accordance with its collective accountability to the Minister.[4]

- **Functions and powers**

  The board must ensure that all of its actions and decisions are consistent with the functions and powers in the establishing Act and with the agency's strategic plans, business plans, and related documents.[5]

- **Major risks**

  The board must inform the minister and the Secretary of DELWP of all known major risks (existing and emerging) to the effective operation of the agency and of the management systems in place to address those risks.[6]

- **Information to Minister and Secretary**

  Unless prohibited by law, the board must provide any information relating to the agency or its operations that the minister or Secretary of DELWP requests.[7]

- **Loans**

  The board must not make loans, directly or indirectly, to any board member or relative of a board member, or provide a loan guarantee or security for them.[8]

[If the agency has a board charter that includes the above requirements, replace the wording in this item with: 'The board must comply with its collective accountabilities and responsibilities -see Part X of the Board Charter'.]

3 If standing for election, see DELWP's guidance note on this topic, in the *Public Administration Act* support module.

4 Consistent with s 85(1) of the PAA.

5 Consistent with s 81(1)(a) of the PAA.

6 Consistent with s 81(1)(b) of the PAA.

7 Consistent with s 13A and s 81(1)(c) of the PAA.

8 Consistent with s 82 of the PAA.

6. Establishing Act

Board members must comply with any conduct requirements specified in the establishing Act.

[For waste resource and recovery groups, CMAs, water corporations, and other agencies whose establishing Act specifies conflict of interest requirements insert: 'For details see the board's policy on Conflict of Interest'.]

7. Board policies

Board members must comply with the board's policies and procedures.

[If relevant, insert: 'and its board charter'.]

8. Public sector employment principles

[Insert the following wording if the organisation has employees.]

The board must treat the Chief Executive Officer ('CEO') and all other employees of the agency in accordance with the public sector employment principles in s 8 of the PAA and related standards, and must ensure that the CEO has mechanisms in place to apply these principles throughout the agency.

The applicable principles are:

(a) employment decisions must be based on merit;

(b) employees must be treated fairly and reasonably;

(c) there must be equal opportunity employment;

(ca) Victoria's Charter of Human Rights and Responsibilities must be upheld; and

(d) employees must have a reasonable avenue of redress against unfair or unreasonable treatment.

The board must also ensure that the CEO complies with the Code of Conduct for Victorian Public Sector Employees, and that he/she has mechanisms in place to ensure that all other employees comply with that Code.

9. Culture of integrity

To foster a culture of integrity, it is essential that board members, employees, and external stakeholders are supported to raise integrity issues. Decisive action will be taken against any person who discriminates against or victimises a person who speaks up in good faith about a possible breach of this policy.

10. Obligations and good practice

The board must act in accordance with its obligations and with good public sector governance practice, including:

- the establishing Act, being *[insert]*;
- the *Public Administration Act 2004* ('PAA'), in particular:
  - public sector values (s 7) and employment principles (s 8);
  - standards of conduct for individual board members (s 79 - 'duties of directors')
  - additional duties of the chair (s 80);
  - accountabilities and responsibilities of the board collectively (s 81, s 82, s 85);

  - requirement to provide information to the Secretary of DELWP (s 13A and s 81(1)(c));
  - requirement that a code of conduct be in place for board members (s 81(1)(e));
- the Directors' Code of Conduct and other accountabilities issued by the Victorian Public Sector Commission;
- government policy;
- any directions, guidelines and/or statements of obligation or expectation issued by the Minister; and
- all other laws and obligations that bind the agency.[9]

11. Regular review of this policy

The board will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc. This policy should be consistent with the most recent version of the DELWP model policy. This policy was **last reviewed on** *[insert]*.

12. Related policies

- Conflict of interest
- Gifts, benefits and hospitality - responding to gift offers
- Gifts, benefits and hospitality – providing gifts
- Meetings and decision-making.

13. Further information

For further information see the Code of conduct support module in the Governance guides and resources section of DELWP's governance website, **On Board** (www.delwp.vic.gov.au/onboard). It includes the DELWP model policy and related guidance notes, plus direct links to this topic on the VPSC website.

[9] *[insert this footnote if agency is subject to the Financial Management Act 1994]* For example, the *Financial Management Act 1994* and 'Instructions supporting the Standing Directions of the Minister for Finance 2016'.