

Code of Conduct and Ethics

Integrity, Trust, Service and Accountability

Version 4
3 October 2024

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Policy Control Information

Policy Name	Code of Conduct and Ethics
Policy Owner	State Super Board
Current Version	4
Approval Date	3 October 2024
Next Review Date	3 October 2029

Revision History

Version	Prepared By	Reviewed By	Approved By
Version 1	STC Legal	RACC	The Board Date: February 2016
Version 2	STC Legal	ELC	CEO Date: September 2019
Version 3	STC Legal	HRNC	The Board Date: February 2020
Version 4	STC Legal	PCC	The Board Date: 3 October 2024.

1. Introduction

State Super is committed to acting honestly, in the best interests of the beneficiaries of STC Schemes, and exercising due care, skill and diligence in all activities.

The values that underpin our work centre on **integrity, trust, service and accountability**.

This Code of Conduct and Ethics (**Code**) is based on applicable NSW legislation and regulations and if relevant, the directions of the New South Wales Public Service Commissioner (the Commissioner). The Acts most relevant to State Super in relation to the Code are:

- i) Superannuation Administration Act, 1996 (the **SAA**), and
- ii) Government Sector Employment Act 2013 (the **GSEA**).

Other legislation which creates obligations for STC People relevant to this Code is set out in Appendix 1.

If there is any conflict between this Code and any applicable legislation, the legislation will take precedence.

2. What is the purpose and application of this Code?

This Code applies to all STC People. As a STC Person you must be aware of and comply with this Code. The Code mandates a standard of behaviour that will support State Super's commitment to an appropriate culture in which State Super executes its mission.

STC Person and **STC People** mean:

- i) each member of the State Super board;
- ii) the CEO;
- iii) employees of the SAS Trustee Corporation executive staff agency related to NSW Treasury under the GSEA assigned to carry out their day to day responsibilities for the benefit of State Super; and
- iv) contractors or consultants engaged or appointed by State Super.

This class of people are referred to collectively as STC People and individually as a STC Person in this Code.

This Code sets the standards of ethical behaviour and professional conduct required of all STC People and incorporates relevant directions issued from time to time by the Commissioner with regard to conduct and ethics.

All STC People are required pursuant to the legal undertakings made to State Super which include State Super's corporate policies, (but also to the relevant legislation) to behave in ways that are ethical, lawful and build trust and integrity in the sector. State Super is committed to ensuring that all STC People have reasonable training and awareness of the Code upon appointment and throughout the course of their role as a STC Person.

Notwithstanding the above, it is your responsibility to know, understand and comply with your ethical and legal obligations as set out in section 3 on mandatory conduct in accordance with the Ethical Framework set out in section 4 below. It is important to know the consequences for failing to act and that you appreciate that the ethical and legal obligations that apply to you in

your role at State Super may differ from those that would apply in the private or not-for-profit sector.

This Code does not attempt to cover every situation that will arise in your work. It provides a broad framework that will help you decide on an appropriate course of action when faced with any ethical issues.

This Code does not replace the need for common sense in how you conduct yourself. It shows how we are all obligated to take responsibility for our own conduct, and how we can cooperate with our colleagues to establish a productive workplace.

The Commission has prepared an on-line package of resources to assist employees to understand and meet their ethical obligations – see *Behaving Ethically: a guide for NSW government sector employees*. Section 4.3 of the guide contains ethical scenarios to help you understand your ethical obligations and all STC People are required to read the guide.

3. Mandatory conduct

As a STC Person you have responsibility to:

- i) demonstrate high levels of personal conduct consistent with the Ethical Framework (section 4);
- ii) seek assistance when unsure about how to implement the Ethical Framework;
- iii) promote the implementation of the Ethical Framework to your colleagues; and
- iv) report possible breaches of the Ethical Framework as set out in section 15 below.

If you are a manager, you are also expected to:

- i) lead and promote implementation of the Ethical Framework in your team;
- ii) ensure the workplace culture, practices and systems, including recruitment and promotion, operate consistently with the Ethical Framework;
- iii) recognise and promote employee and team conduct that exemplifies the Ethical Framework; and
- iv) act promptly and with due process to prevent and address any breaches of the Ethical Framework.

The CEO and Board members (and any other STC Person who have been informed) are required to provide an annual written declaration of private financial, business or other interests or relationships that could influence or be perceived to influence, decisions made or advice given.

The CEO is responsible to:

- (i) lead and promote implementation of the Ethical Framework in State Super;
- (ii) ensure that the general conduct and management of the activities of State Super are in accordance with the core values of the Ethical Framework; and
- (iii) oversee the implementation of the Ethical Framework and make improvements where necessary.

The Chairperson of the State Super Board will ensure that all Board members are aware, and understand the responsibilities arising from the Code.

If you are engaging or managing external consultants, contractors or committee members, it is your responsibility to make them aware of State Super's expectations of conduct during the period of their engagement. It is also your responsibility to address any concerns about their conduct.

Your responsibilities under this Code are summarised into the following areas:

- (i) Personal conduct:
 - a. the ethical framework (section 4); that is; all government employees are expected to act in the public interest and act lawfully and uphold the law
 - b. use of public resources and procurement (section 5);
 - c. equal access and opportunity;
 - d. bullying, unlawful discrimination and harassment; and
 - e. corruption.
- ii) Identifying and managing risks (conflicts of interest):
 - a. gifts and benefits; and
 - b. workplace health safety (including use of social media).
 - c. lobbying
 - d. making public comment.
- iii) Handling information:
 - a. recordkeeping;
 - b. confidentiality of information; and
 - c. access to information.
- iv) Reporting wrongdoing:
 - a. how to report wrongdoing; and
 - b. actions when allegations are made.
- v) Recruitment:
 - a. Secondary employment
 - b. Managing participation in external organisations

4. The Ethical Framework

State Super's Ethical Framework is built on four public sector core values – integrity, trust, service and accountability. All STC People are required to embrace these core values while discharging their duty to act in the best interests of the STC Scheme beneficiaries.

The Ethical Framework is to be applied at all times in working relations with colleagues, STC Scheme beneficiaries, service providers and stakeholders.

(a) The core values are as follows:

i) Integrity

- a. consider people equally without prejudice or favour;
- b. act professionally with honesty, consistency and impartiality;
- c. take responsibility for situations, showing leadership, and courage;
- d. place the public interest over personal interest; and
- e. perform your duties to the best of your ability, ethically and conscientiously with a focus on good governance and culture.

ii) Trust

- a. appreciate differences and welcome learning from others;
- b. build relationships based on mutual respect;
- c. uphold the law, institutions of government and democratic principles;
- d. communicate intentions clearly and invite teamwork and collaboration; and
- e. provide apolitical and non-partisan advice.

iii) Service

- a. provide services fairly with a focus on member benefits;
- b. be flexible, innovative and reliable in service delivery;
- c. engage with the not-for-profit and business sectors (where appropriate) to develop and implement service solutions; and
- d. focus on quality while maximizing service delivery.

iv) Accountability

- a. recruit and promote employees on merit;
- b. take responsibility for decisions and actions
- c. provide transparency to enable public scrutiny;
- d. observe standards of safety
- e. promote a positive work environment and culture;
- f. adhere to and promote a healthy and safe workplace; and
- g. be fiscally responsible and focus on efficient, effective and prudent use of resources.

5. Use of public resources and procurement

You are required to understand and comply with State Super's Policy on Use of Employer Communication Devices and Workplace Surveillance.

(a) STC People are provided with resources to undertake the performance of their duties.

You must:

- i) use work resources in an efficient, effective and prudent way and only for work-related purposes;
 - ii) not use work resources (money, property, equipment or consumables) for your own business, political or unauthorised purposes;
 - iii) make sure that any personal use is reasonable personal use (e.g. phones, computers or photocopiers) provided that work performance is not affected and any instructions about such personal use are followed;
 - iv) not use your position, or access to Government resources and information for personal gain or the gain of another person;
 - iv) comply with State Super's Policy on Use of Employer Communication Devices and Workplace Surveillance.
- (b) When procuring goods and services, you must ensure you:
- v) if you are responsible for receiving, spending or accounting for money, ensure you know, understand and comply with the requirements of the Public Finance and Audit Act 1983, the Public Works and Procurement Act 1912 and the Government Advertising Act 2011; and
 - vi) you must ensure that State Super obtains value for money in the procurement of goods and services. You have a responsibility to undertake procurement in accordance with:
 - a. principles of probity and fairness;
 - b. applicable policies and directions of the NSW Procurement Board as well as the NSW Government Procurement Policy Framework, Treasury agency procurement policies including taking reasonable steps to ensure the good and services are not the product of modern slavery; and
 - c. any State Super policy including declaring and managing any conflict of interest in accordance with State Super's Conflicts Management Policy. You must work with the appropriate person with responsibility for managing any conflict to resolve any conflict in the public interest, rather than your own or another's personal interest.

6. Diversity and Inclusion and Anti-discrimination

You are required to understand and comply with State Super's Diversity and Inclusion Policy and applicable state and commonwealth legislation that addresses discrimination in the workplace.

You must treat people equally whether they are members of the public, STC Scheme beneficiaries or colleagues. You must not harass or discriminate on the grounds of sex, marital status, race, colour, ethnic or national origin, ethno-religious identity, political conviction, descent, age, disability, homosexuality, transsexuality, or because they are a carer or a transgender person.

Such harassment or discrimination will not be tolerated by State Super and may also expose you to regulatory or civil action.

You should respect peoples' different cultural and social differences, their different working needs and arrangements.

Additionally, if you are a manager, you must take all reasonable steps to make sure that the workplace is free from all forms of harassment and discrimination. You should understand and apply the principles of diversity and inclusion and anti-discrimination and ensure that employees you supervise understand these principles.

7. Bullying, unlawful discrimination, and harassment

Bullying, discrimination or any form of harassment, violence (actual or threatened) is unlawful and not tolerated or accepted in the State Super workplace.

All STC People are required to treat members of the public, STC Scheme beneficiaries, co-workers and colleagues fairly and with courtesy and respect.

Bullying in the workplace is defined as 'repeated, unreasonable behaviour directed towards a worker or workers that creates a risk to health and safety'. It is important to note that motive is irrelevant and bullying can occur even though you did not intend for the bullying to occur. This includes discrimination and harassment at meetings and including the use of social media. Whilst a single incident may not of itself constitute bullying, State Super will take such behaviour seriously. Reasonable workplace actions such as including reasonable performance management and reasonable directions to an employee, will not constitute bullying.

If you are bullied by anyone or you witness bullying, you must report it immediately so it can be stopped. You should follow the reporting guidelines set out in paragraph 15 of this Code or alternatively, follow the reporting process in State Super's Work, Health and Safety Plan and the State Super Policy on Sexual Harassment (which is now a requirement as per PSC direction 1 of 2023 for all agencies to have in place a policy on workplace sexual harassment). All Staff must understand and adhere to your legal obligations and State Supers' internal policies.

8. Corrupt conduct

You cannot, in any circumstance, make improper use of the knowledge, power or the resources of your position in State Super for personal gain or the advantage of others.

This is considered corrupt conduct. You are urged to report:

- i) suspected corrupt conduct;
- ii) maladministration (conduct that involves action or inaction of a serious nature that is:
 - a. contrary to law;
 - b. unreasonable, unjust, oppressive or improperly discriminatory;
 - c. based wholly or partly on improper motives);
- iii) serious and substantial waste of public resources; or
- iv) a failure to exercise your functions properly in accordance with the Government Information (**Public Access**) Act 2009.

Corrupt conduct, as defined in the Independent Commission Against Corruption Act, 1988 is deliberate or intentional wrongdoing, and not negligence or a mistake which involves or affects a NSW public official or public sector organisation.

While it can take many forms, corrupt conduct occurs when:

- i) a public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others;
- ii) a public official dishonestly exercises official functions, improperly exercises official functions in a partial manner, breaches public trust or misuses information or material acquired during the course of his or her official functions; and
- iii) a member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.

You must never ask for money, gifts or benefits, and you must never accept any offer of money, gifts or benefits as an inducement to make a decision or in exchange for favours. This is inconsistent with the Ethical Framework and is corrupt conduct under the law and will have serious implications for you.

If you are offered a bribe, you must refuse it, unless you reasonably believe there is a threat to your personal safety or to the people around you or to your loved ones, you may in the first instance accept the bribe, but you must as soon as possible after the conduct occurred, report the matter to the CEO or the General Counsel, or if you are a Board member, to the Chairperson of the Board. Any attempt to bribe a STC Person or the acceptance of a bribe by an STC Person, is an act of corrupt conduct and should be reported to the positions nominated in the State Super's Public Interest Disclosures Policy. You are also able to report internally via the process set out in section 14.

9. Identifying and managing conflicts (Conflicts of Interest)

You are required to understand and comply with State Super's Conflicts Management Policy.

An individual's obligations to others, or their own interests, can (or potentially can) improperly influence or be perceived to improperly influence the performance of their duties (public duties) to State Super and compromise their integrity and that of State Super. A public duty extends beyond simply performing the tasks assigned to you or complying with policy and procedure. It means the power, authority, and your duty and function conferred to you as the holder of a public office. It includes a duty to serve the public interest and the agency in an ethical manner.

You must be objective and impartial and must be seen to be so by others. You must take action that is free of conflicts of duty and actively manage conflicts of interest. You must be aware of what constitutes a conflict of interest or conflict of duty and comply with State Super's Conflicts Management Policy. It is your responsibility to identify and declare conflicts of interest. A conflict of interest exists when a reasonable person might perceive that your personal interests(s) could be favoured over your public duties. It may arise from a range of factors, including personal relationships, secondary employment, membership or interest groups or your ownership or property, shares or companies.

To determine if a conflict of interest exists, you should ask yourself:

- i) Do you have a personal interest?
- ii) Do you have a public duty?
- iii) Is there a connection between your public duty and your personal interest?

- iv) Could a reasonable person perceive that your personal interest might be favoured?

Where there is a conflict of interest you should:

- i) always disclose actual, potential or reasonably perceived conflicts of interest to your manager as soon as you become aware of it;
 - ii) comply with the directions given to you by your manager, or in the case of the Board members or the CEO, with the directions of the Chair of the Board; and
 - iii) always resolve the conflict in favour of the public interest or the STC Scheme beneficiaries or of State Super, rather than your own.
- v) Work with the appropriate person with responsibility for managing the conflict to resolve any conflict in the public interest rather than your own or another person's personal interest.

The directions that may be given centre on the possible strategies for managing an actual, potential or perceived conflict of interest and include, but are not limited to:

- i) informing likely affected persons that a disclosure has been made, giving details of State Super's view that there is no actual conflict or the potential for conflict is minimal;
- ii) appointing further persons to a panel/committee/team to minimise the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict;
- iii) where the persons likely to be concerned about a potential, actual or perceived conflict are identifiable, seek their views as to whether they object to the person having any, or any further, involvement in the matter;
- iv) restricting the person's access to relevant information which is sensitive, confidential or secret;
- v) directing the person to cease supporting a third party whose actions may conflict with State Super's interests (e.g. a person taking legal proceedings against State Super);
- vi) removing the person from duties or from responsibility to make decisions in relation to which the 'conflict' arises and reallocating those duties to another employee (who is not supervised by the person with the conflict);
- vii) persons with a 'conflict' who are members of board or committees absenting themselves from or not taking part in any debate or voting on the issue; and
- viii) in serious cases, requesting or directing the person to resign or terminating the person's employment or appointment.

In addition, those responsible for managing a conflict of interest should:

- i) Ensure that the conflict is appropriately managed, as outlined above
- ii) Consider where the circumstances warrant the removal of the employee from the duties that are in conflict with their private interest
- iii) Approve a management plan
- iv) Monitor the situation to ensure compliance with agreed management plan.

10. Declaring private interests as a senior executive

If you are a senior executive (ie employed under the GSE Act Part 4 Division 4 on Bands 1 and above) the Commissioners *Code of Ethics and Conduct for NSW government sector employees* requires you to make a written declaration of private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made, or advice given by the senior executive.

'Private Interests' is defined as those interest that can bring financial or other material benefit or result in disadvantage to public officials as individuals to other people connected with the public official. These interests are not limited to pecuniary or those that bring direct personal gain or help to avoid personal loss. They may also include social or professional activities and interests. They can involve the interests of the public official, members of the official's immediate family or relatives (where these interests are known), business partners, or associates of friends. Enmity as well as friendship can also give rise to a conflict of interest.

A conflict may arise from a range of actors including:

- Personal relationship
- Secondary employment
- Membership of special interest groups
- Ownership of, or financial interest in property, shares or companies.

Where a senior executive has no such private interests to declare, they must declare a "nil return". After a senior executive makes an initial declaration, a fresh declaration must be made:

- as soon as practicable, following any relevant change in the private interests.
- as soon as practicable, following any assignment to a new role or responsibility.
- at least annually.

The Commission has issued a template for making a private interests declaration (**Appendix 2**). This is to be used and read in conjunction with the declarations required under the State Super Conflicts Management Policy (and APRA Prudential Standard SPS 521 'Conflicts of Interest').

An acting senior executive is not required to make a fresh declaration on each 'acting' occasion and may rely on their most recent declaration, provided:

- that declaration is brought to the attention of their current manager;
- there are no additional undeclared private financial, business, personal or other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made, or advice given by the senior executive whilst they are acting.

A senior executive (as defined above) must provide their declaration to the CEO. The CEO must then provide the declarations to the Secretary of Treasury.

The CEO is responsible for ensuring:

- senior executives complete declarations.
- handling and storage of declarations comply with privacy legislative requirements.
- declared conflicts are managed and monitored appropriately.

Government sector agency heads who are statutory officeholders should provide any voluntary declaration to the person exercising employer functions in relation to the statutory officeholder, to the extent that this is possible. For example, statutory officers whose employment is governed by a contract of employment with their responsible Minister, or who are subject to Ministerial direction or control, should make their voluntary declaration to that Minister. Where this is not possible or appropriate in the circumstances, voluntary declarations may be made to the Secretary of the Premier's Department.

11. Accepting and declaring gifts, benefits and hospitality

You may be offered a gift, benefit and/ or hospitality in a show of gratitude by customers or members, clients or suppliers or other person or organisations. There are some circumstances when refusing a gift would be perceived as inappropriate.

You are expected to exercise sound judgment when deciding whether or not to accept a gift, benefit or hospitality. You cannot allow the acceptance of a gift or a benefit to influence or be seen to influence your decision making or place you under some financial or moral obligation to another party. For the avoidance of doubt, you must not create the impression that a person or organisation is influencing State Super or the decisions of any State Super People when accepting a gift or benefit.

You must comply with State Super's Conflicts Management Policy (including recording gifts on the State Super Gifts and Interests Register) in considering whether to accept a gift, benefit and / or hospitality. You must refuse bribes or inducements and report them in line with State Super's Conflicts Management Policy.

12. Workplace, Health and Safety

You are required to understand and comply with State Super's Work Health and Safety Policy, plans, practices and programs.

STC People are required to take reasonable care for their own health and safety and not do anything that would adversely affect the safety of others, including behaviour at meetings and the use of social media. In addition, when carrying out your work or contributing to the making of decisions, you have the duty to objectively identify risks so that these can be reported to your manager or relevant decision maker, assessed and appropriately managed in a lawful way.

You should report risks or hazards (both actual and potential) to health and safety to the CEO or otherwise as set out in State Super's Work Health and Safety Policy and Work Health and Safety Management System as well as in line with the *Work Health and Safety Act 2011*. Managers and senior executives have more substantial obligations including the safety of those under their supervision or attending work locations and should familiarise themselves with these obligations.

13. Protecting Confidential Information, Privacy and Records Management

You are required to understand and comply with State Super's:

- Privacy Statement
- Records Management Policy
- Trading and Sensitive Information Policy

State Super receives and stores large amounts of confidential information.

STC People are placed in a position of trust and are regularly privy to confidential and sensitive information ('confidential information').

Confidential information includes, for example:

- i) insider information, being information that is not generally available and that, if it were, a reasonable person would expect it to have a material effect on the price or value of the particular Securities because the information would likely influence persons who commonly acquire securities as to whether to acquire or dispose of the Securities in question (inside information);
- ii) trade secrets;

- iii) information which is commercially sensitive;
- iv) information relating to a listed entity;
- v) details relating to the appointment of service providers or the terms of a procurement agreement; and
- vi) personal and sensitive information of STC People and STC Scheme beneficiaries.

State Super is committed to protecting the privacy and confidentiality of information it holds in relation to STC People, the STC Scheme beneficiaries and information that is commercial in confidence of which the improper use of which could damage State Super's reputation.

The *Privacy and Personal Information Protection Act 1998* outlines how NSW public sector agencies are required to manage personal information. The *Health Records and Information Privacy Act 2002* outlines how these agencies are required to manage health information.. State Super summarises these obligations in its Privacy Statement.

State Super's Trading and Sensitive Information Policy sets out the principles and obligations for STC People in respect of insider trading (in relation to investment information in relation to listed securities that is inside information as set out above.

These principles are legal obligations with which State Super complies with.

Confidential information can be written, stored on a computer or might be something that is overheard. Unauthorised disclosures may cause people or the organisation harm or give another person an improper advantage. State Super's integrity and credibility may be damaged if information is not kept securely.

You must maintain the confidentiality of information entrusted to you. You may hold information confidential to State Super or is subject to obligations of confidence to other people. An obligation of confidence can arise because of an express agreement or undertaking or can be implied from the circumstances surrounding the disclosure of information to State Super.

You must:

- i) only access confidential information that you have been authorised to access and only to do so for purposes directly relevant to STC;
 - ii) only disclose confidential information when you are authorised to do so, including when permitted or required by law or legal process to do so.
 - iii) not use confidential information in an unauthorised way, including for your or anyone's else personal benefit or advantage.
- i) not use or release confidential information without proper authority, such as discussing or providing information on social media that could identify STC Scheme beneficiaries or divulge personal information;
 - ii) maintain the security of confidential information, including that stored on communication devices;
 - iii) not disclose, use or take advantage of information obtained in the course of official duties; and
 - iv) comply with current laws and State Super Policies in relation to confidential personal information.

You should always exercise caution and sound judgment in discussing personal information with other employees. Generally, information disclosure should be limited to those who need to know. Any misuse of information in the course of employment may amount to misconduct, an offence under applicable criminal, privacy, information access or State Records legislation and / or serious wrongdoing.

14. Who should I report a breach of the Code to?

You are required to understand and comply with State Super's Public Interest Disclosures Policy and the Public Interest Disclosure Act 2022 (PID Act) on how to report a serious wrongdoing and the actions taken when an allegation is made. .

A serious wrongdoing includes:

- corrupt conduct
- serious maladministration
- a government information contravention
- a privacy contravention or
- a serious or substantial waste of public money.

If you become aware of a serious wrongdoing, you can report your concerns in accordance with State Super Public Interest Disclosure Policy. All PIDs will be dealt with in accordance with the PID Act. Under the PID Act, it is both a criminal offence and misconduct to take detrimental action against a person who makes a public interest disclosure. If you believe conduct contrary to the Code may constitute a criminal offence, you should report the matter to your manager, senior executive or NSW Police Force.

Behaviour contrary to this Code and to the Ethical Framework can bring individual employees into disrepute, undermine productive relationships in the workplace, hinder member service delivery and damage public trust in State Super and the broader government sector.

Contravention of this Code may also be misconduct for the purposes of section 69 of the GSE Act.

If you are unsure of what is appropriate conduct in a particular situation, you should discuss this with your manager, People and Culture team, or any other relevant member of State Super who is responsible for advising on Code compliance, including the General Counsel.

If you see behaviour contrary to this Code you should report it to your manager, or if you are uncomfortable about discussing the matter with your manager, you can discuss the matter with the CEO or the General Counsel. The CEO should report any breach or concerns about the Code to the Chairperson of the Board. Breaches of this Code will be reported to the Risk, Audit and Compliance Committee.

State Super Board members (other than the Chair of the Board) should report breaches or concerns about a breach of this Code to the Chairperson of the State Super Board or the CEO. The Chairperson of the State Super Board should report breaches or concerns about a breach of this Code to the Risk, Audit and Compliance Committee.

State Super is committed to protecting any person who raises concerns about a breach of this Code from retaliation. Any attempt to take detrimental action against a person who reports a breach of this Code will be treated seriously and may lead to disciplinary or legal action.

You may also report to external regulatory entities including:

- i) The Independent Commission against Corruption (corruption)
<http://www.icac.nsw.gov.au/reporting-corruption>;
- ii) The NSW Ombudsman (public interest disclosures)
<https://www.ombo.nsw.gov.au/complaints>; and
- iii) The Auditor-General of NSW (serious waste of public resources)
<http://www.audit.nsw.gov.au/about-us/complaints>.
- iv) Law Enforcement Conduct Commission
<http://www.lecc.nsw.gov.au>

15. What happens if I breach the Code?

You hold a position of trust and are accountable for your actions.

Each case will be determined on the facts and circumstances and in accordance with the applicable legislative regime, if any, and otherwise in accordance with the rules of natural justice and procedural fairness. When deciding what action to take the Human Resource Leader, the CEO, the Chair of the State Super Board or the Chair of the Risk, Audit and Compliance Committee (as applicable), may consider:

- i) whether you were appropriately informed of your responsibilities;
- ii) the seriousness of the breach;
- iii) the likelihood of the breach occurring again;

- iv) whether the person has committed the breach more than once;
- v) the risk the breach poses to Board members, staff or any others; and
- vi) if the breach is serious enough to warrant formal disciplinary action.

Where an allegation of misconduct is being investigated by State Super or ICAC, the STC Person may be suspended from duty and their remuneration withheld.

Actions that may apply for proven breaches of the Code include management or remedial action (e.g. counselling, performance improvement plans), or disciplinary action ranging from a caution and reprimand, a fine, a reduction to remuneration or classification, re-assignment or dismissal from State Super.

The outcome of criminal proceedings against STC People may be considered to be breaches of this Code and action, including any disciplinary action, may be taken.

State Super will always be fair and impartial when investigate a possible breach. Procedural fairness requires us to:

- inform you in writing of the details of the allegations of misconduct made against you;
- give you a reasonable opportunity to respond, including via a statement or submissions in relation to the allegation;
- where action is to be taken against you, give you the opportunity to make submissions and take those submissions into account when determining the action to be taken against you; and
- inform the person making the allegation of misconduct of any decision.

16. Guide to ethical decision making

All STC People are required to ensure their decision-making is consistent with the objectives, values and principles of the Ethical Framework as set out in section 4.

To encourage ethical awareness, conduct and decision making, it is useful to consider by yourself or in consultation with your peers or your manager as appropriate, the following before you make a decision:

- i) is your decision or conduct lawful and consistent with the Ethical Framework?
- ii) is your decision or conduct consistent with Government policy applicable to State Super and, in line with State Super's objectives, State Super's corporate policies and this Code?
- iii) what will be the outcome of your decision or conduct to you, your colleagues, State Super or other parties involved?
- iv) does the outcome of your decision or conduct raise a conflict of interest or duty or lead to private gain?

v) can your decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

17. Private and secondary employment (and recruitment)

It is permissible for Board members to take positions on the boards of other organisations. However, such positions need to be disclosed to State Super in accordance with the State Super's Conflicts Management Policy.

Staff cannot undertake paid secondary work outside of State Super without the pre-approval from the CEO. Staff must recognise their primary commitment is to State Super and need to act in accordance with the State Super's Conflicts Management Policy. In the case of the CEO, approval must be sought from the Chair of the Board.

Engaging in certain types of other employment may have the potential to compromise or be seen to compromise your duties to State Super.. Accordingly, you are expected to use sound judgement before considering acceptance of any position and staff must obtain appropriate approval. Where applicable, you must work with the appropriate person with responsibility for managing the conflict to resolve any conflict in the public interest, rather than your own or another person's personal interest.

This also applies if you are involved with any recruitment. You must comply with the ethical framework in section 4 and recruit and promote employees on merit. You must also declare any conflict of interest as required by this Code or in compliance with State Super's Conflicts Management Policy.

18. Making public comments

Only the Chair of the Board and the CEO (or a person authorised by them) are authorised to make public comments on behalf of State Super.

- Public comment is any comment made where it is expected that it will be seen or heard by members of the public. It includes making public comments includes public speaking engagements, comments on radio, television or in letters to newspapers, and expressing views in books, journals, on the internet or notices if it is expected that the comments will spread to the community at large. It also includes profiles or activities on social media, comments on internet sites or broadcast by electronic means and appearance before Parliamentary Committee,

If you are an elected or nominated spokesperson for a professional association or a union (regardless of whether you are a union appointed member of the State Super Board or member of staff involved with the union), you are generally entitled to make public comments on behalf of that association or union as long as it is clear that those comments represent association or union views, and not those of State Super. You are required to clearly acknowledge the capacity in which you are expressing such views.

However, there are some circumstances in which this is inappropriate; for example, situations when a public comment, although made in a private capacity, may appear to be an official comment on behalf of State Super. In such circumstances, you should preface your remarks with a comment that they are made in a private or union capacity and do not represent the

official view of State Super. In making comments in a private capacity, including on social media, you should ensure your comments:

- Are clearly identified and understood to be your personal views
- Do not discuss or disclose any information concern your work or workplace that is not publicly available
- Are lawful – do not post material that is defamatory, bullying or harassing, in contempt of course, in breach of intellectual property rights or is otherwise unlawful.

You must not act in a way that casts doubt on your ability to act impartially, apolitically and professionally.

19. Executive providing advice

STC People are expected to be responsive to the Government of the day and provide appropriate advice that would assist the Government in implementing decisions and policy, regardless of which political party or parties are in office.

In certain circumstances, you may be required to provide advice to the relevant Minister or Government of the day. In doing so, your advice must be:

- i) apolitical and non-partisan, meaning advice that is evidence-based, impartial, that places the public interest over personal interest and is uninfluenced by party political considerations or by personal political allegiances; and
- ii) frank and fearless, based on accurate representation of the facts and as comprehensive as possible. This includes setting out the advantages, disadvantages, costs and consequences of the available options and dealing honestly with all the issues, including those that are difficult, complicated and problematic and, where appropriate, recommending a particular course of conduct; and
- iii) Consistent with the requirements the Superannuation Administration Act 1996, including the requirement that State Super must ensure its functions are exercised in the best interests of persons entitled to receive benefits under the Schemes.

20. Managing participation in external organisations

As an individual, you have the right to participate in political and community activities and to pursue personal interests. Your work in the government sector does not remove your right to be active privately, including as an office bearer, in a political party, professional organisation or trade union. However, in participating in any political, community or personal activity, you must ensure that such involvement does not conflict with your primary duty to serve State Super in a politically neutral manner. It may therefore give rise to a conflict of interest. In such cases, you should declare and manage your activities in accordance with this Code and State Super's Conflicts Management Policy.

Further, you should not:

- i) make any comment that may cast doubt on your capacity to implement State Super's policies, this Code and guidelines objectively;
- ii) participate in private political activities while at work;

- iii) use State Super's resources to assist your political activities;
- iv) materially use State Super's resources for community activities;
- v) use information obtained through your work at State Super to assist your political, community or personal activities, or make the information known to any other person;
and
- vi) misrepresent the position of State Super on any issue.

You can disclose official information that is normally given to members of the public seeking that information, but should only disclose other official information or documents:

- i) when part of normal duties; or
- ii) when proper authority has been given; or
- iii) when you are required to, or authorised to, do so by law.
; and
- iv) when called to give evidence in court.

In these cases, comments should be confined to factual information and should not, as far as possible, express an opinion on official policy or practice unless required to do so by the circumstances of the particular situation (e.g. when asked to do so in Court).

Comments made on matters pertaining to union business by members of unions (whether the person is a member of staff or member of the Board) in their capacity as a local delegate within State Super or by union office holders employed by State Super are permissible under this Code.

Specific rules apply if you are intending to stand for public office; you should raise the matter with your manager or the General Manager, People and Culture.

21. Post-separation employment

When you cease employment with State Super, you must not use or take advantage of any confidential information obtained in the course of your official duties.

As a current STC Person, you must be careful in your dealings with former Board members and staff of State Super and make sure that you do not give them, or appear to give them, favourable treatment or access to confidential information. This would also be the case in relation to any communications or dealings with any former STC People who are acting for and on behalf of NSW Treasury Corporation or any other entity that has a relationship (commercial or otherwise). You should report any attempts made by former staff to influence or lobby you about State Super's activities to your manager.

22. Lobbying

Lobbying is the practice of communicating to NSW Government officials to represent the interests of others in relation to any legislation or proposed legislation or a government decision or policy or proposed government decision or policy, or a planning application, or the exercise by the official of their official functions.

STC People are not allowed to communicate with NSW Government Officials unless they are acting:

- i) in the ordinary course of his or her duties as an employee working for State Super, or
- ii) on their own behalf as a member of the public.

You should not seek out to contact, or attempt to make contact, a Lobbyist. NSW public officials are required to act impartially in the public interest when carrying out their public duties, including when being lobbied or making decisions after being lobbied, by lobbyists.

You cannot allow any lobbying by (a person contacting you or attempting to make contact with your colleague or manager) and you should inform your manager and take steps to report the matter to the NSW Electoral Office.

In addition, you must comply with the *Premiers Memorandum M2019-02 NSW Lobbyists Code of Conduct*. It is important for public confidence in the integrity of government that lobbying is carried out with appropriate transparency and probity. The *Lobbying for Government Officials Act 2011 (NSW)* restricts lobbying of Government offices by lobbyists and requires lobbyists to comply with ethical standards or conduct and other requirements set out in the Lobbyists Code of Conduct. It is important for the integrity of the NSW public sector that lobbying is carried out with the appropriate probity and transparency.

23. How do we confirm that people comply with this Code?

State Super takes steps to monitor that you meet the requirements of this Code. This is done by requiring the following confirmation annually from each STC Person:

I confirm that I have, over the past 12 months, complied with the State Super Code of Conduct and Ethics and I will continue to comply with the Code over the next 12 months.

If you feel that you cannot provide this confirmation:

- i) If you are the Chair of State Super, you should advise the State Super Board;
- ii) if you are a member of the State Super Board, you should advise the Chair of State Super;
- iii) if you are the CEO, you should advise the Chair of State Super;
- iv) if you are a member of the State Super Executive, you should advise the CEO; and
- v) if you are a member of the State Super staff, you should advise your manager.

24. Review

This Code will be reviewed every five years. The Code may be reviewed more frequently as required.

25. Operational Responsibility

The General Counsel will be responsible for ensuring this Code is reviewed and will have the day to day management of this Code.

All material changes to this Code will be reviewed by the People and Culture Committee and considered and approved by the Board on the Committee's recommendation.

All breaches must be reported to the Risk, Audit and Compliance Committee.

26. Definitions

For the purposes of this policy, the following terms have the meanings set out below:

CEO means the Chief Executive Officer of State Super or their delegate empowered to perform a function on their behalf.

General Counsel means the General Counsel of State Super or their delegate empowered to perform a function on their behalf.

The Commission means the Public Service Commission of New South Wales.

State Super means SAS Trustee Corporation.

STC Person and **STC People** mean:

- i) each member of the State Super board;
- ii) the CEO;
- iii) employees of the SAS Trustee Corporation executive staff agency related to NSW Treasury under the Government Sector Employment Act (2013) assigned to carry out their day to day responsibilities for the benefit of State Super; and
- iv) contractors or consultants engaged or appointed by State Super.

This class of people are referred to collectively as STC People and individually as a STC Person in this policy.

APPENDIX 1

Relevant legislation:

- *Annual Reports (Statutory Bodies) Act 1984*
- *Anti-Discrimination Act 1977*
- *Corporations Act 2001*
- *Crimes Act 1900*
- *Government Information (Public Access) Act 2009*
- *Government Sector Employment Act 2013*
- *Independent Commission Against Corruption Act 1988*
- *Lobbying of Government Officials Act, 2011*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 2022.*
- *Public Finance & Audit Act 1983*
- *Public Works & Procurement Act 1912*
- *Health Records and Information Privacy Act 2002*
- *Work Health & Safety Act 2011*
- *Government Advertising Act 2011*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Protection Act 1988*
- *Crimes Act 1900*
- *State Records Act 1998*

APPENDIX 2: Declaration of Private Interest Template

Declaration of private interests

Person Making Declaration

Name:

Role Title:

Department/Agency:

Division/Branch:

Location:

Declaration

I declare that:

1. I have read and understand the requirement under the *Code of Ethics and Conduct for the NSW government sector employees* (Code) to declare any private financial, business, personal or other interests or relationships that have the potential to influence, or could reasonably be perceived to influence, my duties, including decisions made, or advice given by me.
2. I will take prompt action to manage any actual and/or reasonably perceived conflicts of interests, as required by the Code.

3. Tick one option only (**Option A** or **B**):

Option A

Annex A lists my private interests for the purpose of this declaration. In preparing this list, I have had regard to:

- my private financial, business, personal or other interests or relationships
- the functions and responsibilities of my Department/agency
- my role and responsibilities in the Department/agency.

OR

Option B

I have no such private interests to declare.

Signature:

Name:

Date:

Declaration of private interests template

Annex A

Declaration of Private Interests

List of Interests

Instructions

Please list any private financial, business, persona and other interests or relationships which have the potential to influence, or could reasonably be perceived to influence, your duties, including decisions made, or advise given by you.

The types of interests and relationships that may need to be disclosed include real estate investments or holdings; shareholdings; trusts or nominee companies; company directorships or partnerships; other significant sources of income; significant liabilities; gifts; and private business, employment, voluntary, social, family or personal relationships.

List interests here:
