



CODE OF CONDUCT

EMPLOYEES

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1 MINDARIE REGIONAL COUNCIL

The Mindarie Regional Council (MRC) is one of Western Australia's largest waste management authorities servicing its member councils consisting of the Cities of Wanneroo, Joondalup, Stirling, Vincent and Perth and the Towns of Cambridge and Victoria Park in managing Municipal Solid Waste they receive from their districts. The MRC recognises that waste has a value as a resource and is committed to managing waste in line with the waste hierarchy and in a way sensitive to the environment and future generations.

1.1 VISION, MISSION AND VALUES

Our Vision

At the MRC our Vision is framed as *"Winning Back Waste"*. This vision is a guiding principle and is explained through the following Mission.

Our Mission

Our Mission, *"To Manage Waste"* will be achieved through:

- Encouraging a culture of waste minimization
- Maximising resource recovery
- Minimising waste to landfill
- Implementing improved approaches

Underpinning this are the values of the organisation, the way we operate our business and the way we deal with our stakeholders, community and ourselves.

2 INTRODUCTION

2.1 PURPOSE

This Code of Conduct (the Code) provides guidance to Employees as to the acceptable standards of professional conduct. The Code addresses in a concise manner the ethical behaviours expected, standards for relationships with others and encourages greater transparency and accountability.

This Code is complementary to the provisions of the *Local Government Act 1995* (the Act), which sets out four fundamental aims of:

- i. better decision-making by local governments;
- ii. greater community participation in the decisions and affairs of local governments;
- iii. greater accountability of local governments to their communities; and
- iv. more efficient and effective local government.

2.2 KEY TERMS

Employee means a person employed by the MRC under section 5.36 of the Act.

Designated Employee is described under section 5.74 of the Act and means:

- a) The CEO
- b) An employee, other than the CEO, to whom any power or duty has been delegated under Division 4; and
- c) An employee who is a member of a committee comprising council members and employees; and
- d) An employee nominated by the local government to be a designated employee

Delegated powers and duties - The CEO may delegate powers or duties to employees under section 5.44 of the Act. Employees who are given delegations will receive a written letter from the CEO describing the extent of their delegation.

2.3 OBJECTIVE

To assist Employees to:

- i. understand the standard of conduct that is expected of them;
- ii. encourage a commitment to ethical and professional behaviour;
- iii. assist in accountable and ethical decision making;
- iv. enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence;
- v. act in a way that enhances the MRC's reputation and service delivery;
- vi. develop trust and respectful relationships; and
- vii. encourage disclosures of contraventions of this Code.

2.4 REQUIREMENTS OF THE CODE OF CONDUCT AND ITS APPLICATION

- i. The Act requires CEOs to prepare and implement a Code of Conduct.
- ii. Employees must comply with the Code.
- iii. The Code applies to every Employee.
- iv. Employees will be advised of the Code during their induction process and periodically thereafter.

2.5 RELATIONSHIP WITH THE ACT

To avoid doubt, nothing in this Code is intended to limit, modify or otherwise prevail over the provisions of the Act. Where this Code summarises certain provisions of the Act, this is for explanatory purposes only and should not be taken as a comprehensive outline of all provisions of the Act on the relevant subject matter.

3 CONFLICT AND DISCLOSURE OF INTEREST

3.1 CONFLICT OF INTEREST

- i. Employees must ensure that there is no actual or perceived conflict of interest between their personal interests and the impartial fulfilment of their duties.
- ii. Employees who own or are closely associated with a business from which the MRC purchases or intends to purchase goods and/or services will, in accordance with MRC Policy CP06, disclose any such interest and the MRC will

decide whether the MRC will conduct/continue to conduct any such business on an annual basis.

- iii. Employees who exercise recruitment or other discretionary functions must make the necessary disclosures before dealing with relatives or close friends and must disqualify themselves from dealing with those persons.

3.2 SECONDARY EMPLOYMENT

Employees shall not engage in secondary employment without prior application and approval of the MRC, to ensure there is no conflict with their primary employment and clause 3.1 of this Code. The requirements for secondary employment and the application process are described in the MRC procedure Private or Secondary Employment HRM11.

Secondary Employment refers to any work or position within the MRC which is in addition to an employee's normal employment with the MRC or any paid employment outside the MRC, including self-employment.

3.3 FINANCIAL INTEREST

Employees must comply with the requirements of disclosure of financial interests as contained within the Act, including those relating to the disclosure of gifts and contributions to travel, the key aspects of which are summarised in item 3.4 below.

3.4 DISCLOSURE OF GIFTS AND CONTRIBUTIONS TO TRAVEL – REQUIREMENTS OF THE ACT

Relevant Persons

A relevant person is defined under section 5.74(1) of the Act as a person who is a 'council member' or a 'designated employee' which includes, in the case of MRC:

- the CEO;
- Employees with delegated powers and duties under Part 5, Division 4 of the Act;
- Employees who are members of committees; and
- other Employees nominated by MRC to be Designated Employees.

Disclosure

A Relevant Person is to disclose all gifts within 10 days of receipt and for the CEO to update the register.

The disclosure for a gift must include:

- a description of the gift;
- the name and address of the person who made the gift;
- the date on which the gift was received;
- the estimated value of the gift at the time it was made; and
- the nature of the relationship between the relevant person and the person who made the gift.
- If applicable a description of the travel; and
- the date of travel.

Receipt of Gifts

In accordance with sections 5.87B of the Act, CEOs are required to disclose gifts that are received in their capacity as a CEO and –

- are valued over \$300; or

- are of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12-month period.

Additionally, a gift given by two or more related bodies corporate (as defined in the *Corporations Act 2001* (Cth)) is considered to have been given by a single corporation (donor).

Contributions to travel costs, whether financial or otherwise, will no longer be treated separately. These are now incorporated within the definition of gift.

The decision on whether a gift is received in the capacity of a CEO must be made by the recipient of the gift. The question is whether the gift would have been given (or a gift of that value given) if the recipient were not a CEO. If the answer is no, it must be disclosed if the value of the gift (or aggregated value) is over \$300. The onus is on the recipient to prove that it was not received in that capacity (and that the value of the gift(s) is not greater than \$300).

The requirements of HR procedure HRM32 should also be read in conjunction with this Code.

Register of gifts

The CEO is to keep a register of gifts in the form prescribed as described in regulation 28A of the Administration Regulations.

If the person ceases to be a Relevant Person, the CEO is to remove from the register all records relating to that person. These records, however, must be retained for at least five years and made available for public inspection.

Conflicts of Interest – Interests relating to a gift

Receipt of a gift – any gift, whether or not in a person’s capacity as a CEO – will create a relationship of a closely associated person and therefore an interest (sections 5.60 and 5.62).

The following situations are specifically excluded from the interest provisions:

- i. where the gift (or gifts over a 12-month period from the one donor) do not exceed \$300 in value;
- ii. where the gift is a ticket to, or otherwise relates to attendance at an event and the local government approves the person’s attendance in accordance with their Attendance at Events policy (see below); or
- iii. where the gift is received from one of the following organisations:
 - WALGA (but not LGIS)
 - Local Government Professionals Australia (WA)
 - Australian Local Government Association
 - A department of the public service
 - A government department of another State, a Territory or the Commonwealth
 - A local government or regional local government.

(The gifts referred to at (ii) and (iii) must still be disclosed in accordance with sections 5.87B as described above.)

This interest creates a perceived or actual conflict which prevents the CEO from providing advice or a report on the matter to be discussed (sections 5.71A), unless approval has otherwise been given.

The interest, the council's decision and the reasons for that decision must be recorded in the minutes.

Similar provisions are contained in sections 5.71A in relation to the CEO providing advice or a report, directly or indirectly, to the council or a committee.

4 IMPARTIALITY INTEREST

This section addresses the requirements of the Administration Regulations and reflects the provisions of the Conduct Regulations regarding interests that could affect impartiality.

- i. For the purposes of this Code, an 'impartiality interest' has the meaning given to 'interest' in regulation 19AA of the Administration Regulations, as set out below:
"an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association".

An 'impartiality interest' does not include a 'financial interest' that is subject to the requirements of the Act.

- ii. An Employee who has an impartiality interest in any matter to be discussed at a council or committee meeting attended by that person must disclose the nature of the impartiality interest:
 - a. in a written notice given to the CEO before the meeting; or
 - b. at the meeting immediately before the matter is discussed.
- iii. In addition, an Employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the Employee must disclose the nature of any impartiality interest he or she has in the matter:
 - a. in a written notice given to the CEO before the meeting; or
 - b. at the time the advice is given.
- iv. An Employee is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:
 - a. did not know he or she had an impartiality interest in the matter; or
 - b. did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person discloses the nature of the impartiality interest as soon as possible after becoming aware of the discussion of that matter.
- v. Where an impartiality interest is disclosed in a written notice given to the CEO before a meeting, then:
 - a. before the meeting the CEO is to ensure that the notice is given to the person who is to preside at the meeting; and
 - b. at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matter to which the disclosure relates is discussed.

- vi. Where an impartiality interest is disclosed or brought to the attention of the persons present at a meeting, the nature of the impartiality interest must be recorded in the minutes of the meeting.

5 PERSONAL BENEFIT

5.1 USE OF CONFIDENTIAL INFORMATION

Employees must not use confidential information to gain improper advantage for themselves or for any other persons or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

5.2 INTELLECTUAL PROPERTY

All Intellectual Property created by Employees during their course of employment is owned by the MRC. Employees must do all things necessary to ensure that the MRC owns Intellectual Property that is created or contributed to in the course of employment.

5.3 IMPROPER OR UNDUE INFLUENCE

Employees must not take advantage of their position to improperly influence other Employees, Elected Members or Committee Members in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

5.4 GIFTS

This section addresses the requirements of the Administration Regulations regarding gifts.

- i. Definitions

In this Code unless the contrary appears:

“activity involving a local government discretion” means an activity:

- (a) that cannot be undertaken without an authorisation from the MRC; or
- (b) by way of a commercial dealing with the MRC

“gift” has the meaning given to that term in section 5.57 of the Act except that it does not include:

- (a) a gift from a relative as defined in section 5.74(1) of the Act; or
- (b) a gift that must be disclosed under regulation 30B of the *Local Government (Elections) Regulations 1997 (WA)*; or
- (c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;
- (d) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876) or the Local Government Managers Australia WA Division Incorp. (ABN 91 208 607 072);

“prohibited gift”, in relation to a person who is an Employee means:

- (a) a gift of cash or cash voucher;
- (b) a gift worth \$300 or more; or
- (c) a gift that is one of 2 or more gifts given to the Employee by the same person within a period of 6 months that are in total worth \$300 or more.

- ii. A person who is an Employee must refrain from accepting a prohibited gift from a person who:
 - (a) is undertaking or seeking to undertake an activity involving a local government discretion; or
 - (b) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

must notify the CEO, in accordance with regulation 19AB of the *Administration Regulations* or paragraph (iv) below (as applicable), and within 10 days of accepting the gift, of the acceptance.

6 CONDUCT OF EMPLOYEES, CONTRACTORS AND VOLUNTEERS.

6.1 PERSONAL BEHAVIOUR

Employees will:

- i. act, and be seen to act, properly and in accordance with the requirements of the law and the terms of the Code;
- ii. perform their duties impartially and in the best interests of the MRC uninfluenced by fear or favour;
- iii. act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the MRC and the community;
- iv. make no allegations which are improper or derogatory and refrain from any form of conduct in the performance of the Employee's professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
- v. always act in accordance with their obligation of fidelity to the MRC;
- vi. refrain from carrying out their official duties or responsibilities whilst affected by alcohol, illicit drugs or mind affecting substances;
- vii. treat each other with respect and be courteous;
- viii. not intimidate, harass or verbally abuse another person;
- ix. not discriminate, disadvantage or adversely treat any person;
- x. not cause, comprise or prejudice the provision of service to the community.

6.2 HONESTY AND INTEGRITY

Employees will:

- i. observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- ii. be frank and honest in their official dealings with each other;
- iii. bring to the notice of the CEO any dishonesty on the part of any Elected Member. Any dishonesty on the part of the CEO is to be brought to the attention of the Chairman, and any dishonesty on the part of the Chairman is to be brought to the attention of the CEO.

6.3 FAIRNESS AND EQUITY

Employees: -

- i. have an obligation to consider issues consistently, promptly and fairly. This involves dealing with matters in accordance with established procedures, in a non-discriminatory manner.
- ii. must take all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the particular merits of the relevant facts in each case. They must not take irrelevant matters or circumstances into consideration when making decisions.

6.4 PERFORMANCE OF DUTIES

While on duty, Employees will give their whole time and attention to the MRC's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the MRC.

6.5 COMPLIANCE WITH LAWFUL ORDER

- i. Employees will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the manager/supervisor of the person who gave the order and, if resolution cannot be achieved, with the CEO.
- ii. Employees will give effect to the lawful policies and procedures of the MRC, whether or not they agree with or approve of them.

6.6 CORPORATE OBLIGATIONS

- i. **Standard of Dress**
Employees are expected to comply with neat and responsible dress standards at all times. Management reserves the right to raise the issue of dress with individual employees.
- ii. **Communication and Public Relations**
 - (a) All aspects of communication (including verbal, written or personal), involving the MRC's activities should reflect the status and objectives of that of the MRC. Communications should be accurate, polite and professional.
 - (b) Information of a confidential nature shall not be communicated without proper authority until it is no longer treated as confidential.
 - (c) Public information relating to decisions of the MRC on approvals ought to only be communicated by the CEO of the MRC.
 - (d) Information concerning adopted policies, procedures and decisions of the MRC must be conveyed accurately.
- iii. **Record Keeping and official communications**
 - (a) Employees should store information in accordance with the MRC Record Keeping Plan (the Plan) and not disclose official information acquired in the course of their employment other than as required by law or where proper authorisation is given.
 - (b) Employees are responsible for the capture of correspondence (i.e. email, Microsoft documents) relevant to their specific work area and in accordance with the Plan.

7 DEALING WITH MRC PROPERTY

7.1 USE OF LOCAL GOVERNMENT RESOURCES

Employees will:-

- i. be scrupulously honest in their use of the MRC's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- ii. use the MRC's resources entrusted to them effectively and economically in the course of their duties; and
- iii. not use the MRC's resources (including the services of other employees of the MRC) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the CEO).

7.2 USE OF LOCAL GOVERNMENT INFRASTRUCTURE

Employees will:

- i. use the infrastructure provided to them to undertake their work in accordance with the manufacturer's recommendations for the infrastructure and any additional procedures/instructions provided by the MRC.
- ii. use Email/Internet for legitimate MRC business or in accordance with procedure HRM14 Computer, Internet and E-mail Use set for this type of infrastructure.

8 TRAVELLING AND SUSTENANCE EXPENSES

Employees will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the MRC in accordance with the MRC's policies CP03 and CP04 and the provisions of the Act.

9 ACCESS TO INFORMATION

Employees will ensure that Elected Members and Committee Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members

10 CONTRAVENTION OF THE CODE

Definitions:

Serious Misconduct – conduct that:

- i. is wilful or deliberate behaviour by an Employee, Contractors and Volunteers that is inconsistent with the continuation of their contract of employment and or their duties as an MRC representative;
- ii. causes serious and imminent risk to the health or safety of a person or the reputation, viability or profitability of the business.
- iii. Occurs when a public officer abuses authority for personal gain, causes detriment to another person or acts contrary to the public interest.

Minor Misconduct - conduct that:

- i. adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of an Employee, , whether or not the person was acting in his or her capacity at the time of engaging in the conduct;
- ii. constitutes or involves the performance of his or her functions in a manner that is not honest or impartial;
- iii. constitutes or involves a breach of trust placed on the officer by reason of his or her office or employment;
- iv. involves the misuse of information or material that an officer has acquired in connection with his or her functions as an Officer, whether the misuse is for the benefit of the officer or the benefit or detriment of another person;
and constitutes, or could constitute a disciplinary offence providing reasonable grounds for the termination of a person's office or employment.

10.1 COMPLAINTS AND ALLEGATIONS – SERIOUS MISCONDUCT

- i. If a person has any complaint of serious misconduct concerning an Employee, they may notify:
 - a. the CEO;
 - b. the Chairperson;
 - c. the MRC appointed Public Interest Disclosure (PID) Officer; and/or
 - d. the Corruption and Crime Commission (CCC).All complaints must be in writing giving such details as are available in order that the complaint may be investigated and, if necessary reported upon by the CEO.
- ii. All reported complaints must be given in confidence and shall;
 - (a) identify the complainant and the person against whom the complaint is made;
 - (b) set out the details of the complaint, alleged breach of the Code of Conduct and/or legislation; and
 - (c) be in writing, and preferably verified by a Statutory Declaration, as prescribed by the Oaths, affidavits and Statutory Declarations Act 2005.
- iii. Any person who has lodged a complaint, or a person against whom a complaint has been made, must keep confidential the complaint, until the complaint has been determined or finalised.
- iv. All internally investigated complaints will be dealt with in accordance with item 10.3.

10.2 COMPLAINTS AND ALLEGATIONS – MINOR MISCONDUCT

- i. If a person has any complaint of minor misconduct concerning an Employee, they may notify:
 - a. the CEO;
 - b. the Chairperson;
 - c. their Manager and or the Human Resource Manager if an Employee;
 - d. the MRC appointed Public Interest Disclosure (PID) Officer; and/or
 - e. the Public Sector Commission (PSC).
- ii. All reported complaints must be given in confidence and shall;
 - (a) Identify the complainant and the person against whom the complaint is made;
 - (b) Set out the details of the complaint, alleged breach of the Code of Conduct and/or legislation; and
 - (c) be in writing.
- v. Any person who has lodged a complaint, or a person against whom a complaint has been made, must keep confidential the complaint, until the complaint has been determined or finalised.

10.3 PROCEDURE FOR DEALING WITH COMPLAINTS AND ALLEGATIONS

All complaints and allegations of minor misconduct will follow the PSC process, flow chart (attachment A), for serious misconduct will follow the CCC process, flow chart (attachment B).

All complaints and allegations;

- i. must be treated as confidential and the principles of “procedural fairness” must be followed at all times;

- ii. if made against an Employee, must be dealt with in accordance with the MRC procedure HRM02 Formal Discipline, actioned by their respective Manager and Human Resource and where necessary escalated to the CEO;
- iii. if made against an MRC Elected Member and or Committee Member, shall be in writing addressed to the CEO and will be dealt with in accordance with the Act and regulations; and
- iv. If made against the CEO, shall be in writing, preferably in the form of a Statutory Declaration and signed by the person or persons making the complaint and shall be addressed to the Chairman, with a copy to the CEO, and will be dealt with as part of the performance review of the CEO, or as agreed by the Chairman and the CEO.

10.4 REPORTING TO EXTERNAL AUTHORITIES

Employees, must be aware of the *Corruption, Crime and Misconduct Act 2003 (WA)* (CCM Act) which requires the Principal Officer of an organisation (i.e. the CEO) to report;

- “Serious misconduct’ (as defined by the CCM Act) to the Corruption and Crime Commission.

10.5 MINOR MISCONDUCT’ (AS DEFINED BY THE CCM ACT) TO THE PUBLIC SECTOR COMMISSION; PROTECTION OF PERSONS REPORTING UNACCEPTABLE OR ILLEGAL BEHAVIOUR

The CEO is to ensure that Elected Members, Committee Members and Employees who report unacceptable or illegal behaviour to Elected Members, Committee Members or Employees are not in any way disadvantaged or victimized because of their actions.

The CEO is limited to matters for which he/she has responsibility and/or jurisdiction to act upon.

10.6 REPORTING TO THE MRC PUBLIC INTEREST DISCLOSURE OFFICER

A person may report unacceptable or illegal behaviour to the MRC appointed Public Interest Disclosure Officer in accordance with MRC procedure HRM25 - Public Interest Disclosure.

The procedure protects disclosers from detrimental action in reprisal for the making of a public interest disclosure.

Legislation	<i>Local Government Act 1995 (WA)</i> <i>Local Government (Administration) Regulations 1996 (WA)</i> <i>Local Government (Elections) Regulations 1997 (WA)</i> <i>Corruption, Crime and Misconduct Act 2003 (WA)</i>
Reference/s	HRM25 Public Interest Disclosure HRM02 Formal Discipline HRM14 Computer, Internet and E-mail Use MRC Record Keeping Plan
Attachment/s	Attachment A. PSC flow chart Attachment B. CCC flow chart

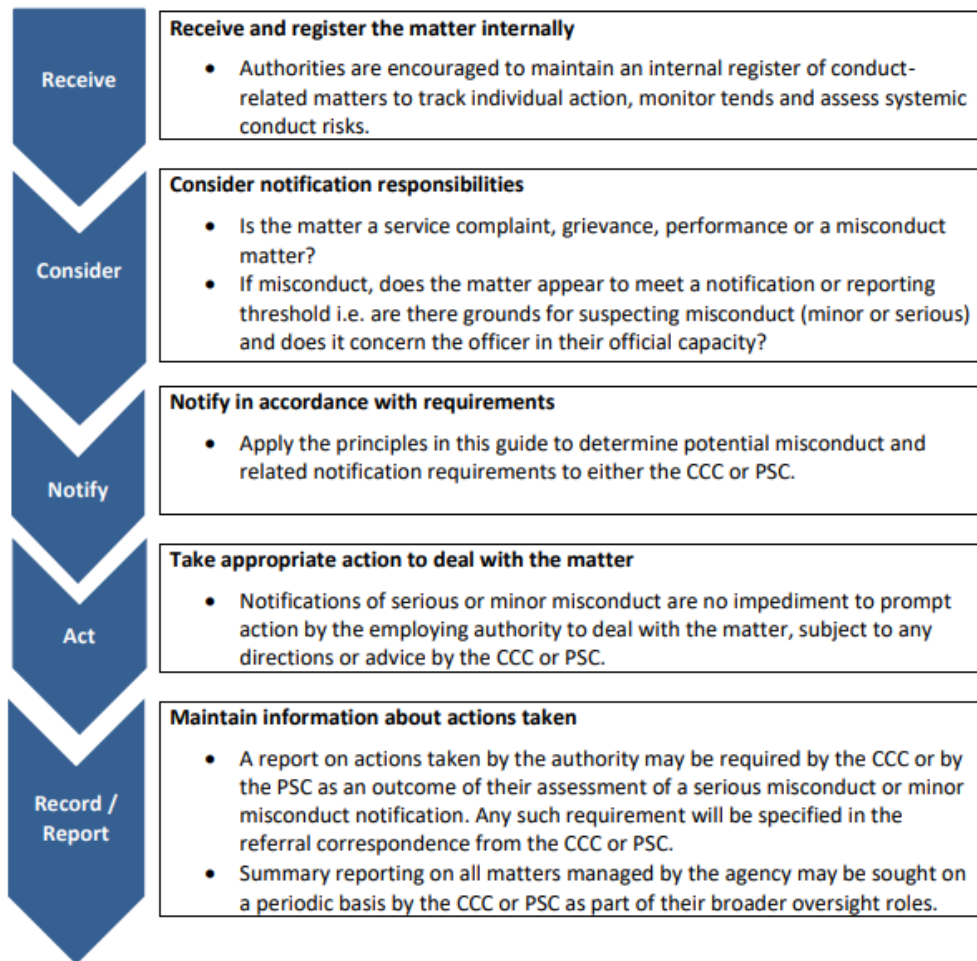
Responsible Officer	CEO
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ATTACHMENT A

Public Sector Commission minor misconduct reporting flow chart

Making it work

The following diagram summarises the steps that public authorities should take in processing allegations of misconduct raised with or within the authority.



ATTACHMENT B

Crime, Corruption Commission serious misconduct reporting flow chart

How the CCC assess corruption

All reports received are assessed and a decision is made as to what action will be taken.

In deciding what action, if any, to take the Commission has some discretion and may have regard to the following factors:

- the seriousness of the conduct;
- whether the allegation is made in good faith (or may be frivolous or vexatious);
- whether the allegation has already been investigated or other action taken;
- whether further action is justified; and
- whether further action is in the public interest.

The Commission may also consult with, or consider investigations or other actions taken by, an independent agency or an appropriate authority before deciding what action may be taken.

After the assessment is completed the Commission may:

- investigate or take action itself; or
- investigate or take action in cooperation with an independent agency or appropriate authority; or
- refer the matter to an independent agency or appropriate authority for action; or
- take no action (in this case the person or agency making the report are notified)

