



Policy: Commissioners' Code of Conduct

Commencement

1. This policy commences on 3 May 2024 and replaces the policy published 18 January 2010.

Purpose of the policy

2. The purpose of the policy is to adopt principles of conduct with which Commissioners and Acting Commissioners should comply in the exercise of their duties as a Commissioner of the Court, as well as in their conduct and activities outside the Court.

Application

3. The policy applies to all Commissioners and Acting Commissioners of the Land and Environment Court of New South Wales.

Definitions

4. In this policy:

Court means the Land and Environment Court of New South Wales.

Judge means a Judge of the Court.

Commissioner means a Commissioner or Acting Commissioner of the Court.

LEC Act means the *Land and Environment Court Act 1979*.

Principles of conduct

5. *Objectives*: The objectives of the principles of conduct are:
 - 5.1 To uphold public confidence in the administration of justice and in the Court in particular.



- 5.2 To enhance public respect for the institution of the judiciary and the Court in particular.
- 5.3 To protect the reputation of the individual Commissioners and the Court.
6. *Principles:* The three basic principles against which conduct should be tested to ensure compliance with these objectives are:
 - 6.1 Impartiality.
 - 6.2 Independence.
 - 6.3 Integrity.
7. *Objectives and principles provide a guide:*
 - 7.1 These objectives and principles provide a guide for the conduct by a Commissioner in the discharge of their duties at the Court and their conduct and activities in private life.
 - 7.2 If particular conduct or activity of a Commissioner is likely to affect adversely the ability of the Commissioner to comply with these objectives and principles, that conduct or activity should be avoided.

Legislative requirements

8. *Conflict of interest:* A Commissioner is disqualified from exercising any functions of the Court in relation to proceedings in which the Commissioner has a pecuniary interest, direct or indirect, or is a member, officer, employee or servant of a public or local authority that is a party to the proceedings (s 14 of the LEC Act).
9. *Acting as an expert witness or representative of a party:* A person appointed as a part-time Commissioner (including an Acting Commissioner) is guilty of misbehaviour if, during the term of the Commissioner's appointment, the Commissioner appears as an expert witness, or acts as the representative of any party, in proceedings before the Court (s 12(2B) and s 13(3)(b) of the LEC Act).
10. *Full-time work:* A full-time Commissioner is required to devote the whole of the Commissioner's time to the duties of the office of Commissioner, except as the Minister may otherwise approve (cl1(2) of sch 1 of the LEC Act).
11. *Misbehaviour or incompetence:* A Commissioner may be removed from office by the Governor for misbehaviour or incompetence (cl 6 of sch 1 of the LEC Act).



Codes of conduct

12. *Adoption of principles in codes of conduct:* The Court adopts the principles of conduct in two guides to the conduct of members of courts and tribunals:
 - 12.1 *Guide to Judicial Conduct (3rd ed)* published on behalf of the Council of Chief Justices of Australia and New Zealand, by the Australasian Institute of Judicial Administration Inc (“the AIJA Guide”) <https://aija.org.au/product-category/guidelines/>.
 - 12.2 *Administrative Review Council guide to standards of conduct for Tribunal members (revised 2009)* published by the Administrative Review Council (“the ARC Guide”) <https://www.ag.gov.au/legal-system/publications/administrative-review-council-guide-standards-conduct-tribunal-members>.
13. *Compliance with adopted principles of conduct:* Commissioners should comply with the principles of conduct in the AIJA Guide and the ARC Guide in the discharge of their functions at the Court and in their private lives.

Performance review

14. Compliance with the principles of conduct in this policy will be a matter to be taken into account in performance appraisal of a Commissioner.
15. Performance appraisal occurs annually, in accordance with the Commissioners’ Performance Appraisal Policy, and also if a Commissioner seeks re-appointment for a further term of office.

Guidance rulings

16. If a Commissioner has a concern about whether a particular conduct or activity might be inconsistent with the principles of conduct in this policy, they can seek a ruling from the Chief Judge. Any disclosures necessary in seeking a ruling may be made on a confidential basis.

Issued by:

The Honourable Justice Brian J Preston
Chief Judge – Land and Environment Court of NSW
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