
DG CIRCULAR NO. 38 OF 2023

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| The Head of department: Agriculture | Dr M Sebopetsa |
| The Head of department: Police Oversight and Community Safety | Adv. Y Pillay |
| The Head of department: Cultural Affairs and Sport | Mr G Redman |
| The Head of department: Economic Development and Tourism | Mr VC Dube |
| The Head of department: Environmental Affairs and Development Planning | Mr G Gerber |
| The Head of department: Local Government | Mr G Paulse |
| The Acting Head Official: Provincial Treasury | Ms J Gantana |
| The Head of department: Social Development | Dr R Macdonald |
| The Acting Head of department: Infrastructure | Ms C Smith |
| The Head of department: Education | Mr B Walters |
| The Head of department: Mobility | Ms M Moore |
| The Head of department: Health and Wellness | Dr K Cloete |

DEPARTMENT OF THE PREMIER: ALL SENIOR MANAGEMENT

IMPLEMENTATION OF THE WESTERN CAPE GOVERNMENT (WCG) SOCIAL MEDIA CODE OF CONDUCT

1. Whilst recognising the constitutional protection of freedom of expression, the WCG, as a responsive employer, deemed it necessary to articulate the employer's expectations for responsible personal and private social media use. In this regard the WCG Social Media Code of Conduct, amongst others, seeks to inform employees about how to prevent actions that would harm the employer's reputation and highlights potential consequences that could result.
2. Whilst respecting the statutory powers, duties, and functions of Ministers and Heads of Departments section 7(3)(c)(iii) of the Public Service Act requires the Director-General to provide strategic direction in People Management policy. To this effect, and in ensuring consistent interpretation and transversal application across all departments in the WCG, the WCG Social Media Code of Conduct underwent an extensive consultation process in accordance with the Protocol on The Mandating Process of WCG People Management Policy Instruments. As a result, and following consultation with collective Labour in the CCPWCP the WCG Social Media Code of Conduct been declared duly consulted on 19 September 2023.

3. Heads of Departments are responsible for communicating the content of this circular and the WCG Social Media Code of Conduct to all employees within their respective departments.
4. The WCG Social Media Code of Conduct becomes effective upon signature.

Yours sincerely

Harry Malila (10079815)

Digitally signed by Harry Malila (10079815)

Date: 2023.11.17 17:17:36 +02'00'

DR. H MALILA

DATE:

DIRECTOR-GENERAL



WCG Social Media Code of Conduct

| | |
|-----------------------------------|-------------------------------------|
| File Reference: | 3/3/P |
| Departmental Consultation: | 15 July 2022 |
| HOD Consultation | 05 Augustus 2022 & 14 November 2022 |
| Consultation Legal Services | 1 November 2022 |
| CCPWCP (Consultation with Labour) | Duly consulted 19 September 2023 |

After consultation in terms of the WCG People Policy Mandating Protocol consultation with organised labour, strategic direction is hereby provided for the transversally implementation of the WCG Social Media Code of Conduct in terms of Section 7(3)(c)(iii) of the Public Service Act, 1994.

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DR H MALILA
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TERMINOLOGY

| Term | Meaning |
|---|--|
| Child | Means a natural person under the age of 18 years |
| Clickbait | Refers to content on the internet whose main purpose is to attract attention and encourage visitors to click on a link to a particular web page. |
| Code of Conduct for the Public Service | Means the -prescribed set of norms, rules, and responsibilities (as contained in the Public Service Regulations, 2016, Chapter 2, part 1) that all employees of the WCG shall comply with. |
| Content | Means any form of official or personal information, documents, videos, and photos. |
| Disinformation | Means deliberately misleading or biased information; manipulated narrative or facts; propaganda. It is crafted and spread with the intent to mislead others. |
| Disrepute | Means a point in time when an organisation, group, or a person has a negative standing, loss of one's good name, or the acquiring of a bad reputation. |
| Fake news | <p>Refers to untrue information presented as news, often distributed through clickbait and which aims to damage the reputation of a person, entity or promoting or discrediting a public figure, political movement, company, etc. It is often sensational to make money through advertising revenue. It is impossible to avoid clickbait and fake news on social media.</p> <p>It can also be presented as a parody that presents current events or other news topics for humorous effect in a satirical imitation of journalism. These websites generally publish fake news that is hilarious and surprisingly insightful.</p> <p>As a conversational tactic to dispute or discredit information that is perceived as hostile or unflattering, it can also be facetious when used.</p> |
| Harmful content | Refers to any content that is to be found as fake news, disinformation, misinformation, and/or defamatory. It also includes, but is not limited to; hate speech, online abuse, bullying, harassment, threats, impersonation, unwanted sexual advances, violent content, self-harm or suicide content, and/or pornographic and/or discriminatory nature. |
| Hate Speech | Means content that could reasonably be construed to demonstrate a clear intention to be hurtful, harmful or to incite harm; or promote or propagate hatred, based on one or more of the following grounds: age; albinism; birth; colour; culture; disability; ethnic or social origin; gender or gender identity; HIV status; language; nationality, migrant or refugee status; race; religion; sex, which includes intersex; or sexual orientation,). |

| Term | Meaning |
|------------------------------|--|
| Post | Means a form of content that is shared on a social media platform. |
| Profile | Means a description of a registered user or organisation on a social media platform. The description may include; basic information about the user or organisation and a picture. |
| Public Servant | Being a public servant means working for the betterment of society, serving the public, implementing policies, enforcing laws, and promoting the welfare of the general population while being accountable, transparent, and dedicated to the public interest. |
| Sharing | This means the act of passing on the content to and from individuals, groups, and organisations across social media platforms. |
| Social Media | Can be described as digital technology that facilitates the sharing of ideas, thoughts and information through virtual networks and communities. |
| Social Media Platform | This means tools or mechanisms that are used to facilitate the creation and exchange of content generated for and by users. |
| User | This means, in the context of this code, an employee that is registered on a social media platform. |

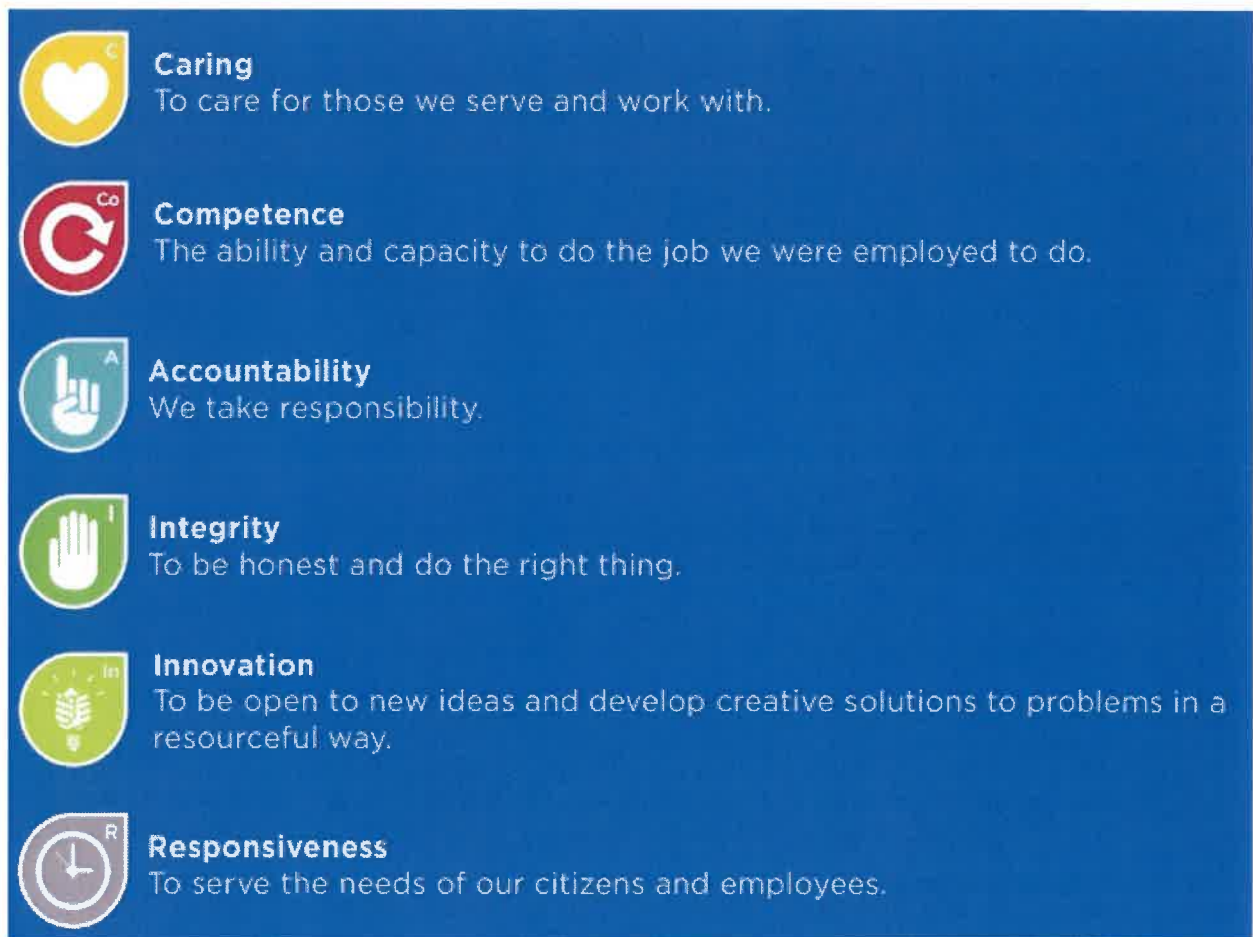
ABBREVIATIONS







| Abbreviation | Meaning |
|--------------|-------------------------|
| HOD | Head of Department |
| WCG | Western Cape Government |

WCG VALUES

The Western Cape Government (WCG) identified six (6) core values that embody a common understanding of the expected behaviour of all WCG employees. These values also serve as the principles which will ensure the responsible, defensible, accountable and transparent use of social media by the WCG as an employer as well as all WCG employees.

As such, each employee is expected to comply with the WCG core values. In living the WCG values the proper conduct of all employees on social media platforms is imperative for each employee of the WCG.



- **Caring**
To care for those we serve and work with.
- **Competence**
The ability and capacity to do the job we were employed to do.
- **Accountability**
We take responsibility.
- **Integrity**
To be honest and do the right thing.
- **Innovation**
To be open to new ideas and develop creative solutions to problems in a resourceful way.
- **Responsiveness**
To serve the needs of our citizens and employees.

1 INTRODUCTION

- 1.1. The rise of the digital world and fourth industrial revolution has seen the medium of social media become a part of everyday life for many people across the globe. The ease and speed by which information can be shared with others and the world at large is incredible. The ability to communicate at the click of a button, has seen social media grow at an astonishing rate as people from all walks of life identify with a medium that allows for instant expression.
- 1.2. For this reason, social media has become recognised as one of the most effective, immediate, and interactive mediums that has presented a new opportunity to engage directly with citizens of the Western Cape. The application of social media has opened new doors to enable the Western Cape Government (WCG) to reach their citizen audience more efficiently than ever before.
- 1.3. Employees of the WCG are driven by citizen centricity, and thus aim to serve the citizens of the Western Cape in the best way possible and via the channels they are both comfortable with, frequently use and engage with in their personal lives. Many of these channels have now been recognised as popular social media platforms. Some common interactive platforms include Facebook, Twitter, Tik Tok, YouTube, Instagram, and LinkedIn, among others. Platforms such as Whatsapp, Signal and Telegram, for instance, are also used for community engagement. Social media platforms are not limited to the mentioned platforms as it is still evolving. The content shared on these platforms include photographs, videos, and information, among others.
- 1.4. Therefore, with an increased application of social media, the WCG has committed to providing code principles and provisions, as well as the best practices for the use of social media (by the WCG and their employees) that are aligned to the WCG goals, values, and culture.
- 1.5. Entrusted with the responsibility for service delivery to the citizens of the WCG, every WCG employee (regardless of level or position/job description is, even in a personal capacity, considered as a representative of the WCG and therefore expected to uphold the ethos of the Public Service as expressed in The Constitution, Code of Conduct for the Public Service and the WCG Values.

2 THE WCG POSITION ON THE USE OF SOCIAL MEDIA IN A PERSONAL CONTEXT

- 2.1. The Constitution preserves a person's right to freedom of expression. All employees that make use of social media for personal and private use must do so with good judgement, fully cognisant of how their privacy settings have been set up.
- 2.2. The use of social media in a personal capacity is the responsibility of the user, and all material in the public domain reflects the user's freedom of speech. It is essential to note that any content shared in this context represents the individual's personal views and does not constitute official communication on behalf of WCG.
- 2.3. As Public Servants, employees are required to familiarise themselves with the consequence of bringing the employer into disrepute as per the following case law:

There are conflicting rights at play, namely the right to dignity which encompasses the right to reputation versus the right to freedom of speech and expression.

- In the case of *Dewoonarain v Prestige Car Sales (Pty)Ltd t/a Hyundai Ladysmith* 2014 MIBC the arbitrator found that if a reasonable inference can be drawn from the remarks made by an employee on social media that the remarks were directed at the employer, a connection between the employee's misconduct and business of the employer is established. This shows that an employee does not need to identify their employer on the social media platform in order to be charged with misconduct.
- In *Sedick & another v Krisray (Pty) Ltd* (2011) 8 BLLR 979 employees were dismissed for posting derogatory posts on Facebook that brought the name of their employer into disrepute.
- In *Fredericks v Jo Barkett Fashions* (2011) JOL 27923 the employee published derogatory comments about her superiors and her company on Facebook. She was dismissed although she argued that employer violated her privacy.
- In *Media Workers Association of SA obo Mvemve v Kathorus Community Radio* (2010) 31 ILJ 2217 the employee was dismissed as he posted unfounded allegations on Facebook.

- In *Management t/a SA Truck Bodies (2021) 5BALR 464 (MIBCO)*, the employee, and operator, was dismissed for gross insolence after he posted a Facebook message claiming that his employer was not paying its workers' salaries and was lending money and giving credit at the company store. The employer contended that the post had damaged the company's image and that it had made payments according to the government; vs TERS relief scheme.

2.4. With respect to the use of social media, a user's privacy on any virtual platform may be compromised. Despite following best practices, it is still possible for someone in a purportedly private group to take a screenshot and share something more widely. Thus, the guideline is to assume anything posted into the digital domain is public and any communication should be moderated in that knowledge.

2.5. The processing of personal information, which may include the posting of pictures, videos, and other personal information on social media, for purely personal or household purposes, is excluded from the Protection of Personal Information Act 4 of 2013 (POPIA) in terms of section 6(1)(a)¹

3 PURPOSE

3.1. The purpose of the WCG Social Media code of conduct is to inform on the employer's expectation of the personal responsibility of employees when posting material on their social media platforms so that their postings are neither inappropriate, harmful, or place the WCG, its employees, or citizens, into disrepute.

4 OBJECTIVES

4.1. The objectives of this code are to –

4.1.1 inform on the employer's expectation of the personal responsibility of employees when using social media platforms in a personal capacity; and

4.1.2 define stakeholder roles and responsibilities.

4.2. This document does not address the use of social media for official communications. The use of social media for official communications is addressed in the WCG Digital Channels Management Protocol.

¹ <https://www.gov.za/documents/protection-personal-information-act>

5 SCOPE OF APPLICATION

- 5.1. This code applies to all WCG employees, including interns and employees appointed in terms of the Employment of Educators Act.

6 REGULATORY FRAMEWORK

- 6.1. This code draws its legal mandate from the following national legislation:
 - 6.1.1 The Constitution of the Republic of South Africa, 1996.
 - 6.1.2 Public Service Act, 1994 read with the Public Service Regulations, 2016.
 - 6.1.3 Labour Relations Act, 1995.
 - 6.1.4 Protection of Personal Information Act (POPIA), 2013.
- 6.2. This code is aligned to the Public Service Co-ordinating Bargaining Council Resolution 1 of 2003: Amendments to Resolution 2 of 1999: Disciplinary Code and Procedures for the Public Service.

7 AUTHORISATION

- 7.1. This protocol underwent an extensive consultation process within all WCG departments in accordance with the WCG Policy Mandating Protocol and was subsequently declared mandated. After consulting with organised labour, the Director-General determined this protocol in terms of Section 7(3)(c)(iii) of the Public Service Act for transversal implementation effective from the date of its signing.

8 ROLES AND RESPONSIBILITIES

- 8.1. **Directorate: Employee Relations:**
 - 8.1.1 If so required, People Managers are expected to report the misuse of social media platforms by an employee to the relevant People Management Component.
 - 8.1.2 The relevant People Management Component will facilitate any disciplinary process instituted by the relevant Head of Department (delegated official) if required.

8.2. People Manager:

8.2.1 All WCG people managers are expected to ensure that their employees are familiar with this code.

8.3. The Employee:

8.4. Is expected to familiarise himself or herself with this code.

8.5. Employees (as citizens) are encouraged to raise awareness about service delivery challenges experienced by utilising the official complaint mechanisms created by the relevant department for that purpose. If employees are approached by members of the public on their private social media channels with complaints about their departments, employees are encouraged to refer complainants to the relevant official complaint's mechanisms.

8.6. Is expected to, when a reasonable inference can be drawn from the postings by the employee on social media that identifies the WCG as Employer, use their best judgment in posting material that is neither inappropriate nor harmful to WCG, its employees, or citizens.

8.7. Employees may not use or disclose any official information (and this includes personal information) for personal gain or the gain of others. Employees may not release any official information to the public without the necessary approval. No employee may imply either directly or indirectly on social media that by virtue of employment by the WCG he/she has the necessary authority or representation of the WCG in discussions. However, when communicating in an official capacity only an official account must be used, and content authorised.

8.8. Employees who wish to post relevant work-related content (or provide inputs in representing their professional/official role) by sharing, amongst others, photos of workplace events, moments, and visits, can do so via their departmental official social media platform(s). The relevant administrator of the department's social media account will veto or approve such a posting.

8.9. The processing of personal information of children is prohibited under the Protection of Personal Information Act (POPIA), 2013. Therefore, no images of children can be displayed on social media, unless there is prior consent.

- 8.10. If an employee wishes to post content, especially photos or videos about work-related events on a private social media account, the employee must inform persons captured in the images of the intention to publish this on social media and obtain their consent to publish the images. Such permission must be obtained before or at the start of the event or activity. Furthermore, employees must ensure adherence to the various legislative and departmental requirements that apply to them and obtain the necessary departmental authorisation before the publication of images of minors and other categories of persons identified by their department.
- 8.11. The onus of preventing the distribution of harmful content whether by association, affiliation, support, or similar cause or conversation, rests with the employee. Although it is understood that an employee cannot be held responsible for posts by affiliated social media groups, as the administration of these groups falls outside of the employee's control, the sharing of information posted on these groups does however place the onus on the employee.
- 8.12. Under no circumstances may personal and/or private use of social media interfere with an employee's job performance to the extent that key performance deliverables are not met and or compromised.

9 MONITORING AND EVALUATION

- 9.1. It is the responsibility of the Head of Department (or delegated official), to assess, evaluate and monitor the efficacy of this code and matters relating to the personal use of social media.

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