Code of Conduct of Stadtwerke München

Stadtwerke München can be relied on.

Version of 18 April 2016
We respect the law.

We assume responsibility for compliance with rules and regulations.

We act in the interests and for the benefit of SWM.¹

We take decisions with due diligence.

We use the assets and property of SWM for business purposes only.

We avoid conflicts of interest.

We do not tolerate corruption and other unfair business practices.

We compete fairly and comply with the applicable legislation.

We pursue a transparent and verifiable approach to donations and sponsoring.

We collect, process and use personal data only if permitted.

We observe our confidentiality obligations.

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Introduction

For more than 100 years, the citizens of Munich have placed their trust in Stadtwerke München. Our services are a key basis for people’s daily lives and the success of businesses in Munich and the surrounding region. We work on solutions to major challenges of our time and assume responsibility for people, resources and the environment. The values outlined in our corporate mission – customer orientation, economic efficiency, partnership-oriented interaction, reliability and responsibility – form the basis of our actions.

Responsible behaviour and integrity are key prerequisites for our business success and appreciated by our business partners and customers. As a municipal utility, it is our duty to act as a role model. Even a single violation can cause us serious harm. The public’s perception of Stadtwerke München is shaped decisively by each and every member of our staff. By aligning our actions to high ethical and legal standards, we create a spirit of trust, avoid conflict situations and protect the reputation of our company. Compliance, i.e. adherence to statutory rules and regulations and internal corporate policies, is thus of great importance/import for Stadtwerke München.

In harmony with our corporate mission, this Code of Conduct contains binding rules and principles for legally correct, ethical and responsible behaviour on the part of the management and the employees of Stadtwerke München. Each individual is personally responsible for complying with the rules defined below. The Management Board and leaders in the organization are role models in this respect.

A Code of Conduct can never provide conclusive answers to all situations. Employees should consult their direct line managers in case of doubt. Besides this, the Group Governance and Compliance unit is available to answer questions in connection with the Code.

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Chief Executive Officer

Herbert König
Director, Public Transport

Stephan Schwarz
Director, Utilities and Technology

Erna-Maria Trixl
Director, Sales

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Director, Personnel and Social Affairs
1. Scope of application and objective

This Code of Conduct applies to all companies of the SWM Group within the meaning of the SWM Group Guideline as well as to SWM Gasbeteiligungs Verwaltungs GmbH and SWM Gasbeteiligungs GmbH & Co. KG (hereinafter also called collectively “SWM companies” or “SWM” and individually “SWM company”). Efforts to ensure application of the principles laid down in this Code of Conduct must be made in companies outside of SWM, in which an SWM company holds a direct or indirect participation (shareholdings).

The Code of Conduct is a group guideline containing the basic rules of conduct that all employees and members of management bodies of SWM companies must adhere to. It is the primary compliance guideline, with more specific details being laid down in secondary instruments such as policies and works agreements.

2 Upon adoption of this Code of Conduct, the relevant companies are Stadtwerke München GmbH, SWM Services GmbH, SWM Infrastruktur GmbH & Co. KG, SWM Infrastruktur Verwaltungs GmbH, SWM Infrastruktur Region GmbH, SWM Versorgungs GmbH, SWM Kundenservice GmbH and Münchner Verkehrsgesellschaft mbH (MVG).

3 Unless differentiation seems necessary, the term “employee” is used alone in order to enhance readability. In such cases, this term includes the members of the management bodies of SWM companies (see above).
2. Principles of conduct

2.1. We respect the law

Laws, regulations and comparable instruments apply to SWM and its employees in all areas of their business activities. SWM commits itself to unqualified compliance with legal requirements. Employees are obliged to observe all laws applicable to their areas of responsibility as well as external and internal guidelines.
2.2. We draw attention to violations of laws and rules

All employees are called upon to report potential violations of laws and rules to their line manager or the responsible contact in the company.

In addition, employees, business partners, customers, suppliers and other third parties can draw attention to potential violations via the whistleblower system of SWM in the event of the suspicion of illegal business practices such as corruption, fraud, embezzlement, violations of antitrust law or similar infringements in relation to an SWM company. To submit such information, the Group Governance and Compliance unit (internal whistleblower contact) or, alternatively, an attorney who has been appointed as an external ombudsmann can be contacted. Details are regulated in the group works agreement on the whistleblower system.

**CASE STUDY**

You see a colleague repeatedly violate internal SWM guidelines and applicable legislation. You suspect that your line manager turns a blind eye to such conduct and would thus prefer to neither directly confront your colleague nor report your observations to your line manager.

**WHAT SHOULD YOU DO IN SUCH A SITUATION?**
- Resort to the whistleblower system in place at SWM and report the incident as laid down in the applicable guidelines.

2.3. We assume responsibility for compliance with rules and regulations

All employees are personally responsible for compliance with rules and regulations in their areas of responsibility. Expert advice must be obtained if doubts arise with respect to their own or another individual’s behaviour.

All managers are role models and must align their actions particularly to the principles laid down in this Code. They encourage compliance with rules and regulations on the part of their employees by providing regular information and training with respect to the duties and powers relevant to their line of work. Within the framework of their leadership tasks, managers take precautions to prevent unacceptable behaviour. In their respective sphere of responsibility, managers are responsible for preventing violations of rules that might have been averted or impeded through proper organisation or supervision. In the event of violations, they implement the measures required in the case in question (cf. section 7 below).
Across all units and hierarchies, dealings with each other are characterised by mutual appreciation, collegiality, team spirit, professionalism and benevolence. The personal dignity, privacy and personality rights of every individual must be respected and honoured. This also applies to employees’ behaviour towards external parties. Discrimination, harassment and insulting behaviour are unacceptable and will not be tolerated. Discrimination of employees or job applicants based on ethnic origin, social background, skin colour, nationality, sex, religion or world view, disability, age or sexual identity is impermissible.

The statutory regulations on working time and freedom of association, the right to collective bargaining and the statutory vacation, sickness and termination regulations are observed. Minimum wages and social standards are not undercut. The laws on the prohibition of child labour are complied with.

Trust-based and close cooperation with the employee representatives, shaped by an open and constructive dialogue and mutual respect, is a key element of our corporate policy. Corporate co-determination is respected.
2.6. We take decisions with due diligence

Decisions in the company must be taken with due diligence. This means that decisions must be prepared properly, taking account of all relevant decision-making options and their implications. Decisions must be geared to the benefit of SWM and may not be determined by inappropriate influences and special interests. In the preparation of decisions, all requisite information on the relevant aspects must be obtained, suitable involvement of all relevant internal functions and contacts must be ensured, and their professional opinions must be taken into account.

2.7. We acknowledge our responsibility for the environment and society

We are committed to an intact environment, the energy turnaround, clean drinking water and sustainable mobility. In our business activities, we consider the impact on people, the environment and society and strive for environmentally benign and health-preserving measures. We encourage our customers to use energy and water efficiently and avail themselves of public transport services.

CASE STUDY

An employee is preparing to submit a major order. Due to his upcoming vacation, he is under considerable time pressure. He no longer has time to clarify tax-law and compliance-relevant issues of possible significance for order submission with the competent persons prior to commencement of his vacation. He is relying on his experience and is of the opinion that consultation with his colleagues would not change the outcome in any way and would thus be a mere formality.

IS THE EMPLOYEE ALLOWED TO SUBMIT THE ORDER WITHOUT INVOLVEMENT OF THE COMPETENT PERSONS?

› No. The employee must always clarify all issues relevant for the decision-making process in advance with the competent persons and involve these individuals in the process. To that extent, it does not matter whether or not their involvement would change the outcome in a specific case.
3. Use of the assets and property of SWM

We use the assets and property of SWM for business purposes only

The business assets and property of SWM such as vehicles, tools, spare parts, office supplies, documents, computers, printers, copiers and data storage devices may be used for business purposes only and must not be removed from the company’s premises unless otherwise stipulated by individuals or bodies authorised to take such decisions or laid down in internal SWM policies. Employees are obliged to protect the property of SWM against loss, theft and misuse.
CASE STUDY 1

An employee is preparing a lecture he will hold outside his working hours. He prints out the handouts for the private event at the expense of SWM. For enhanced presentation of his documents, he takes a beamer owned by SWM home with him.

IS THIS EMPLOYEE ACTING CORRECTLY?

- No. The employee is using and removing business assets of SWM for purely private purposes. Unless SWM has expressly permitted this, the employee is violating the applicable Code of Conduct and, hence, his duties under his employment contract.

CASE STUDY 2

You are moving with your family and would like to transport a number of bulky pieces of furniture.

CAN YOU SIMPLY USE AN SWM TRANSPORTER TO HAUL THE FURNITURE?

- No. SWM vehicles are reserved solely for business purposes by SWM and may not be used for any other purposes. If you wish to use a vehicle for private purposes, please inform yourself about existing possibilities for private rentals.

The business assets and property of SWM may be used for business purposes only and must not be removed from the company’s premises.
4. Conflicts of interest

4.1. We avoid conflicts of interest

Employees’ private interests must be separated from the company’s interests in order to avoid potential conflicts of interest. Such conflicts arise when employees pursue their own activities or personal interests to the detriment of the interests of SWM. Employees must disclose all personal interests that might relate to the performance of their professional tasks to their line manager in writing. Work/family balance and the assertion of employee rights arising from the law, collective-bargaining agreements, works agreements or employment contracts remain unaffected thereby. Special care must be taken to comply with the regulations outlined below.
4.2. We do not place private orders with companies we deal with within the framework of our professional work for SWM

Employees are not allowed to place private orders with companies they deal with professionally in their work for SWM. This applies, in particular, if the employee in question has or may have a direct or indirect influence on contracts with the relevant company on behalf of SWM. This rule does not apply to transactions satisfying everyday needs conducted at normal market conditions.

If orders are necessary or advisable in exceptional cases, the employee in question must notify his/her line manager. If employees hold direct or indirect participations in the corporate assets of a business partner of an SWM company or perform activities for a business partner of an SWM company (e.g. as a consultant, managing director or supervisory board member), they must report this to the HR department if they deal with the company in question within the framework of their professional activities at SWM. For listed companies, a participation within the above meaning will be deemed to exist only if the shareholding exceeds one percent of said company’s share capital.

CASE STUDY

An SWM employee is responsible for placing orders with tinsmith companies. Among other things, he is in constant contact with the Munich-based XY tinsmith company, which he holds in very high regard. When the roof of his private garage is damaged, he urgently needs a tinsmith to repair it.

IS THE EMPLOYEE ALLOWED TO PLACE THE ORDER FOR THE REPAIR OF HIS PRIVATE GARAGE ROOF WITH THE XY TINSMITH COMPANY?

No. The employee’s private interests and the company’s interests must be kept separate in order to avoid potential conflicts of interest. If this is an exceptional case in which the order must be placed specifically with the XY tinsmith company (e.g. because the repair work is very urgent and no other comparable company is available), the employee must notify his line manager to this effect.
4.3. We and our relatives do not enter into entrepreneurial business relations with SWM

Employees are not allowed to offer their own or their relatives’ entrepreneurial business activities to an SWM company or perform such activities for an SWM company. Exceptions must be based on objective grounds and require the approval of the competent first-level manager. If exceptional permissions are granted, steps must be taken to ensure that the individual in question does not have any actual or potential influence on the contracting of the third-party company or contract design, the specification of the service to be provided by the third-party company, performance assessment or service billing.

CASE STUDY

You are preparing a major marketing campaign for SWM and are under considerable time pressure. Shortly before completion, an external agency informs you that they will be unable to make their contribution to the project due to insolvency. The work assigned to this agency requires such specialist expertise that it could take weeks to find a new agency. Your brother runs a business that could perform this service immediately, which would allow you to finish the project on time.

CAN YOU ASSIGN THIS JOB TO YOUR BROTHER’S COMPANY?

- If you conclude a contract with your brother for performance of this service, you might create the impression of bias in order placement due to your family ties. You should thus notify your line manager of this situation and ask to be relieved of the decision to select the new agency. This will help avoid creating the impression of a conflict of interests.
4.4. We do not compete with SWM

Management of or work for a company directly competing with an SWM company is prohibited unless SWM holds a direct or indirect participation in the company in question. This also applies to secondary professional activities that might create competition situations for SWM. Direct or indirect participation in a competitor must be reported to the HR Department if the shareholding exceeds one percent of said company’s share capital.

CASE STUDY

An employee working for an SWM company privately manages a business with several staff members. He operates this business with the intention of making a profit, and the business purpose of his company is identical to that of a business unit in the SWM company for which the SWM employee works. The SWM company has not approved the pursuit of this directly competing activity. The employee would now also like to win customers of the SWM company with whom he is in contact for his private business.

IS THE EMPLOYEE ALLOWED TO OFFER CUSTOMERS THE SAME SERVICES THROUGH HIS PRIVATE BUSINESS?

- No. The very management of a competing business is already a violation of the applicable Code of Conduct. Enticing customers away from the SWM company would thus be an even more serious breach of duty.

4.5. We do not use insider information for private purposes

Employees are not allowed to use non-public information they obtain within the framework of their work for SWM to gain financial or business advantages for themselves or third parties.
CASE STUDY 2
An employee holds a lecture on a technical topic at a symposium at the behest of SWM and receives a fee for this lecture. He knows that other speakers at this symposium use their respective fees for private purposes. The SWM employee, too, would like to keep the fee for his private use.

CAN THE EMPLOYEE KEEP THE FEE FOR HIS PRIVATE USE?
No. If an employee receives a fee, as in the case here, he must notify his line manager of this payment. Unless otherwise agreed with SWM, the employee must pass on the fee to SWM.

CASE STUDY 1
Alongside your work for SWM, you would like to give paid music lessons to children. This activity is in no way connected to your tasks at SWM.

DO YOU STILL HAVE TO NOTIFY SWM IN WRITING ABOUT YOUR INTENTIONS?
Yes. SWM must be notified in writing of any secondary occupation in good time prior to its pursuit even if this activity is in no way connected to your tasks at SWM.
5. Dealing with customers, business partners and other third parties

5.1. We do not tolerate corruption and other unfair business practices

SWM does not tolerate corruption and other unfair business practices. Both giving and accepting benefits with a view to influencing decisions is prohibited and subject to penalties. In dealing with business partners, competitors and public authorities, employees may accept or grant benefits only if such action is not likely to create the impression that decisions have been influenced as a result. Details are regulated in the guideline governing the handling of benefits.

**CASE STUDY**

For his birthday, an SWM employee receives tickets to a soccer game worth EUR 65 from a business partner as a token of gratitude for good cooperation. This small gift is intended to have a favourable impact on the upcoming contractual negotiations on an extension of the business relationship.

**HOW SHOULD YOU RESPOND IN SUCH A SITUATION?**

- You should reject the gift, with thanks, and explain politely that its acceptance would violate both the Code of Conduct applicable at SWM and the secondary guideline governing the handling of benefits.

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4 The term “business partners” includes customers, suppliers and service providers as well as third parties with whom such business relations are intended to be established.

5 The term “competitors” describes companies competing with SWM in individual markets now or possibly in the future.
5.2. We compete fairly and comply with the applicable legislation

SWM competes fairly and complies with the applicable laws. Violations may lead to severe penalties for SWM and the individuals involved. High fines may be imposed on companies. In addition, sizeable damages may be awarded in civil-law proceedings.

All business transactions are conducted in compliance with the applicable anti-trust legislation. In particular, unacceptable behaviour includes express or tacit formal or informal collusion, agreements, alignments or exchange of information with competitors about aspects relevant to competition such as prices, price calculation, price components and other terms and conditions, market, customer or territory allocation, orders and order intake, capacities, output volumes and production quotas and future market behaviour.

Anti-trust regulations dealing with anti-competitive actions and conduct, such as vertical restrictions of competition or abuse of a dominant position, are very complex. For this reason, the Legal Department must be consulted in advance if an agreement might entail any form of restriction of competition.

CASE STUDY

At the meeting of an industry association, an employee of one of SWM’s competitors approaches you with the idea of exchanging information on price increases

**SHOULD YOU EXPRESS WILLINGNESS TO EXCHANGE INFORMATION? AFTER ALL, SUCH INFORMATION WOULD BE ADVANTAGEOUS FOR SWM.**

- No. If you do this, you might violate applicable anti-trust legislation. If business partners broach topics or conduct that are questionable from an anti-trust perspective or impart information that is sensitive under anti-trust law, politely terminate the conversation immediately and inform your business partner that you cannot continue to talk with him. Make an internal note to document your rejecting this idea. Check documents distributed during or after industry association meetings for their relevance under anti-trust legislation.

The Legal Department must be consulted in advance if an agreement might entail any form of restriction of competition.
5.3. We expect legally and ethically irreproachable behaviour from our business partners, too

SWM conducts its business with legally and ethically irreproachable means. We also expect the same from our business partners. SWM avoids business relations with companies publicly known to disregard the principles underlying this Code of Conduct and not taking any suitable rectification measures. Major business partners must be made aware of this Code of Conduct.

5.4. We pursue a transparent and verifiable approach to donations and sponsoring

SWM also shows its commitment through sponsoring activities and donations on a limited scale. The following principles must be respected in such activities.

Donations must be transparent and documented. They must be made only voluntarily and without expectation of any return benefit. They may only be made to institutions for the promotion of education and science, art and culture and to social causes and other recognised charities. Donations to political parties are not allowed.

Sponsoring is based on the principle of consideration and presupposes actions characterised by responsibility, appropriateness and transparency. Sponsoring activities may only be pursued for bona fide business purposes, must be in reasonable proportion to the counter-performance granted by the recipient and laid down in a written agreement. Sponsoring may not create the impression that undue influence is being exerted on the recipient with respect to negotiations or decisions.

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6 “Sponsoring” is defined as gifts of cash or in-kind goods or services made by a legal entity or individual with economic interests, which pursues other interests in addition to advancing the recipient. The sponsor aims at shaping its profile with the public through the sponsored product or dissemination of its advertising messages, which serve the purpose of achieving the sponsor’s own communication objectives (image enhancement, sales promotion, product information).
5.5. We examine potential concessions very carefully

The granting of full or partial waivers, the performance of a service going beyond what has been agreed contractually or is stipulated by law (overfulfilment), and the conclusion of settlements on behalf of a SWM company require the following prerequisites to be fulfilled and compliance therewith suitably documented:

- Act exclusively in the interests and to the benefit of SWM
- Act on the basis of adequate information
- Consider all aspects and options relevant for the decision
- Act without special interests and inappropriate influences
- Involve all relevant specialist contacts to the extent necessary or expedient and consider their pertinent expert opinions

Full or partial waivers and settlements with a value in dispute of up to EUR 50,000 granted or concluded on behalf of an SWM company are subject to prior approval of the competent line manager of the employee involved. For amounts exceeding this level, the relevant regulations must be complied with.

CASE STUDY

A new building has been constructed for SWM. Upon completion of the construction work, defects resulting from faulty services of the contractor company are detected. Without further review, the SWM employees responsible for this project would like to waive all warranty claims within the framework of a settlement in order to avoid any negative impact on the good relations that have existed for many years between the contractor and SWM.

IS THIS POSSIBLE?
- No. The employees must ensure that the prerequisites laid down in the Code of Conduct are fulfilled and their compliance is documented appropriately. This requires careful review on the part of the employees. In particular, they must consider all aspects and options relevant for the decision and obtain and take account of pertinent expert opinions from specialists in the area.
Consulting agreements may be concluded only with individuals or firms that demonstrably contribute to the further development of SWM thanks to their expertise. The fee level must be reasonable for the value of the service to be rendered and the consultant’s personal qualifications. As a basic principle, payment may not be effected until the agreed service has been performed. If consultants are engaged in connection with the placement of orders with third parties, they must not be granted any decision-making powers with respect to the decision to place such orders. If a consultant is tasked with establishing business relations with a third party on behalf of SWM, a suitable contractual agreement must be drawn up to ensure that the consultant adheres to the SWM Compliance Standards.
6. Handling of information

6.1. We observe our confidentiality obligations

Employees are obliged to maintain secrecy regarding all SWM company matters of a confidential nature and regarding all confidential information from or relating to our customers/business partners. Information is confidential if it is marked as such or if it may be assumed to be outside the public domain and not intended to be made public, e.g. because it might be of use to competitors or harm SWM if it were published. Only explicitly authorised individuals are allowed to communicate information relating to SWM or its business partners to the public or third parties. In case of doubt, internal information must always be treated confidentially in dealings with third parties. The details are laid down in the DR01 implementation guideline of the Data Protection and Information Security Manual.
CASE STUDY

In the development process of a certain product at SWM, an employee has prepared a presentation on the insights gained, the remaining development stages and strategies. This is confidential information outside the public domain and not intended to be made public. One of the employee’s private acquaintances is quite coincidentally writing a doctoral thesis on a similar topic and asks the employee to show him the presentation. The employee is willing to allow him to take a look at the document; after all, his acquaintance is not a competitor of SWM and the information would be passed on only for scientific purposes.

SHOULD YOU SHARE THE EMPLOYEE’S OPINION?

- No. Unless otherwise agreed with SWM, confidential information must not be passed on under any circumstances, irrespective of the specific reason.

6.2. We collect, process and use personal data only if permitted

Employees are obliged to comply with data protection regulations. Personal data may only be collected, processed and used insofar as this is necessary for clearly defined and legitimate purposes. In addition, personal data must be stored securely and be passed on only if the necessary precautionary measures are taken. Use of data must be transparent for those concerned. Their rights must be respected.

CASE STUDY

In a full underground train, you read aloud from a customer contract (e.g. an electricity contract) over the phone. During your call, you quote customer data (e.g. name, address, phone number, e-mail address, current provider…) in a clearly audible manner. In addition, a passenger standing behind you can also read the contract.

SHOULD YOU RECONSIDER YOUR CONDUCT?

- Yes. By talking about the client in a clearly audible manner as an SWM employee, you enable other passengers to gain knowledge of the customer data. Even if unintended, such disclosure of customer data to the other passengers is a breach of data protection law and a violation of the Code of Conduct.
CASE STUDY

In your function of SWM employee, you are invited to a dinner with a panel discussion organised by a local Munich politician. This is a fundraiser for his party and thus requires the purchase of an expensive ticket.

YOU WOULD LIKE TO ATTEND THE DINNER AS YOU ARE INTERESTED IN THE TOPIC OF THE PANEL DISCUSSION. WHAT SHOULD YOU DO?

- Your dinner attendance might create the impression that SWM provides funds to the local politician in question and his party. You must be careful when it comes to accepting such invitations and consult your line manager beforehand.

6.3. We respect the independence of the media and politicians

SWM respects the professional independence of journalists and the media. Article 5.1. above applies mutatis mutandis to the granting of benefits to journalists or other members of the media. SWM adopts a politically neutral stance.
All members of management bodies and all employees of SWM are obliged to comply with this Code of Conduct. The managerial staff has a special responsibility for communicating and implementing the guidelines set out therein. Every employee is personally responsible for complying with this Code of Conduct. In cases of doubt about their own or a third party’s conduct, every employee must obtain competent advice.

Violations of this Code of Conduct may have consequences for the employment relationship and its continuation and may also lead to claims for damages. They may also result in sanctions under criminal law.

In case of differences between the German and English versions of this Code of Conduct or any other cases of doubt, the German original version shall prevail.