

# NSW Crime Commission Code of Conduct

2022



New South Wales  
Crime Commission

# Introduction by the Commissioner

In accordance with the *Crime Commission Act 2012*, the NSW Crime Commission's principal function is to reduce the incidence of organised crime by investigating matters relating to relevant criminal activity or a serious crime concern.

As officers of the Commission, a law enforcement and intelligence agency with unique powers, we are required to demonstrate the highest levels of ethics, integrity and professionalism in line with the Code of Ethics and Conduct for NSW government sector employees.

The purpose of this Code of Conduct is to convey a set of principles that we are expected to uphold. It guides us in making decisions and in determining an appropriate course of action when faced with an ethical dilemma.

Breaches of the Code, or any of the Commission's policies, may lead to disciplinary action. If you become aware of or suspect any breach of this Code, you must report this to your Manager/Supervisor immediately.

Should you have any questions about the Code, please discuss them with your Manager/Supervisor or contact the Governance Team.



Michael Barnes  
Commissioner

# 1. Why have a Code of Conduct?

## 1.1 The Commission Code

The NSW Crime Commission (the Commission) Code of Conduct establishes standards of behaviour expected of every Commission officer, defined in the *Crime Commission Act 2012* (CC Act), to include the Commissioner, an Assistant Commissioner (Legal), a member of staff of the Commission, or a person engaged by the Commission as a consultant under section 74(2).

It is a guide to solving ethical issues and provides the framework for appropriate conduct in a variety of contexts, including the exercise of powers and the handling of sensitive information.

## 1.2 The Code of Ethics and Conduct for NSW government sector employees

Alongside the Code, every Commission Officer must comply with the Code of Ethics and Conduct for NSW government sector employees. It identifies mandatory requirements and best practice conduct for all government sector employees and heads of government sector agencies, which is consistent with Part 2 of the *Government Sector Employment Act 2013*.

Refer to - [Code of Ethics and Conduct for NSW government sector employees](#)

Legislation: *Government Sector Employment Act 2013*

# 2. Values

## 2.1 The values of the Commission

The Commission requires its employees to demonstrate the highest levels of ethics, behaviour, integrity and professionalism, and to perform their duties to the highest standard.

The Commission values positive and productive workplace relationships to create a dignified and respectful work environment. The Commission's practices and values align to the core values and principles implemented within the NSW government sector. These include:

### Integrity

- Consider people equally without prejudice or favour
- Act professionally with honesty, consistency and impartiality
- Take responsibility for situations, show leadership and courage
- Place the public interest over personal interest.

### **Accountability**

- Recruit and promote employees on merit
- Take responsibility for decisions and actions
- Provide transparency to enable public scrutiny
- Observe standards for safety
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

### **Trust**

- Appreciate difference and welcome learning from others
- Build relationships based on mutual respect
- Uphold the law, institutions of government and democratic principles
- Communicate intentions clearly and invite teamwork and collaboration
- Provide apolitical and non-partisan advice.

### **Service**

- Be fair, flexible, innovative and reliable in service delivery
- Focus on quality while maximising service delivery

The Commission also promotes an additional two values:

### **Professionalism**

- Be dedicated to achieving high standards in duties
- Be prepared to acknowledge mistakes and take appropriate steps to prevent a recurrence of those mistakes
- Develop and improve expertise
- Be courteous and respect the rights, dignity and autonomy of others.

### **Collaboration**

- Share information and resources
- Work together towards shared goals
- Seek opportunities to break down unhealthy silos
- Engage with colleagues

## **3. About the Code**

### **3.1 Who and what does it apply to?**

The Code applies to every Commission officer.

The Code overlays all of the Commission's policies and procedures which govern how we conduct our daily activities, and outlines the behavioural and ethical standards expected of Commission officers.

Conduct that breaches Commission policies or procedures may constitute a violation of this Code and may lead to disciplinary action.

Legislation: *Crime Commission Act 2012*,  
*Criminal Assets Recovery Act 1990*,  
*Government Sector Employment Act 2013*

### 3.2 Annual declaration and Attestation

Each year, Commission officers complete a declaration of compliance with the Commission's Code of Conduct and the Code of Ethics and Conduct for NSW government sector employees. Staff are also required to provide an annual attestation that they have lodged a change of circumstance form if there has been any change to the personal/professional circumstances that may affect their employment at the Commission. The declaration and attestation serve to remind us of and reinforce our responsibilities as Commission officers and as NSW Government public servants.

### 3.3 Legislative context

The two key pieces of legislation that give the Commission its powers are the CC Act and the *Criminal Assets Recovery Act 1990*. In addition to these, the Commission is obliged to comply with a range of State and Commonwealth legislation when carrying out its functions.

### 3.4 Review

The Code is reviewed every year to ensure its provisions are current.

## 4. Our conduct as Commission officers

### 4.1 Our obligations

By accepting employment at the Commission, we are obliged to:

- understand and comply with all lawful directions and Commission policies, procedures and other documents
- abide by the strict secrecy requirements imposed by Section 80 of the CC Act
- not engage in any conduct inside or outside of work that could adversely affect the reputation of the Commission or that conflicts with its values or interests
- perform the duties associated with our positions diligently, impartially and conscientiously, to the best of our ability
- comply with the provisions of our Employment Agreements
- use the name and powers of the Commission with restraint and due regard to their potential effect on individuals and organisations

- carry out investigative work without fear or favour
- maintain a high standard of ethical behaviour and accountability
- ensure that our official powers, position, resources and influence are not used improperly or for personal or private advantage
- ensure the security of information and the protection of persons working or dealing with the Commission
- act without improper discrimination or partiality
- manage public resources effectively and efficiently

## 4.2 Ethical decision making

We are obliged to maintain a high ethical standard. When faced with a moral or ethical dilemma we should consider the following questions in order to guide our response:

- Is it legal?
- Is it consistent with the Commission's values, principles and policies?
- What will be the consequence to ourselves, our colleagues, the Commission or any other interested parties?
- Is it free from any actual or potential conflict of interest?
- Is it the right thing to do?
- Are we able to justify our actions?

If we remain confused about what course of action to take, further advice can be sought from our Manager or Supervisor.

## 4.3 Lawful conduct

The Commission's functions are aimed at reducing the incidence of serious and organised crime. Unlawful or criminal conduct by Commission officers is incompatible with that role and also likely to have a negative impact on the Commission's reputation. All Commission officers are expected to comply with the law at all times. If we are charged with or found guilty of an offence, even if a conviction is not recorded, we must report it without delay to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner.

If we are visiting another jurisdiction where an activity is legal, we must not engage in that activity if it would be an illegal activity in NSW and would amount to conduct that would harm our reputation or that of the Commission. If, in our personal lives, we become aware of or witness our associates engaging in serious unlawful activity, we have an obligation to report it to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner.

#### 4.4 Disclosure of private particulars and other interests

As Commission officers, we must disclose our personal particulars and financial interests, and those of our family and business associates in order to identify any interests that could influence or be seen to influence the performance of our duties. We must also disclose any association with known or reputed criminals.

Any significant change to our personal details or financial interests, or to those of our spouse/partner, must be submitted as a change of circumstances. Significant personal loans between staff members (\$1000 and over) must also be declared. (This does not apply to loans between staff who are family members). Such notifications are required by the CC Act and subordinate legislation, and as a condition of our Commonwealth security clearance.

#### 4.5 Working collaboratively

Commission staff are committed to working collaboratively with our colleagues and other law enforcement partner agencies. Those of us with access to external databases must comply with all policies and procedures relating to the appropriate access of information. Managers/Supervisors must ensure that the Commission officers under their leadership understand their job, duties and expected outcomes.

Related documents: Conflicts of Interest Policy and Procedures

#### 4.6 Use of official facilities, equipment and public resources

We are expected to be efficient and economical in our use and management of public resources, property and services.

Some limited personal use of Commission resources may be permitted where use is infrequent, brief and kept to a minimum. Information about the appropriate personal use of Commission resources is contained in the *Personal Use of Commission Resources Policy*.

Related documents: Personal Use of Commission Resources Policy

#### 4.7 Conflicts of interest

As public officials we are expected to be impartial. A conflict of interest arises when our public duty conflicts with another duty or our private interests or loyalties. If you are engaging in conduct which might cause damage to the Commission's reputation or other interests if revealed, you must directly disclose such a conflict of interest so it can be assessed and mitigations put in place.

Determining whether or not a true conflict arises, and how to deal with it if it does, can be complex and must be resolved on a case-by-case basis. To ensure that such situations are identified and properly managed, all conflicts, potential conflicts and situations that might be perceived to be conflicts must be reported to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner.

#### 4.8 Gifts, benefits, bribes or favours

We should never create the impression that the Commission, or any of its officers, is being improperly influenced by any person or organisation.

Soliciting money, a gift or benefit, or accepting an offer of money, goods or services, may constitute bribery. If we believe we have been offered a bribe, or know of a colleague who has been offered a bribe, we must report it to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner.

We must exercise sound judgement when deciding whether or not to accept a gift or other benefit. Token gifts of nominal value may be accepted if refusal would cause unnecessary embarrassment. Any such gift must be disclosed to Human Resources and a record of the gift entered into the Gifts and Benefits Register. The Human Resources Manager will determine what happens to the gift. If we are unsure, we should seek advice from our Manager/Supervisor or consult the Commission's *Gifts, Benefits and Hospitality Policy and Procedures*.

Related documents: Gifts, Benefits and Hospitality Policy and Procedures

#### 4.9 Political participation

We are obliged to serve the government of the day regardless of which political party is in office. Our duty as Commission officers is to serve the community in a politically neutral manner.

As individuals, we have the right to participate in political and community activities and to pursue personal interests, provided we do so in a private capacity and do not allow a conflict of interest to arise with our position at the Commission.

Commission officers are required to provide frank and fearless advice, where requested, to the Government of the day.

In participating in any political, community or personal activity we must ensure that:

- any comment we make or discussion we have does not cast doubt on our ability or willingness to implement Commission policies and guidelines objectively
- we do not engage in private political activities in the work environment
- we do not use Commission resources to assist us in our political, community or personal activities or those of others
- we do not use information obtained through our work at the Commission to assist our political, community or personal activities, or make such information known to any other person
- we do not give the impression that we represent the position of the Commission on any issue

(\*CREDIT ICAC)

#### 4.10 Secondary employment

If we wish to engage in any form of paid or unpaid voluntary employment or other activity outside of our official duties, we are required to obtain the prior approval of the Commissioner.

Where secondary employment is contemplated, our employment at the Commission is to be given first priority, to avoid situations which may give rise to, or create an appearance of, a conflict of interest.

Related documents: Secondary Employment Policy and Procedures

#### 4.11 Post-separation

If our position is terminated at the Commission we continue to be bound by the secrecy provisions of Section 80 of the CC Act. As such, we may not make a record of any information or divulge or communicate to a person information gained in the course of our employment with the Commission without the prior permission of the Commissioner.

Any Commission property must be returned to the Commission at termination.

Related documents: Staff Separation and Exit Procedures

#### 4.12 Alcohol, tobacco and drugs

Commission officers must comply with the *Alcohol and Other Drugs Policy and Procedures* as published by the Commission from time to time.

##### **Alcohol**

We have an obligation to ensure that our personal use of alcohol does not adversely affect the performance of our duties, the safety of ourselves or others or the reputation of the Commission. We must not consume alcohol while performing our duties at work. While there are instances outside of work where consumption of alcohol is socially acceptable, we must use common sense and restraint at all times to protect the Commission's interests.

##### **Tobacco and smoking**

Smoking is prohibited in the Commission building, vehicles and facilities.

##### **Prohibited drugs**

It is a criminal offence to possess or use prohibited drugs. We must abstain from any involvement or contact with prohibited drugs. If we are charged or convicted in relation to prohibited drugs we must report it to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner without delay.

Related documents: Alcohol and Other Drugs Policy and Procedures

## 5. Our workplace

### 5.1 Safety and security

In order to maximise the safety of our staff, and protection of our information and property, we must ensure we are familiar with our security procedures in respect of:

- Commission premises
- the work from home environment
- the acquisition, handling and disposal of information and documents
- the access of officers and visitors to Commission premises.

We are obliged to contribute to a safe workplace by complying with the Work Health and Safety legislation and reporting risks and hazards in accordance with procedures.

We must maintain the security of all information obtained in our official duties and we must properly secure keys, access cards and computer passwords.

Legislation: *Work Health and Safety Act 2011, State Records Act 1998*

Related documents: Work Health and Safety Policy and Procedures, Staff Security Policy and Safety Guide, After Hours Building Access Procedures, Electronic Access Control System and Visitor Cards Policy and Procedures, Records and Information Management Policy

### 5.2 Discrimination, online abuse, harassment and bullying

We must not harass or discriminate against our colleagues or anyone on the grounds of sex (including pregnancy and breastfeeding), marital status, race, colour, nationality, ethnic or national origin, ethno-religious identity, descent, religion, age, disability, sexuality or carer's responsibilities. Such harassment or discrimination may constitute an offence under the *Anti-Discrimination Act 1977*.

Harassment or discrimination of any kind is not acceptable at the Commission. This includes on the grounds of political conviction, union membership or non membership or involvement in other aspects of community participation. Inappropriate sexual conduct or behaviour which amounts to sexual harassment must not occur and will be investigated appropriately.

Any behaviour (including behaviour in outside of work) that has the potential to offend, humiliate, exclude or intimidate a person is unacceptable. We have an obligation to ensure that our workplace is free from harassment, abuse and discrimination, and adheres to the principles of diversity and equity.

Legislation: *Anti-Discrimination Act 1977 (NSW), Age Discrimination Act 2004 (Cth), Disability Discrimination Act 1992 (Cth), Sex Discrimination Act 1984 (Cth), Racial Discrimination Act 1975 (Cth), Human Rights and Equal Opportunity Commission Act 1986 (Cth)*

Related documents: Bullying, Harassment and Discrimination Policy and Procedures, Workforce Diversity Policy

### 5.3 Fairness and equity

We must consider issues or cases consistently, fairly, promptly and in accordance with approved procedures.

When using any discretionary powers, we must ensure that we take all relevant facts into consideration, having regard only to the particular merits of each case, and not irrelevant matters or circumstances.

## 6. Commission information

### 6.1 Using and protecting confidential information

Commission work involves access to confidential information. We must not disclose or disseminate any information that we acquire in the course of our duties except in the exercise of the Commission's functions. Commission officers who have access to highly sensitive information such as telecommunications interception material should exercise extra care when handling such information and comply with all relevant legislation.

We must exercise caution and use sound judgement in discussing sensitive information with other Commission officers. Access to the Commission's information is provided on a 'need to know' basis. This means that not everyone is permitted, nor do they require, access to all information.

The Commission is entrusted with access to information from other agencies to assist in our work. We must not obtain access to this information, or use it, for any purpose other than the Commission's work, nor for any purpose that is inconsistent with the requirements of the information provider, unless prior approval is obtained from the Commission.

We must ensure that the information upon which decisions are based is factually correct and that all decisions and actions are documented and captured in the Commission's official recordkeeping system.

Legislation:  
*Telecommunications (Interception and Access) (New South Wales) Act 1987*,  
*State Records Act 1998*

Related documents: Information Security Policy, Information Security Management System Policy, Accessing Operational Databases Policy and Procedures, Records and Information Management Policy

### 6.2 Intellectual property

The Commission owns intellectual property rights over material it produces. Anything we develop, invent, write or create, either alone or in collaboration with others in the course of our employment with the Commission, remains the intellectual property of the Commission. Only the owner of the copyright and intellectual property rights has the power to use, sell or otherwise assign the works.

When we cease duty with the Commission, we cannot take any resources such as articles, processes, research or materials produced as part of the official functions of the Commission or download information or materials to which we have contributed. They are the property of the Commission.

Related documents: Intellectual Property Policy

### 6.3 Making public comment

The Commission is governed by statutory secrecy provisions and privacy obligations. The unauthorised or improper release of information to the media may be contrary to these obligations and may compromise an investigation, adversely affect the reputation or safety of individuals, prejudice opportunities for the fair trial of a defendant, or undermine the work or reputation of the Commission.

Commission officers are not authorised to make official comment on matters relating to the Commission without the approval of the Commissioner.

Related documents: Media and Communication Policy

### 6.4 Record keeping

We must protect the accuracy, integrity and confidentiality of Commission information. This includes a requirement to make and keep full and accurate records of all official activities and business transactions, and maintain a records management system that ensures the safe custody and proper preservation of such records.

Communications that need to be preserved should, if practical, be made in writing.

Legislation: *State Records Act 1998*

Related documents: Records and Information Management Policy

## 7. Accountability and reporting

### 7.1 Breaches of the Code

While the Commission will make every effort to supply information about the Code and provide training as appropriate, it is our responsibility to be familiar with it and observe its provisions.

If we become aware of, or suspect, any breach of this Code, then we have an obligation to report it without delay. This includes complaints that we may receive from any person, whether inside or outside the Commission.

We also have an obligation to report to an Executive Director, the Chief Operating Officer, the Chief Audit, Risk & People Officer, the Assistant Commissioner (Legal) or the Commissioner if our own conduct is in breach of the Code. For example, if we have been charged with any (even minor) offence. If it is alleged or suspected that our conduct may have breached the Code, the matter may be investigated.

Possible sanctions for breaches of the Code may include reprimand, salary deduction/deferment or dismissal. Breaches of the Code that could constitute criminal offences may be referred to the police.

Related documents: Misconduct and Unsatisfactory Performance Policy, Complaints Handling Policy and Procedures, *Government Sector Employment Act 2013*

## 7.2 Officer Misconduct and Maladministration

The Law Enforcement Conduct Commission (LECC) has a number of functions including the independent detection, investigation and exposure of serious misconduct and maladministration within the NSW Crime Commission, and the independent oversight and review of an investigation by the NSW Crime Commission of misconduct matters concerning the conduct of its officers. The LECC also has a prevention role with respect to officer misconduct, maladministration and agency maladministration.

In accordance with Section 33 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act), the Commissioner is under a duty to report to the LECC any matter that the Commissioner suspects on reasonable grounds concerns or may concern officer misconduct or serious maladministration unless the matter is of a kind that any guideline issued under Subsection 5 of the LECC Act does not need to be reported.

It is acknowledged that in accordance with Section 35 of the LECC Act, that any person can make a complaint directly to the LECC about conduct of a Commission officer that is (or could be considered) officer misconduct, officer maladministration or agency maladministration. All Commission staff are expected to co-operate fully with the LECC in their execution of the LECC's functions, and must not knowingly act (or fail to act) in any manner which could hinder or undermine the LECC's execution of their functions.

Legislation: *Law Enforcement Conduct Commission Act 2016*

Related documents: Complaints Handling Policy and Procedures

## 7.3 Complaints and serious and substantial waste

The Commission's primary oversight body is the LECC in relation to complaints handling. The LECC has two defined objectives: detecting and investigating misconduct and corruption of former and current Commission officers that could amount to serious maladministration, and managing complaints handling. Under the *LECC Act*, a person may make a complaint to the LECC about a matter that involves or may involve misconduct of a Commission officer, which the LECC may investigate. The NSW Ombudsman can receive complaints about the Commission as a public authority from anyone, excluding those in limited circumstances referenced to in the LECC Act. Their complaint handling work is aimed at exposing and eliminating conduct that is illegal, unreasonable, unjust or oppressive, improperly discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

The NSW Audit Office has the legislative power to investigate complaints made by a public official about serious and substantial waste of public money. A public official is someone who works for the public sector, including contractors. A serious and substantial waste of public money is any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a serious and substantial loss of public funds or resources.

The *Public Interest Disclosures Act 1994* provides certain protections against reprisals for officers who voluntarily report concerns about matters including corrupt conduct, serious maladministration and serious and substantial waste. Disclosures may be made in the first instance to one of the Commission's Disclosures Officers.

Legislation: *Public Interest Disclosures Act 1994, Ombudsman Act 1974, Government Sector Finance Act 2018*

Related documents: Internal Reporting Policy and Procedures, Complaints Handling Policy and Procedures

## Annexure 1 Public Service Commissioner Direction

# Public Service Commissioner Direction

No 2 of 2022

Under the

***Government Sector Employment Act 2013***

I, Kathrina Lo, Public Service Commissioner of New South Wales, pursuant to section 13 of the *Government Sector Employment Act 2013*, give the following direction.

Dated 19 August 2022



Kathrina Lo

**Public Service Commissioner**

## No 2 of 2022

# Public Service Commissioner Direction

Under section 13(1) of the *Government Sector Employment Act 2013*

## 1. Application

This direction is given to the heads of all government sector agencies.

Compliance with this direction is mandatory, subject to section 13 (4) and (5) of the *Government Sector Employment Act 2013*.

## 2. Date of operation

This direction has effect from 1 November 2022 until further notice.

## 3. Definitions

In this direction:

**government sector agency** has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

**head of a government sector agency** has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

**The Code of Ethics and Conduct for NSW government sector employees** and **Code** means the Code contained in Section 2.2 of *Behaving Ethically: A Guide for NSW government sector employees* as published on the Public Service Commission website on 26 August 2022 and set out at Schedule 1.

## 4. Direction

I direct the head of each government sector agency to implement *The Code of Conduct and Ethics for NSW government sector employees* on and from 1 November 2022, and to require employees of that agency to comply with the Code.

**Note:** The head of a government sector agency may implement the Code by way of incorporation in an agency code of conduct to form a single consolidated document, or by adoption separately.

## 5. Replacement of former direction

This direction replaces the following direction (former direction) on and from 1 November 2022:

(1) Public Service Commissioner Direction No 1 of 2015 (**April 2015 Direction**) made by the former Commissioner on 20 April 2015.

**Note:** The April 2015 Direction requires the heads of the government sector agencies listed in Schedule 1 to that Direction to implement the Code on and from 1 September 2015.

## 6. Savings

Conduct that occurred while the former direction was in effect remains subject to that direction as if it had not been replaced.

**Note:** References to government sector agencies and heads of government sector agencies listed in the Schedule to Direction 1 of 2015 are, where relevant, construed or treated in accordance with applicable *Administrative Changes Orders* or other applicable legislation.

## 7. Publication

This direction will be made publicly available on the Public Service Commission website as soon as practicable after it is given.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

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## 2.2 The Code of Ethics and Conduct for NSW government sector employees

# Preliminary

### Purpose

The purpose of the Code is to identify mandatory requirements and best practice conduct for all government sector employees which is consistent with Part 2 of the *Government Sector Employment Act 2013* (GSE Act) (the *Ethical framework for the government sector*).

The *Ethical framework for the government sector* is to be demonstrated by employees in their working relations with other government sector employees, clients and customers, stakeholders and the government of the day.

The Code applies at all times when employees are acting in the course of, or in connection with, NSW government sector employment.

The Code also specifies actions to be taken if there are breaches, or allegations of breaches, of the Code.

Heads of government sector agencies are required to implement the Code and to require employees of their agencies to comply with the Code, subject to section 13(4) of the GSE Act.

However, heads of government sector agencies are not personally covered by the Code if they are not a government sector employee. Statutory officeholders, including heads of Separate Public Service Agencies which are statutory officeholders and do not hold office in the Public Service (see GSE Act, Schedule 1, Part 3), are not government sector employees and therefore are not covered by the Code.

Nevertheless, those heads of government sector agencies which are statutory officeholders and not personally covered by the Code are invited to accept coverage voluntarily.

### Relationship to Department and agency codes of ethics and conduct

The Code applies to NSW government sector employees, irrespective of the Department or agency for which they are working. Agency heads may choose to extend this Code's application to contractors and volunteers engaged by the agency, if appropriate.

Departments and agencies may supplement this Code – but not alter or subtract from it – with requirements and advice specific to their organisation's operating environment and business risks. This material may be incorporated into this Code to form a single consolidated document, or published separately.

The Public Service Commission (02 9272 6000) is available to advise on how to integrate agency codes of ethics and conduct with this sector-wide Code.

### Review

The Code may be amended from time to time by the Public Service Commissioner.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

### Legislation

A principle of the *Ethical framework for the government sector* is to uphold the law. The law includes, but is not limited to:

- *Anti-Discrimination Act 1977 and Commonwealth discrimination legislation* (regarding equal employment opportunity and equal access to services)
- *Child Protection (Working with Children) Act 2012* (regarding obligations to obtain checks and clearances for employees engaged in child-related work)
- *Children and Young Persons (Care and Protection) Act 1998* (regarding obligations relating to the care and protection of, and provision of services to, children and young persons, including obligations relating to exchange of information and co-ordination of services between agencies)
- *Children's Guardian Act 2019*, regarding obligations relating to reportable conduct concerning child protection matters
- *Crimes Act 1900* (regarding criminal offences)
- *Data Sharing (Government Sector) Act 2015* (regarding sharing data with other NSW government sector agencies)
- *Government Advertising Act 2011* (regarding requirements to issue advertising compliance certificates)
- *Government Information (Public Access) Act 2009* (regarding public access arrangements to agency information)
- *Government Sector Employment Act 2013* sections 25 and 30 (regarding the general conduct and management of organisations in accordance with the core values) and section 63 (regarding workforce diversity and the integration of workforce diversity into agency workforce planning)
- *Government Sector Finance Act 2018* (regarding the system of internal control over the financial and related operations of agencies)
- *Health Records and Information Privacy Act 2002* (regarding the fair and responsible handling of health information)
- *Independent Commission Against Corruption Act 1988* (regarding reporting of any matter suspected on reasonable grounds to involve corrupt conduct and to comply with any requirement or direction of the ICAC in relation to a referral of matters by the ICAC)
- *Modern Slavery Act 2018* (regarding reporting and conducting risk-based assessments to identify, and address modern slavery risks)
- *Ombudsman Act 1974* (regarding obligations to cooperate with investigations by the Ombudsman)
- *Privacy and Personal Information Protection Act 1998* (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- *Public Interest Disclosures Act 1994* (regarding receiving, assessing and dealing with public interest disclosures) (to be replaced by the Public Interest Disclosures Act 2022 when the latter Act commences)
- *State Records Act 1998* (regarding the creation, management and protection of agency records and public access to those records)
- *Public Works and Procurement Act 1912* (regarding the procurement of goods and services by government agencies)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy and safe workplaces).

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

# The *Ethical framework for the government sector*

### Introduction

Part 2 of the GSE Act establishes the *Ethical framework for the government sector*.

The objective, core values and principles of the *Ethical framework for the government sector* are to be demonstrated in the conduct of all government sector employees and heads of government sector agencies.

### *Ethical framework for the government sector*

#### Objective

- Recognise the role of the government sector in preserving the public interest, defending public value and adding professional quality and value to the commitments of the Government of the day
- Establish an ethical framework for a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day.

#### Core values

The core values for the government sector and the principles that guide their implementation are:

#### Integrity

- Consider people equally without prejudice or favour
- Act professionally with honesty, consistency and impartiality
- Take responsibility for situations, showing leadership and courage
- Place the public interest over personal interest.

#### Trust

- Appreciate difference and welcome learning from others
- Build relationships based on mutual respect
- Uphold the law, institutions of government and democratic principles
- Communicate intentions clearly and invite teamwork and collaboration
- Provide apolitical and non-partisan advice.

#### Service

- Provide services fairly with a focus on customer needs
- Be flexible, innovative and reliable in service delivery
- Engage with the not-for-profit and business sectors to develop and implement service solutions
- Focus on quality while maximising service delivery.

#### Accountability

- Recruit and promote employees on merit
- Take responsibility for decisions and actions
- Provide transparency to enable public scrutiny
- Observe standards for safety
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

#### General provisions

The Public Service Commissioner has the function of promoting and maintaining the government sector core values.

There is no hierarchy among the core values and each is of equal importance.

Nothing in the *Ethical framework for the government sector* gives rise to, or can be taken into account in, any civil cause of action.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

# Mandatory conduct

**Note:** This Part of the Code sets out the mandatory provisions of the Code that apply to all government sector employees and heads of government sector agencies.

All government sector employees have responsibilities to:

- Demonstrate high levels of personal conduct consistent with the *Ethical framework for the government sector*
- Seek assistance when unsure about how to implement the *Ethical framework for the government sector*
- Promote the implementation of the *Ethical framework for the government sector* to their colleagues
- Report possible breaches of the *Ethical framework for the government sector* to relevant officers.

All managers and executives have the responsibilities of government sector employees (above), and in addition have responsibilities to:

- Lead and promote implementation of the *Ethical framework for the government sector* in their workplace
- Ensure their workplace culture, practices and systems (including recruitment and promotion) operate consistently with the *Ethical framework for the government sector*

- Recognise and promote employee and team conduct that exemplifies the *Ethical framework for the government sector*
- Act promptly and with due process to prevent and address any breaches of the *Ethical framework for the government sector*
- In the case of a senior executive (including an acting senior executive), declare in writing private interests that have the potential to influence, or could be perceived to influence, decisions made or advice given by the senior executive
- Ensure that any real or perceived conflicts of interests are avoided or effectively managed.

Department Secretaries and heads of agencies have the responsibilities of executives (above), and in addition have responsibilities to:

- Lead and promote implementation of the *Ethical framework for the government sector* in their agency
- Ensure the general conduct and management of the functions and activities of their Department or agency are in accordance with the core values of the *Ethical framework for the government sector*
- Oversee the implementation of the *Ethical framework for the government sector* and make improvements where necessary.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

### When is the *Ethical framework for the government sector* to be applied?

The *Ethical framework for the government sector* is to be applied at all times in working relations with colleagues, clients and customers, stakeholders and the government of the day. These working relationships are depicted in the infographic at the bottom of this page.

### How do I act in the public interest?

You should treat all people with whom you have contact in the course of your work:

- Equally without prejudice or favour
- With honesty, consistency and impartiality.

You should also, in the course of your work:

- Place the public interest over your personal interest
- Uphold the law, institutions of government and democratic principles
- Provide apolitical and non-partisan advice
- Provide transparency to enable public scrutiny
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

Acting in the public interest requires leadership, courage and innovation to develop practical recommendations and actions that are consistent

with the core values and will help the Government of the day achieve its objectives. Acting in ways that are expedient or convenient, but which do not promote the integrity, trust, service and accountability of the public sector, is not in the public interest.

### How do I manage conflicts of interests?

Sometimes you may find that your private interests make it difficult for you to perform your duties impartially in the public interest. This may happen when there is a direct conflict between your current duties and responsibilities and your private interests (an 'actual' conflict of interests); when a person could reasonably perceive that your private interests are likely to improperly influence the performance of your official duties, whether or not this is in fact the case (a 'reasonably perceived' conflict of interests); or when you have a private interest that could conflict with your official duties in the future (a 'potential' conflict of interests). Actions you should take include:

- Always disclose actual, potential or reasonably perceived conflicts of interests to your manager as soon as you become aware of the conflict
- Where a conflict of interests occurs it should always be resolved in favour of the public interest, rather than your own.



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To resolve any conflicts of interests that occur, or could occur, a range of options is available depending on the significance of the conflict. These options include, but are not limited to <sup>1</sup>:

- Informing likely affected persons that a disclosure has been made, giving details and the agency's view that there is no actual conflict or the potential for conflict is minimal
- 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
- Where the persons likely to be concerned about a potential, actual or reasonably perceived conflict are identifiable, seeking their views as to whether they object to the person having any, or any further, involvement in the matter
- Restricting the access of the person to relevant information that is sensitive, confidential or secret
- Directing the person to behave at all times in ways that are consistent with their agency's responsibilities and functions
- 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')
- Persons with a 'conflict' who are members of boards or committees absenting themselves from or not taking part in any debate or voting on the issue.

### **As a senior executive, how do I declare private interests?**

A senior executive (including an acting senior executive) must 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.

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 senior executive's private interests
- As soon as practicable, following the senior executive's assignment to a new role or responsibility
- At least annually.

A template form for making a private interests declaration is included in Section 4.4 of *Behaving Ethically: A guide for NSW government sector employees*. The form may be used as is, or augmented by a department/agency to reflect the operating environment and/or business risks which are specific to the department/agency.

A *senior executive* must provide their declaration to:

- In a department, the Secretary
- In an executive agency related to a department, the agency head
- In a separate Public Service agency, the agency head
- In the Teaching Service, NSW Police Force, NSW Health Service, Transport Service of NSW and any other service of the Crown, the head of the service.

A *Department Secretary* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

The *Secretary of the Department of Premier and Cabinet* must provide their declaration to the Public Service Commissioner.

A *head of an executive agency related to a department* must provide their declaration to the Department Secretary.

<sup>1</sup> For further detail on managing conflicts of interests, see [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) and [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

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A head of a transport-related service must provide their declaration to the Secretary of the Department of Transport.

A head of any other service of the Crown must provide their declaration to the Secretary of the Department of Premier and Cabinet.

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, Department of Premier and Cabinet.

### Responsibilities of person receiving declaration

A person to whom a declaration is to be provided is responsible for ensuring:

- Senior executives complete declarations
- Handling and storage of declarations complies with the requirements of the *Privacy and Personal Information Protection Act 1998*.

### How do I treat colleagues, customers, clients and stakeholders?

All government sector employees are to treat their colleagues, customers, clients and stakeholders in their agency and in other agencies, and the government of the day by:

- Considering people equally without prejudice or favour
- Acting professionally with honesty, consistency and impartiality
- Taking responsibility for situations, showing leadership and courage
- Placing the public interest over personal interest
- Appreciating difference and welcoming learning from others

- Building relationships based on mutual respect
- Upholding the law, institutions of government and democratic principles
- Communicating intentions clearly and inviting teamwork and collaboration
- Providing apolitical and non-partisan advice
- Providing services fairly with a focus on customer needs
- Being flexible, innovative and reliable in service delivery
- Engaging with the not-for-profit and business sectors to develop and implement service solutions
- Focusing on quality while maximising service delivery
- Recruiting and promoting employees on merit
- Taking responsibility for decisions and actions
- Providing transparency to enable public scrutiny
- Observing standards for safety
- Being fiscally responsible and focus on efficient, effective and prudent use of resources.

### How should I interact with lobbyists?

All government sector employees and heads of government sector agencies must comply with Premier's Memorandum M2019- 02 NSW Lobbyists Code of Conduct published on the Department of Premier and Cabinet's website, as amended from time to time.

### How do I use public resources appropriately?

You must use public resources in an efficient, effective and prudent way. Never use public resources – money, property, equipment or consumables – for your personal benefit, or for an unauthorised purpose.

If you are responsible for receiving, spending or accounting for money, ensure you know, understand and comply with the requirements of the *Government Sector Finance Act 2018*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

# Behaviour contrary to the Code

### The effect of behaviour that is contrary to the Code

Behaviour contrary to this Code and to the *Ethical framework for the government sector* can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder customer service delivery, and damage public trust in your agency or the broader government sector.

If you are unsure of what is appropriate conduct under any particular circumstances, discuss the matter with your supervisor, manager or the relevant member of your agency's executive. Heads of government sector agencies may also contact the Public Service Commissioner.

### If you see behaviour contrary to this Code

If you see someone act in ways that are contrary to this Code, you should in the first instance discuss that person's behaviour with your immediate supervisor or manager, or report your concerns to any member of the agency's executive.

If you believe certain conduct is not just unethical, but may also be corrupt, a serious and substantial waste of government resources, maladministration or a breach of government information and privacy rights, then report your concerns to your agency's Public Interest Disclosures Coordinator or Disclosures Officer, the head of your agency or the relevant investigating authority (such as the Ombudsman, Independent Commission Against Corruption or the Auditor-General). Under the *Public Interest Disclosures Act 1994* it is both a criminal offence and misconduct to take reprisals against an employee who makes a public interest disclosure.

### Actions when allegations are made

If it is alleged that you have acted in a way that is contrary to this Code, you will have an opportunity to provide your version of events. How this will happen will be proportionate to the seriousness of the matter.

In those cases where the allegation is minor or of a low level, your manager will usually discuss this matter directly with you. If the allegations are more serious, a formal process may be required.

If you are investigating an allegation of a behaviour that is contrary to this Code, you must ensure your decision-making is fair and reasonable by acting consistently with four principles<sup>1</sup>:

- Procedural fairness for both the complainant and staff member
- Investigations should be handled expeditiously. This will minimise the potential for breaches of confidentiality and lack of procedural fairness
- Confidentiality for all parties, where practicable and appropriate, until such time as the investigation process is completed
- Meticulous recordkeeping, including recording of reasons for all significant decisions.

<sup>1</sup> See resources at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

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For employees of Public Service agencies, the GSE Act and GSE Rules set out how allegations of misconduct are to be dealt with.

Government sector agencies that are not part of the Public Service (the Teaching Service, Police Force, Health Service, Transport Service and other services of the Crown) are not bound by the misconduct provisions in the GSE Act and GSE Rules unless so prescribed. Non-Public Service agencies have their own legislative and/or policy requirements for dealing with allegations of misconduct.

For employees in the Public Service, Part 8 of the GSE Rules sets out the procedural requirements for dealing with allegations of misconduct, which include requirements that you be advised of the detail of the allegation; the process to be undertaken to investigate and resolve the matter; and that you be provided an opportunity to respond to the allegations.

For employees in the Public Service, the GSE Act sets out the actions that a Public Service agency head may take where there is a finding of misconduct against an employee. These actions are as follows:

- Terminate the employment of the employee (without giving the employee an opportunity to resign)
- Terminate the employment of the employee (after giving the employee an opportunity to resign)
- Impose a fine on the employee (which may be deducted from the remuneration payable to the employee)
- Reduce the remuneration payable to the employee
- Reduce the classification or grade of the employee Assign the employee to a different role
- Caution or reprimand the employee.



## 2.2 The Code of Ethics and Conduct for NSW government sector employees

# Good practice guides

The following good practice guides are provided for use by all government sector employees:

### Good practice guide 1 - deciding and acting ethically

To make the best-available decision:

#### Scope the problem

Clarify the scope of the problem, and consider carefully how the problem affects (or may affect in the future) work colleagues; clients and customers; stakeholders; and the government of the day. Wherever possible, consult affected people and communities.

#### Develop options

Develop a mix of options that address these questions:

- **Duties:** What are your responsibilities as defined by the law, Government policies, agency procedures, and your role description? Is it legal? Is it consistent with the principles & policies of the agency and the NSW government sector?
- **Results:** Which options will yield the greatest benefit (or least harm) to the most people, and minimise the number of people who might be disadvantaged – in the short and longer term? What will the consequences be for my colleagues, the agency and yourself? What will the consequences be for other parties?
- **Justice:** Which options support due process, transparency, fair compensation for any loss, and fair treatment of those affected by any decision?
- **Rights:** Which options support the legal rights of citizens?
- **Public interest:** Which options best advance the public interest, without regard to your own

reputation, career, personal views or potential for personal gain or loss?

- **Resources:** What is the likely impact on government finances, workforce, infrastructure and other assets?
- **Innovation:** Can the issue be addressed in new ways (such as the redesign of services, reengineering of work practices, or a new model of service delivery)?

#### Evaluate and decide

Choose the option that best addresses the above issues and is in the public interest, supports integrity, builds trust, delivers better services and ensures accountability. To establish if your actions are consistent with the *Ethical framework for the government sector* consider your answers to the following questions:

- **Integrity:** Would your colleagues say you had considered the views of all interested parties and acted in the right way, even if it was at your personal cost?
- **Trust:** Would your action, if it became public, build confidence in the public sector?
- **Service:** Would your clients and customers say your actions improved the quality of the services they receive?
- **Accountability:** Would the head of your agency say your actions are consistent with the *Ethical framework for the government sector* and the law?

#### Implement

Implement the decision in ways that are consistent with the objectives, values and principles of the *Ethical framework for the government sector*.

#### Review and identify opportunities for continuous improvement.

## 2.2 The Code of Ethics and Conduct for NSW government sector employees

### Good practice guide 2 – encouraging ethical behaviour by other employees

Ways to support the ethical behaviour of other employees include:

#### **Personal**

Encourage your colleagues to act ethically by making ethical decisions and acting ethically yourself.

#### **Interpersonal**

Encourage all employees to openly discuss ways to better implement the *Ethical framework for the government sector* in their individual actions, your team's practices and in your services to clients and customers.

#### **Organisational**

Ensure the leadership, culture, governance, management and work practices, individual employee behaviour and customer services of your workplace are consistent with the *Ethical framework for the government sector*.

The Public Service Commission will provide additional advice and guidance to the government sector as needed to support conduct that is consistent with the objective, core values and principles of the *Ethical framework for the government sector*.