

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