

CODE OF ETHICS AND CONDUCT

November 2017

POLICY

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1. Introduction

This Code of Ethics and Conduct (**Code of Conduct**) outlines the standards and behaviour expected of staff in the Department of Planning & Environment (**Department**).

While it is preferable that the NSW Government agencies that form part of the Planning & Environment cluster will also comply with this Code of Conduct, cluster agencies are free to implement and follow their own code of conduct if so desired by their agency head.

The Code of Conduct applies to all permanent, temporary and casual staff, volunteers and other Government sector employees who are on secondment or assigned to the Department.

All contractors and consultants to the Department must comply with the Code of Conduct when working at or visiting Department workplaces, in addition to their obligations under the *NSW Government Code of Practice for Procurement*.

For the purposes of the Code of Conduct, “employees” refers to all people to whom the Code of Conduct applies.

In addition to complying with the Code of Conduct, employees must also comply with the Public Service Commission’s *Code of Ethics and Conduct for NSW Government Sector Employees* (**Government Sector Code**).

2. Purpose

The purpose of the Code of Conduct is to:

- Provide a framework for appropriate behaviour for employees’ interactions with customers, stakeholders and each other; and
- Outline the standards required to guide employee’s decisions, actions and ethical behaviour in the performance of their duties.

3. Code of Conduct Principles

Employees have a responsibility to uphold the law, preserve the public interest, defend public value, implement the decisions of the Government of the day and to add professional quality and value to the commitments of the Government of the day.

Customers, stakeholders and employees have a right to be treated fairly, consistently, without discrimination, and with proper regard for their rights and obligations.

Employees must perform their duties professionally and in a responsible manner so that all decisions and actions comply with the Government Sector Code.

The Department must promote confidence in the integrity of public administration and always act in the public interest, not in individuals' private interest.

4. Code of Conduct Responsibilities

Employees must:

- Carry out their official duties in accordance with the Government's Ethical Framework (see section 6).
- Treat colleagues, customers and stakeholders fairly, consistently and with respect.
- Behave in a lawful, professional and reasonable manner and always act in the best interests of the Department.
- Comply with Department policies, procedures and guidelines, as well as relevant legislative and industrial requirements that apply.
- Understand the duties, responsibilities and accountabilities of their roles, and perform these safely, honestly, courteously and fairly.
- Make impartial decisions that demonstrate the values of the Department and the Government Sector Code and promote confidence in the integrity of public administration.
- Comply with reasonable lawful requests, directions and instructions given in the course of their duties by any person with authority to do so.
- Maintain the integrity, confidentiality and security of corporate information and not use and /or disclose corporate information for a private purpose or to obtain personal advantage.
- Report unethical, dishonest or corrupt conduct.
- Not discriminate, harass, bully or engage in inappropriate workplace conduct.

5. Departmental Policies related to responsibilities

(a) Departmental policies, procedures and guidelines

Employees must comply with the Department's policies, procedures and guidelines, as in force from time to time. Policies, procedures and guidelines are available on PEcan.

(b) Workplace health and safety

Employees are responsible for complying with statutory and other obligations to ensure healthy and safe workplaces and practices. Managers and supervisors have a duty of care to maintain a safe and healthy working environment that ensures the safety and well-being of employees.

Employees should consult the Department's [Work Health and Safety policy](#) for further information.

(c) Inappropriate workplace conduct

Employees must treat all colleagues, customers and stakeholders fairly, and with dignity and respect. The Department has zero tolerance for bullying, harassment, discrimination and inappropriate or unreasonable workplace conduct. Reasonable workplace actions, including legal and reasonable performance management and directions to employees, are not bullying.

Employees should consult the Department's [Prevention and Management of Bullying and Harassment in the Workplace policy](#) for further information.

(d) Conflict of Interest

Employees must perform their duties impartially and in the public interest. They must avoid any actual, potential or perceived conflict of interest.

An actual, potential or perceived conflict of interest exists when an employee could be influenced by a personal interest in the course of their official duties. This may arise through a range of personal interests or connections including family, friends and associates, or as a result of financial employment and/or community or political interests and activities.

Employees must disclose every instance of an actual, potential or reasonably perceived conflict of interest to their senior executive manager.

Employees should consult the Department's [Disclosing Interests and Managing Conflicts of Interest policy](#) for comprehensive guidance on dealing with a conflict of interest. Options may include withdrawing from a review or decision-making process.

All senior executives must make a declaration of private financial, business, personal or other interests or relationships on the Department's [Declaration of Private Interests form](#) located on PEcan. Declarations must be made annually to the Secretary and as soon as practicable following any relevant change to the person's interests or following the person's assignment to a new role or responsibility. The Secretary will provide his or her Declaration to the Secretary, Department of Premier and Cabinet.

(e) Protecting official and confidential information and privacy

Employees must maintain the security and confidentiality of all official information and of any documents that are not published or normally made available to the public. Unauthorised disclosure may cause harm to individuals or give an individual or organisation an improper advantage.

Information in any form (printed or electronic) must not be accessed by unauthorised persons. Sensitive information should only be discussed with or disclosed to persons authorised to have access to it.

The NSW Government owns all intellectual property rights in the work of Government employees in the course of their employment. Employees must not use any material owned by the Department other than in the course of their official duties.

Employees must protect personal information and health information in accordance with the requirements of the *Privacy and Personal Information Act 1998* and the *Health Records and Information Privacy Act 2002*. Employees should consult the Department [Privacy Management Plan](#) for further information.

To promote open, accountable, fair and effective government, the *Government Information (Public Access) Act 2009* gives members of the public a right to access government information. This right is restricted only when there is an overriding public interest against disclosing the particular information. Any record employees create including emails, working notebooks, draft documents and database entries, may be released to the wider public. Employees should consult the Department Public Access to Information & Privacy Unit for further information.

(f) Recruitment

Employees must comply with recruitment processes and procedures set out in the Government Sector Employment Act 2013, the Government Sector Employment Regulation 2014, Government Sector Employment Rules 2014 and Department [recruitment policies and guidelines](#).

In particular, in any recruitment process, employees must appropriately deal with any actual, potential or perceived conflict of interest. Employees should consult the Department [Disclosing Interests and Managing Conflicts of Interest policy](#) for further information.

(g) Procurement

Employees must comply with NSW Government procurement rules and guidelines, and the Department Procurement policy when procuring goods and services.

In any procurement process, employees must appropriately consider and deal with any actual, potential or perceived conflict of interest.

Employees should consult the [Disclosing Interests and Managing Conflicts of Interest policy](#) for further information.

(h) Gifts and benefits

Employees must never seek or accept any payment, gift, benefit, inducement, or offer of hospitality that is intended, or that could be reasonably perceived to be intended, to induce them to:

- Act in a particular way, including making a particular decision; or
- Fail to act in a particular circumstance; or
- Deviate in any way from the proper exercise of their official duties.

Employees must immediately report any offer of a bribe or inducement to a senior executive manager.

Employees must declare gifts, benefits and hospitality in accordance with the Department policy, procedures and guidelines. Employees should consult the Department [Gifts, Benefits and Hospitality policy](#) for further information.

(i) Corrupt conduct

Employees must report unethical behaviour, maladministration, dishonest conduct or corrupt conduct if they have reasonable grounds to suspect it. Corrupt conduct is deliberate or intentional wrongdoing involving or affecting a NSW public official or public sector organisation.

Employees should consult the Department's [Fraud and Corruption Control policy](#) for further information.

Employees may provide a report as a Public Interest Disclosure where they may be concerned about potential detrimental action or confidentiality. Employees should consult the Department [Public Interest Disclosures policy](#) for further information.

(j) Criminal conduct and bankruptcy

Clause 9 of the Government Sector Employment Regulation 2014 requires an employee to notify the Secretary or delegate immediately if they are charged with or convicted of a serious criminal offence. A serious criminal offence is one that carries a penalty of 12 months or more imprisonment. A conviction or finding guilty of a serious criminal offence constitutes misconduct under section 69 of the Government Sector Employment Act 2013.

Employees are also required to notify their manager of a charge or conviction of any offence that may impact on their ability to undertake part or all of the inherent requirements of their role. For example, employees should immediately notify if they have been charged or convicted of dishonesty offences such as fraud or theft.

Employees are also required to notify the Secretary or delegate immediately if they are declared bankrupt or enter into an arrangement with creditors (Clause 10 GSE Regulation).

(k) Drugs, alcohol and tobacco

Employees must, while at work, be in a fit and proper state to perform their duties, so as to not put at risk the health and safety of themselves and others.

Smoking is not permitted in or near any Departmental workplace. Employees must not be under the influence of alcohol or drugs in the workplace.

(l) Media inquiries and public comment

Employees must not represent the Department without being given authority to do so by the Secretary or Executive Director, Media, Communications and Stakeholder Engagement. This includes the following activities where it is reasonably expected that the comments will be perceived as representing views of the Department:

- Making comments on radio or television;
- Letters to newspapers;
- Commentary on the intranet or on collaborative or social networking sites; or
- Expressing views in books, journals, notices or other published material.

Employees should consult the Department Public Affairs – Interacting with the Media and Social Media policies for further information.

Employees must obtain prior approval from the relevant Deputy Secretary for any speaking engagement and for any presentation material.

(m) Political, community and personal activities

Employees must ensure that their involvement in any political, community, volunteering or personal activities does not conflict with or influence their employment or their primary duty to serve the Government of the day in an impartial and objective manner.

In any such activities, employees must appropriately consider and deal with any actual, potential or perceived conflict of interest. Employees should consult the Department [Disclosing Interests and Managing Conflicts of Interest policy](#) for further information.

Employees must ensure any voluntary roles they undertake do not become paid work (without approval). For more information, employees should consult the Department [Secondary Employment and Private Interests policy](#).

(n) Secondary employment

Employees are not permitted to engage in any form of secondary or private employment without the prior written approval of the Secretary or delegate.

Employees should consult the Department [Secondary Employment and Private Interests policy](#) for further information.

(o) Leaving Department employment

Employees' obligations when leaving the Department include preserving confidentiality, integrity and reputation of the Department and ensuring they have no conflict of interest, by:

- Not using their position in the Department unfairly to improve their prospects of future employment;
- Not being influenced by plans for, or offers of, employment outside the Department; and
- Not taking advantage of, or disclosing, confidential information obtained in the course of their official duties.

Employees must be careful in their dealings with former Department employees and avoid giving them favourable treatment or access to privileged information.

(p) NSW Government Lobbyist Code of Conduct

Employees must comply with the Premier's Memorandum *M2014-13 – NSW Government Lobbyist Code of Conduct*. Employees should consult the Department [Engaging with Lobbyists and Business Contacts policy](#) for further information.

(q) Record keeping

Employees must comply with Department's [Records Management policies](#) and the *State Records Act 1998*. Original records must not be destroyed without appropriate lawful authority. Managers are responsible for ensuring the employees they supervise comply with all records management requirements.

(r) Official resources

Employees are expected to be economical and considerate in the use and management of official resources, which include Department vehicles, computers, laptops, mobile phones, faxes, photocopiers, email, internet and office stationery. Minimal personal use of official resources is permitted if the use does not interfere with the performance of an employee's work and complies with relevant policies, procedures and guidelines.

Any use of Department meeting rooms for activities other than official duties (such as not-for-profit, community, charitable, sporting or professional association activities) must have the prior written approval of the Secretary or delegate.

6. Ethical Framework

Employees must conduct themselves in accordance with the Ethical Framework, which is contained in Part 2 of the *Government Sector Employment Act 2013*.

The objectives of the Ethical Framework are to:

- 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; and
- Establish an ethical framework for a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day.

The Ethical Framework 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.

Further information on the Ethical Framework is provided online by the NSW Public Service Commission at: <https://www.psc.nsw.gov.au/employmentportal/ethics-conduct/behaving-ethically/behaving-ethically-guide/section-2/the-code-of-ethics-and-conduct-for-nsw-government-sector-employees>

7. Breaches of the Code of Conduct

(a) Reporting

Behaviour contrary to the Code of Conduct and the Ethical Framework should be reported. Employees should first discuss the issue with their supervisor or manager, or report the matter to a senior executive manager.

Behaviour that may also be corrupt conduct, maladministration, a serious and substantial waste of government resources, or a breach of Government information or privacy rights, should be reported to the Secretary or delegate, or the relevant investigating authority (such as the Independent Commission Against Corruption, the Ombudsman, Auditor-General, the Information Commissioner or the Privacy Commissioner).

Employees may provide a report as a Public Interest Disclosure where they may be concerned about potential detrimental action or confidentiality. Employees should consult Department [Public Interest Disclosures policy](#) for further information about the processes and the authorised officers to whom disclosures can be made so that employees making disclosures can attract the relevant protections under the *Public Interest Disclosures Act 1994*.

(b) What happens next

Employee reports

Reports from employees of behaviour contrary to the Code of Conduct will be evaluated to determine whether a formal process is required.

Where an allegation is minor or of a low level, the supervisor or manager will discuss the matter directly with the employee who made the report. A more serious allegation may require a more formal process.

The *Government Sector Employment Act 2013* and the *Government Sector Employment Rules* (and, in particular, Part 8) establish procedures for dealing with allegations of misconduct, and actions that may be taken.

Investigation of reports of behaviour contrary to the Code of Conduct will be undertaken by appropriately senior staff, in accordance with legal requirements and procedural fairness.

Any employee concerned about the process by which a report of behaviour contrary to the Code of Conduct was undertaken may lodge a complaint under the Department *Grievance Management* policy and procedures.

Employee reports that are public interest disclosures are dealt with consistent with the Department's [Public Interest Disclosures policy](#) and the *Public Interest Disclosures Act 1994* and Regulations.

External reports

Complaints from the public or external agencies will be managed under the Department [Management of Complaints policy](#).

8. Monitoring the Code of Conduct

The Secretary, senior executive managers and managers are responsible for the effective management of the Code of Conduct. The effectiveness of the Code of Conduct will be reviewed at least every two years.

APPENDIX 1

DEFINED TERMS in the Code of Conduct

Bullying	<p>means repeated behaviour and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health, safety or wellbeing.</p> <p><i>Note: A single incident of unreasonable behaviour is not considered to be workplace bullying; however, it may have the potential to escalate and should not be ignored.</i></p>
Discrimination	<p>means where a person is treated unfairly because they may belong to a particular group of people or have a particular characteristic, for example, gender, pregnancy, breastfeeding, race, age, marital or domestic status, sexual orientation, disability, carer's responsibility.</p>
Government Sector Code	<p>means the Public Service Commission's <i>Code of Ethics and Conduct for NSW Government Sector Employees</i>.</p>
Government Sector Employment Rules	<p>means the <i>Government Sector Employment (General) Rules 2014</i>.</p>
Personal information	<p>means information or an opinion (including information or an opinion in a database) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion.</p>
Repeated behaviour	<p>means the persistent nature of the behaviour and can involve a range of behaviours over time.</p>
Serious criminal offence	<p>means an offence committed in NSW that is punishable by imprisonment for six months or more, or an offence committed elsewhere that, if it had been committed in NSW, would be an offence so punishable.</p>
Unreasonable workplace conduct	<p>means behaviour that a reasonable person in the circumstances would see as unreasonable, including behaviour that is victimising, humiliating intimidating or threatening.</p>