



Office of
Environment
& Heritage

Code of Ethics and Conduct

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ISBN 978 1 76039 111 9

OEH 2015/0590

August 2015

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1. Preliminary

1.1 Purpose

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

The Ethical Framework 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.

1.2 Application

The Code applies to all Office of Environment and Heritage employees, contractors, volunteers and board/committee members.

Compliance with this Code is **mandatory**. Compliance with this Code forms part of the contract of employment for all Office of Environment and Heritage employees. Failure to comply with the Code and associated policies (listed in the appendices) may lead to actions being taken in accordance with the *Government Sector Employment Act 2013*.

1.3 Review

The Code may be amended in response to instructions from the Public Service Commissioner or as required by the Chief Executive.

1.4 Legislation

A principle of the Ethical Framework is to uphold the law. The law includes, but is not limited to the:

- *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)
- *Public Finance and Audit Act 1983* sections 11 and 45C (regarding the system of internal control over the financial and related operations of agencies)
- *Anti-Discrimination Act 1977* (regarding equal employment opportunity and equal access to services)
- *Government Information (Public Access) Act 2009* (regarding public access arrangements to agency information)
- *Public Interest Disclosures Act 1994* (regarding receiving, assessing and dealing with public interest disclosures)
- *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)

- *Privacy and Personal Information Protection Act 1998* (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- *Public Works and Procurement Act 1912* (regarding the procurement of goods and services by government agencies)
- *Health Records and Information Privacy Act 2002* (regarding the fair and responsible handling of health information)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy and safe workplaces)
- *Government Advertising Act 2011* (regarding requirements to issue advertising compliance certificates)
- *Ombudsman Act 1974* (regarding obligations to cooperate with investigations by the Ombudsman and obligations relating to reportable conduct concerning child protection matters)
- *State Records Act 1998* (regarding the creation, management and protection of agency records and public access to those records)
- *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 coordination of services between agencies)
- *Child Protection (Working with Children) Act 2012* (regarding obligations to obtain checks and clearances for employees engaged in child-related work)
- *Crimes Act 1900* (regarding criminal offences).

2. The Ethical Framework

2.1 Introduction

Part 2 of the *Government Sector Employment Act 2013* establishes the Ethical framework for the government sector.

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

2.2 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 gives rise to, or can be taken into account in, any civil cause of action.

Certain professions, such as a legal, scientific, accountancy and engineering, may have additional ethical obligations associated with them. If you are involved in such professions you need to maintain awareness of potential conflicts with the core values of the NSW Public Service. If there are any actual, potential or perceived conflicts you should bring them to the attention of your manager.

2.3 The Office of Environment and Heritage context

The purpose of the Office of Environment and Heritage is to enrich the life of people in NSW by helping the community conserve and enjoy our natural environment and cultural heritage. For more information on the Office of Environment and Heritage's vision and purpose refer to the [Corporate Plan](#).

3. Mandatory conduct

3.1 Responsibilities

All Office of Environment and Heritage government sector employees, contractors, volunteers and board/committee members have responsibilities to:

- demonstrate high levels of personal conduct consistent with the Ethical Framework
- seek assistance when unsure about how to implement the Ethical Framework
- promote the implementation of the Ethical Framework to their colleagues
- report possible breaches of the Ethical Framework to relevant officers.

All managers and senior executives have the same responsibilities as above, and in addition have responsibilities to:

- lead and promote implementation of the Ethical Framework in their workplace
- ensure their workplace culture, practices and systems (including recruitment and promotion) operate consistently with the Ethical Framework
- recognise and promote employee and team conduct that exemplifies the Ethical Framework
- act promptly and with due process to prevent and address any breaches of the Ethical Framework
- 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.

The Chief Executive, Office of Environment and Heritage, has the responsibilities of senior executives (above), and in addition has responsibilities to:

- lead and promote implementation of the Ethical Framework in the Office of Environment and Heritage
- ensure the general conduct and management of the functions and activities of the Office of Environment and Heritage are in accordance with the core values of the Ethical Framework
- oversee the implementation of the Ethical Framework and make improvements where necessary.

3.2 Applying the Ethical Framework

The Ethical Framework is to be applied at all times in working relations with colleagues, clients and customers, stakeholders and the government of the day.

These working relations are depicted in the diagram below:



3.3 Acting 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, and may require 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.

3.4 Managing 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.

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 to¹:

- 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.

Failure to disclose a conflict of interest may lead to disciplinary action and may also constitute corrupt conduct as defined by the *Independent Commission Against Corruption Act 1988*.

For detailed guidance on recognising and managing perceived, potential and actual conflicts of interests see Appendix A.

3.5 Declaration of private interests for senior executives

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, s/he 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
- annually as part of the Performance, Development and Feedback process.

A template form for making a private interests declaration is included at Appendix B

¹ For more information on how to manage actual, potential or reasonably perceived conflicts of interests, see the NSW Ombudsman's fact sheet *Conflicts of Interest* at www.ombo.nsw.gov.au/_data/assets/pdf_file/0004/3685/FS_PSA_03_Conflict_of_Interest.pdf (this will be supplemented by an Office of Environment and Heritage Conflict of Interest Policy when published).

A senior executive must provide their declaration to the Chief Executive of the Office of Environment and Heritage.

The Chief Executive of the Office of Environment and Heritage must provide their declaration to the Secretary of the Department of Planning and Environment.

The recipient of a declaration is responsible for ensuring that:

- senior executives complete declarations
- handling and storage of declarations complies with the requirements of the *Privacy and Personal Information Protection Act 1998*
- completed forms are submitted to se.declarations@environment.nsw.gov.au.

3.6 Working with colleagues, customers, clients and stakeholders

You should treat colleagues, customers, clients and stakeholders in the Office of Environment and Heritage 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 focusing on efficient, effective and prudent use of resources.

You must treat all colleagues, customers, clients and stakeholders with dignity and respect. The Office of Environment and Heritage has zero tolerance of bullying, harassment, discrimination and inappropriate workplace conduct.

If you are in a role that involves working with children you will need to meet the legislative requirements of the *Children and Young Persons (Care and Protection) Act 1998* and *Child Protection (Working with Children) Act 2012*. This includes undergoing a 'working with children' check. For more information refer to the [Office of the Children's Guardian](#) website.

You need to be mindful of your appearance when representing the Office of Environment and Heritage. If you wear a uniform you need to be mindful that, when wearing the

uniform both in and outside of work, you are still representing the Office of Environment and Heritage and must act in accordance with the values outlined in this Code.

Relevant policies and procedures that detail your responsibilities and guide how you should treat and interact with your colleagues, customers, clients and stakeholders are listed in Appendix C.

3.7 Interaction with lobbyists

All government sector employees and heads of government sector agencies must comply with Premier's Memorandum M2014-13- NSW Lobbyists Code of Conduct published on the Department of Premier and Cabinet's website, as amended from time to time.

3.8 Appropriate use of public resources

You must use public resources in an efficient, effective and prudent way. Never use public resources – whether money, time, property, equipment, materials, consumables, staff or volunteers – 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 *Public Finance and Audit Act 1983*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

Policies and procedures related to the proper use of public resources are listed in Appendix D.

3.9 Appropriate use of official, sensitive and private information

In the course of carrying out your duties you are likely to have access to sensitive and private information including intellectual property that belongs to the Office of Environment and Heritage. This information must not be used for your personal benefit, or for any unauthorised purpose.

Policies and procedures which support the proper use of official, sensitive and private information are listed in Appendix E.

3.10 Managing gifts, benefits or hospitality

You should never seek or accept any gift, benefit or hospitality that will, or could reasonably be perceived to, influence a decision or action.

Policies and procedures which detail how to manage offers of gifts, benefits or hospitality are listed in Appendix F.

3.11 Managing private activities and secondary employment

Your personal interests or activities must not impact, or be perceived to impact, on the activities and reputation of the Office of Environment and Heritage or portfolio agencies. There are a number of situations where you will need to clearly demonstrate that activities you are undertaking are in a private capacity and are not representative of the Office of Environment and Heritage or portfolio agencies, including:

- when making public comments
- when making submissions to proposals or inquiries
- during political and community participation
- if you have secondary employment or other business interests.

Policies and procedures that guide how to separate private activities from your official duties are listed in Appendix G.

3.12 Workplace health and safety

You must take reasonable care for your own health and safety and do nothing that adversely affects the health and safety of others. You should report health and safety risks to your manager and you should know the health and safety arrangements in your workplace. You should also make sure that alcohol and drugs do not impair your work performance or impact on workplace health and safety.

Policies and procedures which provide information and guidance for workplace health and safety are listed in Appendix H.

3.13 Criminal conduct

You must advise your manager or the Employee Relations Manager if you are charged with a criminal offence, which is punishable by imprisonment or, if found guilty, could reasonably be seen to affect your ability to meet the requirements of the work. In circumstances where criminal charges and any possible resulting convictions will not impact on your work performance, and you have concerns about raising this with your manager, you should report to the Employee Relations Manager in the first instance. Reports of criminal charges made to Employee Relations may be referred to your manager if they are deemed likely to impact on the requirements of your work.

4. Behaviour contrary to the Code

4.1 The effect of behaviour that is contrary to the code

Behaviour contrary to this Code and to the *Ethical framework for the government sector* (Part 2: Government Sector Employment Act, 2013) 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.

Behaving contrary to this Code may also result in referring the conduct to external agencies, such as the Independent Commission Against Corruption and the NSW Ombudsman.

4.2 If you see behaviour contrary to this Code

If you see someone act in ways that you think may be 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 senior 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 the Office of Environment and Heritage Public Interest Disclosures Coordinator or Nominated Disclosures Officer, the Chief Executive 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.

For further information or advice please contact the Probity Unit in the Governance Branch, People and Culture Division.

4.3 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 responsible for 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 principles²:

- 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 and beyond
- meticulous recordkeeping, including recording of reasons for all significant decisions.

The *Government Sector Employment Act 2013* and *Government Sector Employment Rules 2014* set out how allegations of misconduct are to be dealt with. Part 8 of the Government Sector Employment 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.

Relevant policies and procedures that detail responsibilities and guide how allegations are to be managed are listed in Appendix I.

5. Good practice guides

5.1 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 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

² NSW Ombudsman
(www.ombo.nsw.gov.au/data/assets/pdf_file/0017/3707/FS_PSA_14_Natural_justice_Procedural_fairness.pdf)

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 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 and the law?
- Implement the decision in ways that are consistent with the objectives, values and principles of the Ethical Framework.
- Review and identify opportunities for continuous improvement.

5.2 Encourage 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 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.

6. Further assistance

Issue	Contact
Workplace issues, formal grievances, serious misconduct, secondary employment, reporting criminal charges	Employee Relations, People Capability and Services Branch
Corrupt conduct, maladministration, substantial waste, public interest disclosure reporting, offers of gifts, conflicts of interest	Probity Unit, Governance Branch
Workplace health and safety	Workplace Health and Safety, People and Culture Division
Privacy and requests for government information	Privacy and Information Access, Governance Branch
Interacting with the media	Public Affairs, Office of the Chief Executive
Use of information and technology	Governance and Service Strategy Branch, Business Information Services
Purchasing and procurement	Strategic Value and Procurement Branch, Finance, Procurement, Performance and Services Division

Appendix A: Managing conflicts of interest

Relevant policies and procedures:

- Conflicts of interest policy (in development – contact Governance Branch)
- Private and Secondary Employment Policy
- Conflict of Interest Checklist for Appointments to NSW Government Boards and Committees

Appendix B: Senior executive interests declaration

Template - Senior executive interests declaration

Appendix C: Treating and interacting with your colleagues, customers, clients and stakeholders

Relevant policies and procedures:

- Work Health and Safety Policy
- 2015 Respectful Workplace: Policy and procedures for addressing workplace issues and formal grievances
- Child Safe and Friendly Environment Policy
- Statement of Business Ethics
- Public Interest Disclosure Policy
- Ministerial and Parliamentary Templates and Guidelines
- Injury Management and Workers Compensation Policy and Procedures
- Guarantee of Service – Service Level
- *External Complaints and Allegations Policy*
- Executive Charter
- Alcohol and Other Drugs in the Workplace Policy
- Procurement Manual
- Statement of Business Ethics
- Commission for Children and Young People Act 1998
- Child Protection (Prohibited Employment) Act 1998
- Uniforms policy

Appendix D: Using public resources

Relevant policies and procedures

- Finance Manual
- Financial and Budget Management Framework
- Financial Delegations
- Fringe Benefit Tax Pool Car Policy
- Online Purchase Orders

- Procurement Manual
- Travel Policy
- Information and Communication Technology Acceptable Policy

Appendix E: Using official, sensitive and private information

Relevant policies and procedures:

- Information and Communication Technology Acceptable Use Policy
- Social Media Policy
- Records Management Policy
- Records Access Policy
- Privacy Management Plan and Guidelines
- Communications and Media Policy
- Intellectual Property Policy
- Information Security Management System
- Policy and Guidelines for the release of information under the *Government Information (Public Access) Act 2009*

Appendix F: Deal with offers of gifts, benefits or hospitality

Relevant policies and procedures:

- Gifts, benefits and hospitality policy
- Conflicts of interest policy (in development – contact Governance Branch)

Appendix G: Separate private activities from Office of Environment and Heritage activities

Relevant policies and procedures:

- Social Media Policy
- Private and Secondary Employment Policy
- Conflicts of interest policy (in development – contact Governance Branch)

Appendix H: Ensuring a safe and healthy workplace

Relevant policies and procedures:

- Work Health and Safety Policy
- Work Health and Safety Risk Management System
- Hazard Management Policies and Guidelines
- Compassionate Transfer Policy
- Child Safe and Friendly Environment Policy
- Alcohol and Other Drugs in the Workplace Policy

Appendix I: Management of allegations and other related processes

Relevant policies and procedures:

- 2015 Respectful Workplace: Policy and procedures for addressing workplace issues and formal grievances
- *External Complaints and Allegations Policy*
- Public Interest Disclosure Policy