

Code of Ethics and Conduct Policy

1.1 Essential Summary

An employee's prime responsibility is to place the public interest above their own personal interests and to demonstrate the core values of the Public Sector and Department at all times:

- Integrity
- Trust
- Service
- Accountability
- Respect

In addition to demonstrating the core values of the Public Sector all employees should demonstrate values of ethical and honest behaviour; professionalism and responsibility; fairness and equity; learning and innovation; and collaboration.

The Code does not attempt to provide a detailed and exhaustive list of what to do in every aspect of our work instead it represents a broad framework that will help all employees decide on an appropriate course of action when faced with an ethical issue or professional decisions.

The Code applies to all employees of the Department and Senior Executives.

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1. Scope and purpose

The Public Service Commissioner has issued a direction for the heads of government sector agencies to implement the *Code of Ethics and Conduct for NSW government sector employees*.

The implementation of the Code may be by way of incorporation in a Department Code of Conduct to form a single consolidated document, or by adoption separately.

The Department has developed this supplementary Code, to be read and complied with in conjunction with the Public Service Commission's Code of Ethics and Conduct.

This document and the *Code of Ethics and Conduct for NSW government sector employees* sets out the standards of conduct, ethics and behaviour required of all employees and a process for managing non-compliance.

This Code supersedes all divisional or agency-based documents on Code of Ethics and Conduct. It is to be read in conjunction with the Public Service Commission's Code of Ethics and Conduct.

Divisional area managers must be aware of their responsibilities under this Code and align operational documents to the Departmental Code of Ethics and Conduct.

This Code will apply from the date of effect.

2. Definitions

This/The Code:

The *Code of Ethics and Conduct for NSW government sector employees* and the supplementary Code of Ethics and Conduct are considered jointly to be "the Code"

3. Roles and responsibilities

3.1 Strategic Human Resources Division are required to:

- monitor and maintain the Code.
- provide advice and guidance to the Department and individuals and ensure that training and support is provided to employees.

3.2 Senior Executives or delegated roles are required to:

- ensure that employees are aware of and understand the principles of this Code and their obligations in relation to the Code.
- refer issues or non-compliance to Strategic Human Resources for action.

3.3 Employees are required to:

- comply with this Code.
- seek supervisor/manager advice and guidance when required.
- commit to the Code through Esign on and myPerformance agreements.

4. What drives our conduct

The people of New South Wales have a right to expect Department of Justice employees to work with a high level of efficiency, fairness, impartiality and integrity.

An employee's prime responsibility is to place the public interest above their own personal interests and to demonstrate the core values of the Public Sector and Department at all times:

- Integrity
- Trust
- Service
- Accountability
- Respect

In addition to demonstrating the core values of the Public Sector all employees should demonstrate values of ethical and honest behaviour; professionalism and responsibility; fairness and equity; learning and innovation; and collaboration.

The Code does not attempt to provide a detailed and exhaustive list of what to do in every aspect of our work instead it represents a broad framework that will help all employees decide on an appropriate course of action when faced with an ethical issue or professional decisions.

4.1 Who does the code apply to?

The Code applies to all employees of the Department and Senior Executives.

By accepting employment with the Department, employees must be aware of and comply with this Code.

Therefore, employees must:

- engage in personal and professional conduct that upholds the reputation of the Department;
- apply the Department's policies, procedures and guidelines;
- act ethically and responsibly; and
- be accountable for actions and decisions made.

Contractors, consultants, volunteers and students must be aware of this Code and act in line with the conduct described in it. While contractors, consultants, volunteers and students are not subject to misconduct action, conduct that would be assessed as being a serious breach of the Code may result in their contract/placement being terminated.

When engaging or managing external consultants, contractors, volunteers or students, it is an employee's responsibility to make them aware of the Department's expectations during the period of their engagement. It is also an employee's responsibility to take the necessary action to address any concerns about their conduct.

4.2 What happens if an employee breaches this Code?

When deciding what, if any action should be taken in relation to a breach of this Code, each case should be considered on its own facts and circumstances.

The options to consider when deciding what action to take include:

- the seriousness of the breach; the likelihood of the breach occurring again;
- whether the staff member has committed the breach more than once;
- the risk the breach poses to staff, clients or any others; and
- whether the breach would be serious enough to warrant misconduct action.

Employees must report breaches of the Code by colleagues to their supervisor or manager. If the breach is by their supervisor or manager then it should be reported to the next line manager.

Matters involving a breach of the Code may constitute misconduct and may be managed as a Professional Standards matter.

Section 69(1) of the *Government Sector Employment Act 2013* states that misconduct extends to the following:

- (a) a contravention of this Act or an instrument made under this Act,
- (b) taking any detrimental action (within the meaning of the *Public Interest Disclosures Act 1994*) against a person that is substantially in reprisal for the person making a public interest disclosure within the meaning of that Act;
- (c) taking any action against another employee of a government sector agency that is substantially in reprisal for a disclosure made by that employee of the alleged misconduct of the employee taking that action.

The subject matter of any misconduct by an employee may relate to an incident or conduct that happened while the employee was not on duty or before his or her employment.

If a matter proceeds to an inquiry, the inquiry is to be conducted in accordance with the [Government Sector Employment Act 2013](#) and [Government Sector Employment Rules 2014](#), which require compliance with the principles of procedural fairness.

4.3 Procedural fairness

Procedural fairness, also known as natural justice, applies in situations where a decision is to be taken which could have a detrimental effect on the rights, interests or legitimate expectations of an employee. Any employee who might suffer detriment as a result of a decision (be they the complainant or the relevant employee) should be afforded procedural fairness.

Procedural fairness refers to a process that provides fairness to all parties. It includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them and the right to be advised of the status of the complaint.

4.4 Unlawful or criminal conduct

Unlawful or criminal conduct at work or whilst off duty may also involve a breach of the Code and may constitute misconduct.

Employees convicted of a serious offence/s may be liable to court imposed sanctions and may also be liable to misconduct action.

Given the nature of risk to the Department and the high level of expectation of ethical behaviour by employees in the Justice Portfolio breaches of this Code may result in suspensions from duty. Depending on the nature and/or seriousness of the breach and/or offence suspension may be with or without pay.

4.5 Principles for professional behaviour

Employees must be aware of the Department's policies, procedures, guidelines and delegations, particularly those that apply to their work and/or their exercising of authority or authority to act. Many of these are available online; others may be made available to employees through induction and training and development programs. If employees are uncertain about the scope or content of a policy, procedure or guideline with which they must comply, they should seek clarification from their supervisor.

Employees must also be familiar with the legislation and/or regulations under which they are employed as this may specify requirements with which they need to comply.

Employees are expected to:

- perform their duties to the best of their ability and be accountable for their performance;
- adhere to all reasonable instructions and/or directions;
- comply with lawful directions;
- carry out their duties in a professional, competent and conscientious manner;
- act in good faith in providing advice or service that is honest, impartial and comprehensive, irrespective of their personal views;

- be courteous, respectful and responsive in dealing with their colleagues, clients, their families and members of the public;
- work collaboratively with their colleagues; and
- be mindful of their duty of care and safety of themselves and others; and be aware that if their conduct has the potential to damage the reputation of the Department, even if it is in a private capacity, this could lead to further action.

5. Professional and ethical decision making

5.1 Conflict of interest

A conflict of interest occurs when an employee is in a position to be influenced by their private interests when doing their job. Real or perceived conflicts of interest exist when it is likely that an employee could be influenced or could be perceived to be influenced by a personal interest when performing their official duties. Conflicts of interest may lead to biased decision making, which may constitute corrupt conduct.

5.1.1 What is a conflict of interest?

Examples of conflict of interests relating to a personal interest may include (but are not limited to) situations where an employee may have:

- a financial interest or the employee is aware that a family member, relative, friend or associate has a financial interest in a matter they deal with in the course of their work;
- a personal relationship that could be seen to unduly affect the employees decision, for instance, when conducting a job selection;
- a close personal relationship with another staff member;
- personal beliefs or attitudes that could influence, or may be perceived to influence, the employees impartiality;
- other paid employment which conflicts with the employees duties; and
- participation in political activities or making political comments that may relate to, or be seen as relating to, the work of the Department.

Conflicts of interest, whether real or perceived, must be reported to the employees' supervisor and recorded.

5.1.2 Resolving conflicts of interest

To resolve or manage a conflict of interest which occurs or could occur, a range of options is available depending on the significance of the conflict. These include:

- the supervisor/manager recording the details of the conflict and taking no further action in relation to the conflict because the potential for conflict is minimal or can be eliminated by disclosure or effective supervision;
- the supervisor/manager removing the employee from the particular activity or decision where the conflict arises and documenting this;
- the employee transferring from the area of work or particular task where the conflict arises without disadvantage;
- the supervisor/manager of the employee with the conflict checking and endorsing (if appropriate) all action with respect to the matter creating the conflict;
- the supervisor/manager referring the decision to a senior manager;
- the employee relinquishing the personal interest; and
- the employee restricting their personal interest so that it does not impinge on the workplace.

To ensure that honesty and integrity is not questioned, it is an employee's responsibility to:

- recognise and disclose any actual, potential, or perceived conflict of interest to their supervisor, manager or another appropriate more senior manager;
- take appropriate steps to resolve the conflict of interest in accordance with policy prior to engaging in the affected work; and
- not knowingly make decisions or convey information that may obtain, or may appear to obtain, a personal benefit or a benefit for family members, relatives, close friends, business partners of associates, unless it is a benefit received in common with a class of people who would ordinarily receive the benefit.

All supervisors/managers are additionally responsible for facilitating compliance by those they supervise by:

- being aware of the risks of conflicts inherent in the work of the employees they manage;
- advising employees on appropriate ways to manage a conflict of interest;
- recording the receipt of disclosures of conflicts of interest as reported to them by employees, using the Conflict of Interest Form at attachment 1. This is to be kept confidential in a secure place by the supervisor/manager for future reference if necessary; and
- a copy is to be provided to the employee who made the disclosure, to the Director, Human Resources (HR) Business Partner for approval and to the Director, Ethics, Safety and Industrial Relations for review and recording on the Conflict of Interest Register.

The ultimate decision concerning the appropriate course of action to take over a real, perceived or potential conflict of interest rests with the relevant manager.

6. Professional behaviour

6.1 Treating people with dignity and respect

All employees have the right to be treated with respect, and it is everyone's responsibility to ensure this occurs. Employees are to treat their colleagues, clients, their families and members of the public with respect, fairness and consistency. Employees are to be courteous and sensitive to the needs of others and provide all necessary and appropriate assistance as practicable. For further information please refer to the Department's *Dignity and Respect Guidelines* (currently under development).

6.2 Working with children

It is important that employees working with children understand and observe child protection legislation. Pursuant to *Part 3A* of the *Ombudsman Act 1974*, all employees working with children must report to their supervisor/manager if they or a colleague are convicted of, or an allegation has been made against them or a colleague relating to, reportable conduct involving children (i.e. a person under the age of 18 years). This applies to situations at work or in their private life.

Reportable conduct means any sexual offence or sexual misconduct committed against, with or in the presence of a child, including child pornography offences, or any assault, ill-treatment or neglect of a child, or any behaviour that causes psychological harm to a child.

Employees working with children are also required to report if an Apprehended Violence Order has been issued against them where a child is recorded as requiring protection from them, or if a report to Family & Community Services has been made about their conduct which meets the definition of reportable conduct.

All employees working with children have an obligation to ensure the Department is made aware of any convictions or allegations of reportable conduct as soon as practicable.

Employees working with children should report this information to their supervisor or directly to the respective Director, HR Business Partner.

Employees working with children must not develop a relationship with any client that is, or that can be misinterpreted as having a personal rather than a professional interest. To do so raises serious questions of conflict of interest, trust, confidence, dependency, and of equality of treatment.

Employees working with children must not enter into a romantic or sexual relationship with any client or former client. It is a breach of this Code and unprofessional for an employee to engage in sexual activity of any kind with clients or former clients, regardless of whether the person is now over the age of consent. For further information please refer to the [NSW Ombudsman](#) and [NSW Office of the Children's Guardian's](#) websites.

6.3 Professional behaviour towards employees and others

As professional employees must strive at all times to relate professionally to colleagues, clients, their families and members of the public and to act with courtesy and fairness. In dealings with others, staff should ensure that they do not prejudice the operations, security or reputation of the Department.

In performing their duties, all employees must act consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures and in a non-discriminatory manner.

Acts of unfairness involving favouritism, inconsistency or discrimination adversely affect morale and good working relationships and should not occur in the workplace.

6.3.1 Respectful language in the workplace and in public

Employees must use courteous and respectful language in their interactions with colleagues, clients, their families and members of the public.

Everyone has the right to expect that they will be spoken to in a reasonable manner by colleagues and managers. Coarse and obscene language is inappropriate in any Departmental workplace, as is sexual banter and suggestive language.

No employee should tolerate such language and if witnessed, must report it to a supervisor/manager.

6.3.2 Maintaining employee confidentiality, privacy and appropriate records

Employees have a right to expect that their personal information is private and confidential.

In acting with a high level of professionalism employees must ensure that information about their colleagues remains confidential and private. Employees should always exercise caution and sound judgment in discussing other peoples' personal information with other staff.

Normally information should be limited to those who need to know in order to conduct their duties, or to those who can assist in carrying out our work because of their expertise. Gossiping about other employees or unauthorised disclosure of private information (personal phone numbers, address etc) is considered to be unprofessional and a breach of this Code.

In relation to the maintenance of appropriate records, a record serves an essential administrative, legal and historical purpose. Records may be (but not limited to) emails, electronic documents, digital images and audio recordings, correspondence and files.

Employees have a responsibility

- to create and maintain full, accurate and honest records of their work activities, decisions and other business transactions; and
- to capture or store records in line with the *State Records Act (NSW) 1998*.

Managers and Supervisors have a responsibility to ensure that all employees reporting to them comply with their records management obligations. Employees must not destroy records without appropriate authority.

Employees must maintain the confidentiality of all official information and documents which are not publicly available or which have not been published.

The Department may utilise and collect employment related data in accordance with legislative requirements and privacy considerations.

6.3.3 Signatures

Employees are accountable for any documents that they sign. Therefore, employees should carefully read all documents they are asked to sign. Employees must not sign a document, which they know is not factual.

Employees must only sign their own name and must never permit or encourage anyone to sign a name other than their own.

Employees must only use their own name when, for example, sending emails, and should not give the impression that they have the authority of another person without their permission. In addition, when using electronic signatures of a manager or supervisor, an employee must have their express approval on each occasion the electronic signature is used.

6.4 Use of alcohol, drugs and tobacco

The Department is committed to providing a productive, safe and healthy workplace. Employees are responsible for ensuring that their capacity to perform their duties is not impaired by the use of alcohol or drugs, and that the use of such substances does not put them or any other person's health and safety at risk.

Employees must:

- not attend work under the influence of alcohol, illegal drugs or non-prescribed and/or restricted substances;
- not endanger their own safety or the safety of any other person in the workplace by consuming alcohol, illegal drugs or non-prescribed and/or restricted substances;
- notify their supervisor/manager if they are aware that work performance or conduct could be adversely affected as a result of the effect of a prescribed drug;
- take action to resolve any alcohol or other drug-related problems that exist (all employees have access to counselling support from the Employee Assistance Provider); and
- consult a supervisor/manager if there is concern about working with other employees who are perceived to be affected by drugs or alcohol.

6.4.1 Alcohol and other drugs special provisions

In addition to the above, Juvenile Justice and Corrective Service Divisions have specific requirements relating to alcohol and other drugs. For Divisional specific information please refer to the *Juvenile Justice Safe Operating Procedure: Alcohol and Corrective Services NSW Alcohol & Other Drugs Policy & Procedure*.

6.4.2 Drugs

Employees must not:

- have illegal drugs in their possession while at work. Any illegal drugs found on Departmental property or in the possession of any person on Departmental property will be reported to the Police; and
- give inmates, clients, visitors or colleagues illegal drugs or restricted substances, or encourage or condone their use.

6.4.3 Tobacco

The Department has a responsibility to, so far as is reasonably practicable, ensure that employees, clients and visitors whilst at a Departmental worksite, are safe from injury and risks to health.

Smoking is prohibited:

- within all Departmental buildings; in all Departmental vehicles;
- in the grounds of any Department owned and/or leased workplace and
- locations designated by an authorised senior executive as smoking areas are exempt, for example residential staff quarters.

6.4.4 Gambling

Gambling in the workplace, other than harmless team building activities such as workplace Lotto syndicates, football or other sport tipping competitions or Melbourne Cup sweeps, is inappropriate as it may lead to conflict, indebtedness and perceptions of impropriety.

7. Representing the Department

7.1 Conduct while off duty

As members of a public sector organisation all employees must, even when off duty, act in accordance with the law and the content of this code. In so doing employees must ensure that they do not bring discredit to themselves as private citizens or to the Department, and that they model exemplary behaviour and act as a positive influence in the community.

Employees should be aware that unlawful or unprofessional conduct, even in a private capacity, which may damage, or has the potential to damage, the reputation of the Department, may constitute misconduct and attract action by the Department in accordance with *section 69(4)* of the *Government Sector Employment Act 2013*.

Section 69(1) of the [Government Sector Employment Act 2013](#) provides that action can be taken for misconduct which occurs when an employee is off duty or before his or her employment.

If an employee is charged and receives a court attendance notice in relation to a serious offence or is declared bankrupt, they are required to immediately notify their supervisor/manager. A serious offence is an offence that is punishable by imprisonment for 12 months or more. For further information please refer to the [Government Sector Employment Regulation 2014](#).

It should be noted that employees may be suspended with or without pay as a result of being charged.

A conviction for a serious offence (or a finding of guilt that does not proceed to conviction) may constitute misconduct, whether or not the offence was committed in the course of employment.

7.2 Public Comment

Public comment is any comment made where it is expected that it will be seen or heard by members of the public. It includes (but not limited to) the following:

- speaking engagements;
- comment made on social networking sites (such as “Facebook,” “Linked In,” and “Twitter”); on radio, television or in newspapers (including letters to the editor); in books, journals or notices; on the internet, including media-related websites that seek comments on their stories ‘anonymously’ e.g. where a face on the television is obscured; and in e-mail messages.
- As a private individual, employees have the right to participate in public debate on political and social issues. In exercising this right, they also have the responsibility to make it very clear they are speaking as private individuals and not representing the official views of the Department or the Government.

In participating in any political, community and personal activity, employees must:

- not make any comment where it could be inferred that the public comment, although made in a private capacity, is in some way an official comment of the Government or of the Department;

- not make public comment, where the comment, even though unrelated to their normal duties, amounts to criticism sufficiently strong or persistent to give the impression that they are not prepared to implement or administer the policies, procedures and guidelines objectively of the Department or the Government;
- not participate in private political activities in the work environment;
- not use the Department's resources to assist political, community or personal activities;
- not use information obtained through their work at the Department to assist their political, community or personal activities, or make the information known to any other person; and
- not misrepresent the position of the Department on any issue.

Comments made on matters relating to union business by members of unions in their capacity as a local delegate within the Department or by union office holders employed by the Department are permitted under this Code, as long as the employee makes clear that the comments are about the industrial matters that are only related to union business and are made in a union capacity and not as an employee or on behalf of the Department.

Employees are frequently required to represent the Department in an official capacity at interagency meetings, community forums and other meetings with outside agencies and individuals. In representing the Department employees must ensure that they have the appropriate delegation and authorisation to do so and that they are sufficiently briefed on the issues likely to be raised and the appropriate Department responses.

All employees must have the approval of a delegated manager or senior executive before agreeing to address or be involved in seminars or conferences by professional associations, other organisations or non-profit bodies where the program is relevant to the public sector. Employees must also have the approval of a delegated manager or senior executive before making a written submission to such associations or organisations.

As a general rule, employees may only disclose official information that is already in the public domain, such as the Annual Report or official media releases and avoid offering a personal comment. The provision of information should also be consistent with Department and Government policy.

The Department's *Media Policy* outlines circumstances where it is and is not appropriate to make comment to media. Employees must not approach the media on Department-related matters, or discuss Department business with the media unless authorised to do so by the Corporate Communications Unit.

7.3 Social media and public websites

When engaging in social media employees must make it very clear they are engaging in discussion as a private individual and not representing the official views of the Department or the NSW Government.

Only official information that is already in the public domain and does not breach confidentiality requirements may be disclosed.

It is important to note that this section of the Code does not apply to employee's personal use of social media platforms where the employee makes no reference to Department-related issues, unless it has the potential to impact the workplace and bring other employees or the Department into disrepute.

Unlawful or unprofessional conduct, even in a private capacity, which may damage, or has the potential to damage the reputation of the Department, may attract misconduct action by the Department. This includes comments made in social media or public websites in which employees are representing the Department or it may be perceived that they are representing the Department. This extends to comments made on sites including Facebook or Twitter which, because of employment with the Department, is inconsistent with professional responsibilities or has the potential to adversely affect the reputation of the Department.

Employees must also be mindful of making private comment on public media websites, ensuring that any comment made is not referable to the Department and does not bring discredit to the Department. For further information, please refer to the Department's *Social Media Policy* and *Social Media Procedure*.

7.4 Political and community participation

As public servants, employees are free to take part in lawful political activity outside of working hours, so long as it does not interfere with normal duties.

However, employees need to be mindful that in their public life, they are required to serve the government of the day in an impartial manner. Where any political activity may create, or has created, a potential or actual conflict of interest, employees must discuss this with their supervisor/manager immediately.

Special arrangements apply to public employees who have been pre-selected as candidates for, or who propose to contest, State or Federal elections.

7.5 Personal references

Employees are not permitted to use Department letterhead when writing a personal reference for another employee that is considered the employee's personal assessment or opinion, and not those of the Department.

Employees are not permitted to supply references to other employees who are the subject of misconduct action.

If asked to provide a referee report in relation to a recruitment action, the employee is responsible for completing the report honestly and should be based on information that can be verified. False or derogatory statements should not be made about an individual.

7.6 Other paid employment

Other paid employment includes furthering the aims, objectives or interests of any of the below for actual or prospective gain:

- any employment for an employer, even when on leave;
- self-employment;
- the private practice of any profession, occupation or trade;
- engaging in or undertaking any commercial business, whether as principal, agent, partner or employee;
- provision of consultancy services;
- accepting or holding office, other than in the Department, with any government of a state, the Commonwealth or any local government;
- writing or editing of books, articles and other published documents;
- lecturing, teaching and tutoring in universities, recognised professional associations and other recognised educational bodies;
- commercial activity associated with owning or participating in the ownership of a primary producing property where the commercial activity is related to the employee's duties;
- any position with a corporation, company or firm; and
- any other paid employment or role within the Department which is in addition to the employee's principal full time employment with the Department.

Approval of other paid employment can only be given for periods of up to 12 months. Employees who seek to renew an existing approval must do so in writing at least four weeks prior to the anniversary date or expiration date (whichever is the sooner) of the approval.

Multiple employment within the Department is subject to the procedures associated with this employment and any breach of these procedures may result in misconduct action. The onus is on the employee to ensure the procedures are not breached. For further information please refer to the Department's Multiple Employment Procedure (currently under development).

Whilst unpaid work does not require approval, if it creates an actual, or a perceived conflict of interest then employees must advise their supervisor/manager.

The Department will consider applications for other paid employment so long as the following conditions are met:

- the nature of the proposed work is clearly defined;
- the number of hours of the proposed work are clearly defined;
- the activity is not in competition with or has links to the Department;

- consideration is given to any potential conflict of interest;
- the work will not damage the reputation of the Department;
- the work will not create a conflict and/or perceived conflict of interest;
- no Department time, employee, intellectual property, facilities, or equipment are to be used in connection with other paid employment;
- the other paid employment must not interfere with the proper and efficient performance of usual duties; and
- the other paid employment does not pose an occupational health and safety risk to the employee (including working excessive hours without sufficient breaks between work).

Employees must not use their official position for personal advantage in pursuit of private income. Where a conflict of interest arises during other paid employment it must be referred to the supervisor/manager who approved the other paid employment immediately, and if it cannot be managed then approval for other paid employment should be withdrawn.

Employees must obtain written approval for other paid employment via submission to a delegated manager. The delegated manager must maintain a record of all applications for other paid employment and their outcome. The submission will be kept on the employee's personnel file for secure record keeping. Employees should also retain a copy of the written approval for inspection when required.

Employees have an obligation to seek approval for any proposed variations to their approved other paid employment from the delegated manager in writing.

Casual only employees, contractors and part time employees are not required to gain approval for other paid employment provided that:

- the work is undertaken during the period that the person is not required to discharge duties for the Department;
- that the discharge of duties for the Department is not adversely affected;
- and the other paid employment does not pose an occupational health and safety risk to the staff member (including working excessive hours without sufficient breaks between work). For further information please refer to the [Government Sector Employment Regulation 2014](#).

7.7 Volunteering

The Department encourages voluntary participation in community organisations, charities and professional associations. Such participation does not require approval unless the involvement is likely to conflict with or affect the efficiency or performance of the employee's official duties, or if the Department provides funding to the community organisation, charity or professional association concerned.

An exception to this is trade union delegates in regard to duties as specified by the relevant industrial instrument.

Volunteers/students coming into the Department must be properly inducted into the Department by a supervisor/manager (including completion of the Department's on-line induction).

Volunteers working with children must complete a Working with Children Check – Applicant Declaration and Consent. These are volunteers who mentor disadvantaged children in family-like relationships, or provide intimate personal care (e.g. bathing or toileting) for disabled children. All other volunteers or students on placement working with children must sign the Volunteer/Student Declaration prior to commencing with the Department.

It is an offence for prohibited persons to apply for or attempt to obtain, undertake or remain in child-related employment in any capacity, whether paid, volunteering or self-employed.

7.8 Code applies to contractors, consultants, volunteers, chaplains and students

Contractors, consultants, volunteers, chaplains, students and employees of other organisations with which the Department has contracts or agreements must be aware of this Code and act in line with the conduct described in it. Where the contract or agreement refers to this Code then this Code applies.

7.9 Dress and presentation

All employees should be mindful of the way in which they present themselves in the workplace, particularly if they are in contact with clients, offenders or members of the community. Clothing should always be appropriate to the workplace, consistent with work health and safety standards and enable employees to respond in an emergency.

Dress and presentation should at all times project an image that is consistent with accepted community standards and the work of the Department.

7.10 Prior to leaving

Employees must not improperly use their role to improve their own prospects of future employment. Employees must not allow their work to be improperly influenced by plans for, or offers of, employment outside the Department. Employees must not create a conflict of interest and/or place their integrity and that of the Department at risk.

Employees must return any property they have belonging to the Department prior to leaving.

7.11 After separation

When employees cease employment with the Department, they should not use or take advantage of any confidential information obtained in the course of their official duties unless it has become publicly available.

Current employees, must be careful in their dealings with former employees of the Department and make sure that they do not give them, or appear to give them, favourable treatment or access to privileged information.

Employees should report to their supervisor or line manager any attempts made by former employees to influence or lobby current employees about the Department's activities.

8. Accountability

Whilst at work an employee's primary responsibility is to perform their official duties efficiently and use Department resources economically.

8.1 Departmental resources

Employees must be familiar with the procedures relating to:

- management of finances;
- use of Department motor vehicles;
- use of meeting rooms and equipment;
- completion of time & attendance records (if relevant to an employee's role); and
- must not use their work e-mail to conduct personal business. In the event of an emergency then staff must ensure that they do not include the standard departmental footer denoting their position.

Employees should also be vigilant in ensuring that the Department's resources are not misused including responsibly using work computers, internet access and email facilities. For further information, please refer to the Department's *Internet Usage Policy*, *Mobile Devices Policy* and *Information Security Policy*.

All employees are to undertake their duties in accordance with Department policy and procedures and are encouraged to participate in forums that provide an opportunity to provide advice or suggestions on development of innovative evidence based programs that create efficiencies and improved outcomes. Sharing ideas and knowledge is an important part of working together as a team.

8.1.1 Electronic communication devices

The Department provides electronic communication facilities for administrative purposes. The Department reserves the right to monitor and view any data stored or transmitted using the Department's facilities. By its nature, electronic communication is a fast and informal way of communicating.

Employees must:

- exercise good judgment when using electronic mail, following the principles of ethical behaviour;
- use appropriate language in electronic mail messages;

- be aware that if an issue addressed in an email becomes the subject of a legal dispute, then those emails would be 'discoverable': that is, the court and all parties to the dispute would be entitled to see them;
- not send messages that are harassing, defamatory, threatening, abusive or obscene;
- not invite clients and former clients into personal social network site;
- remember transmission, storage, promotion or display of inappropriate, offensive, defamatory, or harassing material is strictly forbidden; and
- report any situations of inappropriate use of electronic communication and social networking sites.

The Department's networks must not be used to view, upload, download or circulate any of the following materials:

- inappropriate material;
- sexually related or pornographic messages or material;
- violent or hate-related messages or material;
- racist or other offensive messages aimed at a particular group or individual;
- malicious, libellous or slanderous messages or material; and
- subversive or other messages or material related to illegal activities.

8.1.2 Intellectual property

Documentation such as policies, programs, manuals, courses, training resources, written, developed or produced by an employee or a colleague during the course of the employee's employment with the Department remains the property of the Department. Employees must not use such material for personal benefit or without the expressed approval of an appropriately delegated manager.

9. Reporting suspected wrong doing

If an employee witnesses wrong-doing or suspected wrong-doing they should discuss the matter with their supervisor or manager. If an employee witnesses wrong-doing or suspected wrong-doing of a serious nature, they may be required to complete a Summary of an Allegation or Complaint Against an Employee Form, which should be discussed with, and provided to, their manager for referral to the relevant Director, HR Business Partner.

9.1 Duty to report corrupt conduct

Employees have a public duty to report any corrupt conduct, maladministration and serious and substantial waste of public resources.

The Department will not accept any level of corruption.

Misconduct action will be considered in all instances of corruption and criminal referral will be considered in all instances of corruption identified.

The Department is committed to ensuring that opportunities for corruption are minimised, mitigated against and regularly monitored.

9.2 Corruption

Corruption means conduct of any employee, whether or not an employee, that could adversely affect the honest and impartial exercise of official functions by a public official.

It involves improper acts or omissions, improper use of influence or position, or improper use of information. It does not necessarily involve material gain for the employee or material loss to the Department.

9.3 Corrupt conduct

Corrupt conduct is more particularly defined in sections 7, 8 and 9 of the Independent Commission Against Corruption Act 1988 and includes the conduct of any person whether or not a public official that could adversely affect the exercise of an official function including conspiring or attempting to commit corrupt conduct. For further information please refer to the [NSW ICAC's](#) website.

9.4 Maladministration

Maladministration is conduct or proposed conduct in the exercise of a function involving action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory, or based on improper motives.

The word 'maladministration' is used and defined in the *Protected Disclosures Act 1994*. It can be used to describe the nature and scope of the jurisdiction of the NSW Ombudsman which includes conduct of a public authority that appears to be:

- contrary to law;
- unreasonable, unjust, oppressive or improperly discriminatory;
- in accordance with any law or established practice but the law or practice; is, or may be, unreasonable, unjust, oppressive or improperly discriminatory;
- based wholly or partly on improper motives, irrelevant groups or irrelevant consideration;
- based wholly or partly on a mistake of law or fact;

- conduct for which reasons should be given but are not given; and
- otherwise wrong.

For further information please refer to the [NSW Ombudsman's](#) website.

9.5 Serious and substantial waste of public resources

Serious and substantial waste of public resources is defined by the NSW Auditor-General as that which encompasses 'uneconomical, inefficient or ineffective use of resources authorised or unauthorised, which results in significant loss or wastage of public funds or resources'. In addressing any complaint of serious or substantial waste, the nature and materiality of the waste is considered. For further information please refer to the [NSW Audit Office's](#) website; the Departments *Fraud Control Plan* (currently under development) and the Department's *Public Interest Disclosure Policy and Procedure*.

9.6 Fraud

Fraud means dishonestly obtaining a benefit by deception or other means.

It is deliberate and involves the use of misrepresentations, dishonest or deceitful conduct in order to obtain some unjust advantage over another or to cause disadvantage to the Department or others through actions, omissions or false statements. It includes the theft or improper use of the Department's resources and can be committed by employees or persons external to the Department.

10. Compliance

All employees have a responsibility to comply with legislation, policies, procedures, guidelines, this Code and perform their duties effectively.

10.1 Where to get more information

If employees have questions about the content of this Code, they need to seek advice from their supervisor or manager in the first instance, and then Strategic Human Resources.

10.2 Relevant legislation and sources of authority

Employees are expected to be aware of the Acts and Regulations that legally govern the way they undertake their work. This Code does not stand alone and should be read in conjunction with the following legislation:

- [Anti-Discrimination Act \(NSW\) 1977](#);
- [Children and Young Persons \(Care and Protection\) Act \(NSW\) 1998](#);
- [Children \(Community Service Orders\) Act \(NSW\) 1987](#);
- [Children \(Criminal Proceedings\) Act \(NSW\) 1987](#);
- [Children \(Detention Centres\) Act \(NSW\) 1987](#);

- [Child Protection \(Working with Children\) Act \(NSW\) 2012](#);
- [Crimes Act \(NSW\) 1900](#);
- [Government Information \(Public Access\) Act \(NSW\) 2009](#);
- [Government Sector Employment Act \(NSW\) 2013](#);
- [Government Sector Employment Regulation \(NSW\) 2014](#);
- [Government Sector Employment Rules \(NSW\) 2014](#);
- [Independent Commission Against Corruption Act \(NSW\) 1988](#);
- [Industrial Relations Act \(NSW\) 1996](#);
- [Ombudsman Act \(NSW\) 1974](#);
- [Privacy and Personal Information Protection Act \(NSW\) 1998](#);
- [Public Interest Disclosures Act \(NSW\) 1994](#);
- [Public Finance and Audit Act \(NSW\) 1983](#);
- [State Records Act \(NSW\) 1998](#);
- [Workers Compensation Act \(NSW\) 1987](#);
- [Work Health and Safety Act \(NSW\) 2011](#);
- [Work Health and Safety Regulation \(NSW\) 2011](#);
- [Workplace Injury Management and Workers Compensation Act \(NSW\) 1998](#); and
- [Young Offenders Act \(NSW\) 1997](#).

Other legislation, such as the [Health Administration Act \(NSW\) 1982](#) or the [Psychologists Act \(NSW\) 2001](#) may be relevant to a particular professional area of responsibility. Practising professionals who are employees of the Department should be familiar with and comply with the legislation and codes of conduct and/or codes of practice relating to their area.

Employees are expected to be aware of the policies, procedures and guidelines that apply to their work. This Code does not stand alone and must be read in conjunction with all departmental policy, procedures and guidelines.

11. Monitoring and review

Strategic Human Resources is responsible for reviewing the Code and for amending the Code in relation to issues raised across the Department.

This Code will be reviewed in accordance with the policy review schedule and at other times if any significant new information or legislative or organisational change warrants a change in this

document. Reviews will be completed in consultation with the appropriate stakeholders for relevance and effectiveness.

Feedback, comments and suggestions about this Code can be directed to your respective Director, HR Business Partner or Strategic Human Resources.

12. Related documents

Related documents:

- *Managing Gifts and Benefits Policy*
- *Managing Gifts and Benefits Procedure*
- *Public Interest Disclosure Policy and Procedure*
- *Workplace Issue Management Policy and Guidelines* (currently under development)
- *Media Policy*
- *Internet Usage Policy*
- *Mobile Devices Policy*
- *Social Media Policy*
- *Social Media Procedure*
- *Information Security Policy*

13. Support and advice

An employee can get advice and support about this Code from their supervisor/manager.

A supervisor/manager can get advice and support from their respective Director, HR Business Partner.

A senior executive can get advice and support from their respective Director, HR Business Partner or the Director, Ethics, Safety and Industrial Relations or the Executive Director, Strategic Human Resources.

14. Document information

Title:	Code of Ethics and Conduct
Document Number:	HR002
Policy Owner:	Strategic Human Resources
Policy Custodian:	Director, Ethics, Safety and Industrial Relations
Approver:	Executive Director, Strategic Human Resources
Classification:	Unclassified
Date of Effect:	August 2015
Next Review Date:	August 2018

File Reference:

Key Words: Ethics, code, conduct, corruption, maladministration, public comment, disclosure, alcohol, drugs, tobacco, gambling

15. Document history

Version	Date	Reason for Amendment
0.1	26/05/2015	Development of consolidated Department of Justice document
0.2	30/06/2015	Referral to HR leadership team and HR sub-committee for review and feedback
0.3	17/08/2015	Feedback considered by SME and Owner, incorporated as appropriate and referred back to HR leadership team and HR sub-committee for final approval
1.0	26/08/2015	Final Approval by the Department of Justice Executive Committee
1.1	27/08/2015	Incorporated feedback from CEO NSW Trustee and Guardian
1.2	08/09/2015	Incorporated feedback from Justice legal
1.3	07/01/2016	Incorporated feedback from Organisational Performance and Operations Division
1.4	03/05/2016	Improvement to form, approval and feedback process

Printed copies of this document may not be up to date.
Ensure you have the latest version before using this document.

16. Attachment 1 – Conflict of Interest Form

Date of declaration:	
Name of person making the declaration:	
Role / Title:	
Business Division:	
Location:	
<p>A conflict of interest may be; actual, potential or perceived. Regardless of the type of conflict of interest it is imperative it is:</p> <ul style="list-style-type: none"> • declared by the individual to a supervisor or manager, and • resolved so the conflict is removed, or • managed so as to reduce any ongoing conflict. <p>(Free text fields are to be typed only – <u>not hand written</u>)</p>	
1. Declaration of conflict of interest (to be completed by the employee)	
<p>Actual conflict of interest is where you already have a conflict.</p> <p>Potential conflict of interest is where the conflict is about to happen or could happen.</p> <p>Perceived conflict of interest is where other people might reasonably think you are not being objective.</p>	<p>Please provide details of <u>date</u> you became aware any actual, potential or perceived conflicts of interests. Attach any additional materials, if necessary.</p> <p><u>Conflict Type (Actual/Potential/Perceived):</u></p> <p><u>Date:</u></p> <p><u>Describe conflict:</u></p>
<p>Describe how the situation might affect or be seen to potentially affect you or the Department of Justice. Attach any additional materials, if necessary.</p>	

2. Proposed management of the conflict (to be completed by the employee)

Please indicate how you propose to manage your conflict.

Declaration – I confirm that the above details are correct to the best of my knowledge and I make this declaration in good faith.

Name:

Signature:

Date:

3. How the conflict of interest will be managed (to be completed by the supervisor/manager)

There are five options for managing or resolving a conflict of interest:

Restrict the employees involvement in the process

Recruit an independent third party to oversee part or all of the process

Remove the employee from the process

Relinquish the private interest that causes the conflict

Resign from the Department of Justice

The following plan has been agreed to manage the declared conflict of interest.

Approval (Supervisor/Manager)	
Name: Signature:	Date:

Please forward this signed declaration to the Director, HR Business Partner for approval.

4. Director, HR Business Partner Approval (or Delegate)	
Approval – I approve the above Conflict of Interest Form	
Signature: Director, HR Business Partner or Delegate	Date:

Please forward this signed declaration to the Director, Ethics, Safety and Industrial Relations (ESIR) to be reviewed and recorded on the Conflict of Interest Register, which is kept and maintained by ESIR.

5. Director, Ethics, Safety and Industrial Relations Review (or Delegate)	
Signature: Director, ESIR or Delegate	Date: