

OFFICIAL

Office of the
Children's Guardian



Code of ethics and conduct

November 2024

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Introduction

When you work in the NSW government sector, you have an important role to play in maintaining confidence in our systems of government.

As government sector employees, the work we do makes a difference in the lives of millions of people across NSW. The communities we serve both expect and need us to act ethically, fairly and comply with the law. We must spend public money wisely and maintain trust in our systems and institutions now and in the future.

The Code of Ethics and Conduct for NSW Government Sector Employees (**the Code**) sets out the minimum expected standards of behaviour that we must meet.

The Code provides a framework to guide our decisions and behaviour, no matter our level or our job.

We are expected to know and act in accordance with the updated Code of Ethics and Conduct for NSW Government Sector Employees. The Code applies to all NSW government sector agencies, which means it applies wherever your career may take you in the NSW government sector.

To meet these expectations, we are all responsible for understanding the requirements of the Code of Ethics and Conduct which must be read together with other OCG policies and procedures.

Each year, we ask our employees to make a declaration to ensure everyone understands and is up to date with the Code of Ethics and Conduct.

Application

The Code is adopted under section 8A of the Government Sector Employment Act 2013 (NSW) (GSE Act) and applies to all NSW government sector employees. The Code identifies mandatory requirements for all government sector employees that are consistent with Part 2 of the GSE Act (the Ethical Framework for the government sector).

This Code applies at all times when government sector employees are acting in the course of, or in connection with, NSW government sector employment. The Code also extends to conduct outside of work hours where that conduct may affect your employment. This includes conduct that is undertaken in a private capacity, but is inconsistent with your ability (or could reasonably be perceived to inconsistent with your ability) to fulfil your duties in your government sector role.

The Code applies from 1 November 2024.

The ethical framework for the government sector

All NSW government sector employees are required and expected to act ethically, lawfully and in the public interest. This can be achieved by adhering to the government sector core values of Integrity, Trust, Accountability and Service. These core values are underpinned by 18 principles, which will help you put the values into action. Our core values and principles are collectively prescribed by the *Government Sector Employment Act 2013* (GSE Act) as the Ethical Framework for the government sector (**the Ethical Framework**) and are all of equal importance.



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.

The OCG values

The OCG Code of Ethics and Conduct is a practical guide, setting out the NSW public sector expectations and your responsibilities and provides crucial information for your day-to-day work.

We have adopted the NSW public sector values of Integrity, Trust, Service, and Accountability. We have extended the core values to also include the additional OCG values of Respect and Empathy.



Who must comply with this Code?

Everyone working for the OCG must comply with this Code.

This Code is adopted under section 8A of the Government Sector Employment Act 2013 (NSW) (GSE Act) and applies to all NSW government sector employees.

The Code identifies mandatory requirements for all government sector employees that are consistent with Part 2 of the GSE Act (the Ethical Framework for the government sector).

The Code applies at all times when you are acting in the course of, or in connection with, NSW government sector employment. The Code also extends to conduct outside of work hours where that conduct may affect your employment. This includes conduct that is undertaken in a private capacity, but is inconsistent with your ability (or could reasonably be perceived to be inconsistent with your ability) to fulfill your duties in your role.

This could include where you are representing the NSW Government at conferences, at training events, during official travel, participating in online communications, and attending work-related social events.

Specifically, this Code applies to:

- all Public Service Senior Executives, including the Children's Guardian and Assistant Children's Guardian
- all employees, including managers and supervisors, whether employed on a permanent, temporary, casual, graduate, intern, or cadetship basis
- all contractors and agency workers performing work for or on behalf of the OCG
- any employee of another public sector agency on secondment to the OCG
- work experience students and volunteers, and
- all vendors and suppliers. They are to also comply with the Statement of Business Ethics and the Supplier Code of Conduct.

Roles and Responsibilities

All NSW government sector must act in a way that is consistent with the Ethical Framework and must comply with this Code. Each of us have a responsibility to conduct ourselves in a manner that reflects our core values in action. This includes the responsibility to speak up when we see any behaviour that we believe does not live up to the Ethical Framework and the general principles and requirements in this Code.

Managerial behaviour sets the tone for the conduct of all employees. Managers (including senior executives, senior managers, supervisors and others holding senior positions) play a critical role in promoting a culture that values high ethical standards and ethical behaviour. In addition to their responsibilities as government sector employees, all managers are required to model and promote this Code, and ensure that workplace culture, practices and systems operate consistently with the Ethical Framework.

In addition to having the responsibilities of managers, the Children's Guardian and senior executives are required to oversee the implementation of the Code and the Ethical Framework.

Employee responsibilities

We must all work ethically. To work ethically means you must:

- treat your colleagues, customers and stakeholders fairly, consistently with dignity and respect and demonstrate high standards of personal behaviour consistent with our values
- behave in a lawful, professional and reasonable manner and always act in the best interest of the OCG
- understand the duties, responsibilities and accountabilities of your role and perform these safely, honestly, courteously and fairly
- declare in writing any and all of your private interests that may be an actual or a perceived conflict of interest with your work
- work in a safe, responsible and effective manner that ensures not only your own safety but the safety of others
- comply with all instructions issued to protect your health and safety or the health and safety of others
- maintain the integrity and security of official documents and information, including when you are working remotely or from home
- not share internal knowledge that has not been made public with anyone
- clearly document reasons for your decisions
- comply with all organisational policies and procedures
- report possible breaches of the GSE Act to your manager or appropriate senior manager, and
- always comply with the law and understand how relevant legislation impacts your work.

Manager responsibilities

Managers are responsible for the fair and effective management of their employees. As a manager, you have additional responsibilities to promote and demonstrate ethical conduct, fairness and equality, and lead by good example.

In addition to the above responsibilities, all managers and directors must:

- model ethical, efficient and safe work practices required of all public sector employees
- champion the implementation of the ethical values at work
- recognise and celebrate employee and team conduct that exemplifies these values
- be open, honest, respectful and comprehensive in your communication with all employees, including about standards of conduct and behaviour in the workplace
- ensure our workplace culture, practices and systems (such as recruitment and promotion) are consistent with the ethical values
- promote a workplace that is free from discrimination, bullying, harassment and inappropriate conduct
- support the right of employees to raise workplace concerns, grievance complaints or allegations of discrimination, harassment and workplace bullying through internal and external processes

- proactively identify situations that may lead to corrupt conduct and ensure these are managed in accordance with relevant policies and procedures
- inform employees of their duties, responsibilities and expected performance standards with adequate information, guidance and feedback so they can undertake them effectively, efficiently and safely, and
- facilitate a positive workplace environment through open, honest, two-way constructive communication.

In addition to the above responsibilities, the senior executive, have responsibilities to:

- ensure the general conduct and management of the functions and activities of the OCG accord with the government sector and the OCG values
- oversee the implementation of these values and make improvements to systems, processes and culture where necessary, and
- fulfil the obligations of the *Independent Commission Against Corruption Act 1988 (section 11)* and report a complaint about a matter that concerns, or may concern, corrupt conduct.

Minimum expected standards of behaviour

All government sector employees are expected to know and act in accordance with the Ethical Framework for the government sector and the general principles and requirements set out in this Code.

The minimum expected standards of behaviour outlined below are not an exhaustive list of what to do in every aspect of your work. Rather, they are general principles and requirements to apply when carrying out your work and should be applied to decide on an appropriate course of action when faced with an ethical issue or professional decision.

If in doubt, you should talk to your manager, People and Culture or relevant senior executive for advice on Code compliance.

Acting in the public interest	Lobbying
Act lawfully	Making public comment
Bullying, unlawful discrimination and harassment in the workplace	Recruitment
Confidentiality, privacy and records management	Risk management
Conflicts of interest	Secondary employment
Gifts, benefits and hospitality	Use of public resources
	Workplace health and safety

Acting in the public interest

You should treat all people you interact with in the course of work:

- equally without prejudice or favour
- with honesty, consistency, impartiality and respect.

You should always:

- place public interest over private interest
- uphold the law, institutions of government and democratic principles
- provide apolitical and non-partisan advice
- provide transparency to provide public scrutiny
- be fiscally responsible and use resources efficiently, effectively and prudently.

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

Act lawfully

You must always act lawfully and uphold the law.

You must comply with this Code as well as any relevant legislative, industrial and administrative requirements and any lawful direction made by a person with the authority to give such a direction.

Bullying, unlawful discrimination and harassment in the workplace

Everyone is entitled to be treated fairly and with courtesy and to feel safe and respected.

Bullying, unlawful discrimination and all forms of harassment (including sexual harassment) are not acceptable under any circumstances and not tolerated in our workplaces.

You must not bully, unlawfully discriminate against or harass anyone in your dealings with them.

You should ensure you understand and adhere to your legal obligations and OCG's policies and procedures in relation to workplace bullying and sexual harassment, including unlawful discrimination and other forms of harassment.

Managers play a critical role in actively preventing and responding to bullying, unlawful discrimination and other forms of harassment (including sexual harassment) and should familiarise themselves with these obligations. You should refer to [OCG Bullying and Harassment Free Workplace Policy](#) for more information.

Confidentiality, privacy and records management

Confidentiality

Government sector agencies hold and manage large amounts of information. This information needs

to be managed in accordance with relevant legislative obligations and agency policies.

Unless otherwise authorised, you must maintain the confidentiality, of all official information (including confidential, personal and other sensitive information or documents held by the OCG that is not publicly available, that has not been published or that you are not authorized to disclose.

You may only disclose official confidential information when you are authorized to do so, including when permitted or required by law or legal process to do so.

Misuse of information acquired in the course of your employment may amount to misconduct, an offence under applicable criminal, privacy, information access, or State Records legislation and/or serious wrongdoing.

Privacy

You must protect personal information and health information and comply with applicable privacy obligations and [OCG's Privacy Management Plan](#) and [OCG's Data Breach Policy](#).

The *Privacy and Personal Information Protection Act 1998 (NSW) (PPP Act)* outlines how NSW public sector agencies are required to manage personal information. The *Health Records and Information Privacy Act 2002 (NSW) (HRIP Act)* outlines how NSW public sector agencies are required to manage health information.

Records management

You must comply with record-keeping obligations that apply to your role and the OCG's records management policy. You must not destroy records without proper authority.

Conflict of Interest

A conflict of interest exists when a reasonable person might perceive that your personal interest(s) could be favoured over your public duties.

A conflict may arise from a range of factors, including:

- personal relationships
- secondary employment
- membership of special interest groups, and
- your ownership of, or financial interest, in property, shares or companies.

Conflicts of interest may also arise due to your personal beliefs or attitudes that could influence, or be perceived to influence, your impartiality or decision-making. It is your responsibility to identify and declare conflicts of interest.

To determine if a conflict of interest exists, ask yourself:

- Do I have a personal interest?
- Do I have a public duty?
- Is there a connection between my personal interest and my public duty?
- Could a reasonable person perceive that my personal interest might be favoured?

It is not necessarily unethical to have a conflict of interest. However, you should avoid placing

yourself in conflicting situations wherever possible. Failing to disclose and manage a conflict appropriately may amount to misconduct and/or serious wrongdoing.

Where you have a conflict of interest, you must:

- always disclose the conflict of interest in accordance with the Code as soon as you become aware of the conflict, and
- work with the appropriate person with responsibility for managing the conflict to resolve any conflicts in the public interest, rather than your own or another person's personal interest.

Managers or those responsible for managing a conflict of interest should:

- ensure the conflict is appropriately documented
- consider whether the circumstances warrant removing the employee from the duties that are in conflict with their private interests
- approve a management plan to eliminate or manage the conflict in the public interest, and
- monitor the situation to ensure compliance with the agreed management plan.

Gifts, benefits and hospitality

In the course of your work, you – or, occasionally, your family, relations, friends or associates – might be offered gifts, benefits or hospitality by customers, clients, applicants, suppliers, or other persons or organisations.

Where a gift, benefit or hospitality of token value is offered simply as a memento or a small token of appreciation, accepting it is unlikely to be inconsistent with your obligations under the Ethical Framework for the government sector.

However, you should always be aware that gifts, benefits or hospitality might be offered to influence you when making a decision, or to provide a favour which will advance the interests of the giver, either now or in the future.

You should never:

- solicit gifts, benefits and/or hospitality from anyone
- accept any gifts, benefits and/or hospitality offered to you that is intended, or likely, to cause you to act in a certain way
- accept any gift, benefit and/or hospitality where there could be a perception that it has been offered as an inducement or incentive to act in a certain way
- accept any gift, benefit and/or hospitality for a family member, relation, friend or associate that is intended as, or could reasonably be perceived to be, an inducement or incentive to act in a certain way, or
- accept any gift, benefit and/or hospitality where you currently, or may in the future, exercise discretion in the making of a decision affecting the giver.

You must refuse all bribes or inducements and report attempts of bribery, and the offer and acceptance of certain gifts and benefits in accordance with the [OCG Gifts and Benefits policy](#). You are also responsible for ensuring relevant gifts and benefits, including those that are declined, are declared and recorded on the Gifts and Benefits Register.

Lobbying

NSW public sector officials are required to act impartially in the public interest when carrying out their public duties, including when being lobbied, or making decisions after being lobbied by lobbyists.

You must comply with the values, principles and requirements in this Code and Premier's Memorandum M2019-02 *NSW Lobbyists Code of Conduct*. The *Lobbying for Government Officials Act 2011* (NSW) restricts lobbying of Government officials by lobbyists, and requires lobbyists to comply with ethical standards of conduct and other requirements set out in the Lobbyists Code of Conduct. It is important for public confidence in the integrity of government that lobbying is carried out with appropriate probity and transparency.

Making 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:

- profiles or activities on social media
- comments on internet sites or broadcast by electronic means
- public speaking engagements
- comments to radio, television or print reporters (including letters to the editor)
- comments in books, journal or notices, and
- appearances before Parliamentary Committees.

You must not make any public comment on behalf of the OCG or in the course of your work unless authorised to do so. When making an authorised public comment for official duties, you should:

- only state the facts
- avoid expressing opinions on government policies or government decisions, unless you are authorised to do so or this is part of OCG's role, and
- only disclose information that is publicly available or has been published or is information that you are authorised to disclose.

You are able to participate in public debate on political and social issues in a private capacity, including on social media. In making public comments in a private capacity, you should ensure your comments:

- are clearly identified and understood to be your personal views
- do not discuss or disclose information concerning your work or workplace that is not publicly available
- are lawful – do not post material that is defamatory, bullying, harassing, breaches privacy, is in contempt of court, breaches intellectual property rights or is otherwise unlawful.

You must not act in a way that casts doubt on your ability, or the ability of OCG, to act impartially, apolitically and professionally.

Recruitment

If you are involved in any recruitment, you must comply with the Ethical Framework requirement to recruit and promote employees on merit, any comply with applicable legislative requirements concerning the recruitment process.

You must also promptly declare any conflict of interest as required by this Code. Where applicable, you must work with the appropriate person with responsibility for managing the conflict to resolve any conflicts in the public interest, rather than your own or another person's personal interest.

Risk management

When carrying out your work or contributing to the making of decisions, you have a duty to objectively identify any risks and report them to your manager or the relevant decision maker, so they can be assessed and appropriately managed in a lawful way. Risks must be managed in accordance with applicable mandatory NSW Treasury policies.

Secondary employment

You may for various reasons wish to undertake either paid or unpaid work in addition to your role within the government sector.

You are required to comply with applicable legislative requirements concerning secondary employment. For Public Service employees, see clause 7 of the Government Sector Employment Regulation 2014 (NSW).

When considering secondary employment, you must assess whether it may adversely affect your role.

Taking on additional work, may give rise to a conflict of interest, or reasonably perceived conflict, between your primary and secondary employment. This applies regardless of whether you are working full time, part time or on a temporary basis.

If this occurs you should declare the conflict in accordance with this Code and resolve any conflicts in the public interest, rather than your own or another person's personal interest.

Before engaging in any form of secondary employment outside of your OCG role, ensure to obtain approval from a delegated officer within the OCG.

Use of public resources

You must use public resources in an efficient, effective and prudent way.

You must not use public resources – including such things as money, property, equipment or consumables – for any unauthorized purpose. You must not use your position, or access to government resources and information, for personal gain or the gain of another person.

When procuring goods and services for your employer, you must ensure you:

- declare any conflicts of interest

- work with the appropriate person with responsibility for managing any conflict to resolve any conflicts in the public interest, rather than your own or another person's personal interest
- comply with applicable NSW Procurement Board policies
- comply with the principles of probity and fairness
- take reasonable steps to ensure the goods and services are not the product of modern slavery, and
- obtain value for money.

You are required to comply with this Code, your legislative obligations and the NSW Government Procurement Policy Framework.

Workplace health and safety

We all have a role to play in ensuring the safety of ourselves and others in the workplace.

You must take reasonable care for your own health and safety and not do anything that adversely affects the health and safety of others. You should report risks to health and safety in accordance with your duties under the Work Health and Safety Act 2011 (NSW), OCG procedures, and familiarise yourself with the work, health and safety arrangements in your workplace.

Managers may have more substantial obligations involving the safety of those under their supervision or attending work locations, and should familiarise themselves with these obligations.

Behaviour contrary to the Code

Behaviour contrary to this Code or to the Ethical Framework for the government sector can create an unsafe workspace, bring individuals into dispute, undermine productive relationships with colleagues and the public, and damage public trust for the OCG or the broader government sector.

A contravention of this Code may be misconduct for the purposes of section 69 of the GSE Act, or other legislation governing the conduct of government sector employees in the Teaching Service, Policy Force, Health Service, Transport Service and other services of the Crown.

If you are unsure of what is appropriate conduct in a particular situation, you can discuss the matter with your manager, People and Culture, or senior executive to discuss options and also may seek the guidance from the Public Service Commissioner.

If you see someone act in ways that are contrary to this Code, you should raise your concerns in accordance with OCG's policy framework for reporting wrongdoing.

How to report serious wrongdoing?

The *Public Interest Disclosure Act 2022 (NSW) (PID Act)* establishes a framework to encourage people who work in the public sector to report serious wrongdoing. Serious wrongdoing means one or more of the following:

- corrupt conduct
- serious maladministration

- a government information contravention (other than a trivial failure)
- a local government pecuniary interest contravention
- a privacy contravention (other than a trivial failure), or
- a serious and substantial waste of public money.

If you become aware of serious wrongdoing, you can report your concerns in accordance with the [OCG's Public Interest Disclosure policy](#). You can also contact the relevant integrity agency body (such as the Ombudsman, Independent Commission Against Corruption, Auditor-General, or Law Enforcement Conduct Commission).

If you believe conduct may be illegal or constitute a criminal offence, you should follow OCG's policies for reporting wrongdoing or, if appropriate report the matter to NSW Police Force.

Under the PID Act, it is both a criminal offence and misconduct to take detrimental action against a person who makes, or is suspected of making, a public interest disclosure. The PID Act provides a range of additional protections against detrimental action.

When a public official (as defined in the PID Act) reports suspected or possible wrongdoing in the public sector, their report will be a public interest disclosure (PID) if it has certain features which are set out in the PID Act. PIDs must be managed in accordance with the PID Act.

Further information about public interest disclosures is available on the [NSW Ombudsman's website](#).

Protecting yourself when reporting suspected breaches

When you voluntarily report or disclose matters that you consider to be fraudulent or corrupt, you are protected by the [Public Interest Disclosures Act 1994](#). Under the Act, it is both a criminal offence and misconduct to make reprisals against an employee who makes a public interest disclosure.

To be protected under the Act, you must make your report as follows:

- internally – to the person or persons nominated in the [Public Interest Disclosures Policy](#)
- externally – through any of the following agencies, depending on the nature of the disclosure:
 - disclosures concerning corruption should be made to the [Independent Commission Against Corruption](#)
 - disclosures concerning maladministration should be made to the [NSW Ombudsman](#)
 - disclosures concerning serious and substantial waste of public money should be made to the [Auditor-General](#), or
 - disclosures concerning government information contravention should be made to the [NSW Information Commissioner](#).

Actions when allegations of misconduct are made

For employees of Public Service agencies, the GSE Act and *Government Sector Employment (General) Rules 2014 (GSE Rules)* set out how allegations of misconduct are to be dealt with, which include:

- requirements that the relevant employee be advised of the detail of the allegation

- the action that may be taken against the relevant employee if there is a finding of misconduct
- the process to be undertaken to investigate and resolve the matter, and
- that the relevant employee be provided a reasonable opportunity to respond to the allegations and the proposed action to be taken.

Criminal conduct

If you are charged or convicted with any offence which may impact on your ability to undertake part or all of the inherent requirements of your role, you must immediately notify your director. You must immediately notify your director if your Working with Children Check (WWCC) clearance is barred or if, for any reason, you cease to hold a valid clearance.

If you are charged or convicted with an offence punishable by imprisonment for 12 months or more (including an offence committed outside NSW that would be an offence so punishable if committed in NSW), you must immediately notify your director.

If there is sound evidence that you have committed a criminal offence at work or related to work, the OCG may take disciplinary action against you as well as notifying the police or other relevant external authority.

Possible consequences of breaching the Code

All breaches of this Code and/or any conduct that is contrary to the NSW Government sector core values will be dealt with appropriately.

If you are found to have breached this Code, an authorised public service agency executive (such as the Children's Guardian, the Aboriginal Assistant Guardian or a director) may take the following actions:

- caution or reprimand you
- commence counselling
- implement a Performance Improvement Plan (PIP)
- assign you to a different role
- reduce your salary
- reduce your classification or grade
- terminate your employment after giving you an opportunity to resign
- terminate your employment without giving you an opportunity to resign, or
- refer matter to other Government Agencies, such as the Police and/or Independent Commission Against Corruption.

Declaring a private interest as a senior executive

A senior executive (including 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 reasonably be perceived to influence, the senior executive's duties, including decisions

made, or advice given by the senior executive.

Where a senior executive has no such private interests to declare, they must declare a 'nil return'.

After a senior executive makes an initial declaration, a fresh declaration must be made:

- as soon as practicable, following any relevant change in the senior executive's private interests
- as soon as practicable, following the senior executive's assignment to a new role or responsibility, or
- at least annually.

An acting senior executive is not required to make a fresh declaration on each 'acting' occasion and may rely on their most recent declaration provided:

- that declaration is brought to the attention of their current manager, and
- there are no additional undeclared 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 whilst they are acting.

A senior executive must provide their declaration to the head of agency. The Children's Guardian must provide their declaration to the Secretary of the Premier's Department.

Responsibilities of person receiving declaration

Government sector agency heads are responsible for ensuring that procedures are in place to require that:

- senior executives complete declarations
- handling and storage of declarations comply with the responsibilities of the PPIP Act
- declared conflicts of interest are managed and monitored.

Policy metadata

Category	Description
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