

# Code of Ethics and Conduct

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## Code of Ethics and Conduct

<b>Policy/Procedure Document Title:</b>	Code of Ethics and Conduct
<b>Summary:</b>	The Code identifies mandatory requirements and best practice for all government employees which is consistent with Part 2 of the NSW <i>Government Sector Employment Act, 2013</i> (the Ethical Framework for the government sector)
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## Children's Guardian's Message

The work we do carries with it an obligation to act in the public interest. It requires standards of professional behaviour and conduct from all of us that promote and maintain public confidence and trust in our work.

To that end the Office of the Children's Guardian (OCG) has adopted the Code of Ethics and Conduct (herein called the "code") developed by the Public Service Commission and issued in accordance with the Public Service Commissioner's direction of 30 April 2015.

This code is supplemented by the conduct and behaviour standards of the OCG's current Code of Conduct to ensure business risks associated with our operating environment are identified and properly managed. This document will be known as the *OCG Code of Conduct Guidelines*.

The Code of Conduct:

- Is grounded in the values and principles of the public sector, namely; integrity, trust, service and accountability
- Empowers us to carry out our respective roles and responsibilities in a way that promotes a better working environment for ourselves and for everyone who comes into contact with the OCG
- Is an important reference document that provides us with an ethical framework for our decisions, actions and behaviours; hence it ensures effective cooperate governance and positive working relationships
- Informs our stakeholders, business partners and members of the public about the standards of behaviour they can expect from us when dealing with the OCG.

The Code of Conduct offers a broad framework to:

- Guide our daily professional and personal conduct in the workplace and when conducting activities that may impact on the OCG
- Support sound and ethical decision making and efficient and effective and prudent use of resources
- Help us decide on an appropriate course of action when we are faced with an ethical issue

Senior executives are reminded of their obligations under this Code to declare any private interests on commencement of their employment, when circumstances change and then annually when directed. Other staff may also be required to complete these declarations where there may be a potential for conflicts of interest. The Code sets out the process for making declarations.

All of us are responsible for our own actions and for understanding our obligations under this Code. You are encouraged to raise any questions or concerns about workplace behaviour, decisions or actions you might have. If you do not understand what the Code requires – or if you come across a situation where you are not sure how you ought to proceed – you should seek further guidance from your manager.



Kerryn Boland  
**Children's Guardian**

# 1. Introduction

## 1.1 Purpose

The purpose of the Code is to identify mandatory requirements and best practice conduct for all government employees which is consistent with Part 2 of the NSW 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 including when they are representing the OCG at meetings, attending conferences and training events, travelling for work purposes and attending work-related functions. The Code also specifies actions to be taken if there are breaches, or allegations of breaches, of the Code.

## 1.2 How is the Code structured?

The Code of Ethics and Conduct is divided into two sections:

The Ethical Framework – this section outlines the values, principles and standards expected of all government sector employees when fulfilling their duties which are mandated under the Ethical Framework.

It also describes the specific leadership responsibilities of managers and supervisors in managing the conduct of their staff.

Specific Obligations – this section details the specific conduct and behaviour standards of the OCG as we make decisions, take actions, address problems and meet the accountabilities and objectives of our positions.

The Code operates in conjunction with the legal and regulatory requirements of federal and state legislation, whole of government policy and directives and industrial instruments. It also operates with the OCG policies, procedures, guidelines and work instructions.

## 1.3 Who has to comply with the Code?

This Code applies to:

- The Children's Guardian
- Senior Executives
- All managers, supervisors and employees whether they are employed on an ongoing, temporary or casual basis
- Any employee of another government sector agency on secondment to the OCG
- All contractors and agency staff engaged to work for or on behalf of the OCG
- Work experience students and volunteers

The Code does not apply to our business partners and suppliers, including consultancy firms and sole traders.

For the purpose of this Code:

- References to “employee” includes all of those to whom the Code is stated to apply
- References to managers include supervisors.
- References to This Code also includes the OCG *Code of Conduct Guidelines*

You must comply with the code whenever you are performing your official duties, including when you are representing the OCG at meetings, attending conferences and training events, travelling for work purposes and attending work related functions.

#### **1.4 Review**

The Code may be amended from time to time by the Public Services Commissioner or the OCG when and where it is appropriate to do so.

#### **1.5 Legislation**

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

- *Government Sector Employment Act 2013* sections 23 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 Interests 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 ground to involve corrupt conduct and to comply with any requirements 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 reasonable handling of health information)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy safe workplaces)
- *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 the provision of services to, children and young persons, including

*obligations relating to the exchange of information and co-ordination of services between agencies)*

- *Child Protection (Working With Children) Act 2012 (regarding the functions associated with the administration of the Working With Children Check)*
- *Crimes Act 1900 (regarding criminal offences).*

## **2. The Ethical Framework for the Government Sector**

Part 2 of the GSE Act 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 agencies.

### **2.1 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.

### **2.2 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 and 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.

### **2.3 General provisions**

The Public Service Commissioner has the functions 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.

## **3. Mandatory Conduct**

All government sector employees 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 Executives have the responsibilities of government sector employees 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 interest are avoided or effectively managed.

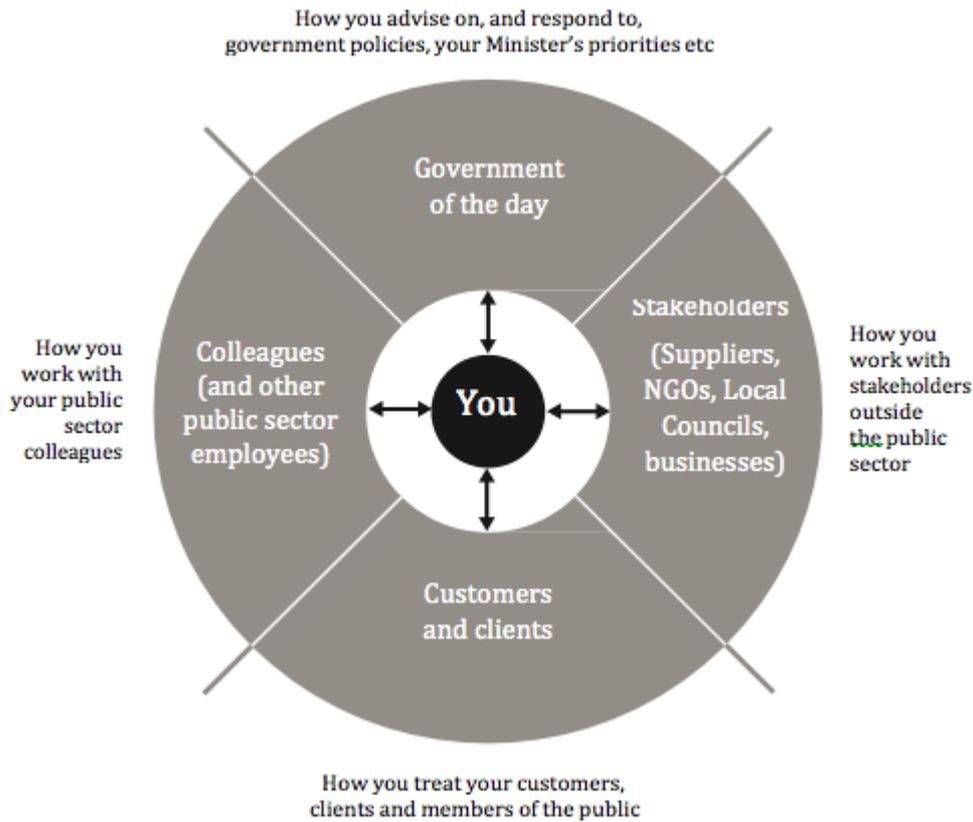
The Children's Guardian has the responsibilities of executives, and in addition has the responsibilities of:

- Lead and promote implementation of the Ethical Framework in the OCG
- Ensure the general conduct and management of the functions and activities of the OCG are in accordance with the core values of the Ethical Framework
- Oversee the implementation of the Ethical Framework and make improvements where necessary.

### 3.1 When is the Ethical Framework to be applied?

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 relationships are depicted in the diagram below:



### 3.2 How do I act 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, 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.

### **3.3 How do I manage conflict of interest?**

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 interest to your manager as soon as you are 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 to:

- Informing likely affected persons that a disclosure has been made, giving details and the OCG's view that there is no actual conflict or 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 the OCG'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.

For more details about managing conflict of interest you should refer to the OCG policy *Managing Conflicts of Interest*.

### **3.4 As a senior executive, how do I declare my private interests?**

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 interest 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 to the senior executive's private interests
- As soon as practicable, following the senior executives assignment to a new role or responsibility
- At least annually.

A senior executive must provide their declaration to the Children's Guardian.

The Children's Guardian must provide their declaration to the Secretary Department of Premier and Cabinet.

All declarations must be handled and stored in accordance with the requirements of the *Privacy and Personal Information Protection Act 1998*.

For more details about declaring private interest and accessing the template for making the declaration you should refer to the OCG policy *Register of Pecuniary and Private Interests*.

### **3.5 How do I treat colleagues, customers, clients and stakeholders**

All government sector employees are to treat their colleagues, customers, clients and stakeholders in the OCG and other agencies, and the government of the day by:

- Considering people equally without prejudice or favour
- Acting professionally with honesty, consistency and impartially
- Taking responsibility for situations, showing leadership and courage
- Placing their public interest over private 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 focus on efficient, effective and prudent use of resources.

### **3.6 How should I interact 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.

### **3.7 How do I use public resources appropriately?**

You must use public resources in an efficient, effective and prudent way. Never use public resources – money, property, equipment or consumables – for your own 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*.

## 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* can bring individual employees into disrepute, undermine productive working relationships in the workplace, hinder customer service delivery, and damage public trust in the OCG or the broader government service.

If you are unsure of what is appropriate conduct under any particular circumstances, discuss the matter with your supervisor, manager or the relevant member of the OCG executive. The Children's Guardian may also contact the Public Service Commissioner.

### 4.2 If you see behaviour contrary to this Code

If you see someone act in ways that are contrary to this Code, you should in the first instance discuss that behaviour with your immediate supervisor or manager, or report your concerns to any member of the OCG 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, the report your concerns to the OCG Public Interests Co-ordinator or Disclosures Officer, the Children's Guardian or the relevant investigating authority (such as the Ombudsman, Independent Commission Against Corruptions 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 has made a public interest disclosure.

For more information about making a public interest disclosure you should refer to the OCG policy *Internal Reporting*.

### 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 investigating an allegation of a behaviour that is contrary to this Code, you must ensure your decision-making is fair and reasonably acting consistently with four principles:

- Procedural fairness for both the complainant and the 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
- Meticulous recordkeeping, including recording of reasons for significant decisions.

For employees of the OCG the GSE Act and GSE Rules set out how allegations of misconduct are to be dealt with. Part 8 of the GSE Rules sets out the procedural requirements for dealing with an allegation of misconduct. This includes requirements that you will 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.

Actions that the Children's Guardian may take where there is a finding of misconduct against an employee include:

- Terminate the employment of the employee (without giving the employee the opportunity to resign)
- Terminate the employment of the employee (after giving the employee the opportunity to resign)
- Impose a fine on the employee (which may be deducted from the remuneration payable to the employee)
- Reduce the remuneration payable to the employee
- Reduce the classification or grade of the employee
- Assign the employee to a different role
- Caution or reprimand the employee.

## 5. Good Practice Guide

### 5.1 Good Practice Guide 1 – encouraging 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 the workplace are consistent with the Ethical Framework

### 5.2 Good Practice Guide 2 – 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 options** – Develop a mix of options that address these questions:
  - Duties: What are your responsibilities as defined by law, Government policies, agency procedures and your role description? Is it legal? Is it consistent with the principles and policies of the OCG and the NSW government sector?
  - Results: Which options will yield the greatest benefits (or the least harm) to the most people,

and minimise the number of people who might be disadvantaged – in the short and longer term? What will be 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 a 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?
  - Innovations: 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 that best addresses the above issues in the public interest, supports integrity, builds trust, delivers better services and ensure accountability. To establish is your actions are consistent with the Ethical Framework consider your answers to the following questions:
    - Integrity: Would you 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 sat your actions improved the quality of the services they receive?
    - Accountability: would the Children’s Guardian say your actions are consistent with the Ethical Framework?
  - **Implement** – 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.**