



Policy/Procedure Title:	Code of Conduct
Summary:	<p>The people of New South Wales have an expectation that business of the State will be conducted with efficiency, fairness, impartiality and integrity.</p> <p>The Code of Conduct is intended as a framework for ethical decision making by all staff engaged in the work of the Office of the Office of the Children's Guardian (OCG).</p>
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Code of Conduct

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1. Introduction

As public sector employees, we have a unique obligation to the public interest. This demands that we demonstrate standards of conduct and ethics that maintain public confidence and trust.

This Code of Conduct has been developed using the Model Code of Conduct for NSW Public Sector Agencies issued by the Department of Premier and Cabinet. This model sets out the minimum standard applicable to all public servants.

The Code sets standards of behaviour expected of us and provides a guide to solving ethical issues that may arise in the course of our work. The Code helps us maintain our reputation for integrity and fairness and to guide us in our decision making.

All employees, committee members and contractors are required to read this Code of Conduct and sign the statement at the end of this policy certifying that they have read and understood the Code and agree to abide by its contents.

2. Values embodied in the Code

The values embodied in this Code align with the core values for the government sector (Part 2, section 7, of the [Government Sector Employment Act 2013](#)), which are based on integrity, trust, service and accountability. In addition to these core values, the OCG values:

- respect for children and young people and their diversity; and
- acting in the best interest of children and young people.

3. Legislative obligations

The principal legislation applying to staff engaged in the work of the OCG, contractors and committee members is the [Children and Young Persons \(Care and Protection\) Act 1998](#), the [Child Protection \(Working With Children\) Act 2012](#), the [Government Sector Employment Act 2013](#), and the [Public Finance and Audit Act 1983](#) and associated relevant legislation, regulations, policies and procedures.

The OCG Code is also based on principles that apply to all New South Wales public sector Codes of Conduct. These include:

- **Public confidence** – the public has the right to expect that public sector organisations demonstrate the highest integrity and competence, treating all citizens fairly, reasonably and equitably; and
- **Rights of employees** – Public employees rights are the same rights of employees under the common law and they have the same protection under relevant legislation such as the *Public Interest Disclosures Act 1994* and the *Anti-Discrimination Act 1977*.

We need to know the responsibilities of our employment and be aware that they impose certain conditions on us. These include adherence to this Code of Conduct. We should be aware that a breach of this Code may result in counselling or disciplinary action under the provisions of the [Government Sector Employment Act 2013](#), or even criminal charges or civil action. Allegations of corrupt conduct against a member of staff will always be properly investigated,

and if found to be unfair, staff who have followed the Code may expect the Children Guardian's support against such allegations.

4. Personal and professional behaviour

We are expected to:

- Put the best interests of children and young people first
- Carry out our duties in an efficient, effective and economical manner
- Comply with all relevant legislative, industrial, policy or administrative requirements and financial delegations
- Maintain adequate documentation to support any decision made and make impartial decisions when using discretionary powers
- Keep up to date with advances and changes in our area of expertise
- Provide all necessary and appropriate assistance to members of the public
- Treat members of the public and other employees with courtesy, respect and sensitivity
- Adhere to child safe organisation work policies, practices and procedures
- Provide impartial advice and implement relevant government policies effectively, regardless of which political party or parties are in office
- Not take or seek improper advantage from authority or information gained in the course of our employment
- Report unethical behaviour or suspected corrupt conduct to senior management
- Where appropriate, make disclosures through the internal reporting procedures in accordance with the *Public Interest Disclosures Act 1994*.

If you have an ethical or moral objection to a task you are asked to undertake, you should seek resolution of the issue through discussion with a senior manager.

When dealing with colleagues or members of the public, we must not harass or discriminate on the grounds of sex, marital status, pregnancy, age, race, colour, nationality, ethnic or national origin, physical or intellectual impairment, sexual preference, or religious or political conviction. Supervisors and managers should understand and apply EEO principles.

Behaviour while not on duty is not of concern to the OCG unless it is unlawful or brings, or has the potential to bring, discredit to the OCG or staff. Any private activity that may adversely affect a staff member's performance of their duties will be regarded as a work-related issue. Such behaviour could include harming a child, alcohol or drug abuse, violent behaviour or sexual misconduct. Where this behaviour involves the OCG, there may be ground for the Children's Guardian to take disciplinary action.

5. Engaging with children and young people

Being a child-centred organisation is a feature of the OCG that differentiates us. This culture enables us to promote relevant best practice in working with children and young people and in helping keep children and young people safe. We are therefore responsible for understanding and modelling 'child-centredness' in all our work.

A high level of trust is placed on staff engaged in the work of the OCG by child-related employers, parents, children and young people. We are responsible for being aware of and adhering to the OCG's child safe policies and practices.

6. Fairness and equity

We must make sure that all matters we handle are dealt with consistently, promptly and fairly. Matters must be dealt with in accordance with approved policies and procedures and without discrimination on any grounds.

All the relevant facts and merits of each case are to be considered when using discretionary powers. The rules of natural justice require that people affected significantly by a decision have a right to put forward their case and for the decision to be made impartially.

Where no established policy or procedure exists for an activity we need to consider each case on its merits, using the following principles:

- The best interests of children and young people will apply, where they are involved;
- Necessary information and access should be made equally available to all existing and potential clients;
- Decisions must be tested against the same criteria or conditions;
- Procedures must give no advantage, or disadvantage to any individual or organisation; and
- Decisions must be based on established facts.

7. Accountability

We are responsible for our own acts and omissions and are accountable for them. If you are a manager or supervisor you are responsible for the employees that you supervise understanding the duties of their position, the results expected, their obligations under this Code of Conduct, the limits of their administrative and financial delegations and policies and procedures. Managers and supervisors have a responsibility to adhere to and promote the Code of Conduct through guidance and example.

8. Conflicts of interest

We are responsible for making sure that opportunities do not arise for our personal interests, associations and activities (financial or otherwise) to conflict with the proper exercise of our duties.

In many cases only you would be aware of the potential for conflict of interest. Any perceived potential or actual conflict of interest is to be notified to your supervisor, a senior manager or other relevant person (e.g. recruitment panel convenor).

Examples of conflicts of interest include:

- Serving as a member of a selection committee considering an application from a friend, relative or business partner;
- Providing advice in support of a decision that would have financial or other benefits for you, your friends, relatives or business partners;
- Exercising delegated powers to purchase goods, services or equipment from a supplier who then provides you with a benefit, hidden or otherwise, e.g. purchase of a computer from a supplier who then provides you with a laptop for private use; and
- Recommending a contract be issued to a supplier who provides you with a benefit e.g. access to sporting events or other hospitality.

9. Acceptance of gifts or benefits

Staff must not accept a gift or benefit that may be regarded by the public as likely to influence the way you do your job.

Any offer of a gift or benefit to you, your family or other people personally connected with you must be reported to your supervisor or a senior manager. All gifts must be reported on the OCG's Gifts and Benefits Declaration Form (attached). These are to be scanned and saved in the OCG's Gifts and Benefits Register in Objective: STRATEGIC MANAGEMENT /PROCEDURES/Corruption/Gifts and Benefits Register. The Children's Guardian or Directors may approve the retention of token gifts under certain circumstances provided that there is no possibility that the recipient might be, or appear to be, compromised in the process.

Hospitality is a type of benefit offered to staff and specifically relates to the friendly treatment of staff in the course of a business meeting or conference. This type of benefit is considered appropriate. Examples include: the offer of refreshments or lunch at meetings, and offers to pick or drop staff off at the airport or their accommodation when visiting regional centres.

Staff must advise the Children's Guardian of any bribes, favours or benefits offered or received. If you deal with, or have access to, sensitive matters or confidential information you should be particularly alert to inappropriate attempts to influence you.

10. Public comment

Public comment includes public speaking engagements, comments on radio and television and views expressed via social media and in letters to newspapers or in books, journals or notices where it might be expected that the publication, circulation or electronic communication of the comment will spread to the community at large. Comments made in email messages may also be interpreted as public comment.

While employees, as members of the community, have the right to make public comments and to enter into public debate on political and social issues, there are some circumstances in which public comment is inappropriate. These include:

- Where it would be inferred that the public comment, although made in a private capacity, is in some way an official comment of the OCG

- Where public comment, even though unrelated to your normal duties, amounts to criticism sufficiently strong or persistent to give the impressions that you are not prepared to implement or administer the policies of the OCG.

Media enquiries should always be referred to the OCG's Communication team. Comments made on union matters by a member of the union in their capacity as a local delegate or union office holder employed by the OCG, are permissible under this Code.

11. Use of social media

This section should be read in conjunction with the *Staff Use of Communication Devices Policy*.

As a general rule, staff should avoid using social media or social networking sites on the internet to comment on the work of the office unless you have prior permission or delegated authority of the OCG. Examples of social media may include (but are not limited to) Facebook, Twitter, MySpace, blogs, video/photo sharing sites, online forums and discussion groups.

Staff should be mindful that laws relating to employment continue to apply outside the workplace and that any comment made on a social networking sites that refers to the OCG, a client, a fellow staff member or any work-related activities may be in breach of office policy, legislation or secrecy provisions.

12. Privacy policy and use of official information

The [Privacy and Personal Information Protection Act 1998 \(PPIP Act\)](#) establishes a system for public sector agencies to handle personal information. Personal Information is any information or opinion about an identifiable person. This includes records containing name, address, sex, criminal records, etc. Much of the OCG's work involves access to confidential or sensitive documents which contain such personal information. The OCG has a legal obligation to deal with personal information in accordance with the PPIP Act. We must therefore take care to maintain the integrity and security of official documents and information entrusted to us in the course of our duties. Such documents and information must only be disclosed and used in the legitimate exercise of the OCG's functions.

Key provisions of the PPIP Act are the Information Protection Principles which create legal obligations and restrictions relating to the collection, retention, use and disclosure of personal information. Further information regarding the Information Protection Principles can be obtained from http://www.ipc.nsw.gov.au/agdbasev7wr/privacy/documents/pdf/fact%20sheet_privacy_ipps_public_sector.pdf

We may only disclose personal information and information obtained in the course of exercising OCG functions when the person to whom the information relates has given their consent, in accordance with the exercise of functions under the *Child Protection (Working with Children) Act 2012*, *Children and Young Persons (Care and Protection) Act 1998*, *Adoption Act 2000*, or when otherwise required or permitted to do so by law. There are specific provisions in a number of Acts, including the *Child Protection (Working with Children) Act 2012* and *Children and Young Persons (Care and Protection) Act 1998*, that require or

authorise OCG to release personal and other information in particular circumstances.

Staff should contact their manager or one of OCG's legal officers if they are unsure as to whether they may disclose personal or other information in a particular case.

Misuse of OCG information is specifically included in the definition of corrupt conduct in the *Independent Commission Against Corruption Act 1988*, which states:

'any conduct of an official or former official that involved the misuse of information or material that he or she has acquired in the course of his or her official functions whether or not for his or her benefit or for the benefit of any other person.'

Misuse of information includes:

- Disclosing information to a member of the public or to other public servants or Government departments/agencies without proper authority
- Accessing official information for personal benefit or advantage, or for the benefit or advantage of another person
- Seeking to take advantage of another person on the basis of information held in official records
- Providing or trading confidential information for use by private investigators, banks or credit agencies

We must not:

- Destroy, mutilate or hide any official document, including electronic information
- Alter or erase an entry in any official document
- Knowingly make or sign a false statement in any official document
- Wilfully or negligently make any false, misleading or incorrect statement
- Wilfully omit relevant facts or other information from statements or reports.

Staff who do not comply with their obligations in respect to personal or official information may be subject to disciplinary and, in some cases, civil or criminal action.

13. Security of information and premises

Security of information held by the OCG is critical to compliance with privacy obligations and fairness to individuals. Security of the OCG's premises is vital in this regard and also in regard to the personal safety of staff. We need to be familiar with the OCG's policies and procedures regarding storage, use and distribution of information held by the OCG. This includes information held in both document and electronic formats.

Staff may not access information or records that are not relevant to the execution of their duties. We must not take the OCG's files or other records home or away from the OCG's premises without management consent. If in the course of your duties you need to remove files or records from the OCG's premises you must maintain the integrity and confidentiality of those documents.

We must be aware of and follow the OCG's procedures in respect of access of employees and visitors to the OCG's premises. Staff in charge of OCG premises should follow the procedures regarding the issue of keys and security passes, and for securing the premises after hours.

14. Drugs and alcohol

You must not perform your job, remain at work or undertake any office related activity if you are impaired by alcohol or other drugs, including those prescribed by your doctor.

The OCG does not condone the use of illicit drugs or excessive alcohol. The Children's Guardian would expect that staff would not engage in such activities. More specifically:

(a) there is a prohibition on the use of illicit drugs:

- in the workplace, whether that be at the office or at a temporary location when required to travel;
- on the way to or from work; and
- at OCG related functions.

(b) there is a prohibition on the use of alcohol:

- during work hours;
- prior to attending work; and
- when driving office or hire vehicles.

The only exception would be moderate consumption at official office functions and at an occasional social luncheon. Regular consumption of alcohol during lunch hours is not considered acceptable.

15. Dress and appearance

As a general rule, your dress and appearance should be appropriate to your duties and the people with whom you are dealing with. Wearing thongs, revealing clothing, or clothes with offensive slogans are examples of inappropriate dress. Casual clothes are not to be worn on official visits or when interacting with external stakeholders, unless the wearing of such clothes is appropriate for the particular circumstances (e.g. if the likely audience is children or young people).

16. Use of the Children's Guardian's resources

The OCG's resources include staff time and expertise, information technology, hardware and software, other communication devices, facilities and equipment, stationery, furniture and furnishings, goods, supplies and services.

All staff engaged in the work of the OCG are expected to:

- Be efficient and economical in their use and management of the OCG's resources
- Be careful in the use of public property and services and not permit misuse by others

- Obtain official permission before any use of the OCG's facilities and equipment for personal purposes beyond what is authorised in the OCG's policies and practices
- Have the necessary delegation before incurring or authorising expenditure on behalf of the OCG.

16.1 Acceptable use

All usage of the OCG's facilities should be lawful, appropriate and ethical. The OCG's facilities are not to be used in any way that:

- could harm children and young people;
- is misleading or deceptive;
- could damage the OCG's reputation;
- could result in victimisation, harassment or vilification;
- is offensive, obscene, threatening or defamatory;
- violates Australian or State regulations or laws – e.g. 'computer hacking'; and/or
- is intended to have a destructive effect on storage, processing or communications network facilities.

A more detailed explanation of the acceptable use of communication devices, including examples of reasonable private usage and monitoring arrangements is set out in the OCG's 'Staff Use of Communication Devices Policy and Procedures', available on the staff intranet.

16.2 Private use

Computers, telephones and other equipment and facilities are available to allow staff to perform their official duties and should, with the exception of the 'private use' concession, be only used when carrying out our duties .

A limited, 'reasonable' amount of private use of the OCG's facilities is allowed so long as the 'reasonable' private use conforms to the 'acceptable use' conditions described above.

Examples of 'reasonable' private use include:

- Using internet resources for short periods during lunch breaks or outside working hours (unattended downloads or accessing inappropriate material is not considered 'reasonable').
- Using the telephone or facsimile for private calls, if they are short, infrequent and do not unduly interfere with work.

16.3 Monitoring

Personal use of the OCG's communication devices is not considered private, and in using this equipment we do not have the same personal privacy rights as we have when using private communication devices. Firewall software automatically monitors and records details of all incoming and outgoing traffic, including details of internet sites accessed and transmission details of emails sent and received.

These firewall logs are regularly reviewed to make sure that the policy is being followed.

17. External employment

The Children's Guardian's approval is required if you wish to engage in any form of paid employment outside your official duties. This requirement also applies to new employees who have external employment they wish to continue.

In all cases when external employment is considered, employees and Managers recommending approval, should give the OCG first consideration and avoid any situations that may give rise to, or appearance of, a conflict of interest.

18. Political participation

Any participation in political matters should not conflict with our duties as public servants. This is important in maintaining the confidence of the Children's Guardian and the general public in the impartiality of advice given and actions taken by public servants.

Staff experiencing a conflict of interest or appearance of a conflict of interest arising from political participation need to alert their manager and may need to take action to avoid that conflict.

When a staff member engaged in the work of the OCG is standing for election to State Parliament, they are not required to resign until declared elected. However, managers should advise employees who are intending to nominate as candidates, to consider appropriate leave arrangements to cover the election period.

19. Lobbying

Lobbying is the practice of influencing the decisions of Government officials and legislators by an external person, organisation or agency. A Lobbyist is a person who tries to influence legislation on behalf of a special interest or a member of a lobby. Governments often define and regulate organised group lobbying.

"A Lobbyist" does not include:

- an association or organisation constituted to represent the interests of its members e.g. a trade union;
- a religious or charitable organisation; or
- an entity or person whose business is a recognised technical or professional occupation.

All staff employed, contracted or engaged in the work of the OCG must comply with the [NSW Government Lobbyist Code of Conduct](#). It states that a Government representative shall not at any time permit lobbying by:

- a Lobbyist who is not on the Register of Lobbyists;
- any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist's details noted on the Register of Lobbyists in connection with the Lobbyist; or
- any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government

representative, has failed to observe any of the requirements of clause 4.3 of the [NSW Government Lobbyist Code of Conduct](#).

20. Reporting corrupt conduct and protected disclosures

We have a responsibility to notify supervisors or an appropriate senior manager of any unethical behaviour or wrongdoing by another employee.

The OCG has an internal reporting system for disclosing information that indicates any corrupt conduct, maladministration, serious and substantial waste of public money by a public authority or public official, and government information contravention. The OCG's *Internal Reporting Policy and Guidelines* provides staff with a system to disclose information confidentially to supervisors, the Children's Guardian or to the senior officers nominated in the Policy.

Alternatively, staff may make any such disclosures to the appropriate investigating authority under the [Public Interest Disclosures Act 1994](#). Provision is also made in the [Independent Commission Against Corruption \(ICAC\) Act](#) for any person to report directly to ICAC. The Children's Guardian is required by law to report any instances of possible corrupt activity to ICAC.

The [Public Interest Disclosures Act 1994](#) makes it an offence to act in reprisal against officers who make a protected disclosure.

21. Leaving the Children's Guardian

When leaving the OCG, staff must return all property of the OCG that is in their possession.

After leaving, staff must not misuse any information gained as a consequence of their employment with the OCG.

All staff should be careful in their dealings with former employees of the OCG and make sure that they do not give them favourable treatment or access to privileged information.

22. Sanctions

You should be aware of the various sanctions that may be applied for the breach of any provision in the legislation governing the work of the OCG or your employment under the [Government Sector Employment Act 2013](#).

Sanctions may be applied if you are involved in:

- unacceptable behaviour, either in the course of your duties or in your private life that would bring discredit on the OCG or the public service;
- unsatisfactory performance of your duties;
- breaches of this Code of Conduct;
- breaches of your terms of employment; and/or
- breaches of any provisions of the Acts referred to in this Code or any other legislation under which our office operates.

Any sanctions applied will depend on the seriousness and nature of the breaches and may include counselling by a supervisor or manager, a record of behaviour being documented and placed in your personnel file, the deferment of salary

increments, not being recommended for renewal of contract, formal disciplinary or criminal action.

CHILDREN'S GUARDIAN APPROVAL

A handwritten signature in black ink, appearing to read "K Boland".

Kerryn Boland

Children's Guardian



Code of Conduct Statement

Manager/Supervisor

I certify that I have explained the content, intentions and obligations of the Code of Conduct to the employee named below.

Employee name:

Manager name:

Manager position:

Manager signature:

Date:

Comment (if required*):

*If an employee chooses not to sign this agreement, the Manager must complete the form and include details of the employee's decision in the 'comment' section.

Employee

I have received and read my copy of the Code of Conduct, discussed its content with my manager and had the opportunity to clarify any issues.

I agree to abide by this Code of Conduct.

Employee name:

Manager name:

Employee signature:

Date:



Gifts and Benefits Declaration Form

To be completed by person accepting the gift/benefit:

RECIPIENT DETAILS

Name _____ Position _____

Location _____ Relationship to donor _____

DETAILS OF THE GIFT OR BENEFIT

Gift/benefit offered by _____ Date received _____

Description of gift/benefit _____

Estimated value (\$): _____

Signature _____ Email _____

To be completed by person approving the acceptance of the gift/benefit:

APPROVAL TO ACCEPT GIFT

Reason(s) for accepting gift/benefit *(Include details of benefit(s) to the OCG)*

Decision on what will happen with the gift/benefit

Name of approving officer _____ Position _____

Signature _____ Date _____

Once approved, scan and save electronically in Objective file: CPF13/0823