

## Code of Conduct

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### Purpose

This Code of Conduct (the Code) provides you with an ethical framework for your decisions, actions and behaviour as an employee of the NSW Department of Industry, Skills and Regional Development (NSW Department of Industry or the department). It outlines the principles for appropriate conduct and explains the standard of behaviour expected of you and others employed by the NSW State Government. It is part of your employment contract.

NSW Department of Industry acknowledges that it is not possible to provide detailed guidance in relation to all situations where ethical conflicts might arise. For this reason, if in any doubt, you should discuss decisions, actions and behaviour with your supervisor or manager. Employees in regulatory roles for industries such as liquor and gambling have additional probity and procedural responsibilities owing to the nature and sensitivity of their work and public concern about potential corruption in these industries.

The Code has been based the *Government Sector Employment Act 2013 (GSE Act 2013)*, the Public Services Commission's *Behaving Ethically: A Guide for NSW government sector employees*, and has been written in consultation with the department's divisions.

### Scope

The Code applies to everyone engaged by NSW Department of Industry and its constituent authorities, whether as an ongoing employee or under an employment contract, term appointment (including secondment), or temporary arrangement. Members of advisory committees/boards and contractors and consultants engaged on a fee-for-service basis must comply with *–NSW Government Boards and Committee Guidelines*. Staff involved in research should also refer to the department's *Guideline for the Conduct of Research*.

In addition, you are subject to all laws applying to employees in public sector agencies, in particular the *GSE Act 2013*, as well as other general laws affecting your employment relationship, including those listed under related legislation.

This Code does not prevent you from having all the normal rights of an employee under common and statute law, and you are not subject to unnecessary restrictions simply because you work for the NSW State Government.

### Policy

#### **Principles**

You are expected to maintain standards of professional behaviour that promote and maintain public confidence and trust in the work of government. The people of NSW expect the business of the State to be conducted with efficiency, economy, fairness, impartiality and integrity. To meet this expectation, you are expected to abide by the following core values and guiding principles:

### *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

You must promote confidence in the integrity of public administration by always acting in the public interest and not in your own private interest.

You are expected to protect the reputation of NSW Department of Industry. You should not engage in activities at work or outside work that would bring the department or the NSW Public Service generally into disrepute. Care should be taken to ensure that any industry or professional relationship you might form does not jeopardise or compromise your integrity and objectivity or infer to a reasonable person such a compromise. This extends to participation in events and functions. Staff with regulatory roles invited to industry related engagements, whether in or out of office hours, shall obtain the prior approval of their Manager.

You may discuss any concerns about this matter with your supervisor or manager.

You must treat members of the public and colleagues with respect. Treat them fairly and consistently, in a non-discriminatory manner, with proper regard for their rights and obligations.

You must ensure that decisions and actions are reasonable, fair and appropriate to the circumstances. Decisions should be based on a consideration of all the relevant facts and supported with adequate documentation.

You must perform duties in a professional and responsible manner to the standards required. You should not act in a manner that is discourteous or could be perceived as bullying or harassing.

### *Care for children*

If you work with children when you perform your duties, you are responsible for creating a workplace where children and young people under 18 years are safe and protected from sexual, physical and emotional abuse and neglect. Such abuse and neglect is an offence under the *Child Protection (working with children) Act 2012*

If you are a prohibited person as described under *Child Protection (working with children) Act 2012*, you are not permitted to apply for, undertake or remain in child-related employment.

If you work in child-related employment or are supporting a work experience placement, you must declare whether or not you are a prohibited person.

### *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

You are expected to implement the policies and decisions of the government of the day in an impartial manner, complying with any relevant legislative, industrial and administrative requirements. You are expected to provide advice in a timely and impartial manner. Such advice must be honest, frank, accurate and without material omission, and any limitations on the advice must be made clear. Advice should be developed with an understanding of its implications, anticipating issues and recognising the broader policy directions set by the government. You must not withhold relevant information from the government.

### *Service*

- Provide services fairly with a focus on customer needs
- Be flexible, innovative and reliable in service deliver.
- Engage with the not-for-profit and business sectors to develop and implement service solutions
- Focus on quality while maximising service delivery

You must respond to clients and stakeholders (both internally and externally) by providing all necessary and appropriate services and assistance. Always fulfil service performance standards as set out in performance management documents.

When you are asked to supply information you must, in consultation with your manager, first determine whether it is appropriate to provide the information, and if it is you must then provide it promptly and in a professional manner. You should also provide information that is relevant to your audience, in terms that they can understand and in an appropriate and accessible format. Make sure the information is clear, accurate, current and complete.

Wherever possible documents originating from within NSW Department of Industry should be written in the expectation they may be released publicly in some form at some stage.

When responding to requests, you are required to consider responsibilities and obligations in protecting or otherwise making available and providing access to information held by or on behalf of the department, including responsibilities and obligations in relation to:

- government information as dealt with under the Government Information (Public Access) Act 2009 (GIPA Act). More information on responsibilities and obligations under the GIPA Act can be found on the intranet in the Right to Information Policy.
- personal information as dealt with under the Privacy and Personal Information Protection Act 1998
- commercial in confidence information, as covered by any commercial agreements and the common law as it relates to confidential information.

### *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

You must keep up-to-date with advances and changes in the area(s) of your expertise and look for ways to improve performance and achieve high standards of public administration. You must use the authority and resources of your position for work-related purposes only. You must be efficient in your use of public and departmental resources and choose the most cost-effective options available.

### ***Risk management***

The department is committed to integrating effective risk management into planning, decision-making and operational processes. The department's enterprise risk management framework consists of a policy, procedures, corporate and divisional-level risk registers, and risk management plans.

All NSW Department of Industry staff are responsible for managing risk within their sphere of influence. This includes:

- using a risk management approach in all decision making
- participating in identifying, assessing, reporting and managing risk
- applying the department's risk management framework to their areas of responsibility.

### ***Ethical decision-making***

To help ensure decisions made by you at work are ethical, you should ask the following questions:

- Is the decision or conduct lawful?
- Is the decision consistent with government policy, the objectives of the department, and this code?
- What will the outcomes mean for you, your work colleagues, the department, and others? Do these outcomes raise a conflict of interest or lead to private gain at public expense?
- Can the decision or conduct be justified in terms of the public interest? Would it withstand public scrutiny?
- Am I the right person to be making this decision? Do I have the right delegation or should it be escalated to a higher level?

By asking these questions, in consultation with others such as peers or supervisors, you will help foster a climate of ethical awareness, conduct and decision-making in the department.

### *Conflicts of interest*

Conflicts of interest exist when it is likely that you could be influenced, or could be perceived to be influenced, by a personal interest in carrying out your public duty. Conflicts of interest that lead to partial or biased decision-making may constitute corrupt conduct.

In performing public sector duties you may find yourself confronted with a conflict of interest. Having the conflict of interest is not necessarily a problem; it is how it is managed that is important. The community has a right to expect that staff at all levels of the department perform their duties in a fair and unbiased way and that the decisions they make are not affected by self-interest, private affiliations, or the likelihood of personal gain or loss.

It is not always easy to decide when private and public duty are, or might be, in conflict with each other. Just because you have a personal interest outside work, it does not automatically mean there is going to be a conflict of interest. However, if something arises at work that is associated with those interests, then you may have a conflict of interest. Refer to NSW Department of Industry Conflicts of Interest policy for further guidance.

Activities or interests that are particularly sensitive to the work of the department need to be avoided or managed well to ensure conflicts of interest do not arise. Examples of activities or situations where conflicts of interest may arise include:

- participation in, memberships of or shareholdings in certain incorporated associations, unincorporated associations, Pty Limited companies, company limited by guarantee, industry and manufacturing associations
- membership of organisations or boards whose interests may conflict with those of the department such as entities that seek grants from NSW Department of Industry or normally lobby government on issues managed by the department (e.g. membership of associations such as the Coal Miners Association or board membership of certain incorporated entities)
- participation in certain types of secondary employment that could compromise your integrity or the integrity of the department
- your financial interests in a matter that the department deals with or friends or relatives who you know have a financial interest
- your personal beliefs or attitudes (commercial, religious, social, or political) that may influence the impartiality of the work you do or advice you give
- you have a relationship that goes beyond a professional working relationship with someone the department is dealing with or investigating
- you are to sit on a recruitment selection panel where an applicant is a friend or relative
- your party political activities or political comments you might make could be seen as relating to the department's work.

You may also own and operate a primary producing property or small business but must ensure that you do not claim or make use of any departmental service that is not available to other members of the community.

If you determine there is a conflict of interest or potential conflict, you must make a disclosure to your manager or the manager of the affected activity (such as the convenor of a recruitment panel or chair of a committee).

The disclosure should cover any interests or shares that you have in incorporated associations, unincorporated associations, Pty Limited companies, companies limited by guarantee, industry and manufacturing associations currently active in NSW that could compromise or be perceived to compromise the impartial performance of your duties. It should also cover any interests or shares that your immediate family (i.e. spouse, partner, or dependent children) have that you are aware of that could compromise or be perceived to compromise the impartial performance of your duties.

The manager receiving the declaration must make an appropriate decision with regard to each staff declaration. The options depend on the significance and nature of the conflict, and include:

- taking no further action (where the potential for conflict is minimal or can be eliminated by disclosure or effective supervision).

- notifying the relevant Director, Executive Director, Deputy Secretary, CEO, General Manager, Deputy Director-General, Director-General or Secretary if the conflict of interest is serious;
- restricting the affected staff member's involvement in the matter;
- sourcing independent oversight for the situation;
- advising staff to relinquish their personal interest;
- seeking a staff transfer (at no disadvantage in staff terms and conditions of employment) from the area of work or particular task where the conflict arises.

There are recognised risks associated with regulation of the liquor and gambling industries, and staff with regulatory functions in these areas must:

- disclose to their manager when dealing with spouses/partners, relatives, close friends, and their relevant, former colleagues, and disqualify themselves from dealing with them;
- not deal with clubs of which they are a member or clubs, licensed premises or charities in which they, their relatives or close associates have an interest;
- disclose in writing any pecuniary or other interest they hold in the liquor or gambling industries, regardless of whether or not there is an immediate real or potential conflict of interest.

In many cases you may be the only person aware of a potential or actual conflict. It is therefore your responsibility to avoid any financial or other interest that could compromise the impartial performance of your duties.

If you are uncertain whether a conflict exists, you could discuss the matter with your supervisor or manager and attempt to resolve any conflict of interest that may exist.

Disputes over alleged conflicts of interest may be resolved through the department's Grievance Management procedures.

#### *Gifts and benefits*

A reputation for integrity and professionalism can only be achieved and maintained if the public is confident that staff are not influenced by gifts, benefits or bribes. The acceptance of a gift or benefit can create a sense of obligation that may compromise honesty and impartiality. This may also affect the public perception of the integrity and independence of the department and its staff.

If you make or may make decisions affecting individuals or companies (including staff selections, tender selections and grant approvals) or have access to sensitive information, you should be aware of the potential for undue influence and avoid any improper attempts by others to influence you and you should comply with the department's Gifts and Benefits.

The principles that apply to offer and acceptance of gifts or benefits are outlined in the department's Gifts and Benefits Policy. Key elements include:

- you must not give, seek or accept gifts, benefits or entertainment that will compromise, or appear to compromise, your integrity and objectivity in performing your duties, or cause, or appear to cause a conflict of interest. If you are not sure about the propriety of accepting a gift or benefit, discuss the matter with your supervisor/manager
- you must not accept any gift or benefit if you are employed within regulatory, inspectorial, compliance, enforcement or licensing functions
- you must record details of gifts and benefits (including entertainment) by completing a gifts and benefits declaration form and your manager will decide and record the course of action regarding the acceptance, return, disposal or display of the gift where appropriate
- you should discourage your family and relatives from accepting gifts or benefits which could give the perception of an indirect attempt to influence you
- you may accept a token gift and/or benefit when the gift and/or benefit is given to all attendees at, for example, seminars, conferences, trade and/or agricultural shows and business events as these items are not personalised and a reasonable person would not perceive token gifts/benefits as items designed to influence or win favours. Some examples of token gifts/benefits include pens, caps, stress balls, stationery, coffee mugs, mouse pads, memory sticks, morning and afternoon tea, and lunch when provided to all attendees by the event organiser.

You should advise your supervisor/manager immediately if you believe you have been offered a bribe or if you have been offered or received a favour or benefit. If you are dealing with or have access to sensitive investigations or commercially sensitive information you should be particularly alert to inappropriate attempts to influence you.

### *Private or secondary employment*

You must have the approval of the Secretary (or delegate) before you engage in any form of paid worker employment outside your official duties.

You must also carefully consider whether undertaking secondary employment may adversely affect the performance of your duties and responsibilities with NSW Department of Industry or give rise to a conflict of interest. This applies whether you are working full-time, part-time or on a temporary basis (for more than twelve weeks).

More details can be found in the department's *Private or secondary employment policy*.

### *Political and community participation*

You must make sure that any participation in party political activities does not conflict with your primary duty as a public employee to serve the government of the day in a politically neutral manner. This is important because of the need to maintain Ministerial and public confidence in the impartiality of the actions taken and advice given by you as a public employee.

What is considered appropriate in any particular case will depend on the nature of the issue, the position you hold, the extent of your participation, and your public prominence. If you become aware that a potential conflict of interest has arisen or might arise, you should follow the disclosure process outlined in the department's *Conflicts of interest policy*.

You may have to stop the political activity or withdraw from the areas of your work where the conflict is occurring.

Within the context of the requirements of this policy, you are free to fully participate in voluntary community organisations, sporting clubs, charities and professional associations.

### *Official hospitality and entertainment*

The community expects public employees to use public funds in an open and accountable way. This expectation extends to and includes the use of public funds for the provision of hospitality and the entertainment of clients for business purposes.

The department has adopted the NSW Government standards regarding the provision of official hospitality and entertainment and the expenditure of public funds for this purpose. The department's Hospitality and entertainment policy provides detailed guidance to staff in respect of incurring expenditure in providing entertainment and/or hospitality for business purposes.

The following principles apply:

- attendance at functions should be clearly related to your work and have clearly defined and beneficial outcomes for the department
- appropriate approvals must be received prior to providing the hospitality or attending the entertainment
- attendance at functions should not be abused, in terms of the time taken away from the workplace and in the level of hospitality accepted
- where the department receives tickets to sporting or cultural events as part of sponsorship or partnership arrangements, these tickets are managed using an open and transparent process and are utilised to further government business
- expenditure should not provide a personal benefit to staff members or their families and friends. For example, Christmas functions, birthday celebrations or work socials that are organised by and for the attendance of staff will not be funded by the department and cannot be counted as work time.

### ***Personal and professional behaviour***

#### *Perform your duties to the highest standards*

You must follow the reasonable direction of your manager, attend work during your designated hours except in the case of illness or approved leave, and carry out your duties in a professional manner.

Your duties are to be performed to the highest standards as outlined in your position description, performance agreement or other documentation that sets performance expectations. You are also required to participate in the department's performance review and development schemes.

#### *Comply with departmental policies and procedures*

You must remain aware of, and comply with, the obligations set out in departmental policies and procedures. Most policies and procedures can be accessed via the NSW Department of Industry intranet.

Staff exercising regulatory compliance responsibilities must identify themselves using their official identification card (ID) which shall remain clearly visible except in the case of formally sanctioned sensitive operations. No employee shall misuse or permit the misuse of their official position or ID for personal purposes.

#### *Comply with health and safety requirements*

You must, while at work, take care for your health and safety, and the health and safety of other people in your workplace.

You must seek to understand and follow all departmental health and safety policies, guidelines and procedures relevant to your work.

You must follow all reasonable directions of your manager or supervisor related to health and safety and co-operate with your supervisor or manager to resolve any health and safety issues.

#### *Prevent discrimination, bullying and harassment*

You must not bully anyone. Bullying is behaviour that is repeated, unwelcome and unsolicited, considered offensive, intimidating, humiliating or threatening by the recipient or others who are witness to or affected by it.

Bullying behaviour may be directed upwards or downwards or towards co-workers. Some examples of behaviour that could be considered bullying:

- subjecting another person to constant ridicule and putting them down in front of colleagues
- using loud and abusive, threatening or derogatory language
- leaving offensive messages on email or by telephone, including offensive messages through the use of SMS and material posted on the internet
- subjecting others to practical jokes.

If you are a manager, you are accountable for ensuring that the work environment is free from bullying and from all forms of unlawful discrimination and harassment. Further information is available in the department's *Bullying and harassment prevention policy*.

#### *Fairness and equity*

You must work to the best of your ability and provide quality service to clients, stakeholders and colleagues. You must also recognise and respect the skills and talents of other staff.

If you are a manager, you are accountable for:

- taking steps to ensure that all work practices and behaviours in the workplace are fair, and to allocate workloads fairly
- providing staff with information and resources to enable them to carry out their work
- consulting staff when appropriate about decisions that affect them
- providing all staff with equal opportunity to apply for available jobs, higher duties, job rotation schemes and flexible working arrangements
- ensuring selection processes are fair and transparent and the methods used are consistent
- providing all staff with equal access to fair, prompt and confidential processes to deal with complaints and grievances
- giving your staff equal access to relevant training and appropriate development opportunities
- identifying special training and development needs of EEO group members in your team, should you have any, and help them gain access to training and development opportunities
- participating in learning opportunities and seeking feedback to help you manage staff effectively.
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### *Close personal relationships*

At times we may have a close personal relationship with a colleague and be required to work closely with that person. In the workplace, this could be seen as compromising our capability for ethical and fair work allocation or impairing our decision-making.

It is important to remember we are committed to fostering a professional work environment, demonstrating fair and impartial treatment for everyone. This includes a commitment to avoiding perceptions of favouritism, claims of lack of objectivity in managing performance, and complaints of sexual harassment, or even the appearance of impropriety. Consequently, we must not favour any other colleague in work allocation, recruitment actions or the like on the basis of any personal friendship or financial or social relationship.

Close personal relationships are not grounds alone for refusing promotional, transfer or other employment opportunities or work allocation. Under anti-discrimination legislation it is unlawful to disadvantage someone because of their marital status or relationships.

### *References*

A reference provides information or makes assertions about another person's skills, conduct, performance, character, and suitability or non-suitability for employment.

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

Employees must not supply references to other employees who are the subject of misconduct action or other legal action by the Department.

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.

### *Dress standard*

You have a responsibility to project an appropriate image to the public. The department's corporate wardrobe should be taken as an indicator of this standard. Sporting wear, tracksuits and clothing with excessive third party logos should not be worn.

If you are required to wear a uniform as part of your role within the department you must adhere to this requirement where stipulated. Clothing should be appropriate to the duties of the position, and reflect a professional image wherever possible.

High vision or protective clothing is essential for safety when undertaking outdoor or potentially hazardous work and is compulsory and must be worn if identified by management as necessary to provide protection when carrying out specific tasks in the workplace.

### *Alcohol or substance abuse or misuse*

You must take responsibility for ensuring the health and safety of yourself and of others. In particular, you are responsible for ensuring that you do not, by the consumption of alcohol or other drugs, endanger your own safety or the safety of any other person, including customers or clients, in the workplace.

Alcohol and other drugs includes alcohol based products, tobacco, illegal drugs, and medically prescribed and non-prescribed substances, which adversely affect your work performance or conduct.

Workplace means any place where work is performed and includes government vehicles and off-site areas.

Many staff members have jobs where consuming alcohol or other drugs would endanger their safety, the safety of colleagues and members of the public.

If you are an employee who uses departmental plant and equipment, drives a departmental vehicle, drives your own vehicle for business purposes, or drives a departmental boat you may not operate the equipment or transportation means if you are under the influence of alcohol or other drugs.



You must not attend work or conduct business on behalf of the department if you are under the influence of alcohol or other drugs that are likely to adversely affect your ability to do your job or may pose a risk to yourself, your colleagues or members of the public.

If you or someone in your family is having problems with alcohol or drugs, you may wish to contact the Employee Assistance Program for help.

### *Intellectual Property*

Intellectual property can include rights relating to scientific discoveries, industrial designs, trademarks, service marks, software development, commercial names and designations, inventions and activity in the industrial, scientific, literary or artistic fields.

The department owns any intellectual property which you create in the course of your work. You immediately assign it to the department. You must assist the department to protect that intellectual property during and after your employment. You must tell your manager if you develop any new intellectual property. Please keep full records of your research.

Unauthorised use of the department's, or other organisations', intellectual property is not permitted.

### *Working with lobbyists*

The government has established a Register of Lobbyists and introduced a Lobbyist Code of Conduct. The Lobbyist Code of Conduct states that government representatives (Ministers, Parliamentary Secretaries, Ministerial staff, staff working for a Parliamentary Secretary, and persons working in public sector agencies) must only be lobbied by a professional lobbyist who is listed on the Register of Lobbyists.

You must comply with the NSW Government Lobbyist Code of Conduct, which states that a government representative shall not permit lobbying by a lobbyist or any employee, contractor or person engaged by a lobbyist to carry out lobbying activities who is not on the Register of Lobbyists.

### *Commenting publicly on the work of the department*

#### a) Public comment

Public comment includes appearance before parliamentary committees, public speaking engagements, and comments to radio, television or print reporters. It also includes letters to newspapers, comments in books, journals or notices on internet sites, social media sites, or broadcast by electronic means (for example twitter and email) or any other circumstances where it could be expected that the comments will spread to the community at large.

The official spokespersons for the department are the Premier of NSW and portfolio Ministers. In some circumstances the Secretary, Deputy Secretary or Director General speaks on behalf of the department as a whole. The Secretary may delegate this responsibility in some circumstances.

You may make public comment related to your program, unit, branch or specific area of expertise provided you follow the same principles and standards of conduct outlined elsewhere in this Code of Conduct and comply with relevant communication, media and publication policies.

All interaction with the media must follow the department's *Media policy*. You cannot initiate contact with the media unless authorised by your relevant Corporate Affairs or Media team. You must direct any media enquiries to your relevant Corporate Affairs or Media team. You must not attempt to respond to the enquiry (even if "off the record"), under any circumstances.

Outside your work, you have a right to comment publicly on political and social issues, provided you make it clear you are not making an official comment on behalf of the department or NSW Public Service and that you are only commenting as a private citizen. You should exercise extreme caution in commenting on areas associated with your employment.

Comments made on matters pertaining 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 permissible under this Code.

## b) Speaking engagements

You may accept speaking engagements with professional, educational and community groups related to your area of expertise, and/or which fall outside the normal scope of your work, provided you have the approval of your manager.

When a speaking engagement forms part of a commercial undertaking (that is, participants pay to attend) there may be a need to negotiate a fee. This should be discussed with your manager or supervisor. All speaking engagements should have a public sector orientation or relate to the department's corporate objectives.

Any fees received for speaking or public engagements must be paid into the department's fee for service account. For additional information contact the Manager, Financial Control & Reporting. Speaking fees cannot be retained by individual staff members. A non-cash benefit should be managed as required under the department's gifts and benefits policy and recorded in the department's Gifts and Benefits register.

### *Protecting official information*

Under the *Government Information (Public Access) Act 2009*, departments are encouraged to make government information more accessible to the public. The public has an enforceable right to make access applications for government information; and access should only be restricted when there is an overriding public interest against disclosure.

However, the department must also adhere to the provisions of the *Personal Information and Privacy Protection Act 1998*, and therefore staff must maintain the confidentiality of all official information containing personal details and documents which are not published or normally made available to the public.

Most divisions within the department have procedures in place for the storage, disclosure and distribution of official information, which includes confidential or sensitive personal, commercial or political information. You must follow the procedures relevant to your area of work and take precautions to make sure that such information is not disclosed without clear authority.

Official information must only be used for the work-related purpose intended and not for personal benefit. Unauthorised disclosures may cause harm to individuals or give an individual or an organisation an improper advantage. The integrity and credibility of NSW Department of Industry may also be damaged if the department seems unable to keep its information secure.

You must ensure that information, in any form (printed or electronic), cannot be accessed by unauthorised people and that sensitive information is only discussed with people, either within or outside the department, who are authorised to have access to it.

Misuse of official information or documents includes:

- speculation in shares, commodities, or property on the basis of confidential information about the affairs of a business or of proposed government actions
- seeking to take advantage of another person, for personal reasons, on the basis of information held in official records
- disclosing sensitive information, including information pertaining to individuals, agencies or businesses, to members of the public, clients, political parties, members of Parliament, lobby groups, industry personnel, other public servants or other government organisations without proper authority
- providing or trading confidential information for use by private investigators, banks and credit agencies
- accessing official information for personal benefit or advantage, or for the benefit or advantage of another person – e.g. you must not invest, or advise others to invest, in companies by virtue of your position with the department or knowledge gained from your role.
- providing advice of proposed technological or statutory changes to a company, organisation or person if that advice is not generally available.

### *Records management*

You need to be aware of and comply with the *State Records Act 1998 (NSW)* and any records management policy and procedures specific to your division or branch.

You have a responsibility to create and maintain full and accurate records of your work activities, decisions and other business transactions, to capture records into official records systems, and not to destroy records without appropriate authority. Managers have a responsibility to ensure that staff reporting to them comply with their records management obligations.

#### *Use of official facilities and equipment*

Reasonable personal use of telephones, facsimiles, email, and the internet is permitted, but you must not allow such use to be excessive or to disrupt official work and it must be in accordance with the department's Mobile Communication Device Policy.

The department's communication devices, including the internet, may not be used to browse or download illegal, inappropriate or offensive material. When you use department internet and email facilities, the use must be appropriate, lawful, efficient, proper and ethical and in accordance with the relevant department policies.

You shall not use credit cards issued by the department for your own personal use. Departmental facilities and equipment should only be used for private purposes when official permission has been given. Under no circumstances should facilities or equipment be used in connection with an employee's secondary or other paid employment or private commercial dealings (i.e. directorships of family or other companies).

When using the department's electronic systems you must be aware of the conditions of use, including not using other people's passwords and maintaining your own password security. You must also be aware that electronic systems are closely monitored and information that is stored on, or passes across, a corporate system is considered department information and may be viewed, stored or deleted as deemed appropriate by the Business & Technology Services (BTS) branch.

#### *Guidelines for conducting research*

Specific guidelines for the conduct of research are in place. If you are involved in research work for the department you must adhere to the Guidelines for the Conduct of Research.

Managers of staff involved in research must make sure that new and existing staff members are aware of the Guidelines, which have been formulated in accordance with the Australian Code for Responsible Conduct of Research issued in 2007 as a revision of the joint NHMRC/AVCC Statement and Guidance on Research Practice.

The broad principles that guide research include the maintenance of high ethical standards, validity and accuracy in the collection and reporting of data and responsibility of the research community to the public and to itself.

#### *Criminal convictions*

If a criminal charge is brought against you for a serious offence, you are immediately required to bring this to the attention of your manager. A serious offence is an offence punishable by imprisonment for twelve months or more. The prison term refers to the period the offence *may carry*, not the *actual* prison term imposed.

If a conviction of a serious offence is recorded, your Director may impose disciplinary action. Consideration will be given as to whether the conviction has a direct or relevant connection to your duties.

If a less serious criminal charge is brought against you, the impact of this on the inherent requirements of your job needs to be considered. As an example, if your work requires you to maintain a current driver's licence, losing your licence may require some reasonable adjustment to your work activities. In this type of situation you should consult with your manager.

#### *Reporting corrupt conduct, maladministration, waste and information contravention*

You must report suspected corrupt conduct, maladministration, serious and substantial waste of public resources and government information contravention.

The *Public Interest Disclosures Act 1994* provides certain protection for employees who voluntarily report such matters (but not vexatious or malicious allegations), either to the principal officer of a public authority, or to an investigative body: the Independent Commission Against Corruption (ICAC) for

corrupt conduct, the Ombudsman concerning maladministration, the Auditor-General concerning substantial waste of public money or the Information Commissioner concerning government information contravention.

Public interest disclosures may also be made following the department's Public Interest Disclosures policy and procedures. The Fraud and Corruption and Public Interest Disclosures Coordinator will notify the employee who made the disclosure of the action taken or proposed to be taken in relation to the disclosure and the outcome of such action.

### *Leaving the department*

You must not misuse your current position with the department and information you are able to access as a consequence of your employment to obtain or seek out opportunities for future employment.

You should not allow yourself or your work for the department to be influenced by plans for, or offers of, employment outside NSW Department of Industry. If you do, there will be a conflict of interest between your current responsibilities to the department and your personal interest and your integrity and the integrity of the department will be at risk.

Should you leave the department, you must not use confidential departmental information or other confidential information that you were exposed to during your employment with the department that may lead to gain or profit until that information has become publicly available.

You must be careful in your dealings with former departmental staff to make sure that you do not give them, or appear to give them, favourable treatment or access to privileged information.

Where applicable, staff must adhere to specific legislative restrictions and prohibitions in their post separation employment.

### *Breaches of the Code*

If you breach this Code, you may be subjected to disciplinary action or performance management measures. This could range from counselling to dismissal. In serious cases the matter may be referred to the Police or other appropriate authorities.

The decision to take such action will involve the consideration of a number of relevant matters, including protecting the integrity of the department, maintaining public confidence and trust and the seriousness of the misconduct.

## **Responsibility**

### *Secretary*

Responsible for the general conduct and management of the department in accordance with the core values of the Ethical Framework.

### *Staff*

The *Government Sector Employment Act 2013* establishes a new legal requirement for all people employed in the government sector - to act ethically and in the public interest.

## **Related legislation**

- The legislation that applies to NSW Department of Industry staff is the *Government Sector Employment Act 2013*.

The following legislation is also applicable and can be found at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au):

- *Anti-Discrimination Act 1977*
- *Crimes Prevention Act 1916*
- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*
- *Industrial Relations Act 1996*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 1994*
- *Public Finance and Audit Act 1983*

- *State Records Act 1998*
- *Work Health & Safety Act 2011*

### Related NSW Department of Industry policies

NSW Department of Industry is combining the duplicate policies and guidelines held by the former agencies into single NSW Department of Industry wide policies and guidelines. In the absence of NSW Department of Industry policies and/or guidelines in place then the policies/guidelines of the former agencies are still current.

### Other related documents

- *M2014-13 NSW Lobbyist Code of Conduct*
- M2007-01 Public Disclosure of information arising from NSW Government Tenders and Contracts
- M2007-02 Dignity and Respect: policy and guidelines on preventing and managing workplace bullying – this memo complements M1996-11 Dealing with Employee Work-related Concerns and Grievances, and Harassment free Workplace.
- C2006-46 Provision of information to Members of Parliament
- C1999-09 – Use of Employer Communication Devices
- Guidelines for Research

### Further resources (ICAC website)

- ICAC - Code of Conduct May 2015.
- Direct Negotiations – Guidelines for managing direct negotiations, May 2006

### Superseded documents

This policy replaces: NSW Department of Trade & Investment Code of Conduct TI-A-130.

### Definitions

- *Alcohol & other drugs* Includes alcohol based products, tobacco, illegal drugs, and medically prescribed and non-prescribed substances, which adversely affect your work performance or conduct.
- *Lobbyist* A person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third party to a government representative.
- *Workplace* Any place where work is performed and includes government vehicles and off-site areas

### Revision history

Version	Date issued	Notes	By
1.0	23/03/2016	Minor edits to reflect Machinery of Government changes and the Public Service Commission's new <i>Behaving Ethically</i> guide	Manager Corporate Governance
1.1	18/04/2016	Remove references to OLGA staff and add references to DPC Circular 2013-04 and PSC Circular 2013-03 Contesting Elections.	Project Officer Corporate Governance
1.2	20/02/2017	Updated to better clarify intellectual property.	Manager Corporate Governance
1.3	11/05/2017	Minor edit. Reordered Intellectual property paragraphs to improve readability.	Project Officer Corporate Governance
1.4	01/06/2017	Minor edit. Reinstatement of Schedule 1 that was inadvertently omitted when version 1.2 and 1.3 updates were done.	Project Officer Corporate Governance

1.5	14/7/2017	Minor edit. Clarification regarding the provision of references.	Manager Corporate Governance
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**Contacts**

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## Code of Conduct - Schedule 1

This document forms Schedule 1 of the NSW Department of Industry Code of Conduct

# Code of Conduct

For members of advisory committees/boards,  
contractors and consultants to the NSW Department of  
Skills, Industry and Regional Development

### Version Control

Title: Code of Conduct - for members of advisory committees/boards, contractors and consultants to NSW Department of Industry

Subject: Conduct

Responsible: Corporate Strategy Branch

Authorised: Secretary

Date: 23/3/2016

Version: 1.0

Review date: Every two years, or as required

Distributed to: Members of advisory committees/boards, contractors, consultants and external organisations engaged by NSW Department of Industry on a temporary or fixed term basis.

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## Introduction

When you serve on a committee or board that advises the NSW Department of Skills, Industry and Regional Development (NSW Department of Industry or the department) or carry out work for NSW Department of Industry, you have an obligation to the public interest. You are required to demonstrate standards of professional behaviour that will preserve public trust. Your work for, or the process of, providing advice to NSW Department of Industry is likely to involve access to confidential and/or sensitive information.

The Code of Conduct for members of advisory committees/boards, contractors and consultants to NSW Department of Industry (the Code) has been developed to assist you to understand your obligations and NSW Department of Industry's expectations and requirements. The Code is based on guidelines issued by the NSW Department of Premier and Cabinet and has been prepared in consultation with the department's divisions.

### 1. Personal and professional behaviour

You are expected to always:

- be honest, reasonable, fair and sensitive in your dealings with the members of the public and NSW Department of Industry staff
- give accurate and impartial advice to the Government and, where applicable, implement its programs conscientiously
- follow relevant legislative, industrial and administrative requirements
- adhere to the Equal Employment Opportunity principles and the Ethnic Affairs Priorities Statement
- adhere to this Code
- adhere to the values of NSW Department of Industry.

### 2. Conflicts of interest

You must make sure that your interests do not conflict with your responsibilities while you are appointed to a NSW Department of Industry advisory committee/board or while you are engaged by NSW Department of Industry as a contractor or consultant.

For example, a conflict of interest would exist when any one or more of these circumstances come up:

- you have a financial interest in a matter NSW Department of Industry deals with, or you have friends or relatives who you know have a financial interest.
- you have personal beliefs or attitudes (commercial, religious, social, or political) that may influence the impartiality of the work you do or advice you give
- you accept another source of employment, contract or appointment that may, or may appear to, compromise your integrity and that of NSW Department of Industry
- you are a member of an external board of an organisation whose interests may conflict with those of the department such as entities that seek grants from NSW Department of Industry, normally lobby government on issues managed by the department or are entrants in an industry awards program that NSW Department of Industry is sponsoring or judging.

The above list is indicative only and there may be other situations that can lead to a real or perceived conflict of interest.

It is your responsibility to avoid conflicts that could compromise the impartial performance of your role, and to disclose potential, actual or perceived conflicts of interest to NSW Department of Industry. You must declare interests upfront and you must update NSW Department of Industry of any changes as they occur.

### 3. Official and confidential information

During your appointment or work you may have access to sensitive, personal and/or commercially confidential information. This information could relate to clients, the NSW Government or departmental employees. You are expected to protect the integrity and security of information and documents for which you are responsible and to adhere to the principles of the *Privacy and Personal Information Protection Act 1998*.

In short, this means that:

- you may not use information for any unofficial purpose outside NSW Department of Industry
- you may use confidential or official information only in relation to your role and consistent with your obligation to act impartially
- you must be cautious and use sound judgement when you discuss sensitive information with other departmental employees. This should be confined to staff that need the information to do their job, or people who can by reason of their experience, provide useful assistance
- you may not use information gained in your professional capacity for personal gain
- you may disclose information that is normally available to members of the public
- you may disclose information if you are satisfied the request is legitimate and you have appropriate authority to release it
- you must not improperly collect, use or disclose the personal information of individuals such as clients or staff members
- information gained in the course of your advisory role or work must not be used to cause harm or detriment to NSW Department of Industry or any person or committee/board
- departmental documents, including Cabinet and other in-confidence documents, emails and electronic information, must be properly and safely stored at all times
- you must not remove official information from the department's premises unless you need it for work purposes
- you must treat email as carefully as hard copy information.

Misuse of official information or documents includes:

- speculation in shares, commodities, or property on the basis of confidential information about the affairs of a business or of proposed Government actions
- seeking to take advantage of another person, for personal reasons, on the basis of information held in official records
- disclosing sensitive information to members of the public, political parties, clients, lobby groups, other public servants, other government organisations, or members of Parliament, without proper authority
- providing or trading confidential information for use by private investigators, banks and credit agencies.

These requirements apply to any information you obtain during the course of your appointment or engagement and continue after you complete your appointed term or leave the department. You are expected to maintain NSW Department of Industry's reputation for integrity and credibility with managing official and confidential information.

#### **4. Intellectual property**

Intellectual property includes rights relating to scientific discoveries, industrial designs, trademarks, service marks, commercial names and designations, inventions and activity in the industrial, scientific, literary or artistic fields.

All intellectual property created by you in the course of your advisory role or work is the intellectual property of NSW Department of Industry, unless your appointment, contract or engagement explicitly specifies otherwise. You may therefore not sell or give away intellectual property created during or in connection with your appointment or engagement with the department. You must provide the department with complete copies of any reports, documents or other materials created in the course of your advisory role or work.

#### **5. Use of official facilities and equipment**

You are expected to be efficient in your use and management of public resources. You should be careful in your use of NSW Department of Industry's property and services.

NSW Department of Industry's communication devices, including the internet, may not be used to browse or download illegal, inappropriate or offensive material. When you use NSW Department of Industry internet and email facilities, the use must be appropriate, lawful, efficient, proper and ethical and in accordance with relevant NSW Department of Industry policies.

## **6. Public comment**

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

The official spokespersons for NSW Department of Industry are the Premier and Portfolio Ministers. In some circumstances the Director General or Deputy Director General also speaks on behalf of the department.

You must not initiate contact with the media at any time.

You must direct any media enquiries to the department's media branch. You must not attempt to respond to the enquiry under any circumstances, not even "off the record".

Outside your work or appointment to NSW Department of Industry you have a right to comment publicly on political and social issues, as long as you make clear that you are not making an official comment on behalf of NSW Department of Industry or the NSW Public Service and that you are commenting as a private citizen. You should exercise extreme caution in commenting on areas associated with your engagement.

## **7. Alcohol and drugs**

You must take responsibility for ensuring the health and safety of yourself and of others whilst conducting business on behalf of NSW Department of Industry. In particular, you are responsible for ensuring that you do not, by the consumption of alcohol or other drugs, endanger your own safety or the safety of any other person, including customers or clients, in the workplace.

Alcohol and other drugs includes alcohol based products, tobacco, illegal drugs, and medically prescribed and non-prescribed substances, which adversely affect your conduct or work performance.

Workplace means any place where work is performed and includes government vehicles and off-site areas.

You must also not conduct business on behalf of NSW Department of Industry if you are under the influence of alcohol or other drugs, likely to adversely affect your ability to do your work.

## **8. Allegations of impropriety**

It is important that the conduct of committee and board members, contractors and consultants, reflects the principles and ethical requirements set out in this Code at all times. If allegations about inappropriate conduct are made or aired in the public domain which, if true, would constitute a breach of the Code, the individual concerned will be asked to stand down from the committee or board by the Minister or his or her delegate or the contract can be terminated.

Allegations made in the public domain include:

- being referred to in sworn evidence (either oral or written) in any court or tribunal proceeding
- being the subject of, or named as a person of interest in, any investigations by the Independent Commission Against Corruption
- being the subject of, or named as a person of interest in, any investigation by the NSW Ombudsman
- being the subject of, or named as a person of interest in, any investigation or proceedings by any other governmental or quasi-governmental body in any jurisdiction.

The individual may resume his or her membership of the committee/board or the contract may be renewed when the relevant court, tribunal or other body makes a finding of fact that the allegations are unfounded, or otherwise when the Minister or his or her delegate so determines.

## **9. Gifts, gratuities, hospitality**

You must avoid giving any indication that gifts, gratuities or hospitality relating to your work for NSW Department of Industry will be accepted, either for yourself or for any other person or body, or that these may influence decisions. You must not offer any departmental employee any gifts, benefits or entertainment that are intended to or could be perceived to influence their decisions or actions.

Members of committees/boards, contractors and consultants may accept only token gifts and modest hospitality. Gifts can be considered token if there is no implication of indebtedness or reciprocation expected, if the gift is not cash and if it is of nominal value only. Hospitality is modest when it is no more than the Board member themselves commonly provide.

If any gift, gratuity or hospitality of other than a token kind is offered (or may be reasonably seen as non-token), full and prompt disclosure must be made to the chairperson, full board or department as appropriate.

Further information can be found in the department's Gift and Benefits Policy.

#### **10. Breaches of the code**

NSW Department of Industry may take action for breaches of this code. Action may include termination of the appointment or engagement/contract and in serious cases the matter may be referred to the police or other appropriate authorities.