
Behaving Ethically

A guide for NSW government
sector employees

Behaving Ethically: A guide for NSW government sector employees

© State of New South Wales through the NSW Public Service Commission, 2022

The Public Service Commission encourages the availability, dissemination and exchange of public information. You may copy, distribute, display, download and otherwise freely deal with this work for any purpose, on the condition that you attribute the Public Service Commission as the owner.

However, you must obtain permission from the Public Service Commission if you wish to:

- charge others for access to the work (other than at cost)
- include all or part of the work in advertising or a product for sale
- modify the work, or
- publish the work to a website.

Version Number	Version	Purpose	Date of issue
1.0	First publication	Issue to sector	October 2014
1.1	Revision	Revision to incorporate Commissioner's Directions 1 and 2 of 2022, revised Chapter 2 and Section 4.4, update to reflect legislative, policy, machinery of government and organisational changes, remove references to outdated material, update links and rebrand in line with NSW Government branding framework.	19 August 2022

NSW Public Service Commission

Level 4, 255 George Street
Sydney NSW 2000 Australia
Telephone: +61 2 9272 6000

Email: enquiries-psc@psc.nsw.gov.au

This publication can be accessed online at: www.psc.nsw.gov.au

Contents

Publication and contact details	2
Note to reader	4
What you need to know	5
Your responsibilities – a summary	6
Section 1: Legal, ethical and institutional context	9
1.1 Roles and responsibilities in the Westminster System	10
1.2 The <i>Ethical framework for the government sector</i>	28
1.3 Other legislation	29
1.4 Oversight agencies	30
Section 2: Commissioner’s directions	33
2.1 Managing gifts and benefits	37
2.2 The <i>Code of Ethics and Conduct for NSW government sector employees</i>	47
Section 3: Ethics good practice	59
3.1 Difficult decisions	60
3.2 Difficult discussions	72
3.3 Agency ethics self-assessment	82
3.4 Leadership	92
3.5 Governance	99
3.6 Changing agency culture	107
3.7 Supporting employees	109
3.8 Customer service standards	113
3.9 Measurement and monitoring	119
Section 4: Other resources	123
4.1 Acting in the public interest	124
4.2 How to report serious wrongdoing	126
4.3 Ethical scenarios	128
4.4 Declaration of private interests template	146

Note to reader

These resources have been designed to be accessed online. They are not intended to be read as a contiguous printed document. Certain contextual text is repeated, as necessary, to assist the online user.

Section 1 sets the legal, ethical and institutional context for ethical conduct by NSW government sector employees.

Section 2 contains codes and standards which are the subject of directions by the Public Service Commissioner to government sector agencies under s. 13 of the *Government Sector Employment Act 2013*.

Section 3 provides advice to employees (executives, managers and staff) on demonstrating ethical good practice in leadership, decision-making and other responsibilities.

Section 4 contains resources and scenarios that will help employees to decide how to act ethically under various circumstances.

What you need to know

All NSW government sector employees are required to behave in ways that are ethical, lawful and build trust in the sector.

Make sure you:

- Follow the *Ethical framework for the government sector*
- Meet your obligations under the laws that apply to you
- Comply with your agency's code of conduct
- Act according to the Westminster System conventions if it is your job to advise Ministers or work with Ministers' staff, or to implement Government decisions or policies.

Sections will be updated from time to time with changes in the *Government Sector Employment Act 2013*, and associated Regulations and Rules and any other legislation, Commissioner's directions, NSW Government policy and best practice.

For additional information, contact the Public Service Commission on 02 9272 6000.

Helpful links

For all employees

[Code of ethics and Conduct](#)

[Difficult decisions](#)

[Difficult discussions](#)

[Reporting serious wrongdoing](#)

For managers and supervisors

[Leadership](#)

[Customer service](#)

[Supporting employees](#)

For Department Secretaries and senior executives

[Roles and responsibilities in the Westminster system](#)

[Acting in the public interest](#)

[Changing agency culture](#)

[Ethics measurement and monitoring](#)

Your responsibilities – a summary

As a NSW Government employee you must act in ways that are lawful, ethical and build trust in the public sector. It is your responsibility to know, understand and comply with all the ethical and legal obligations that apply to you.

You should also take the time to learn what risks there are – in the context of your own job – to your acting lawfully and ethically. This is especially important if you are new to public sector employment, as there are certain obligations that are different from, or do not exist in, the private and not-for-profit sectors.

Remember – your conduct, both inside and outside the workplace, can have a significant impact on your employer, your colleagues and, most importantly, the people of NSW.

Personal conduct

Ethical framework for the government sector

At all times, your conduct must be consistent with the *Ethical framework for the government sector*. The *Ethical framework for the government sector* is set out in Part 2 of the *Government Sector Employment Act 2013*.

Code of Ethics and Conduct

The Public Service Commissioner has developed a *Code of Ethics and Conduct for NSW government sector employees*. Consistent with the Commissioner's Directions, you are required to comply with the mandatory requirements of the code, and with any supplementary requirements determined by your Department Secretary or agency head.

Public resources

You must use public resources in an efficient, effective and prudent way. Never use public resources – money, property, equipment or consumables – for your 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 *Government Sector Finance Act 2018*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

Equal access and opportunity

Treat people equally, whether they are members of the public, customers or colleagues. Don't discriminate against people because of their sex, race or ethnicity, disability, age, marital status or sexual orientation, or because they are a carer or a transgender person. Your obligations are set out in the *Anti-Discrimination Act 1977* (NSW), and applicable Commonwealth discrimination legislation. The Anti-Discrimination Board of NSW and the Australian Human Rights Commission have more information.

Bullying

Bullying is not tolerated in NSW government sector workplaces. You are required to treat members of the public, customers and colleagues fairly and with courtesy and respect. If you are bullied by anyone, or you witness bullying, it is important that you report it immediately so that it can be stopped. Refer to your agency's policies and procedures on how the report should be made and to whom.

Bullying in the workplace is defined as 'repeated, unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety'. A single incident, or reasonable workplace actions (including legal and reasonable performance management and directions to employees), are not bullying.

Corruption

As a government sector employee, you must never make improper use of the knowledge, power or resources of your position for personal gain or the advantage of others. To do this would be corrupt.

Make sure you understand the definition of corrupt conduct which is in the *Independent Commission Against Corruption Act 1988*. If you see or suspect corrupt conduct, you should report it – [see the section 4.2 'How to report serious wrongdoing' at page 126](#)

Identifying and managing risks

Gifts and benefits

Make sure you are familiar with your agency's gifts and benefits policy. Don't solicit gifts or benefits, or accept a gift or benefit that is not allowed. Be alert to actual, potential or reasonably perceived conflicts of interests, and the risk of being 'captured' by a person or organisation who wants a favour or special treatment. Further information in relation managing gifts and benefits and conflicts of interest is available at icac.nsw.gov.au.

Workplace safety

The *Work Health and Safety Act 2011* prescribes measures to ensure your safety at work. You must take reasonable care for your own health and safety and do nothing that adversely affects the safety of others. You should report risks to your health and safety to your manager and familiarise yourself with the work, health and safety arrangements in your workplace. SafeWork NSW provides advice on workplace health and safety.

Handling information

Recordkeeping

Under the *State Records Act 1998*, each NSW Government agency has obligations to make and keep full and accurate records of its activities, and to establish and maintain a records management program. As a government sector employee, it is your responsibility to follow the procedures which your Department Secretary or agency head has put in place to ensure that recordkeeping obligations are met.

Be aware that there are legal penalties for acting in ways that are contrary to the *State Records Act*. The State Records and Archives Authority of NSW provides guidance on recordkeeping.

Privacy, personal information and health information

The *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* set out principles for the collection, storage and usage of personal information and health information about individuals. These principles are legal obligations with which your agency must comply. If you work with such information, you should familiarise yourself with the Information Protection Principles and the Health Privacy Principles.

Be aware that it is a crime to intentionally disclose another person's personal information or health information, outside the performance of your official duties. The Information and Privacy Commission NSW provides guidance on your obligations as a government sector employee.

Access to information

The *Government Information (Public Access) Act 2009* (GIPA Act) mandates the proactive release of open access information and requires that this information is available to members of the public free of charge or at the lowest reasonable cost.

Additionally, the GIPA Act provides a mechanism for members of the public to access government information more broadly unless there is an overriding public interest against disclosure.

You should find out how GIPA Act applications are handled in your agency. Be aware that there are legal penalties for breaching the GIPA Act, including for destroying, concealing or altering any information for the purpose of preventing its lawful disclosure.

The Information and Privacy Commission NSW provides guidance on GIPA Act requirements.

Procurement of goods and services

Under the *Public Works and Procurement Act 1912*, government agencies must ensure they obtain value for money in the exercise of their functions in relation to the procurement of goods and services. Agencies have responsibilities to undertake procurement in accordance with: the principles of probity and fairness; any policies and directions of the NSW Procurement Board that apply to the agency; and the agency's terms of accreditation (if any) by the Procurement Board. Agencies must also take reasonable steps to ensure that goods or services procured by or for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

Government sector employees should consult their agency's Chief Procurement Officer where they require assistance in undertaking procurement activities.

Further information on NSW Government procurement law and policy is also available at www.buy.nsw.gov.au



Further information

Ask your manager for further information on the standards of conduct you need to demonstrate in your workplace. Further information and resources are also available from the NSW Public Service Commission.

Reporting wrongdoing

Public interest disclosures

The *Public Interest Disclosures Act 1994* (PID Act 1994) provides certain protections for NSW Government employees who report allegations of serious wrongdoing, in accordance with the Act. Amongst other things, serious wrongdoing includes corrupt conduct, serious maladministration, serious and substantial waste of public money, and failure to exercise functions properly in accordance with the *Government Information (Public Access) Act 2009*.

(Note: On commencement of the *Public Interest Disclosures Act 2022* (PID Act 2022), the PID Act 1994 will be repealed. From that date references in this document to the PID Act 1994 should be read as the PID Act 2022.)

You should familiarise yourself with your agency's internal reporting policy for public interest disclosures. You can report wrongdoing internally, or to an investigating authority. The Office of the NSW Ombudsman provides information on how to make a public interest disclosure.

The ICAC also provides information relating to making a public interest disclosure about corrupt conduct, and reports can be made to the ICAC using its online reporting system.

- Serious and substantial waste may be reported to the Auditor-General
- Concerns about government information systems may be reported to the Office of the Information Commissioner
- Serious wrongdoing in a council may be reported to the Office of Local Government
- serious wrongdoing by a police officer may be reported to the Law Enforcement Conduct Commission
- Serious wrongdoing by the NSW Crime Commission or its officers may be reported to the Inspector of the Crime Commission.

[For more information on how to make a public interest disclosure, see section 4.2 'How to report serious wrongdoing' at page 126.](#)

Section 1:

Legal, ethical and institutional context

1.1 Roles and responsibilities in the Westminster System

Contents

Introduction

The Westminster System

Roles and responsibilities

Building relationships with
Ministers' offices

Supporting public servants
engaging with Ministers' offices

Good practices for engagement
with Ministers' offices

Caretaker period

1.1 Roles and responsibilities in the Westminster System

Introduction

This guide aims to assist employees in the NSW Public Service and certain employees in the government sector to understand the various roles and responsibilities in the Westminster System and, as a result, to be in a better position to provide professional support to Ministers.

Fundamentally, the role of NSW public servants in our system – the Westminster System – has not changed in 150 years. It continues to be one of serving the people of the State by implementing the policies, decisions and programs of the Government of the day, and providing apolitical, non-partisan advice to Ministers.

This role is strengthened by the *Ethical framework for the government sector*, which enshrines a set of core values and principles in legislation.

The *Ethical framework for the government sector* in Part 2 of the *Government Sector Employment Act 2013* “recognises 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”.

As defined in *Government Sector Employment Act 2013*, the NSW government sector comprises the Public Service, the Teaching Service, the NSW Police Force, the NSW Health Service, the Transport Service of New South Wales, any other service of the Crown, and bodies prescribed by regulation for the purpose of the definition.

A key responsibility of Public Service employees – and those government sector employees who provide advice to their Minister – is to act according to the conventions of the Westminster System.

As most government sector employees working as teachers, nurses and police officers do not advise Ministers, the obligations of the Westminster System do not arise in the course of their duties.

While the Westminster System has a number of unchanging characteristics, it is best described as operating within a set of parameters. From time to time, certain elements of the system may be given greater or lesser emphasis by different governments.

As a starting point, employees should be aware that, in the Westminster System:

- Ministers and Cabinet decide policy, and are free either to accept, or reject, advice, options and recommendations provided by Departments and agencies
- Although employees are under the direction of their Secretary or agency head, they have a clear duty to respond promptly and professionally to Ministers’ requests for advice or information
- Advice to Ministers must be ‘apolitical and non-partisan’, meaning advice that is evidence-based, impartial, that places the public interest over personal interest, and is uninfluenced by party political considerations or by personal political allegiances
- Advice to Ministers must also be ‘frank and fearless’: this means laying out all the options and dealing honestly with all the issues, including those that are difficult, complicated and problematic. [See pages 18 to 27 for further guidance.](#)

1.1 Roles and responsibilities in the Westminster System

The Westminster System

In NSW, government has been based on the Westminster System since the mid nineteenth century. The Westminster System is also the basis of government in the Australian Commonwealth, the Territories and the other States. It is founded on the British Palace of Westminster model of responsible government which comprises:

- A head of state, being the Sovereign or his/her representative (or, in a republic, the president)
- An elected Parliament, with one or two Houses
- A Government formed by the political party, or coalition, with majority support in the Lower House
- A Prime Minister or Premier, who heads the Government
- A Ministry, drawn from members of Parliament – usually Government members – exercising executive authority and accountable to the Parliament
- An independent judiciary.

At the heart of the system is the concept of the separation of powers between the three branches of government:

- The **legislature**: the Parliament, which makes the law
- The **executive**: the Governor, Prime Minister/ Premier, Ministers, Departments and agencies, which implement the law
- The **judiciary**: the courts, which interpret and apply the law.

Another key feature of the Westminster System is an apolitical, professional public service providing impartial advice to the Government of the day and implementing the Government's policies and programs. In addition, as was first proposed in the Northcote-Trevelyan report to the UK House of Commons in 1854, a core requirement of the Westminster System is that the recruitment and promotion of employees in the public service is on the basis of merit.

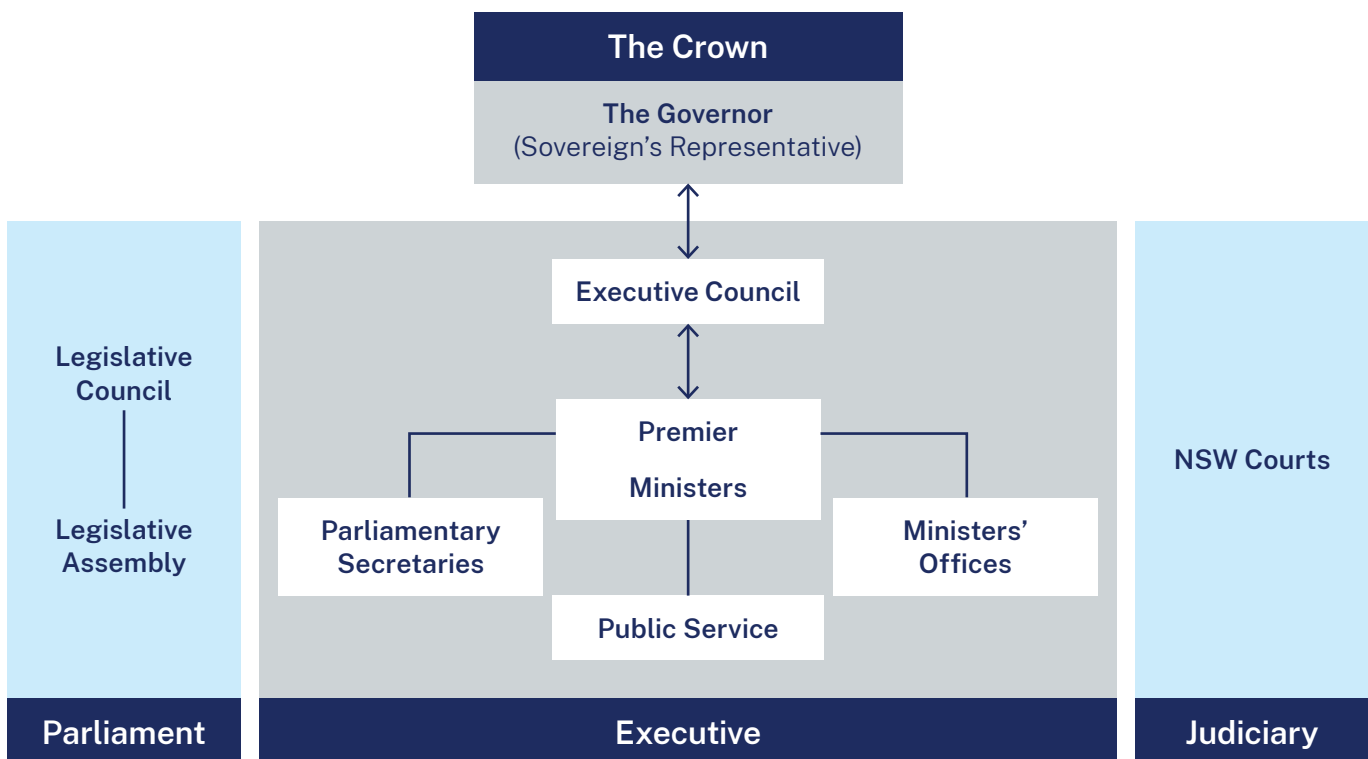
Information in relation to public sector governance is available at www.dpc.nsw.gov.au. Further advice on the NSW system of government and its history is available at www.parliament.nsw.gov.au.



1.1 Roles and responsibilities in the Westminster System

Roles and responsibilities

Key relationships in the Westminster system



The Governor

The Governor represents the Crown in NSW and is appointed by the Sovereign on the Premier's recommendation. The Governor appoints the Premier and Ministry and presides over the Executive Council.

The Parliament

The voters of New South Wales elect their representatives to serve as either Members of the Legislative Assembly (the Lower House), or as Members of the Legislative Council (the Upper House).

The Judiciary

The judiciary is the system of courts that interprets and applies the laws made by the Parliament

Executive Council

The Executive Council is the supreme executive authority. It comprises the Premier and Ministers, presided over by the Governor. On the advice of the Executive Council, the Governor gives legal authority to proclamations, regulations, establishment of Departments and appointments to the judiciary and other public offices.

Premier

The Premier leads the party or coalition with majority support in the Legislative Assembly and is the head of the Government. The Premier advises the Governor on the appointment of Ministers, and determines the makeup of Departments and the allocation of Acts to Ministers.

1.1 Roles and responsibilities in the Westminster System

Cabinet

The Premier and Ministers constitute the Cabinet which decides the Government's priorities, policies and legislative program.

Ministers bring proposals to Cabinet. The decisions of Cabinet are collective, confidential and binding on Ministers.

Ministers

Ministers are appointed by the Governor on the advice of the Premier and are allocated various portfolios and Acts. The allocation of Acts is available at the NSW legislation website www.legislation.nsw.gov.au.

Ministers (and Cabinet) decide policy and are accountable to the Parliament for their decisions.

They participate in the decision-making of Cabinet and administer Departments and agencies within their portfolios. A convention of the Westminster System is ministerial responsibility, whereby a Minister bears responsibility for the actions of a department or agency within their control.

Ministers are bound by the *NSW Ministerial Code of Conduct*, which is prescribed as an applicable code of conduct for the purposes of section 9 of the *Independent Commission Against Corruption Act 1988*. The *NSW Ministerial Code of Conduct* was released under Premier's Memorandum M2014-09, available at www.dpc.nsw.gov.au.

Parliamentary Secretaries

Parliamentary Secretaries are Members of Parliament appointed by the Premier to assist the Premier and Ministers with their portfolios. In NSW, Parliamentary Secretaries are not members of the Executive Council and cannot perform functions required under legislation to be performed by a Minister.

Like Ministers, Parliamentary Secretaries are bound by the *NSW Ministerial Code of Conduct*, which is prescribed as an applicable code of conduct for the purposes of section 9 of the *Independent Commission Against Corruption Act 1988*.

Ministers' offices

The primary role of a Minister's office is to support the Minister in discharging their portfolio responsibilities; undertaking their Cabinet and Parliamentary duties; and developing policy and legislative options. Ministerial staff also facilitate communication between the Minister and Departments and agencies, assisting those bodies to understand the Minister's requirements, priorities and availability, and enabling workflow and administration. Each Minister's office is managed by a Chief of Staff.

Ministerial staff are employed by the Minister on behalf of the State, under the *Members of Parliament Staff Act 2013*; they are not public servants. Ministerial staff provide their Minister with political advice which complements the apolitical advice provided by public servants. In doing their work, Ministerial staff are bound by the *NSW Office Holders Staff Code of Conduct*, which is available at www.dpc.nsw.gov.au.

A Departmental Liaison Officer (DLO) may also work in a Minister's office, having been assigned to this role by the relevant Secretary or agency head. The DLO is a public servant, not a member of the Minister's staff. DLOs perform an important function, which includes coordinating communication between the Minister's office and the Department/agency and enabling the timely processing of documents. DLOs are bound by the Code of Ethics and Conduct which operates in their home Department/agency. The source of authority on the assignment of DLOs is Department of Premier and Cabinet Circular C2021-07 Department Liaison Officers available at www.dpc.nsw.gov.au.

Note: Ministers who are Members of the Legislative Assembly also maintain electorate offices – as do all Members of the Legislative Assembly – to assist them in undertaking the representative duties of a Member of Parliament. These electorate offices are separate from Ministerial offices.

1.1 Roles and responsibilities in the Westminster System

The Public Service

Public servants serve the Government of the day by supporting Ministers in:

- Developing and advising on policy options and draft legislation
- Implementing the Government's decisions, policies and programs
- Delivering services to the community
- Managing the State's resources, assets and finances.

A professional, apolitical public service is a major tenet of both the Westminster System and the *Ethical framework for the government sector* set out in the *Government Sector Employment Act 2013*.

The government sector core values in the *Ethical framework for the government sector* recognise the role of public servants in preserving the public interest, defending public value and adding professional, apolitical quality and value to the commitments of the Government of the day, through integrity, trust, service and accountability.

While the core values operate in concert and each is of equal importance, their underpinning principles notably require public servants to:

- Act professionally with honesty, consistency and impartiality
- Place the public interest over personal interest

- Provide apolitical and non-partisan advice
- Provide transparency to enable public scrutiny.

In addition to the *Ethical framework for the government sector*, the *Code of Ethics and Conduct for NSW government sector employees* and agency-specific Codes of Conduct also apply to government sector employees.

Department Secretaries and heads of agencies are responsible for the general conduct and management of their agencies in accordance with the government sector core values and the principles that guide their implementation. Managers are responsible for ensuring that employees familiarise themselves with any agency-specific Codes of Conduct and associated policies, and the Code of Ethics and Conduct for NSW government sector employees.

Independent statutory offices

Independent statutory office holders have a unique place in the Westminster System. Their functions and powers are set out in legislation. They cannot be directed in the exercise of their functions and powers, unless there is specific provision for this in the legislation.

Notwithstanding their independent status, these office holders are usually required to make reports to a Minister and, in a small number of cases, to the Parliament.



1.1 Roles and responsibilities in the Westminster System

Building effective relationships with Ministers' offices

To operate effectively, our system of government depends on cooperative, professional relationships between Ministers' offices and Departments/agencies. Secretaries and agency heads play an important role in this by:

- Promoting and personally demonstrating the core values and principles set out in the *Ethical framework for the government sector*
- Facilitating effective communication with Ministers' offices by establishing clear protocols
- Setting strategic directions to give effect to the Government's policies
- Discussing issues, as they arise, with Ministers' offices and Department/agency employees engaged with those offices.

Each Minister will have his or her own operating style and support requirements.

At the earliest opportunity, the Department/agency should take steps to establish the Minister's expectations and to document them in a clear statement of protocols.

Such a statement might also include:

- The level of seniority of agency officers who have the authority to sign off on advice to the Minister. The level of officer may vary depending on the importance, complexity and sensitivity of the advice
- Key contacts within the Department/agency and their specific responsibilities. The appropriateness of assigning a Departmental Liaison Officer should be considered as an aid for both the Minister's office and Department/agency
- The agreed channel for requests for information, briefings or advice; how and by when such documents are to be provided; and the authorisation or sign-off required
- The Minister's preferred style for briefings and correspondence
- Handling and sign-off rules for Ministerial correspondence
- Key dates, including agreed regular meetings between the Minister's office and the Department/agency
- Arrangements for managing relationships with other Ministers with responsibilities for the functions of the Department/agency
- Copies of the *Ethical framework for the government sector*, agency-specific Codes of Conduct and the *Code of Ethics and Conduct for NSW government sector employees*.

The statement of protocols should be updated regularly.

1.1 Roles and responsibilities in the Westminster System

A senior manager should also be available to orientate new ministerial staff on the work of the Department/ agency and to discuss the protocols for supporting the Minister and their office.

Employees need to be aware that, although they are under the direction of the Secretary or agency head, they have a clear duty to respond promptly and professionally to Ministers' requests for advice or information in ways that are consistent with the relevant policies or procedures of the agency. Public servants cannot be directed by ministerial staff, but they must work professionally and cooperatively with them. Where an employee cannot resolve an issue that arises in their dealings with the Minister's office, it should be promptly referred either to the Secretary or agency head, or to the relevant senior manager.

The importance of employees keeping their Secretaries, agency heads and senior managers informed and up to date, and of maintaining good records, cannot be overemphasised. Protocols which clarify appropriate authorisation and sign-off before fulfilling requests for information, advice or action will reduce confusion and improve quality.

Careful selection and briefing of DLOs will help promote good relations with Ministers' offices. Maintaining close contact with DLOs through regular meetings; ensuring they are kept up to date on developments in their home Department/agency; and rotating them will also assist.



1.1 Roles and responsibilities in the Westminster System

Supporting public servants engaging with Ministers' offices

Ministers employ staff to assist them to exercise their political office functions. Staff who are employed by Ministers are subject to the requirements of the *Members of Parliament Staff Act 2013*. The *Government Sector Employment Act 2013* does not apply to Ministerial staff.

Senior public service managers, whose employees engage with Ministerial staff, play an important role in ensuring their employees have the necessary capabilities and support.

Employees must receive appropriate orientation, training and feedback, so they are clear on their roles, responsibilities and boundaries.

It is critical that employees understand that:

- Their role is to provide frank and fearless advice, which is uninfluenced by party political considerations or personal political allegiances; impartial and free from actual, potential or reasonably perceived conflicts of interests; and based on sound evidence
- Ministers are free either to accept, or to reject, advice, options and recommendations provided by Departments and agencies.

Most training for employees engaged with a Minister's office tends to be 'on the job'. Sometimes employees are suddenly enlisted in critical and urgent situations. Employees who may be called upon should be identified and appropriately briefed on protocols for engaging with ministerial staff and the situations they may face. Experienced employees should be invited to share their knowledge and insights, and to mentor new colleagues.

Questions to be considered for discussion with employees engaged with Ministers' offices include:

1.1 Roles and responsibilities in the Westminster System

Topic	Question
Minister and Minister's office	What are the Minister's portfolio responsibilities?
	What are the Minister's and Government's broad and agency specific priorities?
	Who are the key personnel in the Minister's office?
	What are the roles and responsibilities of ministerial staff?
	What is the Minister's preferred style for briefings and correspondence?
	What matters are handled by the Parliamentary Secretary?
Department/ agency	What are the key functions and objectives of the agency?
	Does the agency report to another Minister and how is their support coordinated?
	What is the status of programs and projects?
	Are any new programs and projects proposed?
	Who are the agency's major clients and stakeholders?
	Who are the key agency personnel and what are their responsibilities?
	How should senior management be kept advised on matters involving the Minister's office?
	What are the agency's relationships with other agencies and the Commonwealth Government?
Interaction	What arrangements and protocols are in place for communication between the Minister's office and the Department or agency?
	What authorisations and sign-off are required for requests from the Minister's office?
	What recent briefings have been provided to the Minister?
	What are the key dates for the Minister, agency and for meetings between the Minister's office and agency?
Issues	What is the status of the agency's key programs?
	What are the current, emerging and contentious issues and who are the responsible agency officers?
	Are there regional or national issues affecting the agency?
	Are there any proposed legislative changes?
	Has the agency been in the media recently?
	Is the agency involved in any major litigation?
Employee	What are the roles and responsibilities of employees?
	Why is the <i>Ethical framework for the government sector</i> important?
	How should confidential and sensitive information be handled?
	What should I do if I am contacted by a Member of Parliament, the Opposition spokesperson or the media?
	Who should I contact for advice on assisting the Minister's office?

1.1 Roles and responsibilities in the Westminster System

Employees who may be required to act as advisors in the Parliament – for example while legislation is being debated – should be given the opportunity to observe proceedings beforehand, ideally with an experienced colleague.

Employee concerns may arise, at times, from a misunderstanding or differing expectations of their role and boundaries. Any concerns regarding engagement with a Minister’s office should be referred to a relevant senior manager.

Much interaction with Ministers’ offices is spoken, particularly where urgent advice is being sought. Departments/agencies should clarify protocols for handling requests and remind employees of the need to maintain good records of communication with Ministers’ offices. Where possible, requests from ministerial staff on behalf of the Minister should be in writing, or confirmed in a return email from the employee to the Minister’s office.



1.1 Roles and responsibilities in the Westminster System

Good practices for engagement with Ministers' offices

Government sector employees responsible for engaging with Ministers and their staff are required to provide “frank and fearless” advice, consistent with the *Ethical framework for the government sector* in the *Government Sector Employment Act 2013* and Westminster principles. This means providing advice that is forthright, direct, non-partisan and does not withhold or gloss over important facts or possible negative outcomes or bad news.

The purpose of such advice is not to limit the Minister to the Department's or agency's recommended position, or to anticipate ‘what the Minister wishes to hear’, but, rather, to advise, with transparency and accountability, on the full range of evidence-based, lawful options and to provide the information necessary for the Minister to make an informed decision.

It is entirely proper – and, indeed, expected – that the Department or agency will recommend one option over the others, after outlining the pros and cons of each. The Minister may accept the recommended option, or reject it and choose another, subject to any legislative constraints. Further or more detailed advice from the Department or agency may also be requested to assist the Minister's decision-making.

The *NSW Ministerial Code of Conduct* states that “a Minister who seeks advice from a public service agency that is subject to the Minister's direction must not direct that agency to provide advice with which the agency does not agree”.¹ However, the *Ministerial Code of Conduct* also makes it clear that a Minister can discuss or disagree with advice; make a decision contrary to advice; or direct an agency to implement a decision, whether or not the agency agrees with it.

When advice or information has been considered and a lawful decision made by the Minister or Cabinet, it is the responsibility of the agency to implement that decision diligently and professionally.

¹ Section 5(2), Appendix *NSW Ministerial Code of Conduct, Independent Commission Against Corruption Regulation 2017 (NSW)*.

1.1 Roles and responsibilities in the Westminster System

Good practice guides

The following good practices are intended to assist Departments and agencies to resolve some issues that may arise during their engagement with Ministers' offices.

Issue: Rejection of Department or agency advice

Carefully prepared advice and recommendations developed by the Department or agency are rejected by the Minister.

Westminster principle:

Ministers and Cabinet decide policy under the Westminster System. They can accept or reject the advice of an agency, subject to any legislated constraints. After advice has been considered and a lawful decision has been made, it is the responsibility of public servants to implement the decision of the Minister (or Cabinet) in ways that are consistent with the legal and ethical obligations of public servants.

Recommended approach

Department/agency to provide well researched, professional, apolitical advice to Ministers which is in the public interest, transparent and can be supported by evidence.

Employees to:

- Document reasons for the Minister's decision, if available
- Discuss the matter with their manager
- Provide supporting material to their manager, if required.

Managers to:

- Review advice provided to the Minister and discuss with employees
- If appropriate, consider raising the issue with senior management or the Minister's office
- Reassure employees that they provided professional and appropriate advice and their efforts are appreciated
- Update employees on the progress of higher-level discussions, if possible.

Senior management to:

- Discuss the reasons for the decision with the Minister or Chief of Staff including implications for policy direction and expected outcomes
- Reassess agency programs and priorities
- Initiate improvements for engagement with the Minister's office, if required.

Issue: Direction of agency employees

Ministerial staff seek to direct Department/agency employees, rather than make requests as per the established convention

Westminster principle:

Public servants are under the direction of their Department/agency head and cannot be directed by ministerial staff. This is a standard included in the *NSW Office Holder's Staff Code of Conduct*.¹

However, employees have a clear duty to respond promptly and professionally to Ministers' requests for advice or information. In practice, many such requests are made on the Minister's behalf by ministerial staff. Requiring all requests to be made through the Department/agency head would be impractical, inefficient and an impediment to good government.

Good practice:

How such requests are handled will vary from organisation to organisation, issue to issue, and with the experience and seniority of the employees involved.

Departments/agencies should therefore:

- Provide guidance on when a formal process is mandatory or recommended
- Encourage employees to discuss any concerns
- Stress to employees the importance of good record keeping, documentation and of keeping managers properly informed
- Select employees who are able to exercise sound judgment and common sense in high-pressure situations.

The following suggestion is intended for situations where an employee is uncomfortable with what they have been asked to do by ministerial staff, perhaps because it does not appear to be consistent with the Department's or agency's policies, announcements, timeframes and/or the employee's obligations under the *Ethical framework for the government sector*.

Recommended approach

Department/agency to have agreed protocols for transparent working relations with the Minister's office. This should include actions to be taken by employees when directed by ministerial staff.

Employees to:

- Seek (or confirm) the request in writing, for example, in an email
- Discuss the matter with their manager.

Managers to:

- Assess the circumstances of the request – particularly the level of urgency – and discuss with employee
- If warranted, ask ministerial staff to make the request via the Minister to the Secretary or agency head
- Ensure appropriate contact officers appear on documents to the Minister's office
- Consider being the contact point on the issue in question
- Raise the issue with senior management
- Update relevant employees on the progress of higher-level discussions.

Senior management to:

- Ensure there is an agreed written protocol for transparent working relations between the Minister's office and identified agency contacts
- Ensure employees are aware of protocol arrangements and delegations
- Ask that the Minister's Chief of Staff ensure incoming ministerial staff are aware of the established protocols
- Review protocols and initiate improvements for engagement with the Minister's office, if required.

For a practical example of how these principles may operate in respect of directions to agency employees, see the ethical scenario '[Direction by ministerial staff](#)' at page 134.

¹ Available at www.dpc.nsw.gov.au

1.1 Roles and responsibilities in the Westminster System

Issue: Advice sought in limited terms or not at all

Minister seeks the Department/agency's advice in limited terms, or in relation to specific options only, or after a decision is already made, or does not seek advice at all.

Westminster principle:

Public servants are obliged to provide Ministers with frank and fearless advice which is apolitical and non-partisan. Such advice should lay out all the options and deal honestly with all the issues, including those that are difficult, complicated and problematic.

Ministers and Cabinet decide policy under the Westminster System. They can accept or reject the advice of a Department/agency, subject to any legislated constraints.

Good practice:

In some circumstances, the way in which a public servant should discharge their obligation to provide frank and fearless advice may not be clear. For example, what is the obligation where a Minister seeks advice in limited terms, or in relation to specific options only, or after a decision is already made, or not at all?

In such situations – even though the circumstances may be difficult or awkward – the obligation to provide frank and fearless advice persists. As always, such advice should be apolitical, objective and of practical assistance to the Government of the day in determining how best to implement its policies.

Where a lawful decision has already been made by a Minister or Cabinet, it is the responsibility of public servants to implement that decision diligently and to the best of their professional ability. However, where a Department/agency sees the potential for risks, unintended or

adverse outcomes, or excessive costs to result from a decision, the Minister must be advised. The same obligation exists where a Minister seeks advice in limited terms or in relation to specific options only.

This approach to advising Ministers is consistent with both the Westminster System principle of frank and fearless advice, and the *Ethical framework for the government sector* objective of adding professional quality and value to the commitments of the Government of the day.

Recommended approach:

Department/agency to provide well researched, apolitical advice to Ministers which addresses all relevant issues including – where they (may) exist – risks and downsides.

Employees to:

- Discuss with their manager the request for advice or – where a request has not been received – whether advice should nevertheless be provided
- Provide supporting material to their manager, if required.

Managers to:

- Review the request for advice or – where a request has not been received – consider whether advice should nevertheless be provided
- Raise the matter with senior management.

Senior management to:

- Discuss the matter with the Minister or Chief of Staff
- Ensure that the Minister receives advice consistent with both the Westminster System principle of frank and fearless advice, and the *Ethical framework for the government sector* objective of adding professional quality and value to the commitments of the Government of the day.

Issue: Request to revise advice

Employees requested by the Minister's office to revise original advice and provide it afresh.

Westminster principle:

Consistent with the *Ethical framework for the government sector*, an independent public sector provides apolitical and non-partisan advice in the public interest. After advice has been considered by the Minister or Cabinet and a lawful decision has been made, it is the responsibility of government sector employees to implement that decision.

Good practice:

Where original advice provided to the Minister is insufficiently comprehensive or new issues or information arise, it is entirely proper for supplementary or revised advice to be provided.

However, it is critical that any supplementary or revised advice is identified as having been provided at the request of the Minister or ministerial staff (where this is the case), and that the original advice remains clear to the reader.

Note: Advice should not be changed or opinions omitted if the agency remains of the belief that particular information should be considered by the Minister.

The Independent Commission Against Corruption has highlighted that, if "it is difficult for a third party to identify the source of a particular decision ...[a] false impression is created that a decision-maker is merely acting on departmental advice."

The *NSW Ministerial Code of Conduct* states that "a Minister who seeks advice from a public service agency that is subject to the Minister's direction must not direct that agency to provide advice with which the agency does not agree".¹ However, the code also makes it clear that a Minister can discuss or disagree with advice; make a decision contrary to advice; or direct an agency to implement a decision, whether or not the agency agrees with it.

Recommended approach

Department/agency to provide well researched, professional, apolitical advice to Ministers which is in the public interest, transparent and is supported by evidence.

Employees to:

- Seek request for revised advice in writing
- Discuss the request with their manager
- Provide supporting material to their manager, if required.

Managers to:

- Review the request and discuss with employee
- Consider whether it is possible to supplement or revise the advice to provide more information or a broader range of options
- Ensure previous versions of advice are retained and accessible
- Include a clear statement that the supplementary or revised advice is provided at the request of the Minister or Minister's office, whichever is the case
- Raise issue with senior management
- Update employees on the progress of matter, if possible.

Senior management to:

- Discuss with Minister or Minister's Chief of Staff
- Initiate improvements for engagement with the Minister's office, if required
- Remind employees of their obligations to act ethically.

For a practical example of how these principles may operate in respect of requests to revise advice, see the ethical scenario '[A change of brief](#)' at page 134.

¹ Section 5(2), Appendix, *NSW Ministerial Code of Conduct, Independent Commission Against Corruption Regulation 2017*.

1.1 Roles and responsibilities in the Westminster System

Issue: Apparent lack of progress on agency recommendations

Agency advice is apparently not acted upon within the expected timeframe.

Westminster principle:

Ministers and Cabinet decide policy under the Westminster System.

Ministers are under no obligation to accept, or advance, agency recommendations.

Good practice:

Department/agency to provide well researched, professional, apolitical advice to Ministers which is in the public interest, transparent and is supported by evidence.

Department/agency to draw Ministers' attention to the implications, if any, of a delayed decision.

Employees to:

- Confirm and document receipt of advice in the Minister's office
- Discuss the matter with their manager
- Provide supporting material to their manager, if required.

Managers to:

- Review advice provided to the Minister and discuss with employee
- Consider the matter in the light of agency programs and priorities
- Consider making a supplementary submission to the Minister
- Remind employees that the decision to proceed with an initiative or recommendation rests with the Minister and Cabinet
- Reassure employees that they have provided professional and appropriate advice and their efforts are appreciated
- Raise issue with senior management
- Update employees on the progress of the matter, if possible.

Senior management to:

- Discuss with Minister or Minister's Chief of Staff clarifying potential implications
- Initiate improvements for engagement with the Minister's office, if required
- Reassess agency programs and policies, if required.

1.1 Roles and responsibilities in the Westminster System

Caretaker period

Elections place particular requirements on public servants. Special arrangements apply in the lead up to an election, when the Government assumes a 'caretaker' role.

Guidelines for caretaker conventions are issued by the Department of Premier and Cabinet (DPC) prior to an election and are available at www.dpc.nsw.gov.au. Under the conventions, Departments and agencies generally should not be requested to provide policy advice during the caretaker period. However, Ministers may continue to ask Departments and agencies for factual information and material concerning the normal day-to-day business of government. Managers need to ensure that employees engaged with the Minister's office are fully aware of, and comply with, the caretaker conventions and practices.

Caretaker conventions also require that the Government avoids significant new decisions or initiatives, appointments or major contractual undertakings (excluding routine government business) during the caretaker period.

The caretaker conventions should be discussed with the Minister's office in advance of an election, with further discussions as required.

Questions regarding the caretaker conventions should be directed to the Secretary of DPC.



1.2 The *Ethical framework for the government sector*

Government Sector Employment Act 2013.

Part 2 of the *Government Sector Employment Act 2013* establishes the *Ethical framework for the government sector*.

Objective

Section 6 of the *Government Sector Employment Act 2013* identifies the overarching objective of the *Ethical framework for the government sector*, namely to:

- a. 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, and
- b. establish an ethical framework for a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day.

Government sector core values and principles

Section 7 of the *Government Sector Employment Act 2013* identifies the core values and the principles that guide their implementation:

General provisions

Section 8 of the *Government Sector Employment Act 2013* specifies three general provisions:

- The Public Service Commissioner has the function 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 Framework gives rise to, or can be taken into account in, any civil cause of action.

Secretaries, heads of agencies and other senior executives

Secretaries of Departments (section 25) and heads of Public Service agencies (section 30) are responsible for the general conduct and management of their organisations in accordance with the government sector core values of the *Ethical framework for the government sector*. Other senior executives have similar obligations in their areas of responsibility as specified in senior executive contracts, work level standards etc.



Integrity

- Consider people equally without prejudice or favour.
- Act professionally with honesty, consistency and impartiality.
- Take responsibility for situations, showing leadership and courage.
- Place the public interest over personal interest.



Trust

- Appreciate difference and welcome learning from others.
- Build relationships based on mutual respect.
- Uphold the law, institutions of government and democratic principles.
- Communicate intentions clearly and invite teamwork and collaboration.
- Provide apolitical and non-partisan advice.



Service

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



Accountability

- Recruit and promote employees on merit.
- Take responsibility for decisions and actions.
- Provide transparency to enable public scrutiny.
- Observe standards for safety.
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

1.3 Other legislation

Besides the *Government Sector Employment Act 2013*, there are other pieces of legislation which establish obligations for government sector employees to act in ways which are ethical and in the public interest. These laws include:

- *Anti-Discrimination Act 1977 and Commonwealth discrimination legislation* (For a practical example of how obligations under this legislation may apply, [see the ethical scenario ‘An older applicant’ at page 131](#))
- *Child Protection (Working with Children) Act 2012*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Children’s Guardian Act 2019*
- *Crimes Act 1900*
- *Data Sharing (Government Sector) Act 2015*
- *Government Advertising Act 2011*
- *Government Information (Public Access) Act 2009*
- *Government Sector Finance Act 2018*
- *Health Records and Information Privacy Act 2002*
- *Independent Commission Against Corruption Act 1988*
- *Modern Slavery Act 2018*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Protection Act 1998*
- *Public Interest Disclosures Act 1994*. (which will be replaced by the *Public Interest Disclosures Act 2022* when the latter Act commences)
- *Public Works and Procurement Act 1912*
- *State Records Act 1998*
- *Work Health and Safety Act 2011*

This is not an exhaustive list. At certain times, or when doing certain work, employees will have additional obligations under other legislation.



1.4 Oversight agencies

Oversight agencies

In addition to the Public Service Commissioner, there are other office holders and bodies, established by legislation, with special responsibilities to protect and preserve the public interest.

This section provides information about four of the statutory integrity bodies.

NSW Ombudsman

The NSW Ombudsman's Office is an independent integrity office. The role of the NSW Ombudsman is to help ensure agencies within the Ombudsman's jurisdiction address problems and meet their responsibilities to the community. These problems may be uncovered by complaints from the public or by people who work for those agencies. Problems may also come to the Ombudsman's attention through work scrutinising agency systems, overseeing investigations, monitoring and reviewing the delivery of services, or community engagement.

The Ombudsman has statutory functions under the *Ombudsman Act 1974* and other legislation to handle and investigate complaints about the conduct of "public authorities" as defined in that Act. The [Ombudsman](#) is responsible for keeping the following types of organisations under scrutiny:

- NSW Public Service agencies (departments, Public Service executive agencies or separate Public Service agencies) within the Ombudsman's jurisdiction (note, the Law Enforcement Conduct Commission handles complaints about the NSW Police Force)
- Other NSW government entities within the Ombudsman's jurisdiction, including statutory bodies and state owned corporations
- Public universities established under NSW legislation
- Local government
- Custodial services
- Community services provided, funded, authorised or licensed by the Minister for Families, Communities and Disability Services.

The Ombudsman has other specific functions that relate to:

- The monitoring and assessment of Aboriginal programs
- Oversight of public interest disclosures
- Community services monitoring, reviews and inquiries
- Reviewable deaths of children
- Convening the Child Death Review Team
- Monitoring the segregation of detainees in youth detention
- Monitoring the operation and administration of the mandatory disease testing legislation (to commence at a future date).

For more information and contact details for the office of the NSW Ombudsman, see www.ombo.nsw.gov.au.

Independent Commission Against Corruption

The Independent Commission Against Corruption (ICAC) was established by the NSW Government in 1989 in response to growing community concern about the integrity of public administration in NSW.

The ICAC's principal functions are set out in the *Independent Commission Against Corruption Act 1988*. In summary, they are:

- to investigate and expose corrupt conduct in the NSW public sector
- to actively prevent corruption through advice and assistance, and
- to educate the NSW community and public sector about corruption and its effects.

The ICAC works to minimise corruption by providing advice, information, resources and training to public sector organisations to remedy existing or potential corruption problems, and helps organisations to identify and deal with significant corruption risks. The ICAC also educates the NSW community and public sector about corruption and its effects.

1.4 Oversight agencies

Enquiries and reports regarding suspected corrupt conduct (including public interest disclosures) can be made to the ICAC by a range of means, including through the ICAC's online corruption report form.

For more information and contact details for the ICAC, see www.icac.nsw.gov.au.

Audit Office of NSW

The Audit Office of New South Wales is a statutory authority, established under the *Government Sector Audit Act 1983*, that conducts audits for the Auditor-General. The Auditor-General helps parliament hold government accountable for its use of public resources.

The Auditor-General is responsible for audits and related services. The Audit Office conducts financial and performance audits, principally under the *Government Sector Audit Act 1983*, as well as audit or audit-related functions under the *Government Sector Finance Act 2018* and the *Corporations Act 2001*.

Financial audits provide an independent opinion on NSW Government agencies' financial statements. They identify whether agencies comply with accounting standards and relevant laws, regulations and government directions. Financial audits are designed to add credibility to financial statements, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to agencies to ensure sound financial management.

Performance audits build on our financial audits by reviewing whether taxpayers' money is spent efficiently, effectively, economically and in accordance with the law. These audits may review all or part of an agency's operations. Some audits consider particular issues across a number of agencies.

The Audit Office also examines allegations of serious and substantial waste of public money under the *Public Interest Disclosures Act 1994* (which will be replaced by the *Public Interest Disclosures Act 2022* when the latter Act commences). Serious and substantial waste refers to the uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in a loss/wastage of public funds/resources.

For more information and contact details for the Audit Office, see www.audit.nsw.gov.au.

Information and Privacy Commission NSW

The Information and Privacy Commission (IPC) is an independent statutory authority that administers New South Wales legislation dealing with privacy and access to government information.

The IPC reviews the performance and decisions of agencies and investigates and conciliates complaints relating to public sector agencies, health service providers (both public and private) and some large organisations that deal with health information. The IPC also provides feedback about the legislation and relevant developments in the law and technology.

The Privacy Commissioner's role is to resolve complaints, protect and enhance the privacy rights of the NSW community and ensure agencies uphold the privacy principles in the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*.

The Information Commissioner's role is to promote public awareness and understanding of the right to access government information in NSW, and provide information, support, advice, assistance and training to agencies and the general public. The Information Commissioner has the power to review decisions made by other NSW government agencies and deal with complaints about information access. The Information Commissioner can investigate agencies and compel them to provide information in the conduct of inquiries.

For more information and contact details for the Information and Privacy Commission, see www.ipc.nsw.gov.au.

1.4 Oversight agencies

Law Enforcement Conduct Commission

The Law Enforcement Conduct Commission (LECC) was established by the *Law Enforcement Conduct Commission Act 2016*. Its functions support promotion of the integrity and good repute of the NSW Police Force and Crime Commission, and include functions with respect to misconduct matters, assembling evidence, making findings and opinions and making recommendations, as well as administrative functions relating to education and prevention of officer misconduct.

For further information see www.lecc.nsw.gov.au.

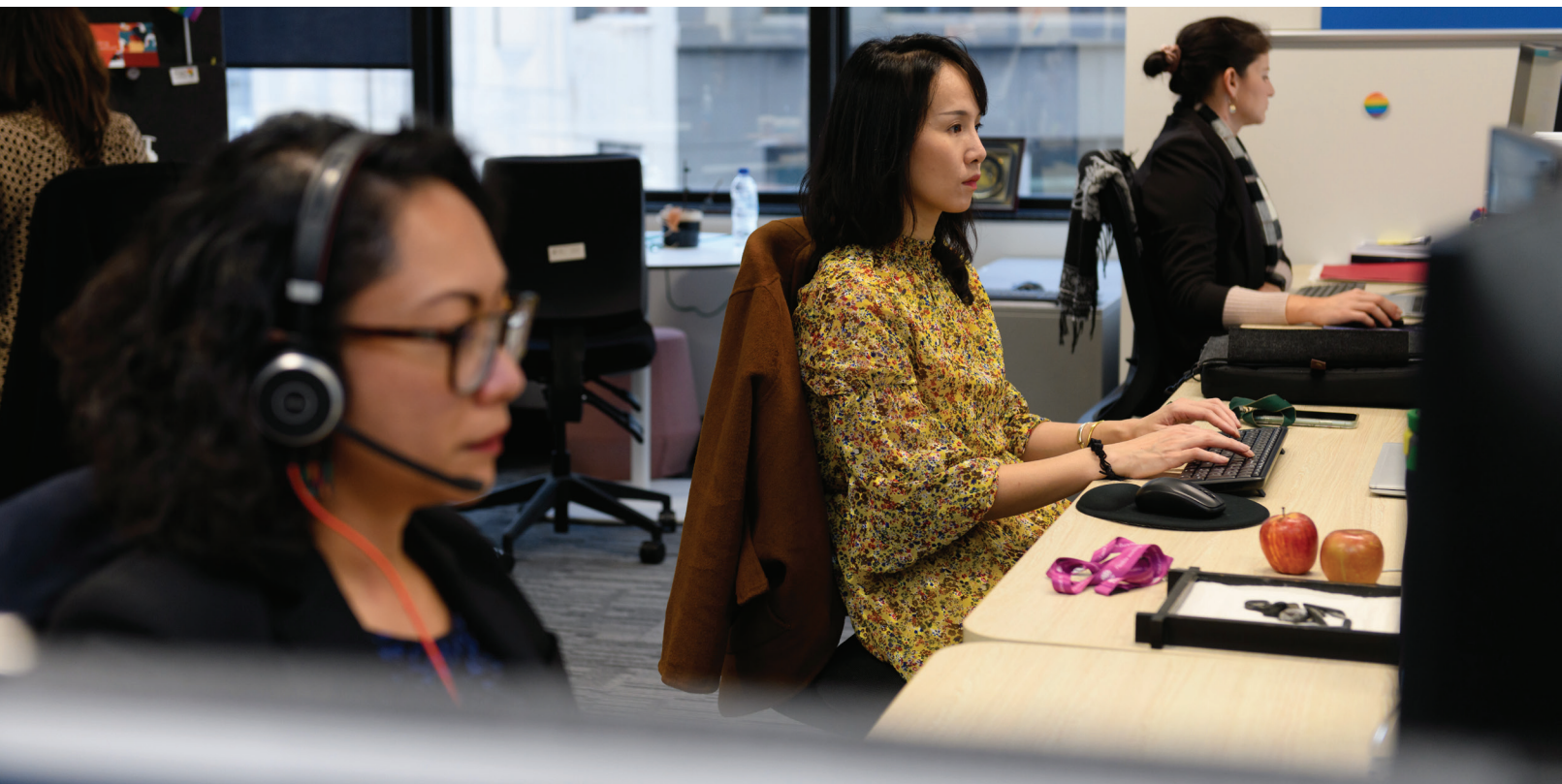
Health Care Complaints Commission

The Health Care Complaints Commission acts to protect public health and safety by resolving, investigating and prosecuting complaints about health care practitioners and health organisations and service providers. For more information and contact details see www.hccc.nsw.gov.au.

Children's Guardian

The Children's Guardian is established by the *Children's Guardian Act 2019* and is supported by the office of the Children's Guardian.

The Children's Guardian's functions concern the safety, welfare and wellbeing of children in NSW. For more information and contact details see www.ocg.nsw.gov.au.



Section 2:

Commissioner's directions

About this section

This section provides information about the Public Service Commissioner's directions which relate to implementation of the Ethical Framework in NSW government sector agencies.

The Commissioner has issued directions requiring all government sector agency heads to implement minimum standards for managing gifts and benefits in their agencies, and to require employees to comply with those standards.

The Commissioner has also issued directions requiring all heads of government sector agencies to implement the *Code of Ethics and Conduct for NSW government sector employees* and to require employees to comply with the Code.

A direction is a formal legal instrument issued by the Public Service Commissioner under section 13 of the *Government Sector Employment Act 2013* (GSE Act).

The Public Service Commissioner gives directions for the purposes of exercising his or her functions or ensuring compliance with the GSE Act, Regulation or Rules. The Commissioner's functions include promoting and maintaining the government sector core values, and leading the strategic development and management of the government sector workforce in relation to general conduct and compliance with ethical practices.

In accordance with the GSE Act, directions are set out in writing and are given to a Department Secretary or head of a government sector agency on a specific matter in relation to the employees of that Department or agency.

All directions are made publicly available on the Public Service Commission website www.psc.nsw.gov.au as soon as practicable after they are given.

Public Service Commissioner Direction

No 1 of 2022

under the

Government Sector Employment Act 2013

I, Kathrina Lo, Public Service Commissioner of New South Wales, pursuant to section 13 of the *Government Sector Employment Act 2013*, give the following direction.

Dated 19 August 2022



Kathrina Lo

Public Service Commissioner

Public Service Commissioner Direction

No 1 of 2022

Under section 13(1) of the *Government Sector Employment Act 2013*

1. Application

This direction is given to all heads of all government sector agencies.

Compliance with this direction is mandatory, subject to section 13 (4) and (5) of the *Government Sector Employment Act 2013*.

2. Date of operation

This direction has effect from 1 November 2022 until further notice.

3. Definitions

In this direction:

government sector agency has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

head of a government sector agency has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

Managing Gifts and Benefits: Minimum Standards means the standards contained in Section 2.1 of *Behaving Ethically: A Guide for NSW government sector employees* as published on the Public Service Commission website on 26 August 2022 and set out at Schedule 1.

4. Direction

I direct the head of each government sector agency to implement the *Managing Gifts and Benefits: Minimum Standards* on and from 1 November 2022, and to require employees of that agency to comply with those standards.

5. Replacement of former direction

This direction replaces the following direction (former direction) on and from 1 November 2022:

(1) Public Service Commissioner Direction No 1 of 2014 (**October 2014 Direction**) made by the former Commissioner on 31 October 2014.

Note: The October 2014 Direction requires the heads of the government sector agencies listed in Schedule 1 to that Direction to implement the *Managing Gifts and Benefits: Minimum Standards* by 1 September 2015.

6. Savings

Conduct that occurred while the former direction was in effect remains subject to that direction as if it had not been replaced.

Note: References to government sector agencies and heads of government sector agencies listed in the Schedule to Direction 1 of 2014 are, where relevant, construed or treated in accordance with applicable *Administrative Changes Orders* or other applicable legislation.

7. Publication

This direction will be made publicly available on the Public Service Commission website as soon as practicable after it is given.

2.1 Managing gifts and benefits

Gifts and benefits – the risks

In the course of their work, NSW government employees – or, occasionally, their families, relations, friends or associates – may be offered gifts or benefits by customers, clients, applicants, suppliers, or other persons or organisations.

Most gifts and benefits are intended simply as a memento or a small token of appreciation – for example, a book or coffee mug presented to a speaker at a conference. Accepting a gift or benefit of this kind is unlikely to be inconsistent with an employee's obligations under the *Ethical framework for the government sector*.

However, sometimes a gift or benefit may be offered to influence a government employee in making a decision, or to provide a favour which will advance the interests of the giver, either now or in the future. Even gifts and benefits of modest value can be used to cultivate, over time, a relationship where a government employee feels an obligation or loyalty to the giver.

Accepting a gift or benefit that could be perceived by other persons to be an inducement or incentive is inconsistent with the standards of conduct required by the *Ethical framework for the government sector*.

Soliciting or accepting a gift or benefit as an actual inducement or incentive to make a decision, or to provide a favour, is not only inconsistent with the *Ethical framework for the government sector*, but constitutes corrupt conduct under the *Independent Commission Against Corruption Act 1988* and may lead to criminal prosecution.

There can be serious consequences for the employer and the employee where the management of gifts and benefits is mishandled. Departments/agencies risk the loss of public trust, financial losses and possible legal actions. Employees risk embarrassment, and action relating to their alleged misconduct which may affect their employment and even lead to prosecution.

The effective management of gifts and benefits involves more than simply establishing a threshold value for reporting, or even imposing a complete prohibition on accepting a gift or benefit.

Active management and a thorough understanding of the agency's operating environment are also required, if the risks associated with relationships and influence are to be identified and mitigated.

Remember – the goal of a system for managing gifts and benefits is to minimise the risk that unethical or corrupt behaviour will occur.

2.1 Managing gifts and benefits

Legislative context

In NSW Departments and agencies, Secretaries and agency heads are responsible for the general conduct and management of their organisations, in accordance with the core values in the *Ethical framework for the government sector*.

Clear policies and practices for the effective management of gifts and benefits are critical to this responsibility.

Consistent with the Public Service Commissioner's function "to lead the strategic development and management of the government sector workforce in relation to general conduct and compliance with ethical practices", this guide contains minimum standards for Departments and agencies in managing gifts and benefits.

The minimum standards are informed by the obligations placed on employees by the *Ethical framework for the government sector* – in particular, the requirements to:

- Place the public interest over the personal interest
- Act professionally with honesty, consistency and impartiality
- Provide transparency to enable public scrutiny.

2.1 Managing gifts and benefits

Minimum standards

Each Department and agency must have in place:

- A **policy** for the management of gifts and benefits
- A gifts and benefits **register**
- **Training and support** for employees.

Policy

The Department/agency policy must:

Define 'gifts and benefits'

An exhaustive definition would be:

'any item, service, prize, hospitality or travel, provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/ or a value to the recipient, a member of their family, relation, friend or associate'.

Establish value thresholds, if appropriate

Consider whether it is appropriate to establish value thresholds, both single instance and cumulative:

- Below which a gift or benefit can be accepted without the approval of a manager, or its being recorded in the register
- Above which a gift or benefit must be declined or, where this is not practicable – accepted, registered and then donated to charity.

The Audit Office of NSW suggests, as a guide, that the first threshold be \$25 and the second \$100.¹ However, these thresholds could vary, depending on the specific functions and operating environment of the Department/agency.

State employees' obligations clearly

Make an unambiguous statement about employees' obligations in relation to gifts and benefits. This could take the form of dos and don'ts.

For example:

Don't:

- Solicit a gift or benefit
- Accept a gift or benefit as an inducement or incentive to act in a certain way
- Accept a gift or benefit where there could be a perception that it has been offered as an inducement or incentive to act in a certain way
- Accept cash, cheques, money orders or gift vouchers
- Accept a gift or benefit where it is to be provided to a family member, relation, friend or associate
- Accept a gift or benefit where you currently, or may in the future, exercise discretion in the making of a decision affecting the giver
- Accept a gift or benefit if you are unsure whether you should.

Do:

- Read, understand and comply with the gifts and benefits policy
- Politely decline a gift or benefit which is not allowed
- Seek management approval to accept a gift or benefit which is allowed
- Promptly record gifts and benefits in the register.

Address conflicts of interests

Make it clear that where a conflict of interests exists (that is, where there is an actual, potential or reasonably perceived conflict between an employee's private interests and their impartial performance of their official duties) the offer of a gift or benefit should always be declined and registered.

¹ NSW Auditor General's Report: Managing Gifts and Benefits, 2013

2.1 Managing gifts and benefits

Outline an approval process

Normally, an approval process for accepting a gift or benefit would identify who can approve, any value threshold for mandatory reporting and recording, and who holds the Department/agency gift register.

Identify specific risks

The structure and functions of a Department/agency will influence the nature and level of risk it faces in managing gifts and benefits. Senior managers should identify risks that are specific to their organisation, or to a business unit, and ensure that these are addressed adequately in the gifts and benefits policy. Including real-life examples and/or scenarios, which highlight the risks inherent in the organisation's operating environment, will assist employees to better understand their obligations.

Risks identified by similar organisations, and their experiences with gifts and benefits, should be monitored and considered as potential risks for your own organisation.

Specify how breaches will be handled

Specify what action will be taken when an employee breaches the gifts and benefits policy. In most cases, breaches will be covered by the Code of Ethics and Conduct; Department/agency codes; relevant legislation, including the *Government Sector Employment Act 2013*; and the *Government Sector Employment (General) Rules 2014* (NSW).

Register

The Department/agency gifts and benefits register should be transparent and auditable. Whether a physical document or an electronic file, the register should also be straightforward, secure and held centrally. Consideration should also be given to publishing the register on the Department/agency website.

To be effective the register should record:

- Date of the offer or receipt
- Name and business unit of the receiver
- Name and organisation of the giver
- Description of the gift or benefit
- Estimated value of the gift or benefit, where possible supported by evidence
- Description of the context in which the gift or benefit was offered and/or received
- Disclosure of any relationship – business or personal – between the giver and receiver
- Name of the approving manager or supervisor
- Decision, for example:
 - Accept and retain – the employee or Department/ agency will accept and retain or
 - Accept and dispose – the Department or agency will accept and dispose (in accordance with relevant asset disposal policies) e.g. donate to charity or
 - Refuse – acceptance of the gift or benefit is refused
- Reasons for the decision.

The reliability of the system will be improved if register entries are reviewed regularly by a designated senior manager to ensure actions are consistent with the policy.

2.1 Managing gifts and benefits

Training and support

Departments and agencies should provide employees with training and support in managing gifts and benefits.

Train all employees

Training in the Department/agency gifts and benefits policy should be provided to all new starters as part of their induction, along with training on the *Ethical framework for the government sector* and relevant Code(s) of Ethics and Conduct. This is especially important for employees working in the government sector for the first time. Agencies must also implement strategies that maintain a high level of awareness for staff on an ongoing basis. It is recommended that employees are reminded of their obligations in managing gifts and benefits on at least an annual basis. Formal training about this matter should be integrated into existing cyclical training or development activities including performance development programs. The nature and type of awareness or training must take into account the risk and likelihood of receiving a gift or benefit based on the employee's role. Employees' obligations can also be reinforced by supervisors during performance review discussions and team meetings.

Consider also the specific training needs of employees involved in procurement and contract management, where suppliers may employ sophisticated sales and relationship building techniques. Where possible, training should help employees to recognise these techniques and respond appropriately.

Ensure advice is readily available

Designate a senior manager who is available to advise employees on their gifts and benefits obligations, and to escalate issues if necessary.

Consider publishing a 'statement of business ethics'

Many organisations now publish a statement of business ethics to assist their customers, applicants, suppliers, and potential suppliers. This statement explains how the organisation will behave when providing services, seeking information, regulating, or making purchases. It is in relation to the last of these activities – procurement – that including a summary of the Department/agency gifts and benefits policy can be particularly useful.

2.1 Managing gifts and benefits

Other things to consider

Hospitality

How to deal with offers of hospitality requires special attention in a Department/agency gifts and benefits policy.

This is particularly the case where employees - because of the nature of their jobs - are expected to develop effective working relationships with contacts in the commercial sector, but, at the same time, must ensure that such relationships do not result in preferential treatment (or the appearance of preferential treatment) for those commercial contacts.

Guidelines can assist employees to make the right decisions, but there will always be grey areas demanding careful judgment. Ultimately, the question to be decided is this:

'Would a reasonable person think that the hospitality was intended to influence the recipient to act in the interests of the giver, either now or in the future?'

Examples of **low risk** hospitality include:

- Functions where the recipient attends in an official capacity as their organisation's representative
- Hospitality provided as part of a conference package, where the Department/agency has paid a fee for the employee to attend
- Catered briefings, roundtables, launches etc, where invitees from a range of external organisations are present
- Occasional working lunches, where the hospitality is incidental and of low value - say, sandwiches and coffee.

Examples of **higher risk** hospitality include:

- Restaurant meals (except as described in the first and third dot points above)
- Invitations to corporate boxes or marquees
- Invitations to lunches, dinners or other events to 'seal the deal', or to 'celebrate' finalisation of a procurement process or the signing of a contract
- Invitations to functions held in private homes
- Invitations which extend to family members, relations, friends and associates.

As a general rule, where there is doubt about whether to accept hospitality, employees and their managers should err on the side of caution. Each agency needs to decide what is acceptable hospitality, having regard to the operating environment, agency responsibilities and identified risks. Acceptance of hospitality that is higher risk should always be accompanied by a commensurately greater level of transparency. Employees should record receipt of hospitality in accordance with the agency's policy, including any value thresholds, as soon as is practicable.

If hospitality is accepted in good faith, but a third party attempts to use the occasion to raise a materially significant matter relating to their business or private affairs, the employee should politely decline to discuss the matter and, if appropriate, propose that a formal meeting be organised for a later date.

2.1 Managing gifts and benefits

Sporting, entertainment and cultural events

How to deal with invitations and free tickets to sporting, entertainment and cultural events may require special attention in a Department/agency gifts and benefits policy, depending on the organisation's functions and operating environment.

In many cases, the value of such invitations and tickets will be significant, possibly beyond the acceptance threshold established in the Department/agency policy.

However, it is important to distinguish between situations where an employee's attendance at an event is unrelated to their work responsibilities, and where their attendance is for the purpose of advising the Government on policy, or administering a program. The former would constitute a gift or benefit, the latter would not. Nonetheless, for transparency, it is preferable for the acceptance and allocation of invitations and tickets to be managed and recorded centrally. If this is not practicable on a whole-of-agency basis, it should be done at division or branch level.

Invitations and tickets from unrelated third parties – that is, from parties not directly involved in the event – should always be treated as gifts and benefits.

Travel and accommodation

From time to time, government sector employees may be offered travel or accommodation upgrades during official travel within Australia or overseas.

Employees should never seek or solicit an upgrade from a travel or accommodation provider in relation to official travel.

Where a travel or accommodation provider seeks to upgrade an employee for operational reasons, at no charge to the employee or their agency (for example, where an airline upgrades a traveller to business class because it has its overbooked economy class for that flight) the employee may accept the upgrade, but should record receipt of the upgrade in their agency's gifts and benefits register.

Competitive scholarships and awards

Government sector employees may be eligible to apply for competitive scholarships or awards in recognition of their achievements or potential in their field of expertise. Examples include, but are not limited to: NSW Premier's Teacher Scholarships; the NSW Premier's Awards; the Institute of Public Administration Australia Awards; and the Commonwealth Bank Foundation Teaching Awards.

Agency policies may permit employees to accept, with the approval of a manager, professional scholarships and awards won as a result of an open and competitive application process, even where the value of the award exceeds any applicable value threshold for gifts and benefits established by the agency.

Recipients of such awards should record all relevant details of the award, including details of their manager's approval, in their agency's gifts and benefits register.

Higher risk jobs

While all government employees need to be cautious when offered a gift or benefit, Departments and agencies should make sure employees, involved in the following activities, are especially alert to the potential risks:

- Making, or advising on, purchasing decisions
- Evaluating tenders, quotes, proposals or applications
- Administering, or advising on, grants or approvals
- Managing contracts
- Regulating individuals, organisations or industries
- Delivering valuable services to individuals, companies or organisations, including the hiring of staff.

2.1 Managing gifts and benefits

Read more

In addition to complying with their Department/ agency policy for managing gifts and benefits, employees must act consistently with the Code of Ethics and Conduct and any Department/ agency codes.

Employees should also be referred to the resources that can be found in *Behaving Ethically: A guide for NSW government sector employees* published by the Public Service Commission to guide employees on their conduct, decision-making and interaction with the Government, customers and colleagues.

Further information that may also be useful to employees in managing gifts and benefits and conflicts of interest is available from the NSW Ombudsman (see www.ombo.nsw.gov.au) and the Independent Commission Against Corruption (see www.icac.nsw.gov.au).

See also *Government Sector Finance Act 2018*, Treasurer's Direction 2021-04, and *Gifts of government property* concerning gifts of government property made by or on behalf of a GSF agency.

Public Service Commissioner Direction

No 2 of 2022

Under the

Government Sector Employment Act 2013

I, Kathrina Lo, Public Service Commissioner of New South Wales, pursuant to section 13 of the *Government Sector Employment Act 2013*, give the following direction.

Dated 19 August 2022



Kathrina Lo

Public Service Commissioner

No 2 of 2022

Public Service Commissioner Direction

Under section 13(1) of the *Government Sector Employment Act 2013*

1. Application

This direction is given to the heads of all government sector agencies.

Compliance with this direction is mandatory, subject to section 13 (4) and (5) of the *Government Sector Employment Act 2013*.

2. Date of operation

This direction has effect from 1 November 2022 until further notice.

3. Definitions

In this direction:

government sector agency has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

head of a government sector agency has the same meaning as in section 3 of the *Government Sector Employment Act 2013*, as amended from time to time.

The Code of Ethics and Conduct for NSW government sector employees and **Code** means the Code contained in Section 2.2 of *Behaving Ethically: A Guide for NSW government sector employees* as published on the Public Service Commission website on 26 August 2022 and set out at Schedule 1.

4. Direction

I direct the head of each government sector agency to implement *The Code of Conduct and Ethics for NSW government sector employees* on and from 1 November 2022, and to require employees of that agency to comply with the Code.

Note: The head of a government sector agency may implement the Code by way of incorporation in an agency code of conduct to form a single consolidated document, or by adoption separately.

5. Replacement of former direction

This direction replaces the following direction (former direction) on and from 1 November 2022:

(1) Public Service Commissioner Direction No 1 of 2015 (**April 2015 Direction**) made by the former Commissioner on 20 April 2015.

Note: The April 2015 Direction requires the heads of the government sector agencies listed in Schedule 1 to that Direction to implement the Code on and from 1 September 2015.

6. Savings

Conduct that occurred while the former direction was in effect remains subject to that direction as if it had not been replaced.

Note: References to government sector agencies and heads of government sector agencies listed in the Schedule to Direction 1 of 2015 are, where relevant, construed or treated in accordance with applicable *Administrative Changes Orders* or other applicable legislation.

7. Publication

This direction will be made publicly available on the Public Service Commission website as soon as practicable after it is given.

2.2 The Code of Ethics and Conduct for NSW government sector employees

Contents

Preliminary

The Ethical framework for the government sector

Mandatory conduct

Good practice guides

Breaches of this Code

2.2 The Code of Ethics and Conduct for NSW government sector employees

Preliminary

Purpose

The purpose of the Code is to identify mandatory requirements and best practice conduct for all government sector employees which is consistent with Part 2 of the *Government Sector Employment Act 2013* (GSE Act) (the *Ethical framework for the government sector*).

The *Ethical framework for the government sector* 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.

The Code also specifies actions to be taken if there are breaches, or allegations of breaches, of the Code.

Heads of government sector agencies are required to implement the Code and to require employees of their agencies to comply with the Code, subject to section 13(4) of the GSE Act.

However, heads of government sector agencies are not personally covered by the Code if they are not a government sector employee. Statutory officeholders, including heads of Separate Public Service Agencies which are statutory officeholders and do not hold office in the Public Service (see GSE Act, Schedule 1, Part 3), are not government sector employees and therefore are not covered by the Code.

Nevertheless, those heads of government sector agencies which are statutory officeholders and not personally covered by the Code are invited to accept coverage voluntarily.

Relationship to Department and agency codes of ethics and conduct

The Code applies to NSW government sector employees, irrespective of the Department or agency for which they are working. Agency heads may choose to extend this Code's application to contractors and volunteers engaged by the agency, if appropriate.

Departments and agencies may supplement this Code – but not alter or subtract from it – with requirements and advice specific to their organisation's operating environment and business risks. This material may be incorporated into this Code to form a single consolidated document, or published separately.

The Public Service Commission (02 9272 6000) is available to advise on how to integrate agency codes of ethics and conduct with this sector-wide Code.

Review

The Code may be amended from time to time by the Public Service Commissioner.

2.2 The Code of Ethics and Conduct for NSW government sector employees

Legislation

A principle of the *Ethical framework for the government sector* is to uphold the law. The law includes, but is not limited to:

- *Anti-Discrimination Act 1977 and Commonwealth discrimination legislation* (regarding equal employment opportunity and equal access to services)
- *Child Protection (Working with Children) Act 2012* (regarding obligations to obtain checks and clearances for employees engaged in child-related work)
- *Children and Young Persons (Care and Protection) Act 1998* (regarding obligations relating to the care and protection of, and provision of services to, children and young persons, including obligations relating to exchange of information and co-ordination of services between agencies)
- *Children's Guardian Act 2019*, regarding obligations relating to reportable conduct concerning child protection matters
- *Crimes Act 1900* (regarding criminal offences)
- *Data Sharing (Government Sector) Act 2015* (regarding sharing data with other NSW government sector agencies)
- *Government Advertising Act 2011* (regarding requirements to issue advertising compliance certificates)
- *Government Information (Public Access) Act 2009* (regarding public access arrangements to agency information)
- *Government Sector Employment Act 2013* sections 25 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)
- *Government Sector Finance Act 2018* (regarding the system of internal control over the financial and related operations of agencies)
- *Health Records and Information Privacy Act 2002* (regarding the fair and responsible handling of health information)
- *Independent Commission Against Corruption Act 1988* (regarding reporting of any matter suspected on reasonable grounds to involve corrupt conduct and to comply with any requirement or direction of the ICAC in relation to a referral of matters by the ICAC)
- *Modern Slavery Act 2018* (regarding reporting and conducting risk-based assessments to identify, and address modern slavery risks)
- *Ombudsman Act 1974* (regarding obligations to cooperate with investigations by the Ombudsman)
- *Privacy and Personal Information Protection Act 1998* (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- *Public Interest Disclosures Act 1994* (regarding receiving, assessing and dealing with public interest disclosures) (to be replaced by the Public Interest Disclosures Act 2022 when the latter Act commences)
- *State Records Act 1998* (regarding the creation, management and protection of agency records and public access to those records)
- *Public Works and Procurement Act 1912* (regarding the procurement of goods and services by government agencies)
- *Work Health and Safety Act 2011* (regarding the health and safety of employees and the maintenance of healthy and safe workplaces).

2.2 The Code of Ethics and Conduct for NSW government sector employees

The *Ethical framework for the government sector*

Introduction

Part 2 of the GSE Act establishes the *Ethical framework for the government sector*.

The objective, core values and principles of the *Ethical framework for the government sector* are to be demonstrated in the conduct of all government sector employees and heads of government sector agencies.

Ethical framework for the government sector

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.

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 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.

General provisions

The Public Service Commissioner has the function 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 for the government sector* gives rise to, or can be taken into account in, any civil cause of action.

2.2 The Code of Ethics and Conduct for NSW government sector employees

Mandatory conduct

Note: This Part of the Code sets out the mandatory provisions of the Code that apply to all government sector employees and heads of government sector agencies.

All government sector employees have responsibilities to:

- Demonstrate high levels of personal conduct consistent with the *Ethical framework for the government sector*
- Seek assistance when unsure about how to implement the *Ethical framework for the government sector*
- Promote the implementation of the *Ethical framework for the government sector* to their colleagues
- Report possible breaches of the *Ethical framework for the government sector* to relevant officers.

All managers and executives have the responsibilities of government sector employees (above), and in addition have responsibilities to:

- Lead and promote implementation of the *Ethical framework for the government sector* in their workplace
- Ensure their workplace culture, practices and systems (including recruitment and promotion) operate consistently with the *Ethical framework for the government sector*

- Recognise and promote employee and team conduct that exemplifies the *Ethical framework for the government sector*
- Act promptly and with due process to prevent and address any breaches of the *Ethical framework for the government sector*
- 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 interests are avoided or effectively managed.

Department Secretaries and heads of agencies have the responsibilities of executives (above), and in addition have responsibilities to:

- Lead and promote implementation of the *Ethical framework for the government sector* in their agency
- Ensure the general conduct and management of the functions and activities of their Department or agency are in accordance with the core values of the *Ethical framework for the government sector*
- Oversee the implementation of the *Ethical framework for the government sector* and make improvements where necessary.

2.2 The Code of Ethics and Conduct for NSW government sector employees

When is the *Ethical framework for the government sector* to be applied?

The *Ethical framework for the government sector* 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 infographic at the bottom of this page.

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.

How do I manage conflicts of interests?

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 interests to your manager as soon as you become 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.



2.2 The Code of Ethics and Conduct for NSW government sector employees

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 ¹:

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

As a senior executive, how do I declare 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 interests to declare, they must declare a "nil return".

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

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

A template form for making a private interests declaration is included in Section 4.4 of *Behaving Ethically: A guide for NSW government sector employees*. The form may be used as is, or augmented by a department/agency to reflect the operating environment and/or business risks which are specific to the department/agency.

A *senior executive* must provide their declaration to:

- In a department, the Secretary
- In an executive agency related to a department, the agency head
- In a separate Public Service agency, the agency head
- In the Teaching Service, NSW Police Force, NSW Health Service, Transport Service of NSW and any other service of the Crown, the head of the service.

A *Department Secretary* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

The *Secretary of the Department of Premier and Cabinet* must provide their declaration to the Public Service Commissioner.

A *head of an executive agency related to a department* must provide their declaration to the Department Secretary.

¹ For further detail on managing conflicts of interests, see www.icac.nsw.gov.au and www.ombo.nsw.gov.au

2.2 The Code of Ethics and Conduct for NSW government sector employees

A head of a transport-related service must provide their declaration to the Secretary of the Department of Transport.

A head of any other service of the Crown must provide their declaration to the Secretary of the Department of Premier and Cabinet.

Government sector agency heads who are statutory officeholders should provide any voluntary declaration to the person exercising employer functions in relation to the statutory officeholder, to the extent that this is possible. For example, statutory officers whose employment is governed by a contract of employment with their responsible Minister, or who are subject to Ministerial direction or control, should make their voluntary declaration to that Minister. Where this is not possible or appropriate in the circumstances, voluntary declarations may be made to the Secretary, Department of Premier and Cabinet.

Responsibilities of person receiving declaration

A person to whom a declaration is to be provided is responsible for ensuring:

- Senior executives complete declarations
- Handling and storage of declarations complies with the requirements of the *Privacy and Personal Information Protection Act 1998*.

How do I treat colleagues, customers, clients and stakeholders?

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

- Considering people equally without prejudice or favour
- Acting professionally with honesty, consistency and impartiality
- Taking responsibility for situations, showing leadership and courage
- Placing the public interest over personal 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.

How should I interact with lobbyists?

All government sector employees and heads of government sector agencies must comply with Premier's Memorandum M2019- 02 NSW Lobbyists Code of Conduct published on the Department of Premier and Cabinet's website, as amended from time to time.

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 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 *Government Sector Finance Act 2018*, the *Public Works and Procurement Act 1912* and the *Government Advertising Act 2011*.

2.2 The Code of Ethics and Conduct for NSW government sector employees

Behaviour contrary to the Code

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 your agency or the broader government sector.

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 your agency's executive. Heads of government sector agencies may also contact the Public Service Commissioner.

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 person's behaviour with your immediate supervisor or manager, or report your concerns to any member of the agency's 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, then report your concerns to your agency's Public Interest Disclosures Coordinator or Disclosures Officer, the head of your agency or the relevant investigating authority (such as the Ombudsman, Independent Commission Against Corruption 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 makes a public interest disclosure.

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 reasonable by acting consistently with four principles¹:

- Procedural fairness for both the complainant and 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 all significant decisions.

¹ See resources at www.ombo.nsw.gov.au

2.2 The Code of Ethics and Conduct for NSW government sector employees

For employees of Public Service agencies, the GSE Act and GSE Rules set out how allegations of misconduct are to be dealt with.

Government sector agencies that are not part of the Public Service (the Teaching Service, Police Force, Health Service, Transport Service and other services of the Crown) are not bound by the misconduct provisions in the GSE Act and GSE Rules unless so prescribed. Non-Public Service agencies have their own legislative and/or policy requirements for dealing with allegations of misconduct.

For employees in the Public Service, Part 8 of the GSE Rules sets out the procedural requirements for dealing with allegations of misconduct, which include requirements that you 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.

For employees in the Public Service, the GSE Act sets out the actions that a Public Service agency head may take where there is a finding of misconduct against an employee. These actions are as follows:

- Terminate the employment of the employee (without giving the employee an opportunity to resign)
- Terminate the employment of the employee (after giving the employee an 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.



2.2 The Code of Ethics and Conduct for NSW government sector employees

Good practice guides

The following good practice guides are provided for use by all government sector employees:

Good practice guide 1 - 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 the law, Government policies, agency procedures, and your role description? Is it legal? Is it consistent with the principles & policies of the agency and the NSW government sector?
- **Results:** Which options will yield the greatest benefit (or least harm) to the most people, and minimise the number of people who might be disadvantaged – in the short and longer term? What will the 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 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?
- **Innovation:** 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 best addresses the above issues and is in the public interest, supports integrity, builds trust, delivers better services and ensures accountability. To establish if your actions are consistent with the *Ethical framework for the government sector* consider your answers to the following questions:

- **Integrity:** Would your 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 say your actions improved the quality of the services they receive?
- **Accountability:** Would the head of your agency say your actions are consistent with the *Ethical framework for the government sector* and the law?

Implement

Implement the decision in ways that are consistent with the objectives, values and principles of the *Ethical framework for the government sector*.

Review and identify opportunities for continuous improvement.

2.2 The Code of Ethics and Conduct for NSW government sector employees

Good practice guide 2 – 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 for the government sector* 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 your workplace are consistent with the *Ethical framework for the government sector*.

The Public Service Commission will provide additional advice and guidance to the government sector as needed to support conduct that is consistent with the objective, core values and principles of the *Ethical framework for the government sector*.

Section 3:

Ethics good practice

3.1 Difficult decisions

Contents

Introduction

The Decision Process Tool

The Complex Decisions Tool

Supporting ethical decision-making

Appendix A – *Ethical framework for the government sector compliance decision matrix*

3.1 Difficult decisions

Introduction

Every day NSW government sector employees make difficult decisions that take into account government policies, agency business priorities, resource availability, employee requirements, stakeholder interests and/or customer needs.

This guide has been designed to assist government sector employees to make two common types of difficult decisions ethically:

- Where there is a clearly defined objective and choice of actions, but disagreement about which to choose
- Where there are multiple, apparently conflicting, objectives, and uncertainty about how to achieve those objectives.

This guide provides simple, practical decision-making tools for these two situations:

- **The Decision Process Tool** – for use when there is clarity about the objective to be achieved, but disagreement about the means to meet that objective
- **The Complex Decisions Tool** – for use when there is uncertainty about the objective or objectives to be achieved.

These tools are designed so they:

- Will assist all employees to make better, ethically informed decisions that are consistent with the *Ethical framework for the government sector*
- Will help to articulate, defend and provide transparency for decisions
- Can be tailored to meet specific circumstances
- Can be used by individual decision-makers or by groups.

3.1 Difficult decisions

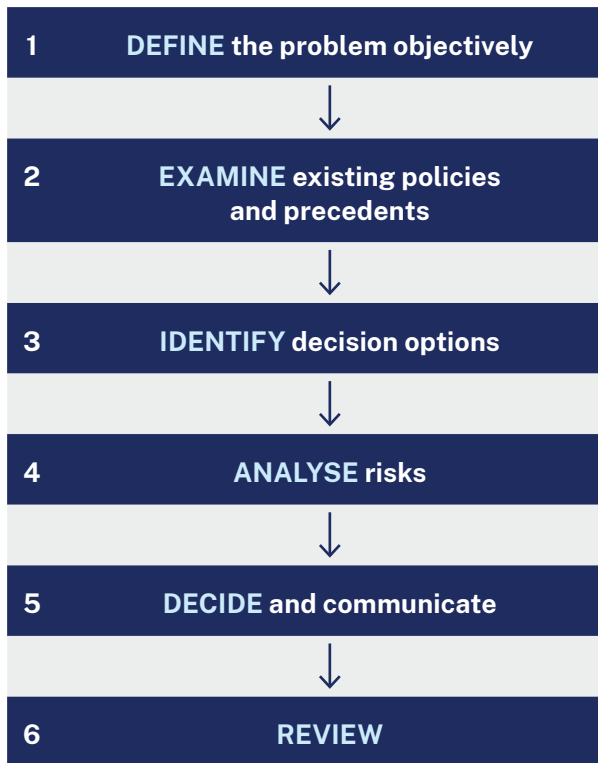
The Decision Process Tool

Aim of the Tool

The Decision Process Tool is designed to help make difficult decisions when there is relative agreement between all parties about the objective to be achieved, but disagreement over the best means to achieve that end.

The Decision Process Tool – overview

The Decision Process Tool comprises six steps:



Details of what actions to take at each step are discussed in the next section.

The Decision Process Tool – details

Answer the following questions at each step of the decision-making process. Add other questions if relevant to your particular situation.

Define the problem objectively

- What are the facts? (**What** is the problem, **Who** is involved, **Why** is it a problem, **When** must it be resolved, **How** did the problem arise and **Where** is the problem located?)
- What objective, values and principles in the **Ethical framework for the government sector** are significant considerations for the current problem?
- Why and how is the problem relevant to government policy and/or your agency’s functions, objectives and programs?
- What are the consequences for stakeholders if the problem is not resolved successfully?

Examine existing policies and precedents

- Is the problem covered by an existing government or agency policy, or by agency guidelines, manuals or rules?
- Do other States or the Commonwealth have policies or programs dealing with the problem?
- Has a similar problem arisen in the past? If so, how, and how well, was it resolved?
- Are you authorised to deal with the problem, or is it another employee’s responsibility?

Identify decision options

- What new options are viable if existing policies and precedents are not adequate?
- Talk with other relevant parties to identify options that address the following criteria:
 - Duties: Options that best meet your obligations and responsibilities as defined by

3.1 Difficult decisions

the Ethical framework for the government sector government policies, agency procedures, and job description

- Results: Options that yield the greatest benefit (or least harm) to the most people, and minimise the number of people who might be disadvantaged
- Justice: Options that support due process, transparency, fair compensation for harm done, and fair treatment of those affected by any decision
- Rights: Options that support the legal rights of citizens
- Public interest: Options that best place the public interest over personal interest (e.g. your reputation, career, personal views or potential for gain)
- Innovation: Options that address the issue in original or creative ways
- Interest groups: Options that have been proposed by stakeholders
- Short-term and longer-term consequences: Options that would deliver the best mix of consequences for all stakeholders in the short and longer term
- Resources: Options that make the best use of taxpayers' money, resources, government sector employee time and physical assets (such as buildings). (For practical examples, see the ethical scenarios '[Social responsibility and aiding the community](#)' at page 132 and '[Agency equipment](#)' at page 133.

Analyse risks

- What are the strengths, weaknesses, opportunities and risks of each option?
- In the risk analysis consider whether the options best address:
 - Compliance risk: Options comply with the objective, values and principles of the Ethical

framework for the government sector including preserving the public interest, being apolitical and professional and adding value to and implementing government decisions

- Integrity risk: Options support the Integrity principles of the Ethical framework for the government sector
- Trust risk: Options support the Trust principles of the Ethical framework for the government sector
- Service risk: Options support the Service principles of the Ethical framework for the government sector
- Accountability risk: Options support the Accountability principles of the Ethical framework for the government sector
- Financial and operational risks: Options are consistent with the financial, asset, service delivery, work health and safety, environmental and other risks discussed in Treasury's Risk Management Toolkit (www.treasury.nsw.gov.au)

Decide and communicate

- Select the option that best addresses the strengths, weaknesses, opportunities and risks
- Communicate your decision clearly, including implementation measures
- Highlight expected impacts and where further decisions or action may be required.

Review

- To ensure any decision-making lessons are passed on to others, to improve decision-making in the future, or to convert a new decision into an ongoing administrative practice, clarify:
 - How could your decision-making be improved next time?
 - What would you advise a colleague who had to deal with a similar situation?
 - Do existing policies, guides and procedures need to be updated to make it easier to make the right decision if the situation arises again?

3.1 Difficult decisions

The Decision Matrix Tool

When assessing options in the Decision Process Tool it may be useful to visually present the differences between the available options. This can be done using the Decision Matrix Tool.

The Basic Matrix

The Basic Matrix compares options against decision-making criteria and helps determine if they comply with the *Ethical framework for the government sector*.

In the following example, three options (A, B and C) are compared against some principles of the *Ethical framework for the government sector* and are indicated with a tick (✓) if they comply and a cross (✗) if they don't:

Criteria: Ethical Framework principles	Option A	Option B	Option C
In the public interest	✓	✓	✓
Consider people equally without prejudice or favour	✓	✓	✓
Place the public interest over personal interest	✗	✓	✓
Build relationships based on mutual respect	✓	✓	✗
Uphold the law, institutions of government and democratic principles	✓	✓	✓
Provide services fairly with a focus on customer needs	✓	✗	✓
Focus on quality while maximising service delivery	✓	✗	✓
Be fiscally responsible and focus on efficient, effective and prudent use of resources	✓	✗	✓
TOTAL (ticks)	7	5	7

In this example, Options A and C comply with 7 of the selected *Ethical framework for the government sector* principles, and Option B complies with only 5 of the selected criteria.

3.1 Difficult decisions

The Quantified Matrix

The Basic Matrix uses a Yes/No answer to indicate if the option complies with the selected criterion. However, in many instances, the option may only partially comply with the criterion. As demonstrated in the example above, the Basic Matrix may also be insufficient to decide between options A and C.

In these cases, use a Quantified Matrix which rates the extent to which an option complies with a particular criterion, for example ratings of 1 to 5 (1 = poor to 5 = excellent), against a criterion.

Criteria: Ethical Framework principles	Option A	Option C
In the public interest	4	5
Consider people equally without prejudice or favour	3	4
Place the public interest over personal interest	2	3
Build relationships based on mutual respect	4	1
Uphold the law, institutions of government and democratic principles	3	3
Provide services fairly with a focus on customer needs	4	3
Focus on quality while maximising service delivery	3	5
Be fiscally responsible and focus on efficient, effective and prudent use of resources	3	3
TOTAL	26	27

3.1 Difficult decisions

When using ratings it is important to note that the results will skew in favour of categories containing the most criteria. It may be useful to divide the results into categories, as below:

Category	Criteria: Ethical Framework principles	Option A	Option C
Objective	In the public interest	4	5
	Total	4	5
Integrity	Consider people equally without prejudice or favour	3	4
	Place the public interest over personal interest	2	3
	Total	5	7
Trust	Build relationships based on mutual respect	4	1
	Uphold the law, institutions of government and democratic principles	3	3
	Total	7	4
Service	Provide services fairly with a focus on customer needs	4	3
	Focus on quality while maximising service delivery	3	5
	Total	7	8
Accountability	Be fiscally responsible and focus on efficient, effective and prudent use of resources	3	3
	Total	3	3

Ethical Framework Compliance Matrix

A detailed Decision Matrix which can be used to check compliance of decision options against the objective, values and principles of the *Ethical framework for the government sector* is provided at [Appendix A at page 71](#).

3.1 Difficult decisions

The Complex Decisions Tool

Aim of the Tool

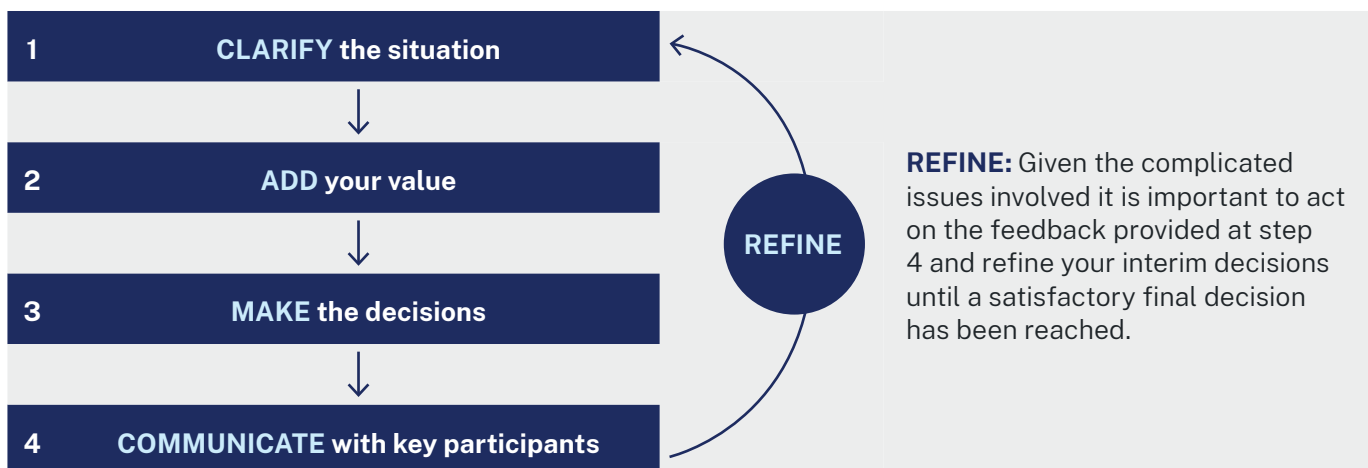
The Complex Decisions tool recognises that some decisions need to be made in situations where there are:

- Multiple stakeholders
- Ambiguous or conflicting objectives
- Various interpretations of the facts
- Multiple options
- Pressure for urgent decisions, as well as a need to address longer-term consequences
- Different ethical views.

When faced with this situation, there may never be a single or 'best' decision. Decision-making often requires the making of a package of decisions that address urgent as well as longer-term objectives, and takes into account the interests of multiple stakeholders.

The Complex Decisions Tool helps decision-makers to identify the 'best possible' package of options where there may be no 'best' solution.

The Complex Decisions Tool has four elements:



3.1 Difficult decisions

The Complex Decisions Tool – detail

Consider the following questions or issues.

Because of incomplete information and changing circumstances, there may only be partial answers, and, necessarily, you will need to make a decision between the possible options that were known and available under the circumstances.

Clarify the situation

- Who has an interest in the problem and why? What are the immediate and longer-term objectives of the parties seeking your decision? What solutions do they propose in the short term and the longer term? What evidence, if any, supports their proposals, and is it reliable? What are the likely costs and benefits of their solutions, and who pays? Do their proposals appropriately consider other stakeholders?
- Are the proposals consistent with the NSW government sector *Ethical framework for the government sector*? Do they allow your decisions to:
 - Promote the public interest?
 - Deliver transparent and acceptable outcomes?
 - Address root causes and underlying issues, or just treat ‘symptoms’?
 - Be consistent with the Government’s policy directions?
- Are there other stakeholders who may not be directly involved but whose views should also be considered? What would they expect? (For a practical example, [see the ethical scenario ‘A tender from Ace?’ at page 132](#))

- How did the current situation arise and why has it become an issue now, what are the underlying causes of the problem(s), and what are the consequences for the parties, other stakeholders and the public interest?
- What is your role and responsibility in this situation; what powers do you have to influence the situation and what are the limitations of your authority; and can you act independently without conflicts of interests? (For a practical example, see the ethical scenario [‘Does Elizabeth have a conflict?’ at page 130](#))

Add your value

- What ideal package of solutions – including short-term and longer-term actions – would deliver good outcomes in the public interest?
- Which elements of your ideal package of solutions would meet all or most of the parties’ and wider stakeholders’ needs, or minimise the losses to the parties and stakeholders – both in the short term and over the longer term?
- What is needed to resolve conflicts between outcomes in the public interest with the objectives of the stakeholders?
- What legislation, government policies, agency practices or other matters would have to change for the ideal package of solutions to be implemented? Whose support would you need for the preferred package of solutions to be implemented?

Make the decisions

- Make a package of decisions with short- and longer-term actions which:
 - Are lawful
 - Are ethical
 - › The decisions meet the objective, values and principles of the Ethical framework for the government sector – i.e. they preserve the public interest, defend public value, add value to government commitments, are merit-based, are apolitical, and implement government decisions

3.1 Difficult decisions

- › The decisions are consistent with the four core values and 18 principles of behaviour that make up the Ethical framework for the government sector. – e.g. they consider people equally and without prejudice, focus on quality while maximising customer service delivery, provide transparency, are fiscally responsible etc
- › Are consistent with the Government’s financial, timing and other objectives
- › Are practical over the short and longer term
- › Preserve your integrity and that of your agency and employees.

Communicate with key parties

- Talk with the key parties and stakeholders about your decisions, particularly those who will be important in the implementation of your decisions
 - The purpose of these communications is to satisfy others of the merits of your decisions and identify problems with your decisions or their implementation.

Refine

- Where necessary, in light of new information you gather from your communications with key parties, you may need to repeat the above process before you can make your final decision.

For more information on what it means to act ‘in the public interest’, [see section ‘4.1 Acting in the public interest’ at page 124.](#)



3.1 Difficult decisions

Supporting ethical decision-making

Every employee has a responsibility to ensure their decision-making is consistent with the objective, values and principles of the *Ethical framework for the government sector*.

The following practical actions will support employees to make ethically informed decisions.

Culture and leadership

- Lead by demonstrating ethical decision-making to other employees
- Lead by maintaining and promoting a culture and processes in which employees are encouraged to make ethically informed decisions, particularly where decisions may be unpopular, controversial or without precedent
- Ensure employees understand and apply the *Ethical framework for the government sector* and the *Code of Ethics and Conduct for NSW government sector employees*
- Ensure employees understand and apply the agency's Code of Conduct
- Have governance arrangements where employees can seek advice on making difficult decisions.

Human resources

- Recruit, develop and reward employees who make ethically informed decisions
- Provide clear, up to date and accessible training and guides to assist employees to make ethically informed decisions
- Enlist mentors who can provide independent advice to employees making difficult decisions
- Promote innovation in the development of options and alternative ways to deliver business outcomes.

All employees

- Understand and apply the *Ethical framework for the government sector* and the *Code of Ethics and Conduct for NSW government sector employees*
- Demonstrate and discuss ethical decision-making to assist other employees in your agency
- Examine agency procedures and workplace practices to ensure they encourage ethical decision-making.

3.1 Difficult decisions

Appendix A - Ethical Framework Compliance Decision Matrix

This detailed Compliance Decision Matrix can be used by any individual decision-maker or group in the government sector, when faced with a difficult ethical decision at work. It is designed to assist employees to assess the compliance of their options with the objective, values and principles of the *Ethical framework for the government sector*. The higher the total score, the more likely that the option is the most ethical course of action. The lower the score, the more likely that the option carries ethical

risks and may be inconsistent with employees' responsibility to demonstrate high levels of personal conduct consistent with the *Ethical framework for the government sector*. The results of the matrix can help by clarifying employees' thinking and decision-making in relation to difficult matters. Score each option using either:

- The tick (✓) and cross (✗) method – see above; or
- The ratings method – see above.

Core value	Ethical Framework objective, values and principles	Options		
		A	B	C
Objective	Recognises 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			
	Contributes to a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day			
Integrity	Consider people equally without prejudice or favour			
	Act professionally with honesty, consistency and impartiality			
	Take responsibility for situations, showing leadership and courage.			
	Place the public interest over personal interest			
Trust	Appreciate difference and welcome learning from others			
	Build relationships based on mutual respect			
	Uphold the law, institutions of government and democratic principles			
	Communicate intentions clearly and invite teamwork and collaboration			
	Provide apolitical and non-partisan advice			
Service	Provide services fairly with a focus on customer needs			
	Be flexible, innovative and reliable in service delivery			
	Engage with the not-for-profit and business sectors to develop and implement service solutions			
	Focus on quality while maximising service delivery			
Accountability	Recruit and promote staff 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			
TOTAL				

3.2 Difficult discussions

Contents



Introduction and Scope

Effective dialogue

Saying no constructively

Giving and receiving negative feedback

Giving frank and fearless advice

Open speak-up cultures and work practices

3.2 Difficult discussions

Introduction and scope

A fundamental skill for all employees is to have difficult discussions in ways that are constructive and productive for all involved.

This guide has been developed to assist NSW government sector employees to have difficult discussions that result in ethically informed and effective decisions.

It focuses on four common types of difficult discussion:

- Effective dialogue
- Saying no constructively
- Giving and receiving negative feedback
- Giving frank and fearless advice.

The guide also identifies actions which agencies can take to ensure their corporate cultures, systems and work practices encourage and legitimise ethically informed difficult discussions.

It does not cover discussions that concern:

- **Corruption or criminal matters:** To discuss concerns about these matters, contact the relevant officer within your agency in the first instance. However, if you do not feel comfortable reporting the matter internally, you can contact the following agencies directly:
 - for concerns about corrupt conduct contact the ICAC (www.icac.nsw.gov.au)
 - for concerns about maladministration contact the Ombudsman (www.ombo.nsw.gov.au)
 - for concerns about serious and substantial waste contact the Auditor General (www.audit.nsw.gov.au)
 - for concerns about criminal matters contact the NSW Police Force (www.police.nsw.gov.au)
- **Personal matters:** To discuss personal matters (such as balancing work/study/life pressures; self development needs; and private matters affecting work) contact HR, or alternatively, contact your agency's Employee Assistance Program (for confidential counselling and support)
- **Industrial matters (concerning pay and conditions):** To discuss industrial matters contact the Human Resources unit in your agency, or your professional body or union.

3.2 Difficult discussions

Effective dialogue

The more novel and difficult the ethical choice we face, the more we need to rely on discussion and dialogue with others about the dilemma. Only by careful exploration of the problem, aided by the insights and different perspectives of others, can we make good ethical choices in such situations.

(Santa Clara University: www.scu.edu/ethics/practicing/decision/framework.html)

What is effective dialogue?

Effective dialogue is an exchange of ideas or opinions on a particular issue, especially a complex issue, with a view to reaching an amicable agreement or settlement.

It is a common method used in all workplaces to scope out the nature of complex problems that need to be solved, to discover and assess issues, discover alternatives, challenge assumptions, evaluate the pros and cons of various possible approaches and develop solutions.

Effective dialogue is unlike ordinary conversation. Effective dialogue encourages participants with diverse perspectives to interact; encourages participants to question any unspoken assumptions or worldviews that may be blocking new approaches; and recognises that the same discussion can be interpreted differently by different participants. Participants go beyond polite conversation and small talk to develop an informed understanding of each other's perspectives. Unlike ordinary conversations, effective dialogue requires participants to take deliberate action to listen and understand the concerns of others. It requires treating people with respect, listening with empathy and being open to new and different ideas.

Having effective dialogue at work

For effective dialogue, participants are encouraged to:

- Work cooperatively rather than competitively
- Consider all aspects of the issue. Discuss what the problem is, why it has arisen at this time, what the possible solutions are, which solutions are better than the others (and why), and how the best solutions could be implemented
- Play 'devil's advocate' (by speaking against generally agreed assumptions or generally agreed solutions) as part of the search for better solutions
- Carefully evaluate the information and the reasoning that links the information to conclusions
- Recognise effective dialogue is not merely a rational exercise – it is always an emotional experience for many participants. Respect different views and alternative perspectives
- Be especially watchful for barriers and biases that can easily occur in conversations that prevent a genuine informed understanding of different perspectives (see 'Barriers to effective dialogue' below).

3.2 Difficult discussions

Barriers to effective dialogue

Effective dialogue is useful in overcoming many of the biases that occur in everyday discussions.

These biases, which are often unconscious and unintentional, include:

- **Groupthink:** Where people within a group conform to the group (or its leader) rather than come up with options, problems or alternatives that may be a challenge for the group or a risk for the proposer
- **Cultural and other assumptions:** Where the most extroverted and assertive speakers of English in the group 'take over' the discussion and assume those who are quiet are agreeing with them or have nothing to add; whereas it may be necessary to restructure how the meeting is held so people can contribute in ways that are culturally appropriate, people can talk together informally before they feel confident enough to state their views publicly, and/ or people can have time to reflect on what they have heard before they can present their views to the meeting
- **Bounded rationality:** Where people, limited by their incomplete information and lack of time, adopt a satisfactory solution rather than the optimal one
- **Short-termism:** Where people seek short-term 'wins' without considering longer-term alternatives or consequences
 - This is similar to acting tactically without also thinking strategically – that is, carrying out detailed tasks or manoeuvres to achieve a specific objective as well as setting multiple, interrelated objectives as part of an overall, longer-term plan
- **Confirmation bias:** Where people gather facts that support preferred conclusions and disregard other facts that support different conclusions
- **Premature termination of the search for evidence:** Where people accept the first alternative that looks like it might work
- **Cognitive inertia:** Where people rely on their familiar assumptions and understandings, and fail to update and revise their understanding of a situation when that situation changes
- **Selective perception:** Where people actively screen out information that is not considered important; and discount arguments with which they disagree
- **Framing bias:** Where people work with others to construct a point of view that encourages the facts of a given situation to be interpreted by others in a particular manner
- **Sunk-cost fallacy:** Where people make decisions about a current situation based on what they have previously invested in the situation
- **Over-generalising:** Where people ignore important details or significant issues by talking in general terms as if all agencies, programs, policies, customers, governments (or whatever is being discussed) are the same
- **Personal or ad hominem attacks:** Where people question (or attack) the person giving the message rather than questioning the message itself
- **False causal links:** Where people believe that – because something seemingly occurs in conjunction with something else – there is a direct causal link between the two events
- **Intimidation:** Where people do not speak up or act truthfully because they fear – rightly or wrongly – that they or their career may be threatened or harmed in some way by another person.

3.2 Difficult discussions

Saying no constructively

What is saying no constructively?

For many people, saying no to their managers or colleagues is very difficult to do.

However, if you are asked or directed to take some action that you are unable to do for some reason (such as your heavy workload at the time, or because you think the request is unwise or unethical) it is important to say no in such a way that you begin a discussion to find a solution that meets the needs of both parties.

Saying no constructively at work

There are two common ways of saying ‘no’ if you are given a direction which you believe should not be followed (because, for example, it is unlawful, unethical, unsafe, or may produce unintended damage or unforeseen consequences). One approach is to ask the person giving the direction to clarify the purpose of the direction – what their direction aims to do and for whom. Make the point that, if you can understand what the direction is intended to achieve, then you may be able to suggest other ways to realise the objective in ways that are lawful, ethical and without producing budgetary, safety or other risks.

The second approach to saying ‘no’ in a constructive way is discussed by William Ury (2007) in his book, *The Power of a Positive No: How to Say No and Still Get to Yes*. In this approach, give a short one or two sentence reply to the direction that addresses the following three points:

- State what common interests you have with the person making the request. Let them know you understand why the person is making the request (even though you may disagree with what the person wants). Often you will share common goals, even though you disagree with their suggestion about how to meet those common goals
- State why – because of your workload, conflicts of interests, priorities or values – you cannot meet the request at this particular time or in the particular way they have suggested
- Suggest an alternative outcome or strategy that would successfully address the concerns of the other person. This shows your intention to maintain the working relationship with the other person despite being unable to help in this instance.

For example, “I’m happy to prepare the report for you and I’ve got the budget to complete by COB today so how about I get it to you by COB on Friday?” or “I agree it’s important to change the policy as you have suggested and I need to know what the financial implications might be before we do anything, so how about we ask Accounts to do a proper costing.”

Having given your response, you are likely to begin talking with the requester about how their request can be met in ways that suit them and address your concerns. You may find, for example, that the requester has important information or reasons why the matter needs action now.

3.2 Difficult discussions

Giving and receiving negative feedback

What is negative feedback?

Negative feedback consists of a two-way conversation involving criticism or concerns about work performance or results. Effective negative feedback discusses what behaviour and outcomes are expected, and develops constructive suggestions about how to improve, by when and what support is needed (if any) to help produce the desired results.

Successful negative feedback requires an understanding of the difference between the message (of what went wrong and what needs to be done) and the medium (who is giving the feedback, and where and how). This applies particularly when a person in a position of power in the agency is giving negative feedback to an employee over whom they exercise power. Even though the message itself may be clear, how the feedback is given may create barriers to understanding and action. That is, the person giving the negative feedback should take actions to ensure the message (the problem and the required future actions) is clearly communicated without the listener being intimidated, humiliated or embarrassed by the medium (the organisational status of the speaker, the place of the meeting, the arrangement of the seating, the tone of the conversation, and so on).

Other types of criticism, which are typically ineffective and should be avoided, are:

- Providing criticism only without discussing the changes needed to improve work performance and/ or service. Focusing only on undesired behaviours is rarely a learning experience, comes across as a punishment, can be harmful to employees and generally does not work
- Giving implied or explicit threats about what could happen if the feedback is not acted upon.

There will always be occasions where, because of time constraints or other conditions, it may be necessary to give negative feedback in a unilateral

way. However unilateral negative feedback will not be effective if it becomes the predominant way that you communicate with others.

Giving negative feedback at work

To give negative feedback in ways that encourage understanding and learning, the Resolution Centre (www.theresolutioncentre.com) and others recommend:

- Consult the person on how, when and where it would be best to provide the feedback. Ask if it's a good time. If it is not, organise with the person a mutually agreed another time and place
- Provide the context. Don't dive right into the feedback – give the person a chance to brace for potentially embarrassing feedback. Tell the person you need to provide feedback that is difficult to share. If you're uncomfortable with your role in the conversation, you might say that, too
- Link the feedback to the work results that need to be delivered. For example, "I am talking with you because there is an issue you need to address if our team/agency/service delivery is to improve"
- Provide straightforward and simple feedback
- Tell the person what the positive impact will be for the team/agency/service delivery if they change their behaviour
- Offer a break in proceedings, if they are emotionally distressed or need time to think about what you have said. Remember, your task is to get the required outcome, and this is more likely to be achieved if you have empathy and understanding for how the other person is reacting. This is particularly important if the person receiving the negative feedback becomes upset

3.2 Difficult discussions

- If others have complained to you about the person's behaviour, do not mention that others have complained. This heightens the embarrassment and can undermine constructive discussion
- Strive to reach agreement about what you and the person will do to address the problem work behaviour(s). Set a time frame to review progress
- **Documentation:** If the negative feedback is of a serious nature, then write a brief, factual, written summary of the discussion: who was involved, when and where it took place, what the discussion covered in general terms, and what specific actions were agreed. Provide a copy of this record of the meeting to the receiver of the feedback for their records, and ask them to acknowledge they have received your summary of the meeting. If they disagree with any facts of the brief written summary, they may add their comments to your summary in response.
- **Ownership:** If there is some truth to the criticism, take ownership of your behaviour. If you feel the criticism is unfair, say so – but avoid disputing the criticism itself
- **Ask questions or ask for specific examples:** This will help clarify exactly what they say you did, but don't make excuses or dispute the statements at this time
- **Suggestions:** Ask for specific suggestions for how the issues could be addressed, and what specific behaviours (if any) you could deliver
- **Responding:**
 - If you feel emotionally able to discuss the issues calmly, state your thoughts in a non-accusatory manner
 - If you are too upset, ask for a break or if you can continue the discussion in a day or so. Write down all you remember of the feedback, using the feedback giver's exact words where possible. After a day, re-read your notes. Ignore any inflammatory phrases and focus on the basic message
- **Learning:** Remember that learning from negative feedback without becoming antagonistic will reinforce the view that you are a responsible employee who is willing and able to modify your behaviour to improve yourself, benefit the workplace and/or improve service delivery
- **Documentation:** It is standard practice for a person giving formal, negative feedback to provide the receiver of the feedback with a written summary of the discussion and the conclusions that were reached. If this does not occur, write a brief, factual, written summary of the discussion: who was involved, when and where it took place, what the discussion covered in general terms, and what specific actions were agreed. Provide a copy to the provider of the feedback for their records. If they disagree with any facts of the brief written summary, they may add their comments to your summary in response.

Receiving negative feedback at work

To accept negative feedback in ways that encourage understanding and learning:

- **Courage:** Recognise the courage it took your colleague to give you the feedback. Thank them for raising the matter with you
- **Listen:** Listen without interrupting and without blaming your colleague for raising the issues. Look directly at the person. If you hear something you don't agree with, indicate that you have heard them (for example, say "OK") but wait to discuss it when they have finished talking. Breathing deeply may help keep you stay focused
- **Understanding:** Summarise your understanding of the issues that were raised with you to ensure you have understood them accurately and fully. This may involve seeking clarification from the feedback giver in a calm way

3.2 Difficult discussions

Giving frank and fearless advice

What is ‘frank and fearless advice’?

One practical implication of the objective, values and principles of the *Ethical framework for the government sector* is that employees may find themselves in a situation where they must give honest and objective advice to those in a position of power. This is summarised in phrases such as ‘provide frank and fearless advice’.

Giving frank and fearless advice is not unique to the NSW government sector. It is a skill that is required in all government sectors as well as in the private sector.

Giving frank and fearless advice may be difficult because of the perceived negative consequences of giving honest, impartial, apolitical – but sometimes unwanted or unappreciated – advice. There may be pressure to be ‘pragmatic’ – that is, to give advice, or to act in a way that is expedient or convenient, but does not promote the integrity, trust, service or accountability of the public sector.

In these instances, giving frank and fearless advice requires leadership, courage and innovation to develop practical recommendations that are consistent with the core values and will help the Government of the day achieve its objectives. However, experience shows there are several ways that such a challenge can be addressed.

Giving frank and fearless advice

There are two aspects to giving advice:

Advice content:

- The advice should always be consistent with the *Ethical framework for the government sector* – in the public interest, without prejudice or favour; honest, consistent, impartial; upholding the law and the institutions of government; being apolitical and non- partisan; focusing on customer needs and fiscal responsibility

- Always propose some alternative ways the overall objectives could be met
 - Remember that once the Minister or manager has made a lawful decision it is the responsibility of employees to implement that lawfully made decision.

The communication method:

- There is no one way to give advice that is frank and fearless. It always depends on the nature of the relationship between the speaker and the receiver, the circumstances at the time the advice is given, whether the communication is written or spoken, and the potential consequences of the advice to the speaker and the receiver
- As discussed above on giving negative feedback, it is also important to know the difference between what advice is given (the message) and how the message is communicated (the medium). How the advice is given, by whom and where (the medium) will often determine if the message is received and understood (without any emotional or other overtones that can undermine the message itself).

One approach (recommended by Stephen M. Goldman (2008) in *Temptations in the Office: Ethical Choices and Legal Obligations*) is to prepare yourself carefully before you give the advice by:

- **Digging into the facts.** Seek out a complete account of the situation, including facts and acknowledgement of biases
- **Gauging similarities with past situations.** Recognise any significant particulars between the current problem situation and past situations
- **Analysing your decision-making process.** Don’t over-estimate or under-estimate your instincts or your rational analyses. Use them as ‘checks and balances’ against each other
- **Propose options.** Suggest a number of practical alternatives, both short-term and long-term, that could be taken to meet the Minister’s or manager’s objectives.

3.2 Difficult discussions

Hearing the truth (or, don't shoot the messenger)

Different people have different styles of communication, and their communication style may also vary depending on the circumstances and who they are communicating with. Some people are direct communicators while others may be indirect; some communicate by telling stories while others may use logic to present an argument; and some people are assertive while others may be passive or aggressive. Your style of communication may not be compatible with the communication style of the person who is giving you difficult or distressing information. However, as a professional, it is your duty to get the information they are attempting to communicate even if you consider the way they are communicating is annoying or distracting. This is particularly important when people are giving you criticism or unwelcome advice, because if you become angry or defensive you may cause that individual to stop communicating with you, and more broadly, you may develop a personal reputation, a culture and work practices that will result in you becoming isolated, unformed and ineffective.

When responding to advice that is critical of an existing policy or practice:

- Recognise it took courage for the speaker to give you the feedback. Thank them for raising the matter with you
- Summarise your understanding of the issues that have been raised with you to ensure you have understood them accurately and fully. This may involve seeking clarification from the messenger
- If the speaker has misunderstood your intentions or requirements, ensure they are clear and understood. Ask if there are any matters where the speaker might want more information
- If there is some truth to the criticisms, ask for specific suggestions about how the issues could be addressed, and what specific actions or alternatives would assist in meeting the required objectives.



3.2 Difficult discussions

Open speak-up cultures and work practices

Difficult discussions that deliver good outcomes will not occur unless agencies have corporate cultures, systems and work practices that encourage and legitimise open, speak-up discussions.

Actions to develop and promote open speak-up cultures, systems and practices in agencies include:

- Leadership and culture: Senior management who ‘walk the talk’ by showing they:
 - Are personally receptive to and act on suggestions, alternative points of views, and others’ opinions
 - Expect their agency to have an open speak-up culture and practices that enable and legitimise the provision and discussion of frank and fearless advice without fear of intimidation or other negative repercussions, and that they personally encourage employees to provide frank and fearless advice
 - Expect employees to recognise that, once the advice is given (to the Government, Minister or agency head) and a decision is made, then it is the responsibility of employees to implement those decisions
- Governance arrangements: The agency has ethics policies and procedures and specified executives who are responsible for leading their implementation and monitoring
- Human Resources: Recruitment, professional development and promotion practices encourage open speak-up practices (including dialogue, feedback and giving frank and fearless advice)
- Communications within the agency and to customers and stakeholders outside the agency that reinforce the importance of open speak-up practices including dialogue, feedback and giving frank and fearless advice
- Measurement: The agency measures indicators of an open, speak-up culture and practices. For example, three indicators (employees’ views about the provision of frank and impartial advice to government; senior management listening to the views of employees; and managers encouraging and valuing employee input) are measured in the Public Service Commission’s sector-wide NSW People Matter Employee Survey
- Continuous improvement: The agency has a culture, leaders and practices that actively learn from best practice within and outside the agency, and implements that best practice throughout the agency.

3.3 Agency ethics self-assessment

Ethics self-assessment questionnaire

Policies and practices support the ethical performance of agencies, workplaces and employees.

The following questionnaire is designed so agencies and workplaces can assess the extent to which policies and practices are consistent with the *Ethical framework for the government sector*.

Note: A full assessment of ethics performance will include employee views on work practices and individual behaviour and customer feedback on the quality and impact of services



Instructions

Step 1: Tick one response in each of the rows (below) that most applies to your agency/workplace.

Step 2: Calculate your rating to identify the strengths and weaknesses of your ethics policies and practices.

Step 3: Refer to the relevant sections in the PSC publication called *Behaving Ethically: A guide for NSW government sector employees* for ideas to improve your score.

3.3 Agency ethics self-assessment

Each tick in the dark blue means you are on track to implementing the *Ethical framework for the government sector*.

Each tick in the light blue zone means you have gaps implementing the *Ethical framework for the government sector*.

Each tick in the grey zone means you are less likely to have implemented the *Ethical framework for the government sector*.

Monitor and review to continually improve

Work still to be done

Immediate action recommended

Refer to the Good Ethical Practice Guides in the PSC ethics resources for assistance.

Refer to the Good Ethical Practice Guides in the PSC ethics resources for assistance.

Ethical framework for the government sector		
My agency's values are based on the objective, values and principles of the <i>Ethical framework for the government sector</i>	My agency's values are not based on the objective, values and principles of the <i>Ethical framework for the government sector</i>	My agency does not have explicit values
My agency's code of conduct is based on the <i>Ethical framework for the government sector</i>	My agency code of conduct has not been revised in the last 12 months	My agency does not have a formal code of conduct
All employees understand the role of codes and when and how to use them	Some employees understand the role of codes and when and how to use them	Employees do not generally understand the role of codes and when and how to use them
We promote my organisation's Code of Ethics and Conduct to our employees, clients and the community	We promote our organisation's Code of Ethics and Conduct to our employees	We do not promote our organisation's Code of Ethics and Conduct
All of our employees are aware of the need to act ethically with customers and clients	My managers are well versed in ethical conduct if a customer is unhappy with one of our employees	Most of our employees do not know how to act ethically with customers and clients

3.3 Agency ethics self-assessment

Leadership		
I make decisions guided by the <i>Ethical framework for the government sector</i> and our agency values and principles	Values and principles are not directly relevant to my work	My agency does not have published values or principles
Where a decision is made which departs from normal practice and procedure it is explained (where possible) to affected employees	Sometimes I explain my decision-making to others within the organisation, but not always	I don't have time to explain why I made a decision to other employees
I ask others "What do I need to do to show you I have really signed up to the <i>Ethical framework for the government sector</i> values and principles?"	I have an awareness of the importance of values and principles; however I haven't acted on that awareness in my day-to-day work	I don't see that organisational values will make a difference
I regularly use the language of values and principles in my everyday work	I am aware of the language of values and principles; however there are not many opportunities to use it in my everyday work	I do not use the language of values and principles in my everyday work
I support and participate in ethics-related learning and development	I participate in ethics-related learning and development	Ethics-related learning and development is not relevant to my role
The <i>Ethical framework for the government sector</i> is addressed in my agency's formal leadership development training programs	My agency has formal leadership development training programs; however they do not address the <i>Ethical framework for the government sector</i>	My agency does not have formal leadership development training and programs
Employees in my agency are clear on their roles and responsibilities in the Westminster System	My agency sometimes trains employees on the Westminster System	There is a low awareness of the Westminster System in my agency
My agency has well-funded policies, training, complaints handling and other measures in place to prevent and eradicate bullying	My agency has a number of coordinated measures in place to address bullying	My agency has ad hoc measures in place to address bullying
I use the PSC ethics resources and I encourage others to use those resources	I use the PSC ethics resources	The PSC ethics resources are not relevant to my agency

3.3 Agency ethics self-assessment

Ethical culture		
My agency is aware of and able to articulate its current ethical culture	There is an informal understanding of the current culture in my agency	There is no clear picture of the current culture in my agency
My agency has in mind an ideal organisational ethical culture which it is working towards	There are areas of poor organisational culture which are being addressed in my agency	Organisational culture in my agency is vague and largely unaddressed
My agency is acting to close gaps between its current and ideal cultures	My agency has actions in place to address culture however not in a co-ordinated or strategic way	My agency has no plan to address its organisational culture
My agency provides ongoing structured support to all employees to build skills in difficult conversations using the language of values and principles	My agency has an ad hoc or inconsistent approach to training and development of interpersonal and management skills	Employees in my agency are expected to bring a certain interpersonal skill set to their role and therefore do not need development in relation to difficult conversations
In my agency I have regular one-on-one and group meetings between managers and their reports around work programs and individual projects to discuss progress and share learning	Managers try and meet regularly with their teams however team meetings are regularly cancelled due to lack of time or other reasons	Managers in my agency rarely share information
In my agency there are regular opportunities for open exchange of information and opinions and development of mutual understanding in and beyond teams	In my agency there are some opportunities for open exchange of information and opinions and development of mutual understanding in and beyond teams	In my agency there are few opportunities for open exchange of information and opinions and development of mutual understanding in and beyond teams
My agency actively develops individuals to be more than simply rule followers	Few people in my agency diverge from policy and procedures in any situation	People in my agency follow rules regardless of impact or consequence
The symbols, stories and unofficial history of my agency support the <i>Ethical framework for the government sector</i>	My agency has very few, if any, symbols or stories about its past	People in my agency use stories of the past to legitimise bad behaviour and poor performance

3.3 Agency ethics self-assessment

Supporting employees		
My agency's training and development function effectively contributes to its good ethical culture	My agency provides training and development opportunities; however there are few direct links to the <i>Ethical framework for the government sector</i>	My agency provides training and development on an ad hoc basis and there are no ethical culture components
My agency has recently reviewed its training-related policies and programs to ensure that they support the <i>Ethical framework for the government sector</i>	My agency has recently reviewed some of its training-related policies and programs and they broadly address the issue of ethics	My agency has not reviewed its training-related policies and programs to address ethics
My agency translates its values and principles into the way in which the organisation operates and people carry out their day-to-day jobs	People in my agency are aware of the agency's values; however they do not refer to them when making decisions or deciding on appropriate behaviour	My agency's values and principles have no impact on the day-to-day operations of individuals
My agency combines standalone Code of Ethics and Conduct training with processes to integrate ethics with daily work practices	My agency has standalone Code of Ethics and Conduct training which is not integrated with daily work practices	My agency does not have standalone Code of Ethics and Conduct training
My agency provides guidance in relation to key ethical challenges within the organisation	My agency provides ad hoc guidance in relation to key ethical challenges within the organisation	My agency does not provide guidance in relation to key ethical challenges within the organisation
My agency provides support for managers and supervisors to lead and facilitate implementation of the <i>Ethical framework for the government sector</i> in their teams	Managers and supervisors in my agency are good at leading and facilitating implementation of the <i>Ethical framework for the government sector</i> in their teams and therefore do not require agency support	My agency does not provide support for managers and supervisors to lead and facilitate implementation of the <i>Ethical framework for the government sector</i> in their teams
My agency's people performance and development policy is aligned with the <i>Ethical framework for the government sector</i>	My agency's people performance and development policy addresses behaviour but is not aligned with the <i>Ethical framework for the government sector</i>	My agency's people performance and development policy does not address employee behaviour
People in my agency have a choice of avenues for raising concerns	People in my agency have one avenue for raising concerns	People in my agency have no avenues for raising concerns

3.3 Agency ethics self-assessment

Supporting employees		
My agency provides employees with ethical decision-making tools and support	My agency provides informal support for employee decision-making but does not provide employees with decision-making tools	My agency expects employees to be equipped to make ethical decisions
My agency proactively monitors, responds to and enforces adherence to codes	My agency reactively responds to and enforces adherence to codes	My agency does not monitor, respond to or enforce adherence to codes
My agency periodically tests the effectiveness of training programs	My agency tests the effectiveness of training programs on an ad hoc basis	My agency does not test the effectiveness of training programs
My agency provides appropriate rewards, recognition and incentives initiatives which support the <i>Ethical framework for the government sector</i>	My agency's reward, recognition and incentive framework has no links to the <i>Ethical framework for the government sector</i>	My agency does not have a reward, recognition and incentive framework
My agency takes all opportunities to develop and communicate a positive ethical organisational narrative	My agency will communicate an organisational narrative in response to a negative situation	My agency does not develop and communicate a positive organisational narrative
My agency actively promotes the merit principle as the cornerstone of its recruitment and promotion process	My agency requires selection committee members to confirm they have been trained in staff selection	My agency expects selection committee members to know the rules

3.3 Agency ethics self-assessment

Ethics governance		
My agency has extensive formal ethics governance arrangements	My agency has informal ethics governance arrangements	My agency has no ethics governance arrangements
My agency's formal delegations promote appropriate levels of authority and accountability to support ethical decision-making and behaviour	My agency's formal delegations do not promote appropriate levels of authority and accountability to support ethical decision-making and behaviour	My agency does not see formal delegations as having a role in supporting ethical decision-making
My agency provides appropriate levels of access to information within the organisation to enhance ethical decision-making capacity and accountability	People in my agency can gain information within the organisation to enhance decision-making capacity and accountability; however the process is onerous	Access to information within my agency is strictly controlled in all circumstances
My agency regularly reviews systems, policies and procedures to ensure they are practical and translate the core values into action	My agency regularly reviews systems, policies and procedures; however there are no specific links to the core values	My agency does not regularly review systems, policies and procedures
My agency's ethics-related systems, policies and procedures are consistent and complementary throughout the organisation	My agency has a range of ethics-related systems, policies and procedures; however they are seen as isolated and inconsistent	My agency has no ethics-related systems, policies and procedures
My agency has a sound, well communicated gifts and benefits policy	My agency does not actively communicate its gifts and benefits policy	My agency does not have a gifts and benefits policy
My agency effectively considers the giving of gifts and benefits and makes appropriate decisions in relation to their acceptance, or otherwise, and treatment	My agency records a very limited amount of information in its gift register	Employees in my agency routinely accept gifts and benefits without recording them in the register
My agency has a formal risk management plan which addresses ethical conduct	My agency has a formal risk management plan but it does not address ethics	My agency does not have a formal risk management plan
My agency's audit program integrates ethical behaviour and decision-making	My agency's audit program includes some elements related to ethical behaviour and decision-making	My agency's audit program focuses on other matters

3.3 Agency ethics self-assessment

Ethics communications		
My agency's Code of Ethics and Conduct is available on our website	My agency's Code of Ethics and Conduct is available on our intranet	My agency's Code of Ethics and Conduct is not available on our website or intranet
My agency regularly communicates its expectations to employees in relation to ethical decision-making and behaviour	My agency sometimes communicates its expectations to employees in relation to decision-making and behaviour	Employees in my agency are expected to know about ethical behaviour
Ethical decision-making and behavioural expectations are clearly understood by all employees in the context of achieving organisational objectives such as quality service delivery	Decision-making and behavioural expectations are clearly understood by all employees; however the links to achieving organisational objectives such as quality service delivery are unclear	Decision-making and behavioural expectations are never discussed in the context of achieving organisational objectives such as quality service delivery
My agency has recently reviewed relevant communications documents for quality of communication about ethics	My agency has not recently reviewed relevant communications documents for quality of communication about ethics	My agency does not review documents for quality of communication about ethics
My agency's communications on ethics address external parties where appropriate	My agency's communications on ethics address internal parties only	My agency does not communicate about the <i>Ethical framework for the government sector</i>
My agency uses a range of communication methods and promotional opportunities to consistently reinforce messages about the <i>Ethical framework for the government sector</i>	My agency communicates about the <i>Ethical framework for the government sector</i> on an ad hoc basis	My agency does not communicate about the <i>Ethical framework for the government sector</i>
My agency has a clear and user friendly complaints and appeals process for customers and clients available on our website	My agency has a complaints and appeals process for customers and clients available on request	My agency does not have a complaints and appeals process available for customers and clients

3.3 Agency ethics self-assessment

Measurement and monitoring		
My agency reviews and analyses its People Matter survey results in relation to ethics, and makes relevant changes and takes appropriate action as necessary	My agency reviews and analyses its People Matter survey results; however I do not have a formal plan in relation to improving ethics- related results	My agency does not review or analyse its People Matter survey results in relation to ethics
My agency formally assesses client perceptions as part of our strategic plan	My agency informally assesses client perceptions on an ad hoc basis	My agency does not assess client perceptions
My cluster benchmarks the various agencies within its structure and my agency uses the results to assess my agency's relative performance	My cluster benchmarks the various agencies within its structure; however the results are not available at agency level	My cluster does not benchmark agency performance
My agency strategically identifies and monitors both lead and lag indicators in relation to the ethical health of the agency	My agency identifies and monitors indicators in relation to the ethical health of the agency in an ad hoc fashion	My agency has not identified and does not monitor indicators in relation to the ethical health of the agency
My agency analyses its Workforce Profile data to identify any indicators in relation to the ethical health of the agency	My agency analyses its Workforce Profile data; however not in relation to indicators of the ethical health of the agency	My agency does not analyse its Workforce Profile Data
My agency promotes the State of the Public Sector Report each year to enhance understanding by employees of sector wide ethical issues and actions	My agency is aware of the State of the Public Sector Report; however I do not promote it to our staff actively	My agency is unaware of the State of the Public Sector Report



3.4 Leadership

Contents



Introduction

Leadership and management

Leaders and culture

Leadership styles

Executive development strategies

Budgets

3.4 Leadership

Introduction

The *Government Sector Employment Act 2013* requires that Department Secretaries and heads of agencies are responsible for the general conduct and management of their agencies in accordance with the core values of the *Ethical framework for the government sector*.

This guide identifies actions which government sector leaders can take to develop and maintain the ethical conduct of their agencies and employees consistent with the *Ethical framework for the government sector*.

This guide also supports middle and frontline leaders who play an important role in influencing their colleagues to achieve their agency's goals and maintain high ethical standards.

3.4 Leadership

Leadership and management

Ethical leadership in the government sector is about influencing others and setting the culture of a workplace.

Leadership is a practice, rather than a position or classification level. Leaders influence others by shaping longer-term and strategic thinking, setting priorities, communicating with influence, exemplifying personal drive and integrity, achieving results, and cultivating productive working relationships.

Leadership and management are complementary, but different. Managers organise work through planning, budgeting, structuring jobs, overseeing the delivery of customer services, measuring performance and problem-solving, so that their business unit can predictably achieve workplace objectives established by the agency's leaders. In the government sector, the complete separation of leadership and management is rare, and both are crucial if agencies are to be successful.

3.4 Leadership

Government sector leaders play an important role in culture change.

With effective leadership, it is possible to establish that organisations have one, or a mix of, three positive types of culture. These are:

- Innovation-focused cultures: Leaders introduce and support a culture of change and innovation
- People-focused cultures: Leaders care for their employees and foster collaboration
- Results-focused cultures: Leaders encourage all employees to focus on delivering results and achieving goals (such as quality services to customers and clients).

Organisations with these cultures typically have higher employee performance, better customer service, more innovation and higher productivity.

By contrast, organisations with a culture of risk aversion, insularity, adherence to procedure and powerlessness, and even defeatism that has built up over time, typically have lower employee performance, poorer customer service, less innovation and lower productivity.

Whether conscious or not, the behaviour of all leaders directly affects the culture of their organisations. Leaders are seen by employees as role models, and employees learn what is acceptable workplace behaviour by watching (or hearing about) what their leader does, how they treat their colleagues within the agency, and the way they treat others (such as customers, other agencies and the public).

These behavioural cues are interpreted by employees, establishing beliefs about what is important, and what behaviours are acceptable in the workplace. The actual behaviour of leaders – rather than formal policies and procedures that describe what should be done – becomes accepted by all other employees as ‘how we are to do business around here’ and employees, in turn, reproduce those values and behaviour in their own conduct.

The impact of what leaders do is very influential, particularly when they ‘practice what they preach’. Ethical behaviour by leaders is associated with higher employee motivation and commitment, greater willingness to report problems to management, lower rates of sick leave, higher work satisfaction and higher productivity. Discrepancies between leadership practices and formal agency values and codes of conduct create cynicism and employee dissatisfaction, and contribute to employees themselves acting unethically.

The *Government Sector Employment Act 2013* requires leaders to consciously model the objective, values and principles of the *Ethical framework for the government sector*, so their employees see the desired values and behaviours being practised, if their agencies are to exhibit one, or a mix of, the three productive cultures.

3.4 Leadership

Leadership styles

There are many different leadership styles. Only some are conducive to the ethical operation of agencies and are supported by evidence that they deliver outcomes such as employee job satisfaction and dedication, and willingness to report problems to management.

High-performing organisations enjoy the advantage of better quality leaders who are seen by employees as having one or more of the following three characteristics:

- **Authenticity**

Leaders know the goals for the future, are clear about the importance of those goals, and show integrity in how they conduct themselves. These leaders also are receptive to feedback, even criticism, and see this as a learning opportunity to improve their leadership and the performance of the agency. Employees trust these leaders and supervisors, see them 'living the values' and are happy to take on the agency's shared goals and values

- **Development orientation**

Leaders delegate responsibility, increase staff involvement in decision-making and foster collaboration and a problem-solving approach to meeting customer needs. This approach is particularly effective in networked organisations which perform best when employees are encouraged, enabled and motivated to contribute to their full potential and to deliver innovative and effective customer services

- **People orientation**

Leaders at all levels of the agency provide clear support to all employees, regardless of seniority, gender or other diversity characteristics, and encourage them to be the very best they can at work. Employees trust this type of leader and are more committed and productive because they feel valued, and treat positively frank feedback on their performance.

Two other common leadership styles – being directive, controlling and intimidating; or being laissez-faire and not communicating a clear strategic direction, business agenda or high standards for employee conduct – are correlated with poor ethical conduct and low agency performance.

3.4 Leadership

Executive development strategies

It is important that leaders receive appropriate leadership (not just management) training so they are able to build organisations of people who have the authority and capacity to make good decisions which advance the purposes of the organisation in accordance with its values and principles.

The Public Service Commission has a range of strategies in place to support the development of government sector leaders. These include:

- **PSC Leadership Academy Programs**

PSC runs a number of signature programs which target senior executive leadership development. The specific aims of the executive development program are to strengthen strategic leadership capability, develop the knowledge and skills needed to deliver major reform, and foster talent within the pool of potential future sector or agency leaders.

- **Executive Connections**

This program targets senior level NSW government sector executives. Executive Connections provide opportunities for our senior executives to build on their current levels of knowledge and capability.

3.4 Leadership

Budgets

A particular responsibility for leaders when integrating the *Ethical framework for the government sector* in their agency's systems, work practices and employee conduct is to ensure appropriate levels of funding are allocated for ethics governance arrangements, ethics training and related resources, and the measurement of culture change and ethical performance of employees.

The level of financial commitment to ethics initiatives will be seen by employees as an indication of the high or low status that agency leaders are placing on ethics.

However, it is important to note that many actions leaders can take to embed the *Ethical framework for the government sector* require little or no budget allocation, because they are about doing current activities better, rather than doing something additional or different.

3.5 Governance

Contents

Introduction

Governance in the NSW government sector

Leadership and culture

Systems, policies and procedures

Risk management

Audit

3.5 Governance

Introduction

Governance refers to the framework of rules, relationships, systems and processes by which authority is exercised and controlled in organisations.¹

In the NSW government sector, governance refers specifically to the complex relationships between agencies, the Government and Parliament: where agencies are given particular powers, functions, responsibilities and resources to act – and those agencies are also required to give an account to Ministers, the Government and the Parliament on how those responsibilities and resources are used.

Governance also refers to the arrangements within agencies: where public responsibilities and funding are delegated from the Department Secretary or other head of an agency to other government sector employees – and those employees are also required to give an account to the agency head (and ultimately, to the Parliament) on how they exercised those powers and used that funding.

The requirements of governance apply to every NSW government sector employee: we are paid government monies to deliver government services; we are seen by the public to be representatives of the State; and our work may be contributing to how our agency taxes, regulates and enforces State laws over individuals, businesses and communities. As users of government power and recipients of government funding, we are obliged also to be accountable, to report, explain and answer to the government (and the public, more generally) about how we are using government powers and finances.

The objective, values and principles of the *Ethical framework for the government sector* provide criteria to establish, administer and evaluate the governance systems and practices of agencies. These criteria include: act in the public interest, uphold the law, communicate intentions clearly, provide services with a focus on customer needs, provide transparency to enable public scrutiny, and focus on efficient, effective and prudent use of resources.

¹ See ASX Corporate Governance Council, *Corporate Governance Principles and Recommendations*, available at www2.asx.com.au

3.5 Governance

The system of governance in NSW which balances the responsibilities and accountabilities of government sector agencies and employees is multi-faceted and multi-layered.

The governance framework for the NSW government sector includes:

- **Legislation**

The functions, powers, authorities, obligations and duties of agencies identified in the legislation that constitutes those agencies; and the additional responsibilities and accountabilities of agencies identified in legislation including the *Government Sector Employment Act 2013* and the *Government Sector Finance Act 2018*

- **Authority**

The powers of Ministers to control and direct Department Secretaries and agencies, and the limits of those powers; and the legal, procedural and operational requirements on Department Secretaries and heads of agencies to account to their Minister and the Government for the conduct, finances, operations and service delivery of their agencies

- **Directives, standards and guidelines**

The official directives (such as those made by the Public Service Commissioner on government sector employment matters), official standards of conduct (such as accounting, audit and employment standards) and guidelines that operationalise government functions, powers, authorities, obligations and duties into required procedures and practices to be carried out by employees in their daily work

- **Delegations**

The delegation of powers, responsibilities and duties within agencies; and the requirement that employees are accountable for their actions, expenditure and achievements to their managers who are in turn accountable to the Department Secretary or head of agency

- **Oversight bodies**

The Parliamentary and other authorities (such as the Public Service Commissioner, the Auditor-General, the Ombudsman and the Independent Commission Against Corruption) who oversight, investigate and recommend changes to improve the accountability and operations of the government sector.

The *Ethical framework for the government sector* provides the guidance and criteria to understand and comply with these multiple layers of governance. Specifically, the *Ethical framework for the government sector* provides the legislated objective, values and principles for the NSW government sector to:

- Guide priority setting and decision-making
- Determine what is acceptable conduct by agencies
- Establish the standards of expected employee behaviour.

3.5 Governance

Leadership and culture

How a leader behaves, and how a leader treats others, will directly and powerfully influence the culture and practices of the agency and its many workplaces.

They are empowered by legislation with important powers, functions, responsibilities and resources; and they are directly accountable to at least one Minister for the exercise of those powers, functions, responsibilities and resources.

Heads of agencies also delegate many of their powers and duties to other executives or managers who are in turn accountable to the head of the agency for the use of their government powers, functions, responsibilities and resources. Managers, in their turn, may delegate decision-making and financial responsibility to other employees whilst making them accountable for their use.

Heads of agencies can ensure all their agency's employees are clear about these delegations and are aware of their responsibilities, duties and accountabilities by:

- Having clear contracts for senior executives stipulating each executive's responsibilities, duties and accountabilities
- Having clear job descriptions for all managers that outline each manager's responsibilities, duties and accountabilities
- Having clear job descriptions for all employees that articulate each employee's responsibilities, duties and accountabilities.

In addition to having written requirements, good practice governance requires establishing a corporate culture which promotes the importance of the objective, values and principles of the *Ethical framework for the government sector* including:

- Objectives such as:
 - Preserve the public interest
 - Defend public value
 - Add professional quality and value to the commitments of the Government of the day
 - Be merit-based and apolitical
 - Implement the decisions of the Government of the day
- Values and principles such as:
 - Place the public interest over personal interest
 - Uphold the law, institutions of government and democratic principles
 - Provide apolitical and non-partisan advice
 - Recruit and promote staff on merit (For a practical example of how this principle may apply, see the ethical scenario 'A qualified applicant' at page 131)
 - 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.

For assistance on how to develop ethical agency cultures see the Public Service Commission guide on good ethical practice 'Changing agency culture' at page 107.

3.5 Governance

Systems, policies and procedures

Heads of agencies need to ensure their agencies have effective systems of governance, employees with the skills and authority to implement those systems of governance, and arrangements to monitor the performance of that governance system.

Agency systems of governance need to promote transparency, honesty, impartiality and encourage public trust in the system. A stocktake of ethics in the NSW government sector in 2012 noted:

Agencies need to critically assess all of their systems and policies to check that they are not ‘signalling’ a demand or tolerance for unethical conduct.¹

For example, written governance policies need to make a clear statement about the importance of governance systems and practices being consistent with the objective, values and principles of the *Ethical framework for the government sector* before outlining elements such as executive structure of the organisation, executive and management roles and responsibilities, and how they are to communicate and interact.

When designing and assessing their systems, policies and procedures, it is important that those systems, policies and procedures clearly indicate what the agency was established to do (its functions and purposes) and how the agency and its employees are expected to behave when they carry out those functions and purposes (which are specified in the *Ethical framework for the government sector*). In general, systems, policies and procedures should be redesigned to explicitly support the delivery of services to customers and clients in ways that focus on quality while maximising service delivery.

Agencies should also subject their policies to regular reviews at a predetermined period for currency and continuous improvement purposes. These reviews provide opportunities to assess whether individual policies are supporting the objective, values and principles of the *Ethical framework for the government sector*.

In addition to encouraging agencies and employees to conduct themselves in ways that are consistent with the *Ethical framework for the government sector*, many agencies have changed their policies and work processes in order to reduce the risk of misconduct. For example, some investigation, procurement and law enforcement functions have implemented measures including rotation of roles, swapping of work partners, changes to procedures for allocation of jobs and clients and increased requirements for transparency. Also, policy writing guidelines have been developed by some agencies to ensure that ethics is ‘woven into the framework’ of policy and procedures.

¹ The NSW Ethics Stocktake www.psc.nsw.gov.au

3.5 Governance

Risk management

Risk management is an integral element of corporate governance.

In risk analysis it is important to identify options or actions which maximise public interest and service delivery outcomes whilst managing risk in a systematic, transparent and credible manner. This includes consideration of:

- **Compliance risk**

Comply with the objective, values and principles of the *Ethical framework for the government sector* including preserving the public interest, being apolitical and professional and adding value to and implementing government decisions.

- **Integrity risk**

Support the Integrity principles of the *Ethical framework for the government sector*.

- **Trust risk**

Support the Trust principles of the *Ethical framework for the government sector*.

- **Service risk**

Support the Service principles of the *Ethical framework for the government sector*.

- **Accountability risk**

Support the Accountability principles of the *Ethical framework for the government sector*.

- **Financial and operational risks**

Are consistent with the financial, asset, service delivery, work health and safety, environmental and other risks discussed in NSW Treasury's Risk Management Toolkit for NSW Public Sector Agencies (available at www.treasury.nsw.gov.au)

Agencies also have in place enterprise risk management frameworks which can be used in conjunction with the *Ethical framework for the government sector* in making decisions about managing risk. When significant levels of risk are detected then the agency's leaders and managers together should put risk mitigation plans into action. Formal and robust risk management strategies will assist agencies to maximise public interest benefits, transparency and service delivery outcomes whilst optimising resource use, promoting ethical behaviour and increasing customer satisfaction.

3.5 Governance

Audit

Internal and external audit are essential components of any system of governance.

Internal agency audit function

Agencies should have documented internal audit and fraud control systems in place, which are subject to ongoing monitoring and review as a matter of course. Compliance with the *Ethical framework for the government sector* should be one element which organisations review during internal audit processes. Targets for audit should be identified in conjunction with risk management processes conducted by agency managers and leadership.

Audit findings should be used as a learning opportunity, not as a control, blame or sanctioning exercise.

Audit Office of NSW

The Audit Office of NSW conducts regular performance audits of NSW government sector agencies. The Audit Office conducts a strategic audit planning process which identifies areas of risk in the government sector. To determine performance audit priorities, the Auditor-General writes to all Members of Parliament and Secretaries and agency heads of the major government sector agencies seeking views on performance audit topics. The output from this planning process, together with responses from parliamentarians and Secretaries and agency heads, is considered by the Auditor-General and a list of potential performance audit topics is selected.¹

This process conducted by the Audit Office provides heads of agencies and employees with an opportunity to test that agency policies, procedures and practices comply with the *Ethical framework for the government sector*.

¹ See the Audit Office www.audit.nsw.gov.au

3.6 Changing agency culture

Four types of culture

Culture consists of the unwritten ground rules that exist in all organisations about ‘how we do things around here’.

These ground rules are often expressed in the form of sentences that begin with the phrase “Around here ...” For example, “Around here it isn’t worth making suggestions because nothing gets done” or “Around here the only time you hear from your manager is when something goes wrong”.

These ground rules are perpetuated through:

- Employee beliefs about how work is carried out in practice in their agency or workplace
- Work practices that employees learn and actually use to get things done.

These beliefs and practices are learned on the job through formal and informal inductions, conversations, ‘war stories’ and other forms of corporate knowledge.

Typically the actual beliefs and work practices about how work gets organised, prioritised, carried out and rewarded vary significantly from the official statements of policy, procedures and practices.

Agency cultures may be organisation-wide or there may be workplace-level subcultures.

There are four general types of culture that exist in the public and private sectors.¹

The three positive cultures are those where:

- Employees welcome and seek to introduce change and innovation
- Leaders care for their employees and foster collaboration
- There is an ambition to deliver results and a focus on achieving goals such as quality service delivery to customers and clients.

Agencies with these positive ethical values and work practices typically have higher employee performance, better customer service, are more innovative and have higher productivity.

By comparison, organisations with the fourth common culture – based on values of control, risk aversion and fear – are significantly poorer performers.

Organisational culture, however, is not fixed. It evolves slowly over time, and more importantly, it can be consciously changed with strong leadership (at all levels of the agency) and with the active participation of employees in the development of new standards of conduct, new work practices and new beliefs about what is acceptable conduct at work.

Significantly, the objective, values and principles of the *Ethical framework for the government sector* provide the bases for an organisational culture that is associated with positive employee morale, innovation, better customer service and higher levels of productivity.

¹ See ‘Corporate Governance Culture’, Standards Australia (Standard HB 408-2006) (www.standards.org.au) and the “Ethics Stocktake” (PSC, 2012) (www.psc.nsw.gov.au)

3.6 Changing agency culture

Changing agency culture

Agency culture arises when employees observe the actual behaviour of their leaders and their actual team and work processes, day-to-day interactions of their colleagues and of their managers, and ways that the agency and its employees treat customers, clients and stakeholders.

This culture is seen in – and perpetuated through – each agency’s unique:

- Language – the way people talk about their colleagues, managers, senior executives, customers and clients, suppliers, stakeholders and others
- Decision-making criteria and procedures in the workplace and the agency as a whole
- Symbols, stories and the official and unofficial history of the agency. These often indicate why things are done as they are, and why certain workplace activities are acceptable and others are considered to be ‘illegitimate’
- Daily work practices, where what you do and who you involve is determined irrespective of what should be done according to official statements about correct procedure.

New employees learn very quickly to follow these existing patterns of behaviour and to act in ways that are consistent with the values that they infer from what is acceptable and what is unacceptable behaviour in the workplace.

They then reproduce these work practices, behaviours and values by following actual operating procedures (which are not necessarily the same as official policies, procedures or practices), by doing what their colleagues are doing and by acting in ways that are consistent with the dominant values of the workplace. These collectively learned beliefs and work practices reproduce the culture of the agency over time.

Culture change is difficult and takes time because it requires employees to change long-standing, deeply held and often unconscious workplace beliefs, values, understandings, practices and behaviours that were learned from their practical experience of working within the agency, often over many years.

Changing corporate culture takes time and requires persistence – however the benefits are real, many, and measurable.

Changing agency culture also requires active employee participation if executives, management and staff are to change their old worldviews and practices and replace them with a new outlook and practices. Culture change cannot be mandated or imposed.

There are six interconnected pressure points in an agency where action can improve agency culture:

• Leadership

Leaders must ‘walk the talk’ – they must model the objective, values and principles of the *Ethical framework for the government sector* at the highest level – so employees see the new values and behaviours being practiced.

Culture change must be led from the top of the organisation, as the willingness of the senior management to change their own practices is an important indicator of the seriousness of the need for culture change. Leaders exist throughout agencies – and not just at the top – and these leaders should be supported by senior management because they are vital in reinforcing and giving legitimacy to the new values and work practices.

• Employee participation

Encouraging employee participation in the implementation of the *Ethical framework for the government sector* is essential to develop a healthy culture and employee ‘buy in’ for the new arrangements. It is also important because culture change can lead to tensions between past and new practices; clashes between agency and individual interests; changes to official and unofficial control systems; changes to official and unofficial employee reward and recognition systems; and possible resistance where people feel the likely gains will not outweigh the losses. Employee participation helps address these ethical dilemmas and changes in identity, power and practices.

3.6 Changing agency culture

- **A clear strategic vision**

A clear vision of how the *Ethical framework for the government sector* is being implemented through the agency's strategy, mission, approach, shared values and behaviours needs to be formulated. This vision provides the intention and direction for the culture change.

Revise the formal, official statements of the agency's culture (such as mission and vision statements, codes of conduct, organisational structure charts, statements of standard operating procedures, key performance indicators etc) to ensure they are consistent with the *Ethical framework for the government sector*. This is particularly important in organisations where a high level of cynicism has developed because, in the past, employees saw little or no correlation between the official agency values and procedures and the actual treatment of employees, customers and other groups. All employees should be encouraged to contribute to develop new statements which reflect the *Ethical framework for the government sector* and which, at a minimum, identify the values and core business of the agency; how the agency will treat its employees, customers and stakeholders; and how employees are expected to treat each other.

- **Systems and work practices**

Agencies need to assess their current systems, policies, work practices, procedures and employee behaviours to ensure they align with the objective, values and principles of the Ethical Framework.

Where necessary this includes changing the agency's accountability systems, compensation, benefits and reward structures, and recruitment and retention programs so (i) it sends a clear message to employees that the old system and culture are in the past and (ii) the new systems and work practices do, in fact, implement the *Ethical framework for the government sector*.

- **People practices**

The criteria and practices used to recruit, train, develop, promote and exit employees in the government sector need to be consistent with the *Ethical framework for the government sector*. Training in particular should be provided to all employees – from frontline service providers to Secretaries or heads of agencies – so all understand the expectations, systems, procedures and practices and how they express the *Ethical framework for the government sector*.

- **Measurement**

Corporate culture and changes in culture can be measured. It is important that agencies can track progress with the implementation of the *Ethical framework for the government sector* and recognise and celebrate success and act promptly to address delays. Quantitative measures typically survey individual employee perceptions and opinions about their working environment. Qualitative methods (such as participant observation, interviews and focus groups) can be used to identify the values, beliefs, understandings and interpretations of employees which guide employee behaviours and practices. The Public Service Commission is assisting agencies to track progress by using employee feedback on agency values, procedures and practices through the NSW People Matter Employee Survey results.

3.7 Supporting employees

A strategic approach to the workforce

It is common to have People and Engagement or HR, including organisational capability, represented in a government sector agency's senior leadership team and reporting to the CEO or Chief Operating Officer.

A strategic approach to the workforce focuses on the development of organisational capabilities as well as individual employee capabilities.

A major tool for a strategic approach to human resources is workforce planning. Workforce planning must be closely tied to business planning, and a common approach must cover all aspects of workforce planning, including ¹:

- Culture change, including values and behaviours
- Performance management, including appraising individual employees
- Performance, rewarding high performers and managing poor performers
- Organisational design, including planning the composition of the workforce, such as grade structures
- Job design and description, including position descriptions
- Recruitment
- Managing capability issues, including skills shortages
- Managing an ageing workforce
- Talent management.

Consistent with the *Government Sector Employment Act 2013* and associated Regulation and Rules, human resources employees need to ensure the conduct and management of agencies (and each employee) is consistent with the values of the *Ethical framework for the government sector*: integrity, trust, service and accountability. Section 63 of the *Government Sector Employment Act 2013* also requires workforce diversity to be integrated into workforce planning in the agency. In addition, there are other strategic priorities that are set by government policy that need to be addressed by agencies; one of which is redesigning the workforce and work practices to promote productivity.

¹ As identified by Kerry Schott in the 2012 NSW Commission of Audit: Interim Report – Public Sector Management.

3.7 Supporting employees

Workforce systems

In addition to workforce planning, agencies with a strategic approach to the workforce will take action to embed the *Ethical framework for the government sector* into agency workforce systems.

These systems include establishing and maintaining systems and processes to select, hire, recruit and exit employees; determining employee compensation and benefits and employee performance appraisals; and developing employee performance and career opportunities. Challenges for best practice organisations include how to establish systems that can recruit for people with their skills, experience and ethical capabilities, how to identify and acknowledge employees with good ethical practice, and how to identify and address cases of unethical practice.

Induction

- All new employees to take part in an induction process which must include the development of employee knowledge and skills needed to apply in their workplace, the *Ethical framework for the government sector*, the *Code of Ethics and Conduct for NSW government sector employees*, and other agency-based ethics policies and standards of conduct.

Training and workshops

- An agency's formal employee training programs to provide individuals with an official indication of the values, beliefs and practices expected of them and the skills to implement those requirements. However, to be effective, formal training must be supplemented with ongoing on-the-job mentoring, coaching, performance feedback, discussions about performance and systems improvement, and other actions that promote ethical work practices
- The appropriate mix of learning and development tools and programs will depend on the different situations, roles and needs of groups within an

agency. All employees should receive formal induction initially, and ongoing reinforcement at regular intervals. Any breach of the organisation's values, once investigated, could be dealt with – at a minimum – by a program that involves all relevant employees to identify the causes of the unethical conduct and how to ensure ethical good practice in future. Ethical breaches that are more serious may require action in relation to misconduct allegations.

Rewards, recognition and incentives

- Recognise, reward and incentivise high performance which is conducted in accordance with the *Ethical framework for the government sector*
- Take a balanced approach to short- and long-term rewards. An over-emphasis on short term rewards typically poses a greater risk of distortion of behaviour
- Consider applying to the NSW Premier's Awards and the Institute of Public Administration Australia NSW Awards to recognise and reward high performance and high performers within their agency
- Other initiatives for agencies include:
 - Changing the agency reward and recognition policies and systems so that they clearly reward behaviours consistent with the Ethical framework for the government sector
 - Increasing flexibility to develop, reward and recognise high-performing staff exhibiting Ethical framework for the government sector objective, values and principles.

Promotion

Recognise and promote employees who consistently demonstrate good conduct – that is, consistent with the Ethical Framework – as well as showing quality technical skills, knowledge and experience.

3.7 Supporting employees

Workforce practices

A strategic approach to the workforce includes assessing and improving workforce practices and procedures including job analyses and developing job descriptions; evaluating and improving internal work processes, procedures and practices; and promoting labour force productivity. This includes addressing health and safety, employee motivation and inter-group relationships and cooperation.

Behaviour and work practices

All managers have a responsibility to regularly assess their agencies and units (i) to clarify the current and future demand for the services their agency is providing and (ii) to assess if their workplace culture, skills and experience of their staff and management, reporting arrangements, job descriptions, and work processes, procedures and practices are meeting business, customer and employee development needs in ways that are efficient, effective and ethical.

These reviews are timely occasions to seek employee suggestions on how to improve business processes and service delivery standards and to remind all employees of the standards of conduct expected of them.

An effective performance management system must not only clarify expectations in relation to tasks and outputs (the 'what'), it must also set expectations in relation to individual behaviour (the 'how').

The objective and four core values of the *Ethical framework for the government sector* are supported by eighteen principles which are predominantly behaviour-based statements. These behavioural statements set the expectation of individual behaviour within the NSW government service. It is important that agencies actively manage employees in relation to ethical behaviour.

A performance development and management system which sets specific behavioural expectations

for individual roles provides an opportunity for agencies to hold employees to account for their behaviour against the expectations set by the *Ethical framework for the government sector*. The *Ethical framework for the government sector* sets a baseline for how employees are expected to behave. This baseline should be maintained and enforced through performance management.

Performance management framework

The Performance Development Framework for the NSW Public Sector¹ establishes a holistic approach for the NSW government sector, encompassing all aspects of employee performance.

The framework represents an important foundation for introducing broader workplace reforms, including linking capability to performance and strategic and operational workforce planning.

The framework consists of six key components:

1. Clarifying expectations
2. Monitoring
3. Reviewing
4. Developing
5. Recognising and rewarding
6. Dealing with underperformance.

Each of the six key components of the Performance Development Framework represents a suite of essential elements, or activities, focused on aligning individual and team effort with organisational objectives.

The performance management framework addresses issues such as underperformance.

¹ Available at www.psc.nsw.gov.au.

3.7 Supporting employees

Unethical behaviour

Behaviour contrary 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 your agency or the broader government sector. Some forms of unethical behaviour may constitute misconduct, which carries significant potential sanctions. Leaders within agencies are to promptly and actively address behaviour which is inconsistent with the *Ethical framework for the government sector* because of the perception that a lack of action condones unethical behaviour.

If leaders are not seen to punish dishonest behaviour, this adds to the perception that they are themselves dishonest because they tacitly condone dishonest behaviour.

It is also essential that agencies have policies and systems that facilitate reporting of unethical behaviour. In the case of unethical behaviours such as dishonesty, for example, effective internal reporting mechanisms and appropriate handling of reports are integrally related to employee perceptions that honesty was an important aspect of how the organisation functioned.

Under the *Public Interest Disclosures Act 1994*, agencies have obligations to ensure that they have appropriate processes in place for employees to make public interest disclosures about serious wrongdoing, and to be protected from reprisals if they do so.

Among other things, agencies are required to establish procedures for dealing with disclosures; ensure employees are aware of these procedures and the protections available; appoint authorised officers to receive disclosures; ensure disclosures are properly investigated; protect staff from reprisals if they make a disclosure; take appropriate action in response to an investigation report; and to provide information to the Ombudsman or other integrity agencies as required by law.

Responses to unethical conduct should be proportionate to the level and extent of such breaches. The range of systems and responses may include:

- All reported matters are investigated, and a formal report tendered to the Secretary or agency head or other as appropriate
- Leaders act, and are seen to act, on governance matters and other ethics-related issues as a priority
- Irregularities such as fraud, falsification of records, discrimination, or conflicts of interests, are escalated by staff, and immediately addressed
- There is consistency in rewards and punishments for similar actions regardless of position.

For a practical example of the importance of effectively addressing unethical behaviour, [see the ethical scenarios 'Charlie's photos' at page 133 and 'Investigating allegations of misconduct' at page 135.](#)

Note: References to the PID Act should be read as references to the PID Act 2022 on commencement of that Act.

3.8 Customer service standards

Introduction

Service is a core value of the *Ethical framework for the government sector*. This means employees must provide fair, flexible, innovative, reliable and quality customer service, while maximising service delivery and engaging other sectors.

Both Schott Reports noted that the culture, systems and practices of NSW agencies need to have a strong focus on customers.¹

The NSW Government's Customer Experience Unit (previously known as the Customer Service Commission) works with NSW Government departments and agencies to ensure the customer is at the centre of policy and service design, funding, delivery and evaluation across the public sector.²

This guide complements the work of the Customer Experience Unit by identifying the minimum standards of quality that government sector agencies are expected to provide to their customers, and strategies to ensure services are delivered to those standards.

These minimum service standards are based on the *Ethical framework for the government sector*.³



¹ See the NSW Commission of Audit's Interim Report Public Sector Management January 2012, and NSW Commission of Audit Final Report Government Expenditure May 2012 available at www.treasury.nsw.gov.au.

² See the Customer Experience Unit website www.nsw.gov.au/customer-experience-unit

³ See Part 2 of the *Government Sector Employment Act 2013* and *Ethical framework for the government sector* resources at www.psc.nsw.gov.au.

3.8 Customer service standards

Service standards

The *Ethical framework for the government sector* identifies the minimum service standards that all government sector agencies and employees are expected to deliver to their internal and external customers.

Customers may be ‘internal’ (within a workplace, agency or the government sector) or ‘external’ (such as members of the public, businesses and Local Councils).¹

These service standards are measures of the quantity and quality of the services that are provided by government sector employees to their internal and external customers. The standards cover the actual delivery of the service, the standards of employee behaviour, and the availability of customer feedback and complaints processes.

Service delivery standards

The *Ethical framework for the government sector* identifies minimum standards of service expected of all agencies to:

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

Employee behaviour standards

The *Ethical framework for the government sector* identifies minimum standards of service expected of all employees to:

- 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
- Appreciate difference and welcome learning from others
- Uphold the law, institutions of government and democratic principles
- Communicate intentions clearly and invite teamwork and collaboration
- Provide transparency to enable public scrutiny
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

¹ Note: Although agencies provide Ministers with advisory, administrative and other services which must be of a high standard, Ministers are not customers. Agencies and employees are subject to the direction and control of a Minister and are also accountable to their Minister – this is not the case with customers

3.8 Customer service standards

Customer feedback

Customer feedback, including customer complaints, is a vital source of information that can be used (i) to address the concerns of the aggrieved individual, and (ii) to identify ways to improve service delivery and service effectiveness for future customers.

Best practice customer feedback systems address:

- Informal complaints: Customers with concerns or criticisms about the service or their treatment are encouraged to make informal complaints as soon as possible to the relevant staff or manager; and those employees are empowered to resolve the matter wherever possible immediately
- Formal complaints: If the relevant staff or managers are unable to rectify the situation for the customer without delay, or if customers prefer to make a complaint in writing, then the customers are provided with details on:
 - How to make the complaint
 - How an impartial investigation will be undertaken
 - When a courteous reply that addresses the substantive complaint can be expected.

International best practice standards

Best practice agencies may wish to compare their standards of customer service with international best practice.

The Customer Service Institute of Australia (CSIA) has two internationally accredited Certification Programs designed to enhance service standards in private sector, not-for-profit and government organisations. These certifications include the Certified Customer Service Organisation Program and the Certified Complaint Management System program (International Standard for Complaints Handling Processes: AS ISO 10002—2018).

The International Customer Service Standards identify four characteristics of agencies with international customer service best practice:²

- A Service perspective in relation to customers
- A Financial perspective in relation to customers
- An Operational perspective in relation to customers
- A Learning and Growth perspective in relation to customers

NSW government sector agencies (such as the NSW Police Force) have been certified as performing at one or both of these international customer service standards.

² See International Council of Customer Service Organisations website at www.iccso.org/standards.

3.8 Customer service standards

Service design

Agencies should regularly assess the design of their services to ensure they meet the needs of customers in ways that are efficient, effective and consistent with the standards identified in the Ethical Framework.

There are two key aspects of service design: the service model and service logistics.

The service model

Services need to be designed (or redesigned) so they are consistent with the *Ethical framework for the government sector* principles of behaviour.

The design (or redesign) of the service should include:

- Objectives – these may be prevention, early intervention, case management, compliance, community development etc
- Targets – these may be individuals, families, businesses, Local Councils, communities etc
- Providers – these may be government employees, non-government organisations, private sector agencies etc
- Delivery methods – these may be over the counter, over the internet, by telephone etc
- Funding – these may be the government sector, user pays, the community etc.

Service logistics

Logistics (or supply chain management) refers to the planning, implementation and control of the flow of resources needed to deliver quality services to customers from the point of origin to the end point when services are received by the customer.

Strategies to improve service logistics include just-in-time, kanban and lean techniques. All aim to eliminate any activity in the service delivery supply chain which creates waste, duplication or delays, and that do not

add value to the customer. These approaches improve the coordinated flow of information, technology, employees and funding so that customer satisfaction is increased and costs reduced.

Good supply chain management practice by agencies to achieve the *Ethical framework for the government sector* standards includes:

- Senior management proactively taking a supply chain approach to the management of service delivery
- Demand forecasting is done with real-time data from service delivery measures
- Service levels are tailored to customer needs and actively managed
- Supply chain performance is rigorously optimised using total cost of supply chain as a measure – that is, the combined costs of building assets, technology, wages, and coordination/control
- Risk prevention processes are in place across the entire supply chain and are regularly reviewed. Risk responsibility and decision-making authority are defined
- Transactions are done electronically; where possible, customer needs are determined and filled automatically
- There are regular customer roundtables to discuss how to optimise costs and service delivery across the supply chain
- Supply chain performance is measured on an ongoing and consistent basis. Predefined measures are in place to address gaps between target and actual performance, and status information is available on demand
- IT requirements are analysed across the supply chain. Fully automated supply chain management applications, compatible with the existing IT landscape, are in place
- IT systems are connected to customers and suppliers.

3.8 Customer service standards

Service governance

Delivering services to the customer service standards identified in the *Ethical framework for the government sector* requires a whole-of-organisation approach to customer services – it cannot be left to the frontline service providers by themselves.

Achieving the *Ethical framework for the government sector* service standards depends, at a minimum, on the agency having a strong customer focus in its:

- Corporate culture and leadership
- Measurement.

Corporate culture and leadership

Organisational culture consists of the unwritten and unspoken ground rules about 'how we do things around here' that exist in every organisation. These ground rules are learned on the job, and are very powerful: they shape the behaviours of employees, teams and organisations – often unconsciously – and can take several years of continuous action to modify.

Key elements for NSW government sector agencies of a customer-focused culture include:

- Leadership: Senior executives show employees that they fully support a customer focus – they 'walk the talk'
- Policies, systems and procedures: The agency's policies, systems and procedures are designed and operate in ways that make the customer the core business of the agency

- Employee support: The agency's recruitment, training, recognition and promotion of employees are based on the NSW Public Sector Capability Framework. The agency has a socially and culturally diverse workforce so that services can be provided sensitively to the socially and culturally diverse members of the population of NSW
- Customer feedback and complaints: The agency's customer feedback and complaints system (i) empowers employees to address customer concerns quickly and effectively, and (ii) informs senior management of trends that are used to improve the design and delivery of services
- Metrics: The agency's measurement system provides (i) program managers with information on the efficiency, effectiveness and ethical standards of the service, and (ii) the public with measures of customer satisfaction, service results and community outcomes.

3.8 Customer service standards

Measurement

Agencies recognise the importance of good measurement and reporting systems and practices for their financial performance (reported, for example, in Treasury's annual NSW Budget), workforce performance (reported, for example, in the Public Service Commission's State of the NSW Public Sector and Workforce Profile collection) and policy and program performance (reported, for example, against National Federation Reform Council (NFRC) (formerly the Council of Australian Governments known as COAG)¹ and NSW Premier's Priority targets).

Best practice agencies also measure their levels of customer satisfaction, levels of compliments and complaints, and rates of first-call resolution of complaints. This information is used to measure how well particular services performed in the past, and to identify trends and correlations that can be used to improve service delivery to current and future customers. These agencies use metrics that matter to their customers.

For example, there can be significant differences between the drivers of customer satisfaction and dissatisfaction, and it is an important strategic decision for senior executives to determine whether to apply their limited agency funds to the drivers that maximise customer satisfaction, those that will minimise customer dissatisfaction, or some mixture of those drivers.

Best practice agencies have real-time customer data which allows frontline managers and staff to:

- Respond in real time to prevent or reduce customer waiting times
- Identify cycles in the demand for services and to plan for peak periods
- Gather evidence of good practice and redesign underperforming work practices
- Identify high-performing teams so their achievements can be recognised and celebrated.



¹ See the NFRC website www.federation.gov.au.

3.9 Measurement and monitoring



Introduction

Practical measures are required by Department Secretaries, heads of agencies and other employees if they are to determine if the conduct and management of their organisations are in accordance with the *Ethical framework for the government sector*.

Measurement:

- Provides management with intelligence that can be used to lead culture change, agency benchmarking, recruitment and other HR strategies, and to report to the public
- Provides all employees with feedback which can be used to celebrate positive performance and/or to identify areas where improvement is needed
- Sends a powerful message to all employees, customers and the public that ethical practices and behaviour are being treated seriously.

There are many instruments which agencies can use to assess the current ethical performance of their organisation and employees.

Quantitative measures typically involve surveying individual employee perceptions and opinions about their working environment. Qualitative methods (such as participant observation and group interviews) identify the subjective experiences and interpretations of employees to discover the underlying assumptions and actual practices of ethical culture.¹

This guide identifies some specific issues to be addressed in any agency measurement system that applies to the measurement of ethics culture, leadership, policies, systems, work practices, and employee behaviour.

¹ See, for example, the NSW Ethics Stocktake at www.psc.nsw.gov.au. www.psc.nsw.gov.au/reports-and-data/other-publications/ethics-stocktake-report

3.9 Measurement and monitoring

Employee surveys

One source of data on the ethical standards of agency practice and employee behaviour is the People Matter Employee Survey.

The NSW People Matter Employee Survey (PMES) is the NSW public sector's annual employee opinion survey.¹ The survey provides an important opportunity for over 430,000 people to have a say about their workplace and to help make the public sector a better place to work.

The survey asks employees about their experience and perceptions of a range of workplace issues and practices, including management and leadership, service delivery, employee engagement, diversity and inclusion, public sector values, and unacceptable conduct.

The Public Service Commission coordinates the survey in collaboration with all public sector departments and agencies.

Customer feedback

Customers – the end users of services that are planned, designed, funded, and delivered by agencies – provide an additional source of data on the ethical performance of agencies and employees.

The NSW Customer Experience Unit conducts an annual Customer Satisfaction Measurement Survey which measures client and citizen perceptions of government sector services. Survey results provide agencies with information which add another perspective to the effectiveness of service delivery in accordance with organisational values.

In addition, some agencies conduct agency-specific assessments of client perceptions using the 'mystery shopper' technique where they engage people to use the agency's services anonymously and report their experiences to the agency.

¹ PMES data is available on the Public Service Commission's website, www.psc.nsw.gov.au.

3.9 Measurement and monitoring

Other indicators

There are other metrics or indicators which agencies can use to monitor their performance depending on their individual circumstances. Existing agency data is a valuable source of understanding about the agency. These indicators are relevant to the ethical health of an organisation.

Some indicators will be lead indicators while others will be lag indicators. Lead indicators are a useful decision-making support tool when deciding on future allocation of resources such as people and funding to address emerging issues. Lag indicators can be useful in evaluation and review processes as well as being used for compliance exercises.

Lead indicators

A lead indicator is a measure which points toward likely outcomes or performance that can be expected in the near future. Some potential lead indicators of good (or poor) ethical performance that will occur in the near future which agencies may measure and monitor are:

- Employee engagement
- Employee assessment of the importance and embedding of values
- Observation of elements of ethical culture
- Stakeholder perceptions, such as suppliers, the government and NGO perceptions
- Interviews and focus groups, involving both internal and external stakeholders
- Resource allocation for ethics-related activities by the agency.

Lag indicators

A lag indicator is a measure which refers to a past performance. Some potential lag indicators which agencies may use to measure and monitor are:

- Sick leave – analysis of levels and type
- Productivity measures
- Time taken to deal with grievances and complaints, and the proportion found to be substantiated
- Employee grievances and customer complaints – level and type
- Employee exit interviews
- Level and nature of reported misconduct, concerns raised, resolution
- Level of adverse comment and overturning of decisions by review tribunals.

Trend analysis is a useful analytical method to take historical lag indicators and extrapolate the information in a way as to become a predictor of future performance and therefore become a lead indicator. Some lead and lag indicators may be able to be paired. For instance a lead indicator such as employee engagement may have a strong correlation to productivity which is a lag indicator.

Agencies should be somewhat cautious with the relevant results of various indicators as the interpretation of these metrics can be challenging. Care should be taken to ensure that the results are used to create a whole picture rather than an abstract misinterpretation.

3.9 Measurement and monitoring

Whole-of-sector reporting

The Public Service Commission provides a regular and clear assessment of how the NSW government sector is progressing on a range of workforce issues.

The State of the NSW Public Sector Report gives an overview at the macro level of the values, capabilities and productivity of the NSW government sector workforce.¹ It also identifies selected workforce-related actions that are either planned or undertaken to improve the performance of the NSW government sector.

The Report is produced annually to provide an evidence-based picture of factors that affect how work is organised and executed by the NSW government sector.

The Report contains original research to describe ethical issues, work experiences and labour force characteristics as they relate to the over 400,000-strong workforce that makes up the NSW government sector. This data is also used to track changes in the sector over time.

The Report provides a regular and clear assessment of how the sector is progressing in improving its performance with a particular focus on the *Ethical framework for the government sector* core values.

The Report draws on a range of data sources including the sector-wide workforce profile data collection, the People Matter survey, and a range of other Public Service Commission research and projects.

¹ Public Service Commission, State of the Public Sector Report, at www.psc.nsw.gov.au.

Section 4:

Other resources

4.1 Acting in the public interest

Acting in the public interest

The objective of the *Ethical framework for the government sector* for the government sector explicitly recognises the role of the government sector in preserving the public interest.

The GSE Act's *Ethical framework for the government sector* states that the government sector core values comprise Integrity, Trust, Service and Accountability. One of the guiding principles for Integrity is to place the public interest over personal interest.

The NSW Ombudsman's *Good Conduct and Administrative Practice – Guidelines for State and Local Government* provides an important discussion on the nature of the public interest, conflicts of interests and their application by modern public sectors.

The following is a short extract taken from Module 2 of this publication.¹

The overarching obligation on public officials

Public officials have an overarching obligation to act in the public interest. This means broadly that they must perform their official functions and duties, and exercise any discretionary powers, in ways that are consistent with matters of broad public concern and away from private, personal, parochial or partisan interests.

The components of the public interest

Acting in the public interest has two separate components:

- Objectives and outcomes — that the objectives and outcomes of the decision-making process are in the public interest, and
- Process and procedure — that the process adopted and procedures followed by decision-makers in exercising their discretionary powers are in the public interest, which would include:
 - Complying with applicable law (both its letter and spirit)
 - Carrying out functions fairly and impartially, with integrity and professionalism
 - Complying with the principles of procedural fairness/natural justice
 - Acting reasonably
 - Ensuring proper accountability and transparency
 - Exposing corrupt conduct or serious maladministration
 - Avoiding or properly managing situations where their private interests conflict or might reasonably be perceived to conflict with the impartial fulfilment of their official duties, and
 - Acting apolitically in the performance of their official functions (not applicable to elected public officials).

What does 'public interest' mean?

It is important to draw a distinction between the question and its application — between what 'is' the 'public interest', and what is 'in' the 'public interest' in any particular circumstance.

¹ NSW Ombudsman, *Good conduct and administrative practice: Guidelines for state and local government*, Third Edition, March 2017, available at www.ombo.nsw.gov.au.

4.1 Acting in the public interest

What is not in the public interest?

In some ways it is easier to distinguish the public interest from what is not. For example the 'public interest' can be distinguished from:

- Private interests — of a particular individual or individuals (although there are certain private 'rights' viewed as being in the public interest)
- Personal interests — of the decision-maker (including the interests of members of their direct families, relatives, business associates, etc) — public officials must always act in the public interest ahead of their personal interests and must avoid situations where their private interests conflict, might potentially conflict, or might reasonably be seen to conflict with the impartial fulfilment of their official duties
- Personal curiosity — i.e., what is of interest to know, that which gratifies curiosity or merely provides information or amusement (to be distinguished from something that is of interest to the public in general)
- Personal opinions — for example, the political or philosophical views of the decision-maker, or considerations of friendship or enmity
- Parochial interests — i.e., the interests of a small or narrowly defined group of people with whom the decision-maker shares an interest or concern, and
- Partisan political interests — for example the avoidance of political/government or agency embarrassment.

These can be categorised as motivation type issues that focus on the private, personal or partisan interests of the decision-maker (and possibly also those of third parties).

What is 'the public interest'?

'The public interest' is best seen as the objective of, or the approach to be adopted, in decision-making rather than a specific and immutable outcome to be achieved. The meaning of the term, or the approach indicated by the use of the term, is to direct consideration and action away from private, personal, parochial or partisan interests towards matters of broader (i.e., more 'public') concern.

While the meaning of 'the public interest' stays the same, the answer to the question what is 'in' the public interest will depend almost entirely on the circumstances in which the question arises. It is this variable content which makes the term so useful as a guide for decision-makers.

For further information from the NSW Ombudsman on how to act in the public interest, the following resources are also available:

- *Good Conduct and Administrative Practice: Guidelines for state and local government (Third Edition, March 2017)*, NSW Ombudsman: www.ombo.nsw.gov.au
- Chris Wheeler, Deputy Ombudsman, 'The public interest revisited — we know it's important but do we know what it means?' in *Australian Institute of Administrative Law Forum*, No 72, March 2013, at page 34: www.ombo.nsw.gov.au
- *How do public interest considerations impact on the role of public sector lawyers?*, presentation to the Public Sector In-House Counsel Conference Canberra, 30-31 July 2012, by Chris Wheeler, Deputy Ombudsman: www.ombo.nsw.gov.au.

4.2 How to report serious wrongdoing

How to report serious wrongdoing

The Public Interest Disclosures Act 1994 (PID Act) sets in place a system to encourage people who work in the public sector to report serious wrongdoing without fear of being sued for defamation or breach of confidence.

Some people may have concerns that if they report wrongdoing their colleagues or managers will take detrimental action against them. The public interest disclosures system deters this kind of reaction by providing that the taking of detrimental action in reprisal is:

- A criminal offence
- Misconduct
- Grounds for you to sue them for damages.

The NSW Ombudsman is responsible for monitoring the operation of the PID Act. The following guidance is taken from relevant Ombudsman publications; further information is available in the Ombudsman's Fact Sheet "Thinking about reporting serious wrongdoing", available at the Ombudsman's website at www.ombo.nsw.gov.au.

Public interest disclosure or grievance?

The PID Act is designed to deal with reports about serious wrongdoing, in particular:

- corrupt conduct
- serious maladministration
- serious and substantial waste of public money
- failure to exercise functions properly in accordance with the *Government Information (Public Access) Act 2009* (also known as the GIPA Act)
- breach of an obligation imposed by the *Local Government Act 1993* in connection with a pecuniary interest.

To receive the protections under the PID Act, your concerns must raise a public interest issue, i.e. raise serious and/or systemic concerns.

Any concerns that relate to the way someone's behaviour is affecting you as an individual (for example harassment or bullying), will generally not be a public interest disclosure and are more appropriately dealt with through a grievance process.

For further information, see the NSW Ombudsman's Guidelines and Facts sheets, available at www.ombo.nsw.gov.au.

What you should do

To receive the protections under the public interest disclosures system, you must disclose information that you honestly believe shows, or tends to show, the wrongdoing that you allege.

You must also have reasonable grounds for your belief. So think about what documents or other evidence may support your version of events. Provide any evidence you have, or information about where evidence can be found, in support of your report.

It is important that the information you provide is clear, accurate and factual. If you have documents to support your allegations, try to make them available. This will help the organisation focus on the real issues and fix real problems.

Avoid speculation or emotive language: it is likely to divert attention from the real issues.

You should not investigate the matter yourself as this could hinder any future official investigation. Also do not do anything illegal to find evidence.

Note: References to the PID Act should be read as references to the PID Act 2022 on commencement of that Act.

4.2 How to report serious wrongdoing

Who you can report to

You can report serious wrongdoing to the principal officer in your organisation. This may be your Secretary, agency head, Chief Executive or General Manager. Your organisation is required by law to have an internal reporting policy that tells you who else you can make a disclosure to. If it doesn't, or if you have reasons to doubt your organisation's capacity to do something about the wrongdoing you have observed, you can report wrongdoing to an investigating authority:

- Serious maladministration to the NSW Ombudsman
- Corrupt conduct to the Independent Commission Against Corruption (ICAC)
- Serious and substantial waste to the NSW Auditor General
- Concerns about the government information system to the Information and Privacy Commission NSW
- Serious wrongdoing in a council (of any of the above categories) to the Office of Local Government
- Serious wrongdoing by a police officer (of any of the above categories) to the NSW Law Enforcement Conduct Commission (LECC)
- Serious maladministration, corrupt conduct or serious and substantial waste by the NSW Crime Commission or its officers to the Inspector of the Crime Commission.

Wrongdoing by an investigating authority or its officers can be reported to the authority's principal officer or an officer nominated in the authority's policy. In certain circumstances, the PID Act may also apply to reports made to another investigating authority. Reports alleging serious maladministration, corrupt conduct or serious and substantial waste by the ICAC or the LECC, for example, can be made to the Inspector of the ICAC or the Inspector of the LECC.

For further information, read the NSW Ombudsman's guidelines on [Reporting pathways](#).¹

If you are worried about reprisals

The public interest disclosures system provides a legal framework to deter people from responding to your report of wrongdoing in a way that hurts or disadvantages you. You are in the best position to judge how people in your workplace will react if you report wrongdoing and they find out.

If you are worried about reprisal, talk to someone you trust about your situation. You can talk to one of the Ombudsman's staff members who has experience in these kinds of matters. Sometimes keeping your disclosure confidential will give you the best protection, but this will not always be possible.

What should happen

Your organisation is required by law to have an internal reporting policy that sets out the process that they will follow if you report wrongdoing to the principal officer or someone else who works there. If you report the wrongdoing to an investigating authority, they will tell you their processes.

No matter where you report the wrongdoing, the public authority is required to:

- Acknowledge that they have received your disclosure
- Tell you what they have decided to do in response (within six months of you reporting)
- Keep your identity confidential if possible (for further information, see the NSW Ombudsman's Fact sheets on [confidentiality](#).²

¹ See Ombudsman NSW website, www.ombo.nsw.gov.au

² See Ombudsman NSW website, www.ombo.nsw.gov.au

4.3 Ethical scenarios

Contents



Introduction

The scenarios

The answers

4.3 Ethical scenarios

Introduction

Every government sector employee has a responsibility to act in the public interest, in all aspects of their work and in their relations with others - customers, the Government and colleagues.

Acting consistently with the *Ethical framework for the government sector* is not only a requirement for 'important' projects or occasions, or for Secretaries and agency heads. Acting with integrity, trust, service and accountability is mandatory for everyone in carrying out their day-to-day duties, actions, decisions, and in the use of resources and assets. But how to do this is not always clear cut or obvious. Often, there is no perfect answer.

Knowing how to act ethically takes time, practice, discussion, learning and support.

The scenarios

The following scenarios have been designed to assist you to understand your ethical obligations under the Government Sector Employment Act 2013 and other relevant legislation. They have also been designed to be a discussion starter so you and your work group can talk about what you would do – and what you should ethically do – if scenarios like these occurred in your workplace. The scenarios involve real situations which you may encounter in your work.

In deciding on your answers, you should refer back to the core values and principles of the Ethical Framework.

The answers

Four or five possible answers are presented for each scenario. The situations are not always straightforward, so a 'best' answer is suggested, rather than a single 'right' answer.

More importantly, talk with your work colleagues about what the (ethically) right thing to do would be if these scenarios occurred in your workplace.

Further scenarios

The following scenarios are not intended to cover the full range of situations and issues which employees may face. Departments and agencies should formulate their own scenarios relevant to their employees and the specific responsibilities and interactions of the organisation.

Support

Departments and agencies should encourage employees to consider all the scenarios, discuss the issues raised, and suggest alternative ethical actions that employees should take if these or similar scenarios occurred in their workplace.

Scenarios prepared by Departments and agencies should be reviewed and updated, or replaced, to reflect employees' needs and suggestions, and relevant Codes of Ethics and Conduct and policies, such as for gifts and benefits.

4.3 Ethical scenarios

The scenarios

Does Elizabeth have a conflict?

Elizabeth was a member of a selection panel for a software systems engineer.

Judy was one of the unsuccessful applicants. Her application was considered to be pretty strong but the role was offered to Michael.

Shortly after, Joel, who chaired the selection panel, discovered that Elizabeth is living with Judy's ex-husband, Warren, and things are decidedly cool between Elizabeth and Judy.

At work the next day, Joel spoke with Elizabeth, expressing his concerns about the appropriateness of her serving on the selection panel. Among other things, Joel asked Elizabeth why she had not told him about her relationship with Warren. Elizabeth replied that there was, in fact, no problem, and that the views she expressed during the selection process had been based solely on the merits of each applicant's case. There was, she said, no "conflict of interests", and so nothing to tell Joel about. As a matter of fact, she continued, it was her own private business, and had nothing to do with the matter at hand. It would have been inappropriate – and unprofessional – of her to have said anything about it.

What do you make of Elizabeth's claims?

- a. If it could be shown that her vote and her role in the discussion were not biased, then she is correct that there was no conflict of interests.
- b. Given that it was the panel and not Elizabeth alone that decided the matter not in Judy's favour, then she must be correct in her claims.
- c. Like anyone else, Elizabeth is entitled to her privacy; what she thinks about Judy is her own business and is therefore irrelevant to her competence to be on a selection panel.
- d. Elizabeth is wrong. She had a conflict of interests.

A display of appreciation

John works in procurement dealing with a large number of suppliers and potential suppliers to his agency. John played a role in the selection of Acme Electrics as suppliers of materials for a particular project. Not long after, John receives an invitation from Martin of Acme to join him in their corporate box to enjoy dinner and a finals football match. "It's just to show our appreciation", says Martin, "and it's a display of good will toward our customers. Now that we're going to do business together, we think it's a nice thing that we get to know each other a little better; and we'll all enjoy the match."

What should John do?

- a. Accept the invitation. It's harmless, and Martin could be right that getting to know each other better will be an aid to doing better business.
- b. It is a bit difficult, in that this is a significant gift that is being offered by a supplier. However, if John enters the gift on the gift register, declaring where it came from, its worth, and when it was given and accepted, then he may accept the gift – and he probably should accept it, as it will be good for agency-supplier relations.
- c. Decline the invitation, make clear to Martin that this is inappropriate and that John will now be obliged to report this event to his manager, and enter a formal complaint against Acme.
- d. Decline the invitation. John need not make a big deal of declining, but can politely explain that the acceptance of such gifts is regarded by his agency as inappropriate.

4.3 Ethical scenarios

A qualified applicant

Bob, the receptionist, has just resigned. While his manager, Stan, can roster other employees in the short term, Stan needs to arrange for a permanent replacement. Betty, who works in the same section, approaches Stan and suggests that the process of getting a permanent replacement could be streamlined and everyone will be happy. Betty's daughter, Helen, has been working in a similar job in the private sector, and would be happy to do the work. Betty could get Helen's resume, and Stan could see that she is well qualified for the job. It's a near certainty that her experience and ability would put her well in the front of the pack if there were to be more general advertising and then hiring for the role. Helen would be happy to come in and Stan could see for himself how well qualified Helen is. It would be easier, quicker, more cost-effective, and more efficient than getting Human Resources involved from the beginning. Everything can be done above board, and Stan can judge Helen on her merits.

How should Stan respond to Betty's query?

- a. No; we cannot do it this way. The public service operates strictly on merit, transparency, and accountability. Although Helen is welcome to apply for the role, we cannot short circuit the requirements for hiring.
- b. OK. I can have a look at Helen's resume. If it convinces me that she is well qualified for the role, then I can speak with her. If I then believe that she would be good in the role, I can arrange for the hire.
- c. This might be ok, but to avoid any appearance of impropriety, I should get another senior person or two to have a look at Helen's resume. From there, if things are looking good, those people and I can interview her for the role. If we are satisfied with her ability to do the job, I can offer it to Helen.
- d. It's too bad, but because Helen is your close relative, she cannot be hired into the section. The reason for this is that, whether or not she is well qualified for the role, such a hire would certainly have the appearance of favouritism; and the appearance of impropriety does just as much damage as impropriety itself.

An older applicant

You are a member of a selection panel, interviewing applicants for a job that involves a fair bit of physical labour within your agency. One of the applicants, who seems to satisfy all the selection criteria for the job, is obviously much older than all the other applicants, and well above the average age of people who are employed by your agency for this type of work.

Despite his credentials, you still have worries about whether this job would, in fact, be suitable for a person of his age. You are wondering whether this applicant can handle the job and fit in with the much younger people that he would be working with if he gets the job.

What should you do?

- a. Provided that you have discussed the candidate's age with him during his interview, that topic may be raised again in the panel's subsequent deliberations about whom to hire.
- b. Only after the interviews should you raise the question of this person's age with the panel. You should then express your concerns during this phase of the selection process.
- c. If the candidate satisfies the selection criteria, then the person's age must not figure in the selection process at all, and is an inappropriate topic to ask the candidate about or to be discussed by the panel.
- d. During the interview of this candidate, you may ask whether he sees his age as a strike against him in his application. Once the candidate has answered that question or group of questions, the candidate's age may not figure in the panel's subsequent discussion.
- e. The panel has made a mistake in allowing the application to progress this far in the selection process. It should have been eliminated on grounds of age earlier in the process. However, given that the candidate has made it this far in the selection process, you may not now ask age-related questions of him, or discuss the matter of age in the panel's subsequent deliberations.

4.3 Ethical scenarios

Social responsibility and aiding the community

Bob works in Human Resources. Privately, Bob often speaks to various public interest and civic-minded groups about corporate social responsibility. He is a conscientious, long-serving public servant employee, and has an excellent record. In speaking at a local Council meeting, he learned that a particular group is trying to raise money to fund a community centre. There is no question about the benefit such a centre would be to the community. The group has started to plan their fund-raising project, but they appear to be totally bereft of funds. What they need in the first instance are leaflets (for promotional letter-drops), some posters, and a bit of artwork. This will start the ball rolling to get the wider local community involved and interested. They believe that more funds and community support will then pour in.

Without some help from someone, there is a strong possibility that the community centre might never get off the ground, for lack of public awareness – and so lack of initial public support. Bob realises that he is in a position to volunteer some help, and he is confident that some of his work colleagues would be willing to help also. They could produce 2500 leaflets and 150 posters for the community group afterhours at the agency. They would take no time away from their jobs. They would use some agency resources, however, but that would be minor: five reams of paper, 160 size A3 posterboards, markers, a computer, printer, and photocopier. In the scheme of things at the agency, this would be very minor call on the agency's resources.

What should Bob do?

- a. Do just as he had outlined. It is in the public interest.
- b. Do not do this. It is a misuse of agency resources.
- c. Help the group, but the work need not be done after hours, because this is a public-interest matter.
- d. Check with the management on other ways of helping the community group.

A tender from Ace?

Margaret is overseeing tenders for a particular project. She has fielded a number of inquiries and thinks she has a fair idea of the range of prices that tenderers will quote. She is also aware that Ace Supplies, which has successfully tendered for similar projects in the past, has not inquired or submitted anything. Margaret is very concerned that the agency gets the most value from its suppliers, and she is now wondering about ringing the director she knows at Ace to see what's up. She'd like (a) to check if he is aware of the call for tenders for this project, and (b) to let him know what she would expect his tender price to be. And, above all, she would like (c) to encourage a tender from Ace. Given the quality of their past work, Ace would be in a very good position to win the tender.

What should Margaret do?

- a. Margaret may certainly ring the director at Ace, as she has no personal interest in the outcome, and she may discuss (a), (b), and (c) with him.
- b. Margaret may ring the director at Ace, and she may discuss (a) and (c) with him, but she must avoid speaking with him about any expected tender price.
- c. Margaret should ring the director at Ace, given what she knows about the tenders already received. She should do this, because she has a responsibility to try to get the best value for the agency.
- d. Perhaps it will be unfortunate for the agency if Ace does not tender for the project, but Margaret should not offer any special treatment to Ace. She should not ring the director with her concerns about (a), (b), and/or (c).

4.3 Ethical scenarios

Charlie's photos

Charlie is employed in a government sector agency. Like the other employees in his section, Charlie has a staff locker. On the inside of the locker door, along with a calendar and two photos of his car (his pride and joy), he has three nude photos from a sports calendar. These photos are, of course, not visible to anyone except when Charlie opens the locker door, and then they are visible to anyone who happens to be in the vicinity of the locker. Madge is a colleague of Charlie's and on more than one occasion she has been exposed to the sight of the photos, when Charlie opened his locker while she was at hers, which is only a couple of lockers away from Charlie's. Madge finds the photos offensive and feels humiliated and intimidated by the sight of them.

Madge mentions this to her manager, Theo, and she asks him to do something about it.

How should Theo respond to Madge's request?

- He should explain that it is really none of Madge's business. The photos are private, and, anyway, come from a calendar on sale in every newsagent. As offensive as Madge might find them, they are on the inside of Charlie's private locker, and that is the end of the matter.
- He should approach Charlie, and ask him to take care that the photos are not on display when Madge is likely to see them.
- Charlie should be directed to remove the photos. Whatever Charlie might think they have a serious effect on some people. The presence of the photos is totally inappropriate.
- He should direct Charlie and Madge to discuss the matter and settle it to their mutual satisfaction.
- Madge should be assigned a locker in a location where she can't see Charlie's open locker.

Agency equipment

Neil is part of a three-person crew returning to the depot after a day spent mowing the highway right-of-way. Their equipment, including two large mowers, is loaded on their truck. As they round a corner, Jim flags them down. Jim has a small lot on the side of his property, which is just down the street, and it has become overgrown. He explains that his mower has broken down and that it would take a few days to organise a commercial lawn mowing company to take care of this. However, Jim has organised a wedding anniversary party (his 20th) at his house for tomorrow afternoon, and the overgrown lot would simply be an embarrassment. Jim would gladly pay Neil and his team \$300 to mow the lot. It wouldn't take them very long, the agency equipment isn't being used for anything else, and it would be a quick and handy \$100 for each of the team.

How should Neil respond to the request?

- He can say 'yes', if he is so inclined to do the work.
- He can say 'yes', as a service to the community; but he must decline any payment.
- He should first consult the others in the crew. Any of them who are prepared to do the work may then do it, but only after any unwilling crew members are taken back to the depot.
- He must refuse to do the work. He should be polite about this, but it simply isn't allowed.

4.3 Ethical scenarios

A change of brief

Ingrid is in charge of a government planning division. A new government has been elected promising a return to budget surplus. Ingrid's team has worked very hard developing a major restructure of operations. The team is proud that their plan will create a much more efficient system, but recognises that it will be very disruptive in the short term.

After a Cabinet meeting, the Minister has requested that the plan be resubmitted so there are no changes in a particular region.

Ingrid's team have closely re-examined the plan and remain of the view that changes in that region are necessary for the success of the overall plan.

What should Ingrid do?

- a. Go to the Secretary of her Department and resign?
- b. Resubmit the same plan highlighting how much work had been done by her team?
- c. Resubmit an amended plan as requested by the Minister's office?
- d. Resubmit the plan noting that the changes have been made at the request of the Minister's office?
- e. Resubmit the plan noting that the changes have been made at the request of the Minister's office, but also advising that the Department remains of the view that the changes are necessary in that region and why?

Direction by ministerial staff

Ahmed is in charge of an agency rolling out a new service to the community. Rita is a key and valued member of Ahmed's team but is getting behind in her work despite working long hours.

Ahmed talks to Rita and becomes aware, for the first time, that Cherie, a new adviser in the Minister's office, is asking Rita to resolve complaints from constituents about the rollout. Rita says she knows Cherie socially and is happy to help, but fixing the problems is very time-consuming and disruptive.

What should Ahmed do?

- a. Tell Rita that she needs to do whatever Cherie wants?
- b. Advise Cherie that all requests should be made to him, consistent with the protocol with the Minister's office?
- c. Discuss the matter with the Minister's Chief of Staff requesting that all incoming ministerial staff are aware of the protocol?
- d. Advise the Minister's office that all requests must be made by the Minister to the agency head?
- e. Tell Rita to pass on Cherie's requests to him. Raise the matter at an agency executive meeting to gauge whether there are problems with the rollout program or protocol, then discuss with the Minister's Chief of Staff?

4.3 Ethical scenarios

Investigating allegations of misconduct

Lucia is a senior executive with responsibility for a policy division of a large government Department. Jane is an advisor working in Lucia's division. While Jane generally produces work of an acceptable quality, she is a difficult employee and is not well-liked by many of Lucia's executive colleagues.

Recently, Jane was the subject of a serious allegation, which, if proved true, would constitute misconduct and would be a basis on which to dismiss Jane. An independent investigator is appointed to inquire into the allegation. The investigator reports his findings to Lucia, who is asked to make a decision on what should happen as a result of the findings.

The investigator's report concludes that the misconduct allegations against Jane are probably true. However, while Lucia notes there is some solid evidence against Jane, she is not comfortable with some of the methods the investigator has used to reach his conclusion – the investigator has not contacted Jane to provide her with an opportunity to respond to the allegations, and has relied heavily on evidence given in interview by an executive who has a fractious history with Jane because of her active role as a union delegate. As part of the investigation process, the investigator has also collected a range of information about Jane's personal life which suggests Jane may not behave impeccably outside work hours.

What should Lucia do?

- a. Lucia should dismiss Jane. While the investigation process was not perfect, you must demonstrate support for your managers against potential troublemaking staff. In addition, another investigation would almost certainly reach the same conclusion, be a waste of public time and money, without any change to the end result.
- b. Lucia should dismiss Jane because on balance this represents the least risk for the Department. The longer Jane stays employed in the Department, the greater the risk she will continue to commit misconduct and endanger the reputation of the Department. There is evidence available at hand to justify dismissing Jane, and Lucia should make use of it.
- c. Lucia should arrange for a new investigation or for further enquiries to be carried out. Even though this may not change the end result, the priority should be to ensure that procedural fairness is respected, even if this extends the investigation process, costs money and causes continued discomfort for her managers.
- d. Lucia should not dismiss Jane. The investigation was probably flawed. The underlying problem is the HR management skills of her managers. Lucia should instead organise some advanced performance management training for all her managers.

4.3 Ethical scenarios

The answers

Does Elizabeth have a conflict?

About the possible answers

Re: a.

Whether or not her decision is biased, Elizabeth definitely has interests that are in conflict: her interest in serving as a competent, impartial panel member, and her personal interest in disliking Judy. She does indeed have a conflict of interests, whether or not her judgment was adversely affected by it.

Re: b.

Whether or not her opinion about the merits of Judy’s application coincided with that of the other members of the panel, Elizabeth could be perceived as having an interest in Judy’s not getting the job: Elizabeth doesn’t like her, and has an unpleasant personal acquaintance with her. Whether or not her personal interest had an effect on her judgment, her personal interest is likely to be seen by others as at odds with her interest in serving as an impartial member on a selection panel.

Re: c.

This is simply wrong. Conflicts of interests almost always involve a private interest that is in conflict with the interest one has in performing one’s role in an agency. While it is true that Elizabeth is entitled to her privacy, she is not entitled to bring those private interests, which may conflict with the interests of her role, into her professional role without at least notifying appropriate parties of their existence. In this case, Elizabeth should have notified the chair of the selection panel. Although there is no one universal way to handle a conflict of interests – sometimes notification (including notification of other panel members) is sufficient – in this case, unless there were some extraordinary reason to the contrary, Elizabeth should have been ruled ineligible to serve on the panel, because of her conflict of interests.

Re: d.

The best answer for your workplace?

Yes. Despite Elizabeth’s protestations, she did, in fact, have a conflict of interests. Conflicts of interests almost always involve a private interest that is in conflict with the interest one has in performing one’s professional role in an agency. While it is true that Elizabeth is entitled to her privacy, she is not entitled to conceal private interests, which may conflict with the interests of her professional role without at least notifying appropriate parties of their existence. In this case, Elizabeth should have notified the chair of the selection panel. Although there is no one universal way to handle a conflict of interests – sometimes notification (including notification of other panel members) is sufficient – in this case, unless there was some extraordinary reason to the contrary, Elizabeth should not have served on the panel, because of her conflict of interests.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

- (a) Consider people equally without prejudice or favour.
- (b) Act professionally with honesty, consistency and impartiality.
- (c) Place the public interest over personal interest.

Accountability

- (a) Recruit and promote staff on merit.
- (c) Provide transparency to enable public scrutiny.

4.3 Ethical scenarios

A display of appreciation

About the possible answers:

Re: a.

No; John should not accept the invitation. There are two concerns: (1) that a sizeable gift itself can affect one’s judgment, and (2) that the establishment of special relationships between the agency and a supplier is itself inappropriate. In any case, whether or not there is an effect on John’s judgment or a special relationship is established, the appearance of such things, or the possibility of the occurrence of such things, is very undesirable.

Re: b.

No; John should not accept the invitation. There are two concerns: (1) that a sizeable gift itself can affect one’s judgment, and (2) that the establishment of special relationships between the agency and a supplier is itself inappropriate. In any case, whether or not there is an effect on John’s judgment or a special relationship is established, the appearance of such things, or the possibility of the occurrence of such things, is very undesirable. Entering an item on the gift register does not eliminate the problem.

Re: c.

Although John should decline the invitation, there is no reason – certainly no requirement – to make a big deal of the gift having been offered. However, the gift should be declined for two reasons: (1) a sizeable gift itself can affect one’s judgment, whether or not this was an intention of the gift giver, and (2) the establishment of special relationships between the agency and a supplier is itself inappropriate. In any case, whether or not there is an effect on John’s judgment or a special relationship is established, the appearance of such things, or the possibility of the occurrence of such things, is very undesirable.

Re: d.

The best answer for your workplace?

The invitation should be declined. There are two concerns: (1) that a sizeable gift itself can affect one’s judgment, and (2) that the establishment of special relationships between the agency and a supplier is itself inappropriate. In any case, whether or not there is an effect on John’s judgment or a special relationship is established, the appearance of such things, or the possibility of the occurrence of such things is very undesirable. And for these reasons, John should not accept the invitation. This can be explained to the supplier in a polite and low-key way. After all, the offer might well have been (and probably was) innocent, but must nevertheless be declined.

See: Your agency’s policy with respect to acceptance of gifts.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

- (a) Consider people equally without prejudice or favour.
- (b) Act professionally with honesty, consistency and impartiality.
- (d) Place the public interest over personal interest.

Accountability

- (c) Provide transparency to enable public scrutiny.

4.3 Ethical scenarios

A qualified applicant

About the possible answers

Re: a.

The best answer for your workplace?

YES. Hiring is solely merit-based. Merit is properly appraised by operating in a transparent and accountable way, which requires openly advertising the role, and impartially evaluating all the applicants.

Re: b.

No. Although in this response, Stan is paying some regard to making an appointment based on merit, handling the matter this way does not go far enough. Hiring is solely merit-based. Merit is properly appraised by operating in a transparent and accountable way, which requires openly advertising the role, and impartially evaluating the applicants.

Re: c.

No. Although in this response, Stan is paying some regard to impartially appraising the applicant for a role, handling the matter this way does not go far enough. Merit is properly appraised by operating in a transparent and accountable way, which requires openly advertising the role, and impartially evaluating the applicants.

Re: d.

No. There is not such a requirement about relatives. There is a requirement about making certain that the appointment is purely merit-based. The public service operates strictly on merit, transparency, and accountability. Helen is welcome to apply for the role, and her application will be handled impartially, like all other applications.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

(a) Consider people equally without prejudice or favour.

(b) Act professionally with honesty, consistency and impartiality.

(d) Place the public interest over personal interest.

Accountability

(a) Recruit and promote staff on merit.

(c) Provide transparency to enable public scrutiny.

4.3 Ethical scenarios

An older applicant

About the possible answers

Re: a.

There is no point in the selection process where it is appropriate to ask about or discuss an applicant's age or fitness for the role because of their age. This is inappropriate in an interview and also in subsequent discussions of candidates. Each applicant should be assessed on merit against the selection criteria, regardless of their age.

Re: b.

There is no point in the selection process where it is appropriate to ask about or discuss an applicant's age or fitness for the role because of their age. This is inappropriate in an interview and also in subsequent discussions of candidates. Each applicant should be assessed on merit against the selection criteria, regardless of their age.

Re: c.

The best answer for your workplace?

This is correct. The selection criteria are the only things that may be inquired into; and age and age-related matters are not included. It is never appropriate to ask about or discuss an applicant's age or fitness for the role because of their age. This is inappropriate in an interview and also in subsequent discussions of candidates.

Re: d.

The selection criteria are the only things that may be inquired into; and age and age-related matters are not included. It is never appropriate to ask about or discuss an applicant's age or fitness for the role because of their age. This is inappropriate in an interview and also in subsequent discussions of candidates.

Re: e.

It is never appropriate to ask about or discuss an applicant's age or fitness for the role because of their age. This is inappropriate in an interview and also in subsequent discussions of candidates.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

(a) Consider people equally without prejudice or favour.

Trust

(c) Uphold the law.

Accountability

(a) Recruit and promote staff on merit.

(c) Provide transparency to enable public scrutiny.

Anti-Discrimination Act 1977

Part 4G

Division 1 -- General

Section 49ZYA (what constitutes discrimination on the ground of age).

Division 2 Discrimination in work

Section 49ZYG – Discrimination against applicants and employees.

See also *Age Discrimination Act 2004* (Cth).

4.3 Ethical scenarios

Social responsibility and aiding the community

About the possible answers

Re: a.

No: although it might be, in some sense, in the public interest, agency resources are not Bob's to donate in this way.

Re: b.

This is correct. What Bob has in mind is clearly a misuse of agency resources which are not Bob's to donate.

Re: c.

No, although it might be in the public interest, agency resources are not Bob's to donate in this way.

Re: d.

The best answer for your workplace?

Perhaps Bob and his work colleagues, with the approval of management, could canvas staff in the agency to help the community group in another way, in their own time, and to donate or make available their own resources. Although Bob's intentions are civic-minded, he must not use agency resources in this way because they do not belong to him.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

(b) Act professionally with honesty, consistency and impartiality.

Trust

(c) Uphold the law.

Accountability

(c) Provide transparency to enable public scrutiny.

(e) Be fiscally responsible and focus on efficient, effective and prudent use of resources.

Crimes Act 1900

Section 159 – Larceny by persons in Public Service.

Section 192C – Obtaining property belonging to another.

4.3 Ethical scenarios

A tender from Ace?

About the possible answers

Re: a.

Whether or not Margaret has a personal interest here, it is important that she not give advice or special treatment to any tenderer or potential tenderer. Further, any information about the tender process or documentation must be available to all, not just the one favoured by Margaret. It is important to maintain fairness and impartiality throughout the process.

Re: b.

Margaret certainly may not speak about an expected price. And she may not speak with the director about these other items either. It is important that she not give advice or special treatment to any tenderer or potential tenderer. Further, any information about the tender process or documentation must be available to all, not just the one favoured by Margaret. It is important to maintain fairness and impartiality and neutrality throughout the process.

Re: c.

No. Margaret should not ring the director. It is important that she not give advice or special treatment to any tenderer or potential tenderer. Further, any information about the tender process or documentation must be available to all, not just the one favoured by Margaret. It is important to maintain fairness and impartiality and neutrality throughout the process.

Re: d.

The best answer for your workplace?

It is important that Margaret not give advice or special treatment to any tenderer or potential tenderer. Further, any information about the tender process or documentation must be available to all, not just the one favoured by Margaret. It is important to maintain fairness and impartiality and neutrality throughout the process.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

(a) Consider people equally without prejudice or favour.

Accountability

(c) Provide transparency to enable public scrutiny.

Public Works and Procurement Act 1912

4.3 Ethical scenarios

Charlie’s photos

About the possible answers

Re: a.

Although the photos are certainly Charlie’s, they are not his business alone when an employee is exposed to them and offended and humiliated by them. When someone is exposed to them in this way and is reasonably offended and humiliated by them, then the situation constitutes sexual harassment, and must be dealt with accordingly.

Re: b.

No, just concealing the photos from Madge is not enough. When someone is exposed to sexually explicit photos in this way and is reasonably offended and humiliated by them, then the situation constitutes sexual harassment, and must be dealt with accordingly. Charlie should be instructed to remove the offending photos and counselled.

Re: c.

The best answer for your workplace?

This is correct. When someone is exposed to sexually explicit photos in this way and is reasonably offended and humiliated by them, then the situation constitutes sexual harassment, and must be dealt with accordingly.

Re: d.

This is not a matter for negotiation. When someone is exposed to sexually explicit photos in this way and is reasonably offended and humiliated by them, then the situation constitutes sexual harassment, and must be dealt with accordingly. Charlie should be instructed to remove the offending photos and the reasons why.

Re: e.

Taking this step is not enough, and it fails to recognise the situation for what it is. When someone is exposed to sexually explicit photos in this way and is reasonably offended and humiliated by them, then the situation constitutes sexual harassment, and must be dealt with accordingly. Charlie should be instructed to remove the offending photos and told the reasons why.

Anti-Discrimination Act 1977

Division 2 – Discrimination at work

22A(b) Meaning of ‘sexual harassment’

(b) the person engages in other unwelcome conduct of a sexual nature in relation to the other person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

22B – Harassment of employees, commission agents, contract workers, partners, etc.

(2) It is unlawful for an employee to sexually harass a fellow employee . . .

See also *Sex Discrimination Act 1984 (Cth)*.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

(a) Consider people equally without prejudice or favour.

Trust

(a) Appreciate difference and welcome learning from others.

(c) Uphold the law, institutions of government and democratic principles.

4.3 Ethical scenarios

Agency equipment

About the possible answers:

Re: a.

It doesn't matter whether or not Neil and/or his crew are prepared to do the work. (1) The agency's equipment is not his to use for his, or the crew's benefit. Neil simply does not have the authority to do this. (2) Acceptance of money to do such work is not only contrary to the *Ethical framework for the government sector*, it is also illegal.

Re: b.

Although it would be helping a person in the community, and that is a good thing for an individual to do, the agency's equipment is not Neil's to use as he sees fit. He simply does not have the authority to do this. It would be giving away (donating) something that is not his to give away.

Re: c.

Neither Neil nor anyone else on the crew has the authority to engage in such work, using the agency's equipment. (1) The agency's equipment is not theirs to use for their own benefit. (2) Acceptance of money to do such work is not only contrary to the *Ethical framework for the government sector*, it is also illegal.

Re: d.

The best answer for your workplace?

This is correct. (1) The agency's equipment is not Neil's or his crew's to use for their own benefit. (2) Acceptance of money to do such work amounts to taking a bribe, and is not only contrary to the *Ethical framework for the government sector*, it is also illegal. Although it might be presented to Neil as a community service, and it certainly would be helping a member of the community, it would, in the circumstances, be an inappropriate use of agency equipment.

Government Sector Employment Act 2013

Ethical framework for the government sector

Integrity

- (a) Consider people equally without prejudice or favour.
- (b) Act professionally with honesty, consistency and impartiality.

Trust

- (c) Uphold the law, institutions of government and democratic principles.

Service

- (a) Provide services fairly with a focus on customer needs.

Accountability

- (c) Provide transparency to enable public scrutiny.

Crimes Act 1900

Section 249B – Corrupt commissions or rewards

- (1) If any agent corruptly receives or solicits (or corruptly agrees to receive or solicit) from another person for the agent or for anyone else any benefit.
 - (a) as an inducement ...on account of
 - (i) doing or not doing something ...or
 - (ii) showing or not showing ... favour or disfavour to any person in relation to the affairs or business of the agent's principal ... the agent is liable to imprisonment for 7 years.

249J – Custom not a defence

In any proceedings for an offence under this Part, it is not a defence that the receiving ... of any benefit is customary in any trade, business, profession or calling.

4.3 Ethical scenarios

A change of brief

About the possible answers:

Re: a.

No; Ministers and Cabinet are the decision-makers under the Westminster System. Rejection does not necessarily mean the advice provided was poor.

Re: b.

No; Ministers and Cabinet are the decision-makers under the Westminster System. Rejection does not necessarily mean the advice provided was poor.

Re: c.

No; It is critical that any supplementary or revised advice is identified as having been provided at the request of the Minister or ministerial staff (whichever is the case), and that the original advice remains clear to the reader.

Re: d.

Yes; It is critical that any supplementary or revised advice is identified as having been provided at the request of the Minister or ministerial staff (whichever is the case), and that the original advice remains clear to the reader.

Re: e.

The best answer for your workplace?

Consistent with the *Ethical framework for the government sector*, an independent government sector provides [apolitical and non-partisan advice](#) in the public interest. It is critical that any supplementary or revised advice is identified as having been provided at the request of the Minister or ministerial staff (whichever is the case), and that the original advice remains clear to the reader. Advice should not be changed or opinions omitted if the agency remains of the belief that particular arguments should be considered by the Minister.

Direction by ministerial staff

About the possible answers:

Re: a.

No; Government sector employees are under the direction of their Department/agency head and cannot be directed by ministerial staff. Departments and agencies should have agreed protocols for transparent working relations with the Minister's office. This should provide guidance on when a formal process is required or mandatory, and include actions to be taken by employees when directed by ministerial staff.

Re: b.

Departments and agencies should have agreed protocols for transparent working relations with the Minister's office. This should clearly identify the appropriate contact officers.

Re: c.

Departments and agencies should have agreed protocols for transparent working relations with the Minister's office. This should clearly identify the appropriate contact officers.

Re: d.

No; Government sector employees are under the direction of their Department/agency head and cannot be directed by ministerial staff. However, requiring all requests to be made through the Minister to the Department/agency head would be impractical, inefficient and an impediment to good government.

Departments and agencies should have agreed protocols for transparent working relations with the Minister's office.

Re: e.

The best answer for your workplace?

Departments and agencies should have agreed protocols for transparent working relations with the Minister's office, which include regular meetings. The protocols should be reviewed and improved in consultation with the Minister's office.

4.3 Ethical scenarios

Investigating allegations of misconduct

About the possible answers:

Re: a.

The ends (dismissing someone management considers to be a troublesome employee whose personal behaviour outside of work may be embarrassing to the agency) do not justify the means (the use of unethical practices to gather information to justify her sacking). When making decisions that affect the rights, interests or legitimate expectations of individual employees, it essential that procedural fairness is observed (particularly in line with the values of integrity and accountability in the government sector). This includes where there has been an alleged breach of the Code of Conduct. While it may be inconvenient for the Department, Lucia should ensure that the investigation has been fairly conducted before making a final decision.

Re: b.

As for answer A – Lucia needs to ensure that her decision-making is fair and reasonable, rather than just risk-averse. Furthermore, relying on flawed investigation evidence creates its own significant risks for the Department of potential legal action in the future. Supporting managers who have acted unethically (for example, by not conducting a fair and transparent investigation) encourages continued unethical conduct by managers and makes Jane herself party to an unethical and potentially illegal process.

Re: c.

The best answer for your workplace?

When investigating an allegation of conduct that is contrary to the Code, senior executives should ensure their decision-making is fair and reasonable, and that their managers always act consistently with the principles of procedural fairness. While one of these principles is to ensure that matters are resolved in a timely manner, this should not override broader rights to procedural fairness, including the right for subjects of an investigation to respond to allegations made against them. It may well be that Jane did commit misconduct and should be dismissed, but this should only happen after a fair investigation.

Re: d.

While the principles of procedural fairness were not observed, the fact remains that there has been a serious allegation made against Jane. While a flawed investigation should not be the basis on which to dismiss Jane, neither should it be the basis on which to excuse her from alleged serious wrongdoing. Focusing on individuals (removing Jane, upskilling your managers etc) is simplistic and ineffective if the real causes of disharmony are the workplace's culture, systems and/or work practices. If there is an ongoing pattern of workplace discord, senior executives may need to investigate the systemic root causes of the problems and develop solutions which will deliver better services and greater workplace harmony.

4.4 Declaration of private interests template

About the declaration template

The Code of Ethics and Conduct for NSW government sector employees requires a senior executive to make a written declaration of private financial, business, personal and 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 interests to declare, they must declare a “nil return”.

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

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

The following form for making a private interests declaration may be used as is, or augmented by a department/agency to reflect the operating environment and/or business risks which are specific to the department/agency.

A *senior executive* must provide their declaration to:

- In a department, the Secretary
- In an executive agency related to a department, the agency head
- In a separate Public Service agency, the agency head
- In the Teaching Service, NSW Police Force, NSW Health Service, Transport Service of NSW and any other service of the Crown, the head of the service.

A *Department Secretary* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

The *Secretary of the Department of Premier and Cabinet* must provide their declaration to the Public Service Commissioner.

A *head of an executive agency related to a department* must provide their declaration to the Department Secretary.

A *head of a transport-related service* must provide their declaration to the Secretary of the Department of Transport.

A *head of any other service of the Crown* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

Government sector agency heads who are statutory officeholders should provide any voluntary declaration to the person exercising employer functions in relation to the statutory officeholder, to the extent that this is possible. For example, statutory officers whose employment is governed by a contract of employment with their responsible Minister, or who are subject to Ministerial direction or control, should make their voluntary declaration to that Minister. Where this is not possible or appropriate in the circumstances, voluntary declarations may be made to the Secretary, Department of Premier and Cabinet.

Responsibilities of person receiving declaration

A person to whom a declaration is to be provided is responsible for ensuring:

- Senior executives complete declarations
- Handling and storage of declarations complies with the requirements of the *Privacy and Personal Information Protection Act 1998*.

4.4 Declaration of private interests template

Code of Ethics and Conduct for NSW Government Sector Employees

Declaration of Private Interests

Instructions

The Code of Ethics and Conduct for NSW government sector employees requires a senior executive (including an acting senior executive) to 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 interests to declare, they must declare a “nil return”.

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

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

A senior executive must provide their declaration to:

- In a department, the Secretary
- In an executive agency related to a department, the agency head
- In a separate Public Service agency, the agency head
- In the Teaching Service, NSW Police Force, NSW Health Service, Transport Service of NSW and any other service of the Crown, the head of the service.

A *Department Secretary* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

The *Secretary of the Department of Premier and Cabinet* must provide their declaration to the Public Service Commissioner.

A *head of an executive agency related to a department* must provide their declaration to the Department Secretary.

A *head of a transport-related service* must provide their declaration to the Secretary of the Department of Transport.

A *head of any other service of the Crown* must provide their declaration to the Secretary of the Department of Premier and Cabinet.

Government sector agency heads who are statutory officeholders should provide any voluntary declaration to the person exercising employer functions in relation to the statutory officeholder, to the extent that this is possible. For example, statutory officers whose employment is governed by a contract of employment with their responsible Minister, or who are subject to Ministerial direction or control, should make their voluntary declaration to that Minister. Where this is not possible or appropriate in the circumstances, voluntary declarations may be made to the Secretary, Department of Premier and Cabinet.

A person to whom a declaration is to be provided is responsible for ensuring:

- Senior executives complete declarations
- Handling and storage of declarations complies with the requirements of the *Privacy and Personal Information Protection Act 1998*.

4.4 Declaration of private interests template

Person Making Declaration

Name:
Role Title:
Department/Agency:
Division/Branch:
Location:

Declaration

I declare that:

1. I have read and understand the requirement under the *Code of Ethics and Conduct for the NSW government sector employees* (Code) to declare any 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 me.
2. I will take prompt action to manage any actual and/or reasonably perceived conflicts of interests, as required by the Code.

3. Tick one option only (**Option A** or **B**):

Option A

Annex A lists my private interests for the purpose of this declaration. In preparing this list, I have had regard to:

- my private financial, business, personal or other interests or relationships
- the functions and responsibilities of my Department/agency
- my role and responsibilities in the Department/agency.

OR Option B

I have no such private interests to declare.

Signature:
Name:
Date:

4.4 Declaration of private interests template

Annex A

Declaration of Private Interests

List of Interests

Instructions

Please list any private financial, business and other interests or relationships which have the potential to influence, or could be perceived to influence, decisions made or advice given by you.

The types of interests and relationships that may need to be disclosed include real estate investments or holdings; shareholdings; trusts or nominee companies; company directorships or partnerships; other significant sources of income; significant liabilities; gifts; and private business, employment, voluntary, social, family or personal relationships.

List interests here:

Behaving Ethically:
A guide for NSW
government sector
employees

Level 4, 255 George Street
Sydney NSW 2000

+61 2 9272 6000
enquiries-psc@psc.nsw.gov.au
psc.nsw.gov.au