

Guidance for NSW government sector employees regarding Treaty consultation

Purpose of the guidance

The NSW Government has committed to a 12-month consultation process with Aboriginal people and communities across the State. The purpose of this process is to hear from Aboriginal people about their desire for a treaty or other formal agreement and explore what form this might take.

This guidance highlights the importance of respectful behaviours and cultural safety, and provides support contacts for Aboriginal government sector employees. It also assists all employees and agencies in navigating their obligations to comply with the Ethical Framework for the government sector, as prescribed in the Government Sector Employment Act 2013 (the Act) and the Code of Ethics and Conduct for NSW Government Sector Employees (the Code).

Cultural safety for Aboriginal employees

Increased media commentary, questions and workplace conversations about a Treaty can affect the experience of employees, particularly Aboriginal employees, both within and outside the workplace. For example, some discussions may cause distress or raise difficult emotions.

It is important that our workplaces continue to be culturally safe, and that everyone feels supported and respected. We should all approach conversations factually and without racial stereotypes or racially denigrating language that may cause harm to others.

Respectful behaviours

Practical tips for respectful behaviour and conversations include:

- respecting differences between people, even if you hold different opinions or feel under pressure
- actively listening, and speaking calmly and politely
- welcoming learning from others
- being open and receptive to ideas from everyone
- reflecting on how your behaviour contributes to an inclusive, culturally safe and productive workplace.

People managers also play an important role in ensuring teams are culturally safe, including that Aboriginal employees feel supported in the workplace.

Cultural load

Cultural load is the additional workload on Aboriginal employees that is often invisible, unrecognised or unacknowledged. Aboriginal employees are often asked to undertake extra responsibilities such as educating others about Aboriginal and Torres Strait Islander history, sharing their lived experience and assisting in organising cultural events. Many Aboriginal and Torres Strait

Islander employees also balance commitments and expectations within their families and communities.

Cultural load is a key contributor to a culturally unsafe environment. We are all responsible for ensuring our workplaces are safe and should actively work towards reducing cultural load. Some practical tips to do this include:

- encouraging people to do their own research to inform their own position
- not expecting Aboriginal employees to speak on or about the Treaty process (whether in a workplace education context or in general)
- not expecting Aboriginal employees to speak on behalf of their entire community. Like all communities, there are a range of different views on any issue
- consulting with Aboriginal employees on actions to minimise cultural load and increase cultural safety
- recognising that Aboriginal employees, like all employees, have a right to choose to participate or not to participate in extra activities outside of their core duties.

Racism

Racism is unlawful and not tolerated in the NSW public sector. The risk of racism towards Aboriginal people may increase as the Treaty consultation process progresses.

We all have a responsibility to ensure everyone feels safe and supported at work by establishing inclusive and ethical workplace cultures. Employees who have witnessed racism are also encouraged to act and support colleagues who have experienced racism.

The Australian Human Rights Commission and Anti-Discrimination NSW administer anti-discrimination laws and can provide assistance if you think you have been discriminated against.

The Office of the Public Service Commissioner has released an [anti-racism guide](#) to help employers and employees address racism and discrimination in the NSW public sector.

Understanding your obligations under the Code

As public servants, we have an important role to play in maintaining trust and confidence in our public institutions. We must not act in a way that casts doubt on our ability, or the ability of agencies, to act impartially, apolitically and professionally. Understanding our obligation under the Code is one way we can help maintain trust in our public institutions.

The Code identifies mandatory requirements that employees must comply with and applies at all times when you are acting in the course of, or in connection with, our employment. You are required and expected to behave in ways that are ethical, lawful and in the public interest. This means acting in ways that demonstrate the NSW government sector core values of Integrity, Trust, Service and Accountability.

The Code also extends to conduct outside of work hours where that conduct may affect employment. This includes conduct that is undertaken in a private capacity but is inconsistent with your ability (or could reasonably be perceived to be inconsistent with your ability) to fulfil your duties within your government sector role.

Making public comment and use of social media

The Code states that you are able to participate in public debate on political and social issues in a private capacity, including on social media. If you choose to do so, you should ensure that your comments:

- are clearly identified and understood to be your personal views (however, a disclaimer will not protect you if your social media activity otherwise breaches the Code or your agency's policies)
- do not discuss or disclose information concerning your work or workplace that is not publicly available
- are lawful – do not post material that is defamatory, bullying, harassing, breaches privacy, is in contempt of court, breaches intellectual property rights or is otherwise unlawful.

Your agency may also have a supplementary code of conduct, as well as policies relating to both the official and private use of social media.

Departments and agencies should:

- ensure employees can easily access the Code and other relevant policies
- remind employees of internal complaints and reporting options
- encourage those who have experienced racism or any kind of discrimination at work to make a report
- adopt a trauma informed, person centred approach to ensure the individual who has made the report is supported and feels informed and empowered throughout the process
- provide information and links to resources for employees who wish to make an external complaint.

Leave for employees participating in the consultation process

You may wish to access leave to participate in the consultation process. Leave options may include flex and recreation leave. If you are unsure of the types of leave available, you can speak with your manager and/or a human resources representative. Ensure that you follow the required process to seek approval for leave or flexible work arrangements.

Agencies and their managers are encouraged to support employees requesting leave to participate in the consultation process. Where possible, leave should be granted, taking into consideration business needs and operational impacts.

Wellbeing support for employees

The Treaty consultation process has the potential to affect the wellbeing of employees, particularly Aboriginal employees. There are a variety of support mechanisms available, including:

- Workplace employee assistance programs (EAP), including Aboriginal and Torres Strait Islander EAP services
- Aboriginal and Torres Strait Islander Employee Networks within agencies

External support services

- 13YARN – crisis support
P: 13 9276
- Link Up – NSW Aboriginal referral and counselling service for Aboriginal people affected by past government policies
P: 02 7227 1443
E: linkup@nsw.link-up.org.au
- Healing Foundation – national support service supporting Aboriginal people and communities affected by trauma.
P: 02 6272 7500
E: info@healingfoundation.org.au
- Gayaa Dhuwi (Proud Spirit) Australia – national Aboriginal and Torres Strait Islander wellbeing and mental health care support services.
E: info@gayaadhuwi.org.au
- Beyond Blue – social and emotional well-being support resources for Aboriginal and Torres Strait Islanders.
P: 1300 22 4636

Support services for all employees

- Workplace employee assistance program (EAP)
- Lifeline Australia – national charity supporting people experiencing emotional distress with access to 24-hour crisis support.
P: 13 11 14 (available 24 hours, 7 days)
- Anti-Discrimination NSW
- Australian Human Rights Commission – Responding to racism

More information

NSW Government

- [Consulting Aboriginal people on desire for a treaty process](#)

Office of the Public Service Commissioner

- [The Ethical Framework and the Code of Ethics and Conduct for NSW Government Sector Employees](#)
- [Use of social media in a private capacity](#)
- [Acting lawfully and in the public interest](#)
- [Minimum expected standards of behaviour](#)
- [Anti-Racism guide](#)
- [Cultural Capability Guide](#)

Independent Commission Against Corruption

- Conflicts of Interest

Cultural safety

- SafeWork NSW – What is cultural safety?
- Racism. It Stops With Me – A conversation guide to assist with challenging conversations about racism in the workplace.

Contact us

For more information, please contact the Office of the Public Service Commissioner:

E: enquiries-opsc@opsc.nsw.gov.au

W: <https://psc.nsw.gov.au>