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If you have any questions please <u>raise your hand</u> or put your question in the <u>chat box</u>.

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A new Code of Ethics and Conduct for NSW Government Sector Employees



HR Insights – August 2024

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Our journey today



Today's presentation will cover:

- The role of the NSW Public Service Commissioner
- The current Code of Ethics and Conduct for NSW Government Sector Employees
- The new Code of Ethics and Conduct for NSW Government Sector Employees
- The Ethical Framework for the government sector
- Use of social media
- Behaviour contrary to the Code





What is the role of the NSW Public Service Commissioner?



The Commissioner's principal objectives and principal functions are set out in the *Government Sector Employment Act 2013* (GSE Act).

A key part of the Commissioner's statutory role is promoting and maintaining the highest levels of integrity, impartiality across the government sector.

The Office of the Public Service Commissioner cannot do this in a silo and everyone in the sector has a role to play to create a pro-integrity culture.



Why should we care about today's topic?



- A gap between stated integrity values and real-life practice has been an ongoing challenge in the private and public sectors.
- The public rightly expects the public service to be apolitical, and public servants to act professionally, ethically and impartially.
- As public servants we need to understand at a foundational level how concepts like the Westminster system and its principles connect to our work. This matters, because it is what community trust is built on.



What are the current arrangements?



- In 2022 the Commissioner issued <u>Direction No. 2 of</u> 2022 – The Code of Ethics and Conduct for NSW government sector employees.
- Contained technical updates to the original Code of Ethics and Conduct for NSW government sector employees, which was originally issued in 2015.
- Both Directions were issued to agency heads, requiring they take steps to implement the Code, and then ensure that their employees complied with it.

Section 2: Commissioner's directions

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.

NSW Public Service Commission Behaving Ethically: A guide for NSW government sector employee



What has prompted these changes?



There were some changes to the *Government Sector Employment Act 2013* in 2022 that resulted in the following:

- The Commissioner may, by order published in the Gazette, adopt a code of ethics and conduct.
- Government sector employees <u>must comply</u> with a code adopted under this section.
- Government sector employee means a person employed in ongoing, term, temporary, casual
 or other employment, or on secondment, in a government sector agency.

Who is a considered a NSW government sector employee?





State-owned Corporations	Judicial Officers	Judicial Commission
Staff of Members of Parliament	Staff of Parliament	Audit Office
	Independent Commission Against Corruption	

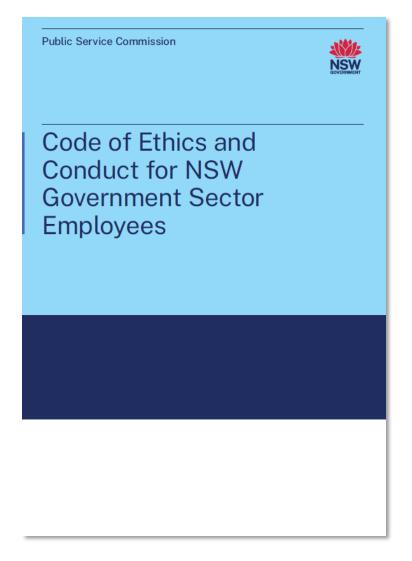
What is changing in the new Code?



The new Code:

- is written in plain language, making it easier to understand.
- sets out clear, minimum expected standards of behaviour that all NSW government sector employees must meet.
- provides a clearer framework to guide decisions and behaviour, and it covers a broader range of foundational topics.

Agencies may supplement the Code with provisions that apply to their own operational context, however, they may not detract from the Code.



What are the minimum expected standards of behaviour?



Acting in the public interest	
Act lawfully	
Bullying, discrimination, harassmen	
Confidentiality, privacy, records	
Conflicts of interest	
Gifts, benefits and hospitality	
Lobbying	
Making public comment	
Recruitment	
Risk management	
Secondary employment	
Use of public resources	
Workplace health and safety	

The minimum expected standards of behaviour (outlined on the left) are not an exhaustive list of what to do in every aspect of your work.

Rather, they are general principles and requirements to apply when carrying out your work and should be applied when deciding on an appropriate course of action when faced with an ethical issue or professional decision.

If in doubt, you should talk to your manager, internal ethics advisor (where available), human resources team, the relevant member of your agency's executive, or your agency's team responsible for advising on Code compliance.

What needs to happen between now and 1 November?



Prior to the new Code coming into effect from 1 November 2024, all NSW government sector departments and agencies must take steps to:

- align their existing codes of conduct and ethics and supporting materials to the new Code (it is not sufficient that the general vibe is the same!).
- ensure employees are provided sufficient notice of, and training in, the new Code.



What are we doing to support the implementation of the Code?



To support implementation of the new Code, we are launching:

- a suite of talking points for senior executives around why we are rolling out a new Code
- an e-learning module, which will be mandatory for NSW government sector employees to complete by 1 November 2024
- additional training resources, including a bank of scenarios to support discussions on complex ethical issues
- an Ethics Hub that provides foundational information on what is means to be a public servant in NSW
- a Community of Practice for Ethical Behaviour
- additional collateral to support internal communications strategies.

Why are values important?



- Nobody said being a public servant was easy!
- The values and principles of the Ethical Framework are fundamental to what we in the NSW government sector stand for – an essential part of our core identity that shape our actions and decisions.
- Running out decision and actions through a values test, and focusing on good process as well as good outcomes, can help ensure our decisions stand up to scrutiny.



What is the Ethical Framework for the government sector?





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 notfor-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.

What about social media?



- Over the coming months we will be issuing additional guidance aimed at government sector employees who choose to use social media in a personal capacity.
- LinkedIn carries additional risks that we need to be mindful of.

You are able to participate in public debate on political and social issues in a private capacity, including on social media. In making public comments in a private capacity you should ensure your comments:

- are clearly identified and understood to be your personal views
- 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.

You must not act in a way that casts doubt on your ability, or the ability of your agency, to act impartially, apolitically and professionally.

What about behaviour contrary to the Code?



For employees of Public Service agencies, the GSE Act and *Government Sector Employment (General) Rules 2014* (**GSE Rules**) set out how allegations of misconduct are to be dealt with, which include:

- requirements that the relevant employee be advised of the detail of the allegation
- the action that may be taken against the relevant employee if there is a finding of misconduct
- the process to be undertaken to investigate and resolve the matter
- that the relevant employee be provided a reasonable opportunity to respond to the allegations and the proposed action to be taken.

Government sector agencies that are not part of the Public Service (that is, 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, policy and/or industrial instrument requirements for dealing with allegations of misconduct.



As HR Professionals, what should we do from here?



- Make sure you understand what's changing in the new Code
- Work with your business partners to ensure they and their teams understand how to apply the government sector core values of integrity, trust, accountability and service
- Equip all employees to understand what ethical decision making means in your context
- Develop a strategy to assess and monitor your agency's culture – you can use your PMES results to inform this
- Focus on building a speak up culture.



Further information



You are able to access the Ethics Hub through https://www.psc.nsw.gov.au/culture-and- inclusion/ethics-hub

Many agencies are still working through their implementation approach. Questions in the first instance should be directed to the team in your agency responsible for the new Code.

Questions can also be directed to ethics@psc.nsw.gov.au.



Feedback



HR Community of Practice

Who we are:

- NSW public sector employees working in Human Resources across all levels
- Currently 1500 members
- Governed by HR Advisory Board

Our purpose:

- Build HR capability and connection across the sector
- Connect the NSW public sector HR community through thought leadership and expertise
- Share information and provide opportunities for professional development



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Questions & support coHRP@comprac.nsw.gov.au





Thank you for joining us!

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