

NSW DEPARTMENT OF PRIMARY INDUSTRIES

CODE OF CONDUCT

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1 Introduction

The people of NSW have a right to expect the business of the State to be conducted with efficiency, fairness, impartiality and integrity. Public employment carries with it a particular obligation to the public interest. It requires standards of professional behaviour from employees that promote and maintain public confidence and trust in the work of Government departments.

Whilst no one set of rules can answer all ethical questions, this Code of Conduct provides staff members of the NSW Department of Primary Industries (NSW DPI) with an ethical framework for their decisions, actions and behaviour.

In this regard, it explains the principles covering appropriate conduct in a variety of contexts and outlines the minimum standard of behaviour expected of public employees.

At the same time, State employees have all the normal rights of employees under common and statute law.

2 Relevant legislation

The main legislation applying to staff members of NSW DPI is the *Public Sector Employment and Management Act 2002 (PSEM Act 2002)*. The following legislation may also be relevant:

- *Anti-Discrimination Act 1977;*
- *Crimes Act 1900;*
- *Freedom of Information Act 1989;*
- *Independent Commission Against Corruption Act 1988;*
- *Industrial Relations Act 1996;*
- *Occupational Health and Safety Act 2000;*
- *Ombudsman Act 1974;*
- *Privacy and Personal Information Protection Act 1998*
- *Protected Disclosures Act 1994;*
- *Public Finance and Audit Act 1983.*
- *State Records Act 1998;*
- *Child Protection (Prohibited Employment) Act 1998*
- *Commission for Children and Young People Act, 1998*

3 General principles

The community is entitled to expect the business of the State to be conducted with efficiency, economy, fairness, impartiality and integrity. In order to meet this expectation, staff members of NSW DPI need to abide by the following principles when doing their work.

3.1 Responsibility to the Government of the day

Employees are to implement the policies and decisions of the Government of the day in an impartial manner. In particular, employees must comply with any relevant legislative, industrial and administrative requirements.

3.2 Respect for people

Employees are to treat members of the public and their colleagues fairly and consistently, in a non-discriminatory manner with proper regard for their rights and obligations. In this regard, they should perform their duties in a professional and responsible manner.

They should also ensure that their decisions and actions are reasonable, fair and appropriate to the circumstances, based on a consideration of all the relevant facts, and supported by adequate documentation.

3.3 Integrity and public interest

Employees are to promote confidence in the integrity of public administration by always acting in the public interest and not in their private interest.

Employees should protect the reputation of public employers. They should not engage in activities, at work or outside work, that would bring NSW DPI or the Public Service generally into disrepute.

3.4 Responsive service

Employees are to provide a relevant and responsive service to their clients and customers, providing all necessary and appropriate assistance and fulfil the department's service performance standards.

They should provide information promptly and in an appropriate format that is easy for the recipient to understand, and make sure that the information is clear, accurate, current and complete.

3.5 Economy and efficiency

Employees should keep up to date with advances and changes in their area of expertise and look for ways to improve performance and achieve high standards of public administration.

They should use their authority and available resources and information only for the work-related purpose intended.

3.6 Working with Children

Employees are responsible for creating a workplace where children and young people under 18 years are safe and protected from sexual, physical and emotional abuse, and neglect. Such abuse and neglect is an offence under the *Commission for Children and Young People Act, 1998*.

Employees who are 'Prohibited Persons' as described under the *Child Protection (Prohibited Employment) Act 1998*, are not permitted to apply for, undertake or remain in child-related employment. All employees working in child-related employment must declare whether or not they are a prohibited person.

3.7 Dress Standard

Employees have a responsibility to project an appropriate image to the public.

Clothing should be appropriate to the duties of the position, and reflect a professional image wherever possible.

The NSW Government Corporate Wardrobe should be taken as an indicator of this standard. Faded jeans, sporting wear, track suits and clothing with excessive logos should not be worn.

Some employees are required to wear a uniform as part of their role within the department. This requirement is to be adhered to where stipulated.

Employees, whose work and/or workplace may expose them to physical injury or adverse health effects, must comply with the department's protective clothing policy.

4 Guide to ethical decision making

To assist in fostering a climate of ethical awareness, conduct and decision-making in NSW DPI, employees may find it useful to refer to or consider, either by themselves or in consultation with others such as their peers or supervisor, the following points:

1. Is the decision or conduct lawful?
2. Is the decision or conduct consistent with Government policy, the objectives of NSW DPI and this Code of Conduct?
3. What will be the outcomes for the employee; work colleagues; the department; and other parties?
4. Do these outcomes raise a conflict of interest or lead to private gain at public expense?
5. Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

4.1 Conflicts of interest

Conflicts of interest exist when it is likely that an employee could be influenced, or could be perceived to be influenced, by a personal interest in carrying out their public duty.

Conflicts of interest that lead to partial decision making may constitute corrupt conduct.

Some related interests that may give rise to a conflict of interest include:

- financial interests in a matter NSW DPI deals with or having friends or relatives with such an interest that the employee is aware of;
- personal beliefs or attitudes that influence the impartiality of advice given;
- personal relationships with the people NSW DPI is dealing with or investigating that go beyond the level of a professional working relationship;
- participation on recruitment selection panels where one or more applicants is a close friend or relative;
- secondary employment that compromises the integrity of the employee and the department; and
- party political activities or making adverse political comments that relate to the department's work.

An individual employee may often be the only person aware of the potential for conflict. It is therefore their responsibility to avoid any financial or other interest that could compromise the impartial performance of their duties, and disclose any potential or actual conflicts of interest to their supervisor.

If employees are uncertain whether a conflict exists, they should discuss the related interest matter with their supervisor and attempt to resolve any conflicts of interest that may exist.

To resolve any conflicts of interest that occur, or could occur, a range of options is available depending on the significance of the conflict. These options include:

- recording the details of the disclosure and taking no further action where the potential for conflict is minimal or can be eliminated by disclosure or effective supervision;
- the employee relinquishing the personal interest;

- the employee transferring (at no disadvantage in their terms and conditions of employment) from the area of work or particular task where the conflict arises.

Disputes over alleged conflicts of interest may be resolved through the normal grievance handling procedures.

4.2 Acceptance of gifts or benefits

Employees should not accept a gift or benefit that is intended to, or likely to, cause them to act in a partial manner in the course of their duties.

The Director-General may approve the acceptance of token gifts or benefits under certain circumstances provided that there is no possibility that the recipient might be, or might appear to be, compromised in the process.

Employees should advise their Executive Director or Deputy Director-General if they believe they have been offered a bribe or if they have been offered or received a favour or benefit.

Employees dealing with or having access to sensitive investigations or commercially sensitive information should be particularly alert to inappropriate attempts to influence them.

5 Discrimination, harassment and bullying

All employees must:

- act to prevent harassment, discrimination and bullying against others in their workplace,
- respect cultural and social differences among their colleagues and customers, and
- treat people fairly (don't discriminate against, harass or bully them).

Managers must:

- ensure the work environment is free from bullying and from all forms of unlawful discrimination and harassment.

5.1 Fairness and equity

All employees must:

- work to the best of their ability and provide quality service to customers and colleagues,
- recognise and respect the skills and talents of other staff.

Managers must:

- take steps to ensure that all work practices and behaviours are fair in their workplace, including fair allocation of workloads,
- provide employees with information and resources to enable them to carry out their work,
- consult employees about decisions that affect them,
- provide all employees with equal opportunity to apply for available jobs, higher duties, job rotation schemes and flexible working arrangements,
- ensure selection processes are transparent and the methods used are consistent,
- provide all employees with equal access to fair, prompt and confidential processes to deal with complaints and grievances,
- give their employees equal access to relevant training and development opportunities,
- identify special training and development needs of EEO group members in their team and help them gain access to training and development opportunities, and
- participate in learning opportunities and seek feedback to help them manage staff effectively.

6 Public comment on the work of NSW DPI

Public comment by employees includes public speaking engagements, comments on radio and television or in letters to newspapers, and expressing views in books, journals or notices if it is expected that the comments will spread to the community at large.

Employees, as individual members of the community, have the right to make public comment and enter into public debate on political and social issues. However, there are some circumstances in which this is inappropriate. For example, situations when the public comment, although made in a private capacity, may appear to be an official comment on behalf of NSW DPI. In such circumstances, employees should preface their remarks with a comment that they are made in a private or union capacity and do not represent the official view of the department concerned.

Employees must follow the procedures detailed in the document *Protocol for Dealing with the Media* when making public comment on the work of NSW DPI.

As a general rule, staff members may disclose official information that is normally given to members of the public seeking that information, but should only disclose other official information or documents:

- in the course of their duties;
- when proper authority has been given;
- when required, or authorised, to do so by law; or
- when called to give evidence in court.

In these cases, comments made by employees should be confined to factual information and should not, as far as possible, express an opinion on official policy or practice unless required to do so by the circumstances of the particular situation (for example, when asked to do so in court).

Comments made on matters pertaining to union business by members of unions in their capacity as a local delegate within the department or by union office holders employed by the department are permissible under this code.

7 Protecting confidential information

Official information must only be used for the work-related purpose intended and not for personal benefit. Unless authorised to do so by legislation, employees must make sure that they do not disclose or use any confidential information without official approval.

Unauthorised disclosures may cause harm to individuals or give an individual or an organisation an improper advantage. The integrity and credibility of NSW DPI may also be damaged if it appears unable to keep its information secure.

All employees must make sure that confidential information in any form (including computer files) cannot be accessed by unauthorised people, and that sensitive information is only discussed, within or outside the department, with people who are authorised and have a legitimate, work related reason for access.

8 Use of official facilities and equipment

Employees are expected to be efficient and economical in their use and management of public resources, including their own work time. They should be scrupulous in their use of public property and services.

Official facilities and equipment should only be used for private purposes when official permission has been given. This includes limited private use of telephones, facsimiles, email, and the Internet, where such use does not disrupt official work.

9 Secondary employment

NSW DPI staff members must have the approval of the Director-General before they engage in any form of paid employment outside their official duties.

Employees must also carefully consider whether the organisation offering them secondary employment may adversely affect the performance of their Public Service duties and responsibilities or give rise to a conflict of interest.

This applies whether they are working full time, part time or are only temporarily employed.

10 Political and community participation

Employees must make sure that any participation in party political activities does not conflict with their primary duty as a public employee to serve the government of the day in a politically neutral manner.

This is important because of the need to maintain Ministerial and public confidence in the impartiality of the actions taken and advice given by public employees.

What is considered appropriate in any particular case will depend on the nature of the issue, the position held by the employee, the extent of the employee's participation, and their public prominence.

If employees become aware that a potential conflict of interest has arisen or might arise, they should inform their Executive Director or Deputy Director-General immediately and may have to stop the political activity or withdraw from the areas of their work where the conflict is occurring.

Within the context of these requirements, employees are free to fully participate in voluntary community organisations and charities and in professional associations.

11 Reporting corrupt conduct, maladministration and waste

Employees are urged to report suspected corrupt conduct, as well as maladministration and serious and substantial waste of public resources.

The *Protected Disclosures Act 1994* provides certain protections against reprisals for employees who voluntarily report such matters (but not vexatious or malicious allegations), either to the principal officer of a public authority, or to one of the three investigative bodies; the Independent Commission Against Corruption, the Auditor-General or the Ombudsman. Disclosures may also be made under the NSW DPI internal reporting procedure.

If disclosures are made to an external investigating body, those concerning corrupt conduct should be made to the Independent Commission Against Corruption. Disclosures concerning maladministration should be made to the Ombudsman while disclosures concerning substantial waste of public money should be made to the Auditor-General.

The person dealing with the protected disclosure should notify the employee who made the disclosure of the action taken or proposed to be taken in relation to the disclosure and the outcome of such action.

12 Post separation employment

Employees must not use their position to obtain opportunities for future employment. They should not allow themselves or their work to be influenced by plans for, or offers of, employment outside NSW DPI. If they do, there is a conflict of interest and the integrity of the employee and their department is at risk.

Former employees should not use, or take advantage of, confidential information that may lead to gain or profit obtained in the course of their official duties until it has become publicly available.

All employees should be careful in their dealings with former NSW DPI staff members and make sure that they do not give them, or appear to give them, favourable treatment or access to privileged information.

13 Specific guidelines

Certain groups of staff within the Department also have their own set of guidelines that contain specific issues relevant to that particular group. For example, staff involved in research work must read and comply with the requirements of the *NSW DPI Code of Conduct for Research* and ensure that their work enhances the good name of their institution and the profession to which they belong.

Other guidelines are currently being produced and will need to be read and complied with in conjunction with this Code of Conduct. During the transition period, while these specific guidelines are being drafted, staff should refer to the previous *NSW Agriculture Code of Conduct for Research*, as well as Codes of Conduct for Forests NSW and the former Department of Mineral Resources and NSW Fisheries.

This Code of Conduct now becomes the overarching document for NSW DPI and supporting documents will be in the form of “Guidelines” for specific work groups within NSW DPI.