



information
and privacy
commission
new south wales

Code of Conduct

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Acknowledgement: The IPC has drawn extensively on the Attorney General's Department's Code of Conduct in developing this document. We thank the department for its excellent work.

Introduction

The Information and Privacy Commission NSW (IPC) Code of Conduct is a guide to ethical workplace behaviour for all its employees.

This Code sets out the minimum standards of conduct expected and applied to all aspects of our employment, including the workplace environment and workplace activities, and provides all of us with an ethical framework for our decisions, actions and behaviour.

Essential summary

Abiding by the Code is a condition of employment for all staff of the IPC.

Employees who are found to be in breach of the Code may be subject to disciplinary action.

Principles

Employees of the IPC are expected to:

- Comply with the law, policies and any lawful direction.
- Serve the government and act in an apolitical manner.
- Provide timely, accurate and impartial assistance and advice.
- Treat everyone with respect, courtesy and fairness.
- Provide quality services and assistance.
- Respect the privacy of individuals and maintain appropriate confidentiality of information.
- Act honestly, ethically and with integrity.
- Identify and actively manage conflicts of interest.
- Decline gifts or benefits which affect or may be seen to affect impartiality.
- Report instances of fraud, corruption, serious and substantial waste, or maladministration.
- Ensure public resources are used in a proper manner.
- Exercise diligence, care and attention in performing official duties and look for ways to improve performance.

1. Scope

This Code outlines the behaviour expected from all IPC employees and forms part of the conditions of employment.

2. Purpose

The Code establishes the standards of employee conduct required by the IPC and outlines the responsibilities of employees and managers to achieve a workplace where appropriate ethical standards are maintained.

All employees are required to comply with this Code and any breach of the Code may lead to remedial or disciplinary action.

3. Definitions

Customer means any user, client or customer of the IPC's services.

Employee means every staff member in the IPC and every person engaged to provide the IPC with services, information or advice. More specifically, the Code applies to all employees including SES officers, permanent employees, temporary employees, casuals, trainees, ministerial staff, contractors, non-judicial statutory appointments and any member of the public sector service as defined in section 3 of the *Government Sector Employment Act (NSW) 2013*.

Workplace means any place at which an employee or workplace participant works or otherwise attends in connection with carrying out duties as an employee or workplace participant.

IPC means the Information and Privacy Commission.

4. Comply with the law, policies and any lawful direction

Employees must comply with all legislative, industrial and administrative requirements and any lawful direction made by a person with the authority to give such a direction.

Employees are to comply with relevant laws, policies and procedures and to know and understand the law applicable to the performance of their duties. To facilitate compliance, the IPC's senior employees will ensure that:

- all employees are kept fully informed about the key legal requirements relevant to their work
- employees are made aware of the potential repercussions of non-compliance with legal requirements that apply to them
- appropriate recordkeeping systems and practices which capture evidence of compliance and non-compliance are in place. These should be in accordance with the [State Records Act 1998](#).

Relevant policies and legislation can be accessed via the IPC portal.

5. Serve the government and act in an apolitical manner

The role of the public sector is to serve the NSW government of the day that has been elected to serve the people of NSW. Employees must provide the same high standard of advice, assistance and service, irrespective of the political affiliation of the government. Employees are required to implement and administer the policies, legislation and programs of the elected government of the day in an apolitical manner.

Policies, guidelines and legislation must be applied equitably, transparently, on the basis of merit, with proper consideration being given to the particular circumstances of each individual case.

5.1 Maintain the confidentiality of government information

As a general rule, employees can disclose official information that is normally given to members of the public seeking that information. Disclosure of other official information or documents is allowed:

- in the course of duties and when proper authority has been given to do so
- when required to do so by law, or when authorised to do so by law
- when required to give evidence before a court or other body, keeping in mind that some information or documents may be protected from disclosure (e.g. Cabinet documents or documents where privilege is claimed).

Employees must not access, disclose, discuss or use any confidential information without official approval and must ensure that unauthorised people cannot access confidential information in any form.

If employees are unsure about disclosing any information, they should seek the advice of their immediate supervisor prior to releasing the information to the customer or other employee.

Also refer to Section 9 'Respect the privacy of individuals' for further guidance.

5.2 Refrain from public comment on the work of the IPC

Public comment includes public speaking engagements, comments in the media or publications where 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 where the public comment, although made in a private capacity, may appear to be an official comment on behalf of the IPC. In such circumstances, employees should preface their remarks with a comment that they are made in a private or union official capacity and do not represent the official view of the public agency concerned.

Employees must not, in a work capacity, make public comment without authorisation on matters related to the IPC.

All media enquiries should be directed to the IPC's Manager, Communications and Corporate Affairs. Employees must comply with the Media Protocol and any other relevant policy when given permission to make public comment on behalf of the IPC.

Employees may make public comment and enter into public debate on issues of interest in a private capacity, but generally only if this can be done without compromising the impartiality of the IPC. In some situations, the need to avoid compromising the impartiality of the IPC may require employees to refrain from making any public comment at all.

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

5.3 Participation as a volunteer

Within the context of this code, employees are free to fully participate as volunteers in community organisations and charities, and in professional associations.

Employees are also legally entitled to be members of unions and industrial associations, and to participate in the activities of their union as members or delegates. Such membership and activities are not in conflict with the employee's work for the IPC.

Volunteer work must not involve any real or perceived conflict of interest with the employee's work for the IPC or involve the use of any IPC resources.

An exception to this is trade union delegates in regard to Clause 60 of the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006, where the IPC is to provide accredited delegates with reasonable access to the following facilities for authorised Association activities:

- (a) telephone, facsimile and, where available, email facilities

- (b) a notice board for material authorised by the association or access to staff notice boards for material authorised by the association
- (c) workplace conference or meeting facilities, where available, for meetings with member(s), as negotiated between local management and the Association.

5.4 Participation in political activities

If participating in any political activity, employees must:

- ensure that the involvement does not conflict, or cannot reasonably be perceived to conflict, with the primary duty of serving the government of the day in an impartial manner
- ensure that employees' views or actions are not presented as an official comment but rather as individual views or those of the political organisation represented
- not make use of any public office or resources for political activity
- immediately inform management of a potential or an actual conflict of interest. If this occurs employees may have to stop the political activity or the IPC may choose to withdraw the employee from the areas of work where the conflict is occurring.

Special arrangements apply to employees who are contesting state or federal elections. These are detailed in sections 71 and 72 of the *Government Sector Employment Act (NSW) 2013*.

6. Provide timely, accurate and impartial assistance and advice

Employees are expected to provide assistance, advice and reports in a timely and impartial manner as part of their work. Such assistance and advice must be honest, frank, accurate and without material omission, and make clear any limitations.

Before providing advice or reports, employees should, where reasonably possible, make adequate inquiries to obtain all relevant information. If information provided is found to be false or misleading it must be rectified as quickly as possible and appropriately documented.

All employees are required to act within their authority and delegations and in accordance with any established procedures. They are expected to perform their duties to the best of their abilities. Where an employee has any concern about their ability to carry out their duties appropriately, or where they perceive an ethical dilemma, they should consult with their supervisor or another more senior manager.

7. Treat everyone with respect, courtesy, and fairness

Employees must treat everyone with respect and courtesy. This includes refraining from discriminating, harassing, or bullying behaviour or treating anyone inappropriately, including colleagues, staff or members of the public.

Employees must not discriminate against a person because of race, ethnic or national origin, sex, including breastfeeding, age, marital status, pregnancy, disability, transgender grounds, sexuality, political or religious beliefs or responsibilities as a carer. Such discrimination may be unlawful.

All employees should be familiar with and comply with the Department of Justice [Dignity and Respect Policy](#).

All employees should be familiar with and comply with the [Anti-discrimination Act 1977](#) (NSW) and the relevant Commonwealth anti-discrimination legislation.

8. Provide quality customer service and assistance

Employees must provide quality services and advice to the community and government and ensure fairness. This entails:

- acting efficiently, equitably and professionally
- treating individuals courteously, attentively and sensitively
- making decisions based on merit and within the authority conferred.

Where possible employees should:

- inform customers of the procedures to be followed and their rights and obligations
- consider a customer's views before making a decision
- advise of the reasons for the decision.

Employees must meet their legal obligations and provide accurate information, within the scope of their position.

All employees should be familiar with and comply with the [IPC Service Charter](#).

To ensure quality customer service and assistance is given, it is essential that employees:

- while on duty, not consume alcohol to excess or be under the influence of alcohol to a degree that adversely affects their capacity to work, not abuse prescription drugs and not use any form of illicit drugs or substances
- not use offensive or obscene language
- wear attire which reasonably reflects public expectations and community standards for each work location.

9. Respect the privacy of individuals and maintain appropriate confidentiality of information

Employees, or former employees, must not use confidential information obtained in official duties or by virtue of office or position to gain any direct or indirect financial benefit or other improper advantage for them, or any other person. Use of such information may be a criminal offence.

Employees and their work must not be influenced by plans for, or offers of, employment outside of the IPC. To do so creates a conflict of interest and the integrity of the IPC is at risk.

Employees need to exercise care in dealing with former employees of the IPC to ensure there are no appearances of favourable treatment or access to privileged information.

9.1 Leaving the Public Sector

When leaving the public sector employees must return all documentation and any equipment provided or obtained. During subsequent employment and activities, employees must respect the confidentiality of information gained in their official capacity. Intellectual property remains the property of the government unless there is agreement in writing to the contrary.

9.2 Respect the privacy of individuals

It is important that the community has confidence that personal information acquired and/or held by the IPC will be kept confidential as required under the law. Employees must ensure that personal information must only be used for the official purposes for which it was collected.

The [Privacy and Personal Information Protection Act 1998](#) (PIIP Act) and [Health Records and Information Privacy Act 2002](#) (HRIP Act) provide protections around information collected and/or held by a public agency about a person. This includes the collection, storage, use, access, correction and disclosure of personal information.

Both Acts require that the IPC must not do anything that contravenes the information protection principles or health privacy principles that apply to the IPC.

Employees must be aware of and comply with the requirements of the PPIP Act, the HRIP Act, and the [IPC's Privacy Management Plan](#).

10. Act with honesty, ethically and with integrity

Employees must carry out work in an honest and transparent manner.

To ensure that honesty and integrity is not questioned, it is an employee's responsibility to:

- recognise and disclose any actual, potential, or perceived conflict of interest to their manager or another appropriate more senior officer
- take appropriate steps to resolve the conflict of interest in accordance with policy prior to engaging in the affected work
- not knowingly make decisions that may obtain, or may appear to obtain, a personal benefit or a benefit for family members, relatives, close friends, business partners or associates, unless it is a benefit received in common with a class of people who would ordinarily receive the benefit.

All managers are additionally responsible for facilitating compliance by those they supervise by:

- being aware of the risks of conflicts inherent in the work of the employees they manage
- advising employees on appropriate ways to manage a conflict of interest
- recording the receipt of disclosures of conflicts of interest as reported to them by employees, using the format at attachment 2. This is to be kept confidential in a secure place by the Business Systems Manager for future reference if necessary. A copy should be provided to the employee who made the disclosure.

11. Identify and actively manage conflicts of interest

Refer to ICAC Nov 2009 tip sheet "*Identifying and Managing Conflicts of Interest in the Public Sector*".

Employees must seek to identify and actively manage any conflict of interest in connection with their employment.

11.1 Identify, manage and disclose any real or perceived conflict of interest

Sometimes, by virtue of official position or duties, employees may have the power to make decisions or act in ways that can further their own private interests. Employees must not allow the pursuit of private interests to interfere with the proper and impartial discharge of official duties. Potential conflict of interest must be immediately disclosed to a manager.

Private interests include not only personal interests, but also those of an employee's immediate family, relatives, business partners, associates or friends.

The ultimate decision concerning the appropriate course of action to take over a real, perceived or potential conflict of interest rests with the relevant manager.

11.2 Disclose any secondary employment

Employees must comply with legal and policy requirements regarding secondary employment and must obtain approval before engaging in secondary employment.

In general, employees must not undertake secondary employment that adversely affects the performance of official duties or gives rise to a real, potential or reasonably perceived conflict of interest.

The [Secondary Employment Policy](#) requires a new application to be submitted for approval each year. Employees may also need to reapply if there is a change in their employment circumstances. Employees should refer to the [Secondary Employment Policy](#) and the *Government Sector Employment Act 2013* for further information.

12. Decline gifts or benefits which affect or may be seen to affect impartiality

Employees must not seek, accept, or expect to receive any payment, gift or benefit from any person in an official capacity. Gifts or benefits may be intended or likely to influence, or could be reasonably perceived as being intended or likely to influence the employee.

All reasonable steps should be taken by employees to ensure that immediate family members are not the recipients of gifts or benefits that could give the appearance to an impartial observer of an indirect attempt to secure influence or favour.

It is often not a question of whether a gift or benefit is or was an attempt to influence, but what an impartial observer would think. Factors which could influence the perception of a gift or benefit would include:

- the nature of the IPC's and employee's main functions
- the scale, lavishness or expense/cost/value of the gift
- the current or potential relationship between employees and the giver, including the likelihood of further contact
- whether gifts are being exchanged formally with another government agency or delegation;
- the frequency of occurrence, regardless of the value
- the degree of openness surrounding the occasion or gift.

To preserve integrity when dealing with the public:

- employees should not accept a payment or benefit from any person dealt with in an official capacity
- employees should not display favour or bias toward or against any person in the course of official duty, even if there is no payment or return favour
- the appearance of impartiality should be respected and maintained, as well as impartiality in fact.

If any offer or suggestion of a bribe is made directly or indirectly, the facts must be reported by the employee to a senior officer at the first opportunity. The senior officer must immediately inform the Chief Executive Officer who is under a duty to report to the ICAC any matter that may concern corrupt conduct.

Gifts or benefits include free (or less than market value) accommodation, entertainment, hospitality and travel. Items or benefits that are essentially token or constitute moderate acts of hospitality such as scarves, diaries, chocolates, flowers or the provision of drinks/meals at functions attended as a government representative are excluded from this definition. Only gifts or other benefits that are token or inconsequential may generally be accepted.

The IPC should maintain a gifts and benefits register that records all gifts or benefits and whether employees are allowed to retain such gifts or benefits, and if so authorised by whom and on what basis. **Attachment 1** is the template of a gifts and benefits register that will be maintained by the Business Systems Manager.

Employees should refer to the Gifts and Benefits Policy for further information.

13. Report instances of corruption, serious and substantial waste, or maladministration

All staff members have an obligation to report any suspected corrupt or unlawful conduct, maladministration, serious and substantial waste of public resources, or government information contravention. The [Public Interest Disclosures Act 1994](#) provides certain protections for employees who voluntarily report such matters. Employees should refer to the IPC's Public Interest Disclosures Internal Reporting Policy for further information.

14. Ensure public resources are used in a proper manner

Employees must be honest and open to scrutiny when managing public funds and assets.

Employees are expected to be efficient and economical in the use and management of public resources, including their own work time. Employees must be scrupulous in the use of public property and services and ensure that they are used for their intended purpose. Any loss, damage, misuse or theft should be reported to the employee's supervisor or the appropriate manager.

Any facilities provided by the IPC for use in performing duties or functions (such as transport, stationery, telephones or secretarial services) should be used strictly for those duties or functions. Occasional or minor use of IPC resources such as telephones, mobile phones, faxes, photocopiers and desktop computers for personal purposes is acceptable as long as it does not interfere with the IPC's work, customer service or the work of colleagues. Use of facilities by union delegates, in accordance with the provisions, of clause 60 of the *Crown Employees (Public Service Conditions of Employment) Award 2006* is also appropriate. See also Section 5.3 of this code.

Such use by employees should be infrequent and brief, and should not involve activities that might be questionable, controversial or offensive. This includes gambling, accessing chat lines, transmitting inappropriate jokes, intentionally downloading unauthorised software or accessing or communicating any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature. Such use is unacceptable and in most cases is likely to constitute a disciplinary offence.

All employees are required to abide by the DoJ's IT Policies and Procedures:

- [Guidelines for the Provision and Use of Email \(ISGDL 6.0.1\)](#)
- [Information Security Policy](#)

15. Exercise diligence, care and attention in performing official duties and look for ways to improve performance

Employees must give appropriate time and attention to official business, endeavour to carry out their work efficiently, economically and effectively and in a manner such that the standard of work reflects favourably on the IPC. This means paying due care, attention and diligence to duties, fulfilling them and reasonably supporting other employees in their endeavours to do the same.

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

This will be enhanced by employees sharing ideas and communicating effectively with each other.

16. Guide to ethical decision-making

Employees should ask themselves the following questions when making decisions:

- Is the decision or conduct legal and consistent with current government policy?

- Is the decision or conduct consistent with the IPC's objectives and the Code of Conduct?
- Can the decision or conduct be justified in terms of the public interest and would it withstand independent scrutiny?
- How would I perceive the situation if I were an independent public observer?
- Do the outcomes raise a conflict of interest or lead to private gain at public expense?
- Do the outcomes raise a perception of a conflict of interest or a perception of potential private gain at public expense?
- Will it discredit or disadvantage the IPC, customers or colleagues?

Further information and guidance in managing ethical dilemmas is available from the Public Service Commission employment portal on [ethics and conduct](#).

17. Lobbying

Employees are required to abide by the [Lobbyist Code of Conduct](#) issued as Premier's Memorandum No 2009-03.

The Lobbyist Code of Conduct outlines that employees must not permit lobbying by a professional lobbyist unless the lobbyist is listed on the Register of Lobbyists and has disclosed certain information in their initial contact with the government representative. The register of Lobbyists is available on the Department of Premier and Cabinet's website www.dpc.nsw.gov.au.

A lobbyist for the purpose of the code means a person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third party to a government representative.

"Lobbyist" does not include:

- (a) an association or organisation constituted to represent the interests of its members
- (b) a religious or charitable organisation
- (c) an entity or person whose business is a recognised technical or professional occupation which, as part of the services provided to third parties in the course of that occupation, represents the views of the third party who has engaged it to provide their technical or professional services.

18. Breaches & Disciplinary Process

Breaches of policy are investigated and managed in accordance with sections 38-41 and 69 and 70 of the *Government Sector Employment Act 2013*. Further guidance is available on the Public Service Commission employment portal.

19. References

The following policies are relevant to the Code of Conduct. This list is indicative only and should not be considered to be an exhaustive list. Please refer to any other relevant legislation, policy or guidelines of the IPC.

- Media Protocol
- DoJ's Dignity and Respect Policy
- Guidelines for the Provision and Use of Email (ISGDL 6.0.1)

- Acceptable Use of the Internet (ISPOL 10)
- Use of Electronic Mail (ISPOL 11)
- Secondary Employment Policy
- IPC's Privacy Management Plan
- IPC's Public Interest Disclosures Internal Reporting Policy
- IPC's Gifts and Benefits Policy
- Lobbyist Code of Conduct
- Public Service Commission employment portal

Acts cited:

- [Government Sector Employment Act 2013](#)
- [State Records Act 1998](#)
- [Privacy and Personal Information Protection Act 1998](#)
- [Health Records and Information Privacy Act 2002](#)
- [Public Interest Disclosures Act 1994](#)
- [Anti-Discrimination Act 1977](#)

Reference material is also available from the Independent Commission Against Corruption – see www.icac.nsw.gov.au

DoJ's Employee Assistance Program is a free, confidential counselling service for employees and their family members to help them resolve problems in their personal or working life. Telephone services are available at all times and face-to-face counseling is available on weekdays.

The Manager's Helpline offers a range of services and advice to managers requiring assistance for all staff related issues and supervision of staff.

The contact telephone number is 1300 366 789.

20. Document information

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Business centre:	
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21. Document history

Version	Date	Reason for amendment
1.1	May 2014	Minor updates to address GSE Act implementation & improve links/guidance relating to ethical conduct matters and disciplinary process.
1.2	July 2014	Minor updates to coincide with website review. Amendments to titles.

Attachment 1 – Information and Privacy Commission Gift Register

Date	Name of person and/or organisation who provided the gift, benefit, or service	Name of person who received the gift, benefit or service	What circumstances was the gift, benefit, or service received for?	What was the gift, benefit, or service?	What is the approximate value of the gift?	What was done with the gift?

Attachment 2 – Disclosure of conflicts of interest

Date	Name of person disclosing potential conflict of interest	Outline of potential conflict	Advice provided to employee by manager, e.g. <ul style="list-style-type: none">• no adverse impact likely• cease action causing conflict• action plan to manage potential conflict