

Message from the Secretary

This Code of Ethics and Conduct has been developed in accordance with the *Government Sector Employment Act 2013* and the Public Service Commissioner's Direction No 1, 2015. Under the Act, I am responsible for the ethical conduct and management of NSW Treasury and for implementing the *Ethical Framework for the government sector*, outlined in [Part 2](#) of the Act.

The *Ethical Framework* is mandatory for all government sector employees and is contained in this Code of Ethics and Conduct (the Code). The Code forms part of each employee's contract of employment and requires employees to always act in the public interest and demonstrate standards of professional behaviour that promote and maintain public trust and confidence.

The *Ethical Framework* sets out core values for all government sector employees. These are Integrity, Trust, Service and Accountability - and in NSW Treasury we include Excellence. I endorse these core values and principles and expect all staff to demonstrate them in their working relations with other employees, clients and customers, stakeholders and the government of the day.

The Code employs a principles based approach to ethics, rather than a prescriptive one, since it is not possible to address every issue we may face as public servants in one code. For this reason, it is important that we look to the core values and principles when implementing the Code and generate discussions within NSW Treasury to promote ethical decision making. Employees who remain uncertain about how the Code might apply to a situation are urged to speak with their manager or a member of the executive.

In NSW Treasury we put our values at the centre of what we do and adhering to this Code, as individuals and as an organisation, is critical to our success in building a high performance organisation.

Scope

This Code applies to all NSW Treasury employees and senior executives. The Code extends to contractors and volunteers engaged by the agency. It applies at all times when acting in the course of, or in connection with, NSW Treasury employment, including during official office functions.

Review

The Code may be amended from time to time by the Secretary and as directed by the Public Service Commissioner.

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1. Overview

1.1 Purpose

The purpose of this Code of Ethics and Conduct is to assist all NSW Treasury employees to:

- understand expected standards of conduct and behaviour
- comply with relevant laws and policies
- demonstrate and promote good ethical practice
- deal with ethical problems they may encounter
- maintain the department's integrity and reputation

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

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1.2 Core Values and Principles of Conduct

All employees are to uphold the four government sector core values of Integrity, Trust, Service and Accountability and their principles in their actions; decisions; and dealings with colleagues, clients, stakeholders and 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 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.

NSW Treasury employees are to also uphold the core value of 'excellence':

Excellence

- Strive for excellence in everything we do
- Demand high standards from ourselves and continually look for ways to improve
- Be influential, inspirational and motivational
- Apply rigour and innovation in our advice
- Focus on results
- Work as one.

There is no hierarchy among the core values and each is of equal importance.

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2. Mandatory Conduct

This section sets out the mandatory provisions of the Code of Ethics and Conduct for NSW government sector employees, which apply to all government sector employees and heads of government sector agencies.

2.1 Responsibilities of employees

All **employees** have responsibilities to:

- demonstrate high levels of personal conduct consistent with the Ethical Framework
- seek assistance when unsure about how to implement the Ethical Framework
- promote the implementation of the Ethical Framework to their colleagues
- report possible breaches of the Ethical Framework to relevant officers.

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

- lead and promote implementation of the Ethical Framework in their workplace
- ensure their workplace culture, practices and systems (including recruitment and promotion) operate consistently with the Ethical Framework
- recognise and promote employee and team conduct that exemplifies the Ethical Framework
- act promptly and with due process to prevent and address any breaches of the Ethical Framework
- 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.

The **Secretary** has the responsibilities of executives (above) and, in addition, has responsibilities to:

- lead and promote implementation of the Ethical Framework in their agency
- ensure the general conduct and management of the functions and activities of the department are in accordance with the core values of the Ethical Framework.
- oversee the implementation of the Ethical Framework and make improvements where necessary.

2.2 When is the Ethical Framework to be applied?

The Ethical Framework is to be applied at all times in working relations with colleagues, clients and customers, stakeholders and the government of the day.

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These working relations are depicted in the diagram below:



2.3 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, are not in the public interest.

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2.4 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.

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:¹

- The manager records the details of the conflict and takes no further action because the potential impact is minimal or can be eliminated by disclosure or effective supervision
- The manager removes the employee from the particular activity or decision where the conflict arises and documents this action
- The manager checks and, if appropriate, endorses all action with respect to the matter creating the conflict
- The employee relinquishes the personal interest
- The employee transfers from the area of work or particular task where the conflict arises, without disadvantage in terms of status or remuneration.

2.5 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, s/he 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 private interests declaration form may be accessed under Governance on the NSW Treasury intranet.

- A senior executive must provide their declaration to the Secretary.
- The Secretary must provide their declaration to the Secretary of the Department of Premier and Cabinet.

¹ [1] For further detail on how to manage actual, potential or reasonably perceived conflicts of interests, see the NSW Ombudsman Fact Sheet *Conflicts of Interests* at www.ombo.nsw.gov.au/___data/assets/pdf_file/0004/3685/FS_PSA_03_Conflict_of_Interest.pdf

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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](#).

2.6 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.

2.7 How do I treat lobbyists?

All government sector employees and heads of government sector agencies must comply with Premier's Memorandum [M2014-13- NSW Lobbyists Code of Conduct](#) published on the Department of Premier and Cabinet's website, as amended from time to time.

2.8 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 – in a way that benefits you personally, or for an unauthorised purpose (see 5.8 Use of facilities and equipment).

If you are responsible for receiving, spending or accounting for money, ensure you know, understand and comply with the requirements of the [Public Finance and Audit Act 1983](#), the [Public Works and Procurement Act 1912](#) and the [Government Advertising Act 2011](#).

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3. Behaviour contrary to the Code

3.1 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 NSW Treasury 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 a member of the executive.

3.2 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 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 the Public Interest Disclosures Coordinator – who in NSW Treasury is the Chief Operating Officer, the Secretary 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. See Section 6 of this policy and NSW Treasury's [Public interest disclosures internal reporting policy](#) for further information.

3.3 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 principles:

- procedural fairness for both the complainant and staff member
- expeditious handling of investigations – this minimises the potential for breaches of confidentiality and lack of procedural fairness
- confidentiality for all parties, where practicable and appropriate
- meticulous recordkeeping, including recording of reasons for all significant decisions.

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

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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:²

- 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.

4. Legislation

A principle of the Ethical Framework for the government sector is to uphold the law. It is important that all employees are aware of their legal obligations. The law includes, but is not limited to:

- [*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)
- [*Public Finance and Audit Act 1983*](#) sections 11 and 45C (regarding the system of internal control over the financial and related operations of agencies)
- [*Anti-Discrimination Act 1977*](#) (regarding equal employment opportunity and equal access to services)
- [*Government Information \(Public Access\) Act 2009*](#) (regarding public access arrangements to agency information)
- [*Public Interest Disclosures Act 1994*](#) (regarding receiving, assessing and dealing with public interest disclosures)
- [*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)
- [*Privacy and Personal Information Protection Act 1998*](#) (regarding the protection of personal information, and the protection of the privacy of individuals generally)
- [*Public Works and Procurement Act 1912*](#) (regarding the procurement of goods and services by government agencies)
- [*Health Records and Information Privacy Act 2002*](#) (regarding the fair and responsible handling of health information)
- [*Work Health and Safety Act 2011*](#) (regarding the health and safety of employees and the maintenance of healthy and safe workplaces)
- [*Government Advertising Act 2011*](#) (regarding requirements to issue advertising compliance certificates)
- [*Ombudsman Act 1974*](#) (regarding obligations to cooperate with investigations by the Ombudsman and obligations relating to reportable conduct concerning child protection matters)

² NSW Ombudsman (www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/state-and-local-government/naturaljusticeprocedural-fairness).

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- [State Records Act 1998](#) (regarding the creation, management and protection of agency records and public access to those records)
- [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)
- [Child Protection \(Working with Children\) Act 2012](#) (regarding obligations to obtain checks and clearances for employees engaged in child-related work)
- [Crimes Act 1900](#) (regarding criminal offences).

5. Applying the Code in NSW Treasury – specific conduct issues

The previous part of this Code deals with the mandatory principles and issues that apply to all employees in the government sector. This section applies only to NSW Treasury employees.

NSW Treasury employees have an obligation to know, understand and comply with all departmental policies and legal obligations relating to their role and to discuss any matter requiring clarification with their manager.

The following section deals with some of the conduct issues that arise in organisations such as ours. Please refer to NSW Treasury’s policies for additional information.

5.1 Use of position

Corrupt conduct occurs when an employee improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain. Employees must not use their official NSW Treasury position to influence or to obtain a benefit in private matters. For example it is not appropriate to use your departmental email or signature when lodging a complaint about a personal matter. It is a breach of the NSW Treasury Code of Ethics and Conduct to influence a private matter by stating or inferring that your opinions are representing those of NSW Treasury.

5.2 Public comment

Employees have the right to make public comment and publicly debate political and social issues as a member of the community. ‘Public comment’ includes public speaking engagements, comments on radio and television or in letters to newspapers and expressing views in books, journals or notices, on internet sites (including social media) or in any other circumstances where it is expected that the comments will spread to the community at large.

NSW Treasury employees must, however, make it clear that their comments are made in a private capacity and do not represent the official view of NSW Treasury, the government sector or the Government. Employees must not comment publicly on matters where such comment could give rise to a real or perceived conflict of interest between your work and personal interests. Employees should only make official comments if authorised to do so and direct enquiries to the Treasurer’s Office.

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5.3 Speaking engagements

Employees must obtain the approval of the relevant Deputy Secretary or the Secretary prior to accepting a speaking engagement relating to NSW Treasury activities with professional, educational and community groups.

Any fee received must be paid into an appropriate NSW Treasury revenue account and not retained by the employee.

5.4 Secondary employment

The duties of an employee's NSW Treasury job must always come first. An employee may engage in other paid employment outside their official duties provided certain conditions are met and that they have prior approval to do so.

The work should not arise from or interfere with the employee's work at NSW Treasury and should be done outside working hours. The employee must carefully consider whether the organisation offering them secondary employment may adversely affect the performance of their public duties and responsibilities or give rise to a conflict of interest.

Employees seeking to engage in private employment, or to significantly vary an existing approval, should submit a [Secondary Employment Application Form](#) to their manager for approval by the relevant delegate – see the [Delegations Manual](#). Approvals are to be placed on the employee's personal file.

While contractors, casuals and part time employees are not required to obtain approval for employment performed outside their contracted work hours, they must however ensure that no potential conflict of interest or adverse effect on the NSW Treasury role exists. These factors should also apply to employees considering unpaid (voluntary) employment.

5.5 Post separation employment

An employee should not use their position to obtain opportunities for future employment in a way that would cast doubt on their integrity, the integrity of NSW Treasury or the public sector generally.

An employee should not allow themselves or their work to be influenced by plans for, or offers of employment outside NSW Treasury. If this occurs, then there is a conflict of interest and their integrity, the integrity of NSW Treasury and the public sector is at risk.

Former employees should not use or take advantage of confidential information gained in the course of their official duties.

5.6 Political participation

An employee who is active in any political party or a representative for a political party, cause or movement, must be especially careful about the possibility of conflicts of interest with the duties of their position in NSW Treasury.

The employee must ensure that they are always able to serve the government in an apolitical, non-partisan manner. A person who becomes aware of a potential conflict must immediately inform their Director, Executive Director or Deputy Secretary.

At the same time, employees should not be required to perform duties that are of a political rather than public sector nature. If an employee considers that a duty is substantially political, they should discuss it with their Director, Executive Director or Deputy Secretary.

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5.7 Gifts and benefits

A gift or benefit is anything that is offered to a public sector employee in the course of their work, apart from their normal employment entitlements.

Gifts and benefits, including hospitality, should not be accepted by an employee if they are given with the intention of making them change how they do their work, or if other people could reasonably believe they were intended for that purpose. Soliciting personal gifts or benefits is strictly prohibited in all circumstances.

Token gifts and benefits may be accepted if they are not likely to be seen as compromising the employee or the department. NSW Treasury's [Gifts and Benefits](#) policy (TIPP5.8) outlines our responsibilities and procedures to follow, including declaring in the NSW Treasury register of gifts and benefits.

5.8 Use of facilities and equipment

NSW Treasury employees must be efficient, economical and ethical in their use and management of public resources. Reasonable and limited personal use is permitted, provided it is done in the employee's own time, does not affect the performance of any employee, does not benefit the employee or other person financially, involves minimal cost to the department and permission is gained prior to taking any equipment off site.

NSW Treasury's [Use of Communication Devices Policy](#) deals with the proper use of devices such as telephones, computers, email and internet. These are provided for business purposes and their use must be lawful, appropriate and ethical. Making or sending fraudulent, unlawful or abusive information, calls or messages is prohibited. This includes using facilities in any way that:

- is misleading or deceptive
- could damage NSW Treasury's reputation
- could result in victimisation, harassment or vilification
- is offensive, obscene, threatening or defamatory e.g. to view pornography
- violates Australian or State regulations or laws, including 'computer hacking'
- is intended to have a destructive effect on storage, processing or communications network facilities.

5.9 Travel

When travelling on official business, seeking or accepting frequent flyer points for your personal use is not permitted. Corporate mobile phones, Purchasing Cards and CabCharge facilities provided for official travel may only be used for work purposes.

Refer to NSW Treasury's policies [Cabcharge Cards and Taxi eTickets](#) and [Use of Treasury Purchasing Cards](#).

5.10 Drugs, alcohol and tobacco

While at work employees must not be in possession of a drug or substance that is illegal to possess or distribute. Employees are not permitted to be in the workplace or conduct business on behalf of the department if under the influence of alcohol or other drugs that are likely to adversely affect their ability to do their job or may pose a risk to themselves, their colleagues or members of the public.

'Workplace' includes off-site areas where work is performed and government vehicles.

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‘Under the influence’ is defined as an obvious state of disturbance to one’s physical and/or mental faculties that impairs performance, or that may pose a risk to the employee or other employees or members of the public.

Smoking in any NSW Treasury building, or enclosed area is not permitted ([section 6A](#) of the *Smoke-free Environment Act 2000* bans smoking within 4 metres of a pedestrian access point to a public building).

5.11 Work health and safety

NSW Treasury is committed to protecting the health and safety of all its employees and has obligations to do so under the [Work Health and Safety Act 2011](#). NSW Treasury employees must seek to understand and follow all organisational Work Health and Safety (WHS) requirements.

While at work, all employees must take care of their health and safety and the health and safety of other people in the workplace. ‘Health’ includes psychological health as well as physical health.

Managers at all levels have a responsibility to promote and maintain the health and safety of all persons in the workplace. All employees must comply with any reasonable direction from management and cooperate to ensure resolution of any WHS issues. Any real or perceived hazard must be reported to a manager.

Refer to NSW Treasury’s [WHS portal](#).

5.12 Bullying and harassment

NSW Treasury promotes a healthy and safe work environment that is free from bullying and harassment. All employees have a right to be treated with courtesy and respect.

All employees have responsibilities in preventing and eliminating bullying and harassment under the [Work Health and Safety Act 2011](#) and the [Anti-Discrimination Act 1977](#).

Any reports of bullying or harassment will be treated seriously and will act upon in accordance with NSW Treasury’s [Prevention and Management of Bullying and Harassment](#) policy.

Bullying is repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety to those who experience or witness it. Examples include:

- offensive language or comments
- unjustified criticism
- deliberately excluding someone from workplace activities
- withholding information that is vital for workers to perform effectively.

Bullying does not include reasonable management action carried out in a reasonable manner.

Reasonable management action may include:

- performance management processes
- disciplinary action for misconduct
- informing an employee about unsatisfactory work performance or inappropriate behaviour
- asking an employee to perform reasonable duties within the scope of their role.

Harassment is defined as any unwelcome behavior that offends, humiliates or intimidates a person because of their sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status or carer's responsibilities.

Employees who believe that they or a colleague are being bullied or harassed at work may contact the manager in the first instance, Human Resources or a senior executive.

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5.13 Discrimination

NSW and Commonwealth legislation protects people from discrimination on the grounds of their sex; gender identity; sexual orientation; marital, parental or carer status; pregnancy; age; disability; race; and political or religious belief.

If you believe there is discrimination at work, contact your manager in the first instance, Human Resources or a senior executive. Refer to the [Anti-Discrimination Board](#).

5.14 Privacy and personal information

Employees need to be aware of and comply with the [Privacy and Personal Information Protection Act 1998](#). Particular care must be taken with the collection, storage, use and disclosure of personal information in order to protect the privacy of individuals.

Employees must not use or disclose personal information, for a purpose other than that for which it was collected, without obtaining consent from the person to whom the information relates.

The [Privacy and Personal Information Protection Act 1998](#) also contains criminal sanctions for the unauthorised use and disclosure of personal information by employees.

Employees must not reveal personal information such as home addresses or telephone numbers to enquirers, even when they claim to be a relative or friend. You should offer to take the enquirer's details and pass them on to the person concerned.

Refer to NSW Treasury's [Privacy Management Plan & Guidelines](#) and the [Information and Privacy Commission](#).

5.15 Record keeping

In accordance with the [State Records Act 1998](#), all employees have a responsibility to create and maintain full and accurate records of your activities, decisions and other business transactions, to capture records into official records systems, and not to destroy records without appropriate authority. Managers have a responsibility to ensure that employees reporting to them comply with their records management obligations.

Refer to NSW Treasury's [Records Management Policy](#) and related procedure documents, State Records Authority, [Recordkeeping in the NSW public sector](#).

5.16 Tendering for and procuring goods and services

When purchasing goods and services for the department, you must follow corporate policies and procedures. You are responsible for understanding the procedures that apply to the type of procurement you are undertaking on behalf of NSW Treasury. For advice and assistance, contact the Chief Financial Officer in Corporate.

Refer to NSW Treasury's [Procurement Policy](#), [Consultant and Contractor Policy](#) and the [Delegations manual](#).

5.17 Disclosure of criminal charges, convictions and bankruptcy

All NSW Treasury employees are required by law to immediately notify the Secretary in writing via Human Resources if you have been charged with an offence with a possible penalty of imprisonment for 12 months or more, or if you have been convicted of any such criminal offence. Failure to do so may result in formal action. If you are facing charges where the penalty is less than 12 months imprisonment, the charge should only be reported if it is possibly connected to, or has a bearing on, your employment with NSW Treasury.

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You are to immediately notify the Secretary in writing via Human Resources if you:

- become bankrupt; or
- make a composition, arrangement or assignment for the benefit of creditors.

Action taken by NSW Treasury, if any, will depend on the nature/circumstances of the situation, its relevance to your work and any mitigating factors.

If unsure, employees are advised to contact Human Resources to discuss the matter in confidence.

6. Corruption, maladministration, waste and Government information contravention

NSW Treasury employees are encouraged to report any suspected corruption, maladministration, substantial waste and government information contravention. Disclosures can be made to the Secretary via the Chief Operating Officer. A disclosure may also be made to the Independent Commission Against Corruption concerning corrupt conduct, the Ombudsman concerning maladministration, the Auditor-General concerning substantial waste of public resources, or the Information Commissioner concerning government information contravention.

The [Public Interest Disclosures Act 1994](#) provides protection against reprisals for staff members who report wrongdoing (note: the disclosure must be made in accordance with the provisions of the Act).

Refer to NSW Treasury's [Public interest disclosures internal reporting policy](#).

6.1 Corrupt conduct

Corrupt conduct is conduct of any person (public employee or not) that adversely affects the honest or impartial exercise of official functions by any public official or authority. Examples of corrupt conduct may include:

- providing a contractor with work in return for a personal benefit
- theft and misappropriation of departmental material or financial resources
- offering or accepting bribes, commissions or secret payments to provide unfair advantage to contractors or particular clients
- accepting a personal gift or benefit from a client in return for providing services
- partiality (i.e. bias)
- breach of trust (i.e. misuse of your position)
- fraud and attempts at fraud
- forgery, and making false or fraudulent claims (e.g. time-sheets, expenses, vehicle usage log and creating false evidence)
- misuse or unauthorised disclosure of information held or maintained by the department for personal gain.

The Secretary has a responsibility under [section 11](#) of the *Independent Commission Against Corruption Act 1988* to report suspected corruption.

Refer to NSW Treasury's [Fraud and Corruption Prevention](#) policy, [Fraud & Corruption Control Framework](#) and the [ICAC](#).

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6.2 Fraud

Fraud is any practice that involves the use of deceit; confers some form of financial benefit upon the alleged offender (either directly or indirectly); and results in some form of material loss to the entity.

Refer to NSW Treasury's [Fraud and Corruption Prevention](#) policy, [Fraud & Corruption Control Framework](#) and the [Audit Office of NSW](#).

6.3 Maladministration

Maladministration involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory or based on improper motives.

The following examples could be considered maladministration:

- approving allowances for employees that they are not entitled to
- unauthorised disclosures of confidential information
- making decisions without authority
- serious delays in making a decision or taking action
- applying a policy inflexibly without regard to the merits of an individual case
- decisions or actions not justified by any evidence or that are unreasonable
- abuses of power, intimidation or harassment
- inconsistent application of a law, policy or practices when there is no reasonable, justifiable or appropriate reason to do so.

Refer to the [NSW Ombudsman](#).

6.4 Serious and substantial waste

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources which results in a loss/wastage of public funds or resources. Less serious forms of waste are also to be avoided. For example, use black and white and/or double sided printing, where possible, and switch off computers at the end of the day and over weekends.

Refer to the [Audit Office of NSW](#).

6.5 Government information contravention

Government information contravention means a failure to carry out the functions required by the [Government Information \(Public Access\) Act 2009](#) (GIPA Act). Under this Act, citizens have a right to access most information held by the NSW Government to foster a government that is open, accountable, fair and effective. If you receive a GIPA enquiry, please direct the enquirer to the Information & Parliamentary Coordinator, Executive and Ministerial Services, at gipa@treasury.nsw.gov.au or 9228 4611.

Refer to NSW Treasury's [Proactive Release Procedure](#), [Procedure for managing formal access requests under the GIPA Act](#) and the [Information and Privacy Commission](#).

7. Further reference

The Public Service Commission has developed [Behaving Ethically](#) to help government sector employees better understand their ethical obligations.

Version	Date	Name	Details of changes made to TPD
1	22/06/2015	Francine Cutler	Code modified to comply with Public Service Commissioner's Direction No. 1, 2015.
2	14/01/2016	Karen Somers	Edit to update hyperlinks to revised TIPP 5.8 Gifts and Benefits policy

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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 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 and the law?

Implement

Implement the decision in ways that are consistent with the objectives, values and principles of the Ethical Framework.

Review and identify opportunities for continuous improvement.

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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 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.

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T14/04573	Secretary	29/06/2015	14/01/2016	01/07/2017