

## Code of Ethical Conduct

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## 1 Purpose

The Code of Ethical Conduct defines standards of conduct, ethics and behaviour required of all individuals engaged by the department, and a process for managing non-compliance.

The code is to be read and complied with, in conjunction with the Code of Ethics and Conduct for NSW Government Sector Employees and the supplementary Code of Ethical Conduct, the Government Sector Employment Act 2013 and any other legislative provisions underpinning work undertaken by any individual engaged by the department.

Employees must ensure they are aware of all legislation and policy that is relevant to their role, regardless of whether it is referred to in this Code. Employees cannot excuse their misconduct or negligence by claiming ignorance, where they have failed to acquaint themselves with all the relevant legislative and policy obligations for their roles.

## 2 Definitions

Term	Definition
Bullying	Workplace bullying is repeated and unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety ( <a href="#">Work, Health and Safety Act (NSW) 2011</a> ).
Bequest	Something left to a person in a will (for the purposes of this policy, the term bequest relates to those which occur due to the working relationship between the employee receiving the bequest and those giving it such as a client, supported person or their families).
Client	Client is used to describe any individual, group, child or young person who is involved in a voluntary or involuntary capacity with services or programs provided by DCJ.  The term client used in this policy includes but is not limited to employee, offender, inmate, person of a prescribed class, detainee, person with a disability, child or young person their families or members of the public.
Conduct	Conduct refers to the behaviour or actions of an employee. If it breaches legislation, the Department's Code of Ethical Conduct, or other policies or procedures, it involves misconduct (as defined below).
Contraband	Any material thing described in the <i>Crimes (Administration of Sentences) Act 1999</i> which a person: <ul style="list-style-type: none"> <li>is prohibited to take into or out of a place of detention without lawful authority; or</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>• must not have in his or her possession in a place of detention without a reasonable excuse</li> </ul> <p>This extends to trafficking in alcohol, drugs or other things as described in section 37B of the <i>Children (Detention Centres) Act 1987</i>.</p>
Discrimination	Occurs where a person is treated unfairly on grounds including (but not limited to their sex, pregnancy, race, age, marital and domestic status, religion, ethno-religious origin, sexual orientation, carer responsibilities, disability, gender identity or intersex status).
Dignity of risk	Dignity of risk recognises that clients have a right to make their own decisions and are entitled to take reasonable risks in their lives. Clients have a right to learn from life situations even if, with support, this involves some risk.
Duty of care	Duty of care means that all employees have a duty of care to maintain and ensure a safe work environment. All employees have a duty of care to clients and colleagues. Duty of care can be physical, emotional or financial; it is the obligation to take reasonable care to make sure that nobody in the workplace is harmed. 'Reasonable' means the degree of care that could be expected from a competent and skilled person in the particular role.
Harassment	<p>Harassment is any form of behaviour that a person does not want and offends, humiliates or intimidates the person. Targets the person because of sex, pregnancy, race, age, marital or domestic status, sexual orientation, disability, gender identity or intersex status or carers responsibilities or other grounds</p> <p>Harassment can include, but is not limited to:</p> <ul style="list-style-type: none"> <li>• telling insulting jokes about particular racial groups</li> <li>• sending explicit or sexually suggestive emails or text messages</li> <li>• displaying racially offensive, pornographic posters or screen savers</li> <li>• derogatory comments or taunts about someone's race</li> <li>• asking intrusive comments about someone's personal life.</li> </ul>
Manager/supervisor	Applies to any role where management and supervision of employees is an inherent requirement (including, but not limited to, director, governor, registrar, team leader, officer-in-charge, manager of security, unit leader)
Misconduct	Misconduct involves improper, wrong or potentially unlawful conduct that is outside of policy, directions or the law. It usually involves an allegation of an employee's act or omission arising from negligence or with intent. Examples include assault, theft, blatant disregard for policies, or other serious actions that may require investigation. Misconduct is dealt with in section 69 of the Government Sector Employment Act 2013.

Term	Definition
Professional standards	<p>The defined principles of conduct and behaviour expected of all individuals engaged by the department are referred to as professional standards.</p> <p>Within the department the Conduct and Professional Standards Unit and the Professional Standards Branch (for Corrective Services NSW employees) are delegated with the function to manage circumstances of non-compliance.</p> <p>For the purpose of the code, the above-mentioned are noted as collectively as professional standards.</p>
Sexual harassment	Under Section 22A of the <i>Anti-Discrimination Act 1977</i> (NSW), sexual harassment is any form of sexually related behaviour that a person does not want and, in the circumstances, a reasonable person would have expected that person to be offended, humiliated or intimidated.
Workplace	Any place where work is performed, including departmental vehicles and off-site areas, private residences.
Gift	An item of value in addition to normal entitlements obtained by an employee through their employment e.g. meals, seats or access to corporate boxes at entertainment or sporting events, upgrades on flight. It can include an opportunity provided to an employee by a person or organisation, such as an offer to attend a function or conference.
Benefit	A benefit may influence, or be perceived to have influenced, the relationship between the employee and the person providing the benefit.
Performance	An assessment of how an employee is performing their role according to their role description and required standards.
Prohibited person	In NSW an individual must have a working with children clearance to work in child related work. An individual who has been charged with or convicted of a <i>Child Protection (Working with Children) Act 2012</i> , Schedule 2 disqualifying offences may be described as a prohibited person and is unable to engage in any child related work.

### 3 Scope

The code applies to all DCJ employees within the Stronger Communities Cluster, including senior executives. By accepting employment with the department, employees must be aware of, and comply, with this code at all times. It is the responsibility of an employee to ensure they have read and understood the code.

Contractors, consultants, suppliers, volunteers and students (includes apprentices/trainees/those on work experience) must also be made aware of this code, and the requirement for them to act in accordance with it, for the period of their engagement. Employees who engage or manage external consultants, contractors,

suppliers, volunteers or students are responsible for referring this to the appropriate employer and/or respective organisation to address concerns regarding their conduct, which may be considered contrary to the code. This code should be read in conjunction with other codes of professional conduct or practice which apply to employees given their professional qualifications or roles within the department.

This code does not apply to Community Services Authorised Carers, who are covered by the Code of Conduct for Authorised Foster, Relative and Kinship Carers.

## 4 Policy statement

The prime responsibility of any individual engaged by the department is to place the public interest above their own personal interests and, at all times, to demonstrate the core values of the public sector and the department:

### **Service**

- Provide services fairly with a focus on client 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.

### **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.

### **Accountability**

- Recruit and promote workers 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.

### **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.

### **Respect**

- Treat colleagues, clients & their families and members of the public with respect and dignity, fairness and consistency.
- Work collaboratively with their colleagues.
- Discrimination, bullying or harassment will not be tolerated by the department in any form, and may constitute misconduct.

This code does not attempt to provide a detailed and exhaustive list of what to do in every circumstance. Rather, it provides a framework to assist employees in determining an appropriate course of action when faced with ethical issues, or making professional decisions.

## **5 Role and responsibilities**

While at work all employees are required to focus on performing their duties to required standards and complying with the requirements of any applicable Acts, rules, regulations, industrial instruments and departmental policies and procedures.

### **5.1 Employees are required to:**

- comply with this code
- seek advice and guidance from their manager/supervisor on issues relating to the code
- confirm their understanding of and commitment to the code on an annual basis
- be alert for possible breaches of the Code and discuss them with their manager/supervisor or Professional Standards at the earliest opportunity

### **5.2 Managers and supervisors are required to:**

- ensure compliance with this code by all employees or those who work for the department
- model acceptable standards of behaviour and demonstrate high ethical standards at all times
- provide advice and guidance to employees on issues relating to the code
- take appropriate action in relation to suspected breaches of the code, including prompt consultation with Senior Executives or Professional Standards.

### 5.3 Senior executives or delegated roles are required to:

- ensure employees are aware of and understand their obligations in relation to the code
- model acceptable standards of behaviour and demonstrate high ethical standards at all times
- refer suspected non-compliance to Professional Standards.

### 5.4 Professional Standards is required to:

- collaborate to monitor and maintain the code
- provide oversight of misconduct matters
- provide advice, guidance and support to the department.

## 6 Principles of professional behaviour

Employees are responsible for ensuring they are aware of the department's policies, procedures, guidelines and delegations, particularly those which may be applicable to their work.

Employees must also be familiar with the legislation and/or regulations under which they are employed, as these may specify requirements with which they need to comply. A breach of these requirements may constitute a breach of the code.

Employees are required to comply with all:

- relevant legislation, policies and procedures
- reasonable and lawful instructions and/or local directions from management
- directions, administrative circulars, instructions and memorandums.

Employees are required to act:

- within their delegations
- honestly, truthfully, ethically and responsibly
- in good faith in providing advice or service that is honest, non-discriminatory, impartial, and comprehensive, irrespective of their personal views.

Employees are required to:

- perform their duties professionally and conscientiously, to the best of their ability, being accountable for their performance
- work collaboratively with their colleagues
- be mindful of their duty of care to ensure safety of themselves and others around them



- be aware that conduct which may have potential to damage the reputation of the department could lead to further action, even if the conduct may have been in a private capacity
- exercise care to ensure their actions (or, in some cases, inaction) does not prejudice operations, security or reputation of the department.

## **7 Treating people with dignity and respect**

All employees have the right to be treated with dignity and respect. It is the responsibility of each employee to ensure this occurs. Employees are to treat colleagues, clients, their families and members of the public with equal respect and fairness.

Discrimination, bullying or harassment and/or other inappropriate behaviour will not be tolerated by the department in any form, and may constitute misconduct. Inmates, offenders and detainees are clients of the Department. Employees must remain fair and impartial at all times and must demonstrate respect and courtesy towards inmates, offenders and detainees, even in difficult and challenging circumstances. Acts of intimidation, harassment, insults or abuse towards any Departmental client is a serious breach of this Code which may result in misconduct action.

When interacting with others, employees must:

- act with impartiality, courtesy, promptness and fairness
- respect the rights and dignity of others
- use courteous, respectful and appropriate language at all times
- be responsive in dealing with all individuals
- not discriminate against, bully or harass any person in their dealings with them
- maintain confidentiality and privacy
- manage work and personal relationships so that professional boundaries are maintained
- declare to their manager, or another appropriate person, any potential, perceived or actual conflicts of interest between their professional and personal interests

## **8 Professional behaviour and ethical decision making**

### **8.1 Conflicts of interest**

It is expected that conflicts of interest will arise from time to time. Conflicts of interest can be actual, potential or perceived, and exist when there is a chance of an employee being influenced, or being perceived to be influenced, by a private interest when performing their official duties. Undeclared conflicts of interest may lead to biased decision making, which could constitute corrupt conduct.

Employees must recognise and disclose any actual, potential, or perceived conflict of interest to their supervisor/manager or, where appropriate, a more senior manager. An employee must not knowingly make decisions, disclose information or take any other action that may result in, or appear to result in, any private benefit to the employee. In particular, departmental employees must never derive any personal benefit from the skills or labour of the Department's clients. This is particularly important in relation to inmates, offenders and juvenile detainees.

The department's Conflict of Interest Policy and Procedure provides guidance on identifying and managing conflicts of interest.

## **8.2 Gifts, benefits and bequests**

Employees must not seek personal benefit or reward for the work they undertake or make improper use of their work, status, power or authority to gain personal benefit. Gifts, benefits and bequests must be carefully dealt with. In general, employees should not accept gifts and benefits as this can result in perceptions of bias, conflicts of interest, or in some cases corrupt conduct.

Employees must not accept gifts and benefits intended to, or likely to, influence the way they carry out their duties. Employees must not accept money under any circumstances, and must report any offers of money immediately to the Departmental Fraud Control Officer.

For more information regarding gifts and benefits, please refer to the department's policies.

## **8.3 Child protection**

Employees who work with, or supervise those who work with, children and young people are mandatory reporters. If in the conduct of their work these employees identify a child or young person they consider to be at risk of significant harm, they are required to immediately report this to the Child Protection Helpline.

## **8.4 Working with children**

Employees who work with children are required to understand and comply with child protection legislation. Any person working with children or deemed as child related work must hold a current Working with Children Check. Any volunteer or student working with children must also sign a volunteer/student declaration, prior to commencing with the department.

Pursuant to the Children's Guardian Act 2019, employees who work with children must, as soon as practicable, report to a senior executive if:

- they, or a colleague, are convicted of reportable conduct involving children
- they or a colleague are subject of an allegation of reportable conduct involving children (i.e. a person under the age of 18 years).

Employees working with children must also report to a senior executive if an Apprehended Violence Order has been issued against them, where a child is recorded as requiring protection from them. Similarly, employees must report to a senior executive any child protection notification which relates to their conduct, and meets the definition of reportable conduct.

It is an offence for a prohibited person to apply for, or attempt to obtain, undertake, or remain in, child-related employment in any capacity, whether paid, volunteering, or self-employed.

## **8.5 Reportable Conduct**

The Department must notify the Office of the Children's Guardian about certain allegations or incidents involving DCJ employees. The Office of the Children's Guardian Reportable Conduct Scheme is set up to monitor the reporting and investigation of allegations involving child protection.

Reportable conduct allegations relate to children and young people in the direct care of employees.

Employees are required to report any allegation in relation to children to the Child Protection Helpline on 132 111.

## **8.6 Secondary employment and unpaid work**

All fulltime employees are required to apply for permission to engage in secondary work, other paid work or multiple employment. Part time and casual employees are required to notify the department of engagement in secondary work, other paid work or multiple employment. Refer to the Secondary Employment and Unpaid Work Policy further advice and guidance.

## **8.7 Gambling**

No gambling is permitted by employees in the workplace. Employees must not engage in any gambling relating activities with clients.

Exceptions to gambling may be permitted in limited circumstances for team related and/or social workplace activities.

## **8.8 Contraband**

Employees must not introduce any contraband into a place of incarceration and/or detention.

## **8.9 Use of alcohol, drugs and tobacco**

The department is committed to providing a productive, safe and healthy workplace.

All employees must:

- not attend work when their capacity to perform their duties is affected by alcohol, illegal drugs or other restricted substances
- not consume at, or bring into the workplace any illegal drugs or other restricted substances
- not consume at, or bring into, the workplace any alcohol, unless approved by an Executive Director in limited circumstances for team related and/or social workplace activities
- not endanger their own safety, or the safety of any other person in the workplace, by consuming alcohol, illegal drugs or other restricted substances
- not have illegal drugs or any drug-associated items in their possession at any time, either at work or outside of work, except when contraband has been seized from inmates or detainees, and recorded and secured in accordance with departmental policies
- notify their manager/supervisor and discuss suitable alternative work arrangements if they are required to take prescribed or over-the-counter medication that may affect their work performance, or impact on the health and safety of anyone in the workplace
- not give clients, colleagues or visitors alcohol, illegal drugs or other restricted substances, or encourage or condone their use
- take action to resolve any alcohol or other drug-related problems that they experience
- consult their manager/supervisor immediately if they suspect that any employee in the workplace is affected by alcohol or by drugs of any kind.

Smoking is prohibited within all departmental buildings and vehicles, as well as within the grounds of any workplace owned or leased by the department. Smoking is permitted in certain locations designated by an authorised senior executive and / or delegated officer.

Youth Justice and Corrective Services NSW have specific requirements relating to alcohol and other drugs. Employees should refer to divisional specific information, inclusive of the Youth Justice Safe Operating Procedure: Alcohol and the Corrective Services NSW Alcohol & Other Drugs Policy & Procedure.

## **8.10 Conduct while off duty**

All employees must, even when off duty, act in accordance with the law and this code. Employees must ensure that they do not bring discredit to themselves as private citizens or to the department, and that they model exemplary behaviour and act as a positive influence in the community.

Employees should be aware that unlawful or unprofessional conduct, even in a private capacity, may damage, or have potential to damage, the reputation of the

department and impact their ability to perform their role, therefore, may constitute misconduct and attract action by the department in accordance with section 69(4) of the *Government Sector Employment Act 2013*.

Section 69(1) of the *Government Sector Employment Act 2013* provides that action can be taken for misconduct which occurs when an employee is off duty or before his or her employment.

### **8.11 Record keeping**

In the performance of duties, employees must:

- create and maintain full, accurate, up to date and honest records of their work activities, timesheets, attendance, leave, and other business transactions
- protect the security of the departmental systems and networks
- capture or store records in accordance with the [State Records Act 1998 \(NSW\)](#)
- not disseminate, destroy, mutilate or alter records without appropriate authority
- not search, access or disclose any information maintained by the department without delegation, authority and or legitimate work purpose.

### **8.12 Confidentiality and privacy**

Employees must ensure that personal or sensitive information about themselves, their colleagues or clients remains confidential and private. Employees must always exercise caution and sound judgment in discussing, searching or accessing the personal information of others.

Employees must maintain the confidentiality of all official information and documents which are not publicly available, or which have not been published. The release of, searching for and accessing of information must be with proper authority, within delegation and for legitimate work purpose.

### **8.13 Signatures**

Employees are accountable for any document that they sign or approve. Employees must carefully read all documents they are asked to sign, and must not sign or approve a document which they know to contain false or misleading information.

Employees must only sign their own name, and never permit or encourage anyone to sign a name other than their own. Employees must not act on behalf of another person without their written permission.

### **8.14 Departmental resources**

Whilst at work, an employee must perform their official duties efficiently and economically. Activities unrelated to work that use departmental resources or time are not an efficient use of departmental resources.

Employees must comply with departmental policies and procedures relating to:

- management of finances (including procurement and purchasing)
- use of department motor vehicles
- completion of time and attendance records (where relevant)
- use of department resources and Information and Digital Services systems
- work related electronic communication devices.

The department reserves the right to monitor, audit and view any data stored or transmitted using the department's facilities.

Refer to the department's information management and technology policies and procedures for further information.

### **8.15 Intellectual property**

Departmental reports, speeches, policies, programs, manuals, courses and training resources or other documentation that has been written, developed, or produced by an employee in the course of employment with the department remain the property of the department, not that employee.

Employees must not distribute such material outside the department, nor make use of such material without the written approval of an appropriately delegated manager, whether or not there is any personal gain for the employee.

Reports, journals or articles developed in the course of employment (e.g. university students publishing journal articles) may be considered for publishing subject to appropriate approval being obtained and endorsement at the level of Executive Director.

### **8.16 Personal references**

Employees are not permitted to use department letterhead when writing a personal or character reference for another employee or client that references the personal assessment or opinion of the individual, and not those of the department.

Employees are not permitted to supply references to other employees who are the subject of a current misconduct investigation or criminal prosecution.

## **9 Representing the department**

Employees are frequently required to represent the department in an official capacity. In representing the department employees must ensure they have the appropriate delegation and authorisation to do so, and that they are sufficiently briefed on issues likely to be raised, and the appropriate responses.

As a general rule, employees may only disclose official information that is already in the public domain, and avoid offering personal comment. The provision of information should also be consistent with department and government policy.

Employees who interact with lobbyists must abide by provisions of the M2014-13-NSW Lobbyist Code of Conduct when dealing with lobbyists.

## 9.1 Public comment

In participating in any political, community, personal or online activity, employees must not:

- make any comment where it could be inferred the public comment, although made in a private capacity, is in some way an official comment of the government or of the department
- make any comment that, even though unrelated to their normal duties, conveys the impression that they are not prepared to implement or administer the policies, procedures and guidelines of the department, or the government
- make any comment that could bring the department into disrepute
- participate in private political activities in the work environment
- use the department's resources to assist political, community or personal activities
- use or disclose information obtained through their work at the department to assist their political, community or personal activities
- misrepresent the position of the department on any issue.

Comments made on matters relating 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 permitted under this code, provided that the employee makes clear the comments are about the industrial matters that involve union business and are made in a union capacity, not as an employee, nor on behalf of the department.

Please refer to the department's social media policies and procedures for additional information.

## 9.2 Political and community participation

Employees are free to take part in lawful political activity outside of working hours, provided it does not conflict with their duties. Employees must be mindful that, in their public life, they are required to serve the government of the day in an impartial manner. Where any political activity may create, or has created, a potential, perceived or actual conflict of interest, employees must discuss this with their supervisor/manager immediately.



Special arrangements apply to public sector employees who have been pre-selected as candidates for, or who propose to contest, state or federal elections. Details of these arrangements are issued by the Department of Premier and Cabinet prior to an election.

## **10 Reporting suspected wrongdoing**

### **10.1 Unlawful or criminal conduct**

If an employee is charged by police, receives a court attendance notice in relation to a serious offence, or is declared bankrupt, they must immediately notify their supervisor/manager who should notify Professional Standards as soon as practicable. A serious offence is an offence that is punishable by imprisonment for 12 months or more.

A conviction for a serious offence (or a finding of guilt that does not proceed to conviction) may constitute misconduct, whether or not the offence was committed in the course of employment.

Employees are required to notify their supervisor/manager if they are charged by police for matters which are not deemed a serious offence and/or are subject to an Apprehended Violence Order, in circumstances where the matters may impact and/or impede the performance of the inherent requirements of their role.

### **10.2 Corruption**

Corruption means the conduct of any individual, whether or not an employee, which could adversely affect the honest and impartial exercise of official functions by a public official. It involves improper acts or omissions, improper use of influence or position, or improper use of information. Examples include when an employee improperly uses the knowledge, power or resources of their position for personal gain or the advantage of others, or exercises his or her official functions dishonestly or in a partial manner, such as to cover up wrongdoing

The department will not tolerate any level of corruption. Misconduct action and/or referral for criminal investigation and prosecution will be considered where corruption is identified. The department is committed to enforcing strategies to mitigate risk of opportunities for corrupt conduct to occur.

Further information can be sourced on the [NSW ICAC's](#) website.

### **10.3 Fraud**

Fraud involves dishonestly obtaining a benefit by deception or other means. It is defined in the *NSW Crimes Act 1900* (S192E) as a person who by any deception, dishonestly: (a) obtains property belonging to another, or (b) obtains financial advantage or causes any financial disadvantage, is guilty of an offence of fraud.



## 10.4 Maladministration

Maladministration is conduct, or proposed conduct, in the exercise of a function involving action or inaction of a serious nature, that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory, or based on improper motives. Maladministration is defined in the *Public Interest Disclosures Act 1994*.

For further information can be sourced on the [NSW Ombudsman's](#) website.

## 10.5 Serious and substantial waste of public resources

Serious and substantial waste of public resources is defined by the NSW Auditor-General as that which encompasses 'uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in significant loss or wastage of public funds or resources'. In addressing any complaint of serious or substantial waste, the nature and materiality of the waste is considered.

Further information can be sourced on the [NSW Audit Office's](#) website and the department's Fraud Control Plan.

## 11 Breaches of the code

Employees must report suspected breaches of the code to a manager/supervisor. In circumstances where the manager/supervisor may be implicated in the suspected breach, it must be reported to another manager/supervisor and/or Professional Standards.

Please refer to the department's procedures for managing misconduct.

## 12 Legislative context

This Code does not stand alone and should be read in conjunction with the legislation and departmental policy and procedures referenced in **Annexure A**.

## 13 Corrective Services NSW additional obligations

There are additional obligations that apply to employees of Corrective Services NSW (CSNSW). These requirements are referenced in **Annexure A**.

## 14 Support and advice

Employees should approach their manager/supervisor for advice and support in relation to this Code. Managers/supervisors and or senior executives may seek advice or support from their People Branch Business Partner or Professional Standards.

## 15 Communication

This policy will be communicated to all employees, under a Secretary's Direction. This Policy will be published on the departmental Intranet and integrated into the departments' Policy Portal.

## 16 Policy review

Professional Standards are responsible for reviewing the Code, where relevant. This will occur in accordance with the policy review schedule, or at other times if warranted, when there is significant new information, or any legislative or organisational change.

Reviews will be completed in consultation with appropriate stakeholders. Feedback comments or suggestions about the Code can be via [ethics@justice.nsw.gov.au](mailto:ethics@justice.nsw.gov.au)

## 17 Related legislation and documents

This code does not stand alone and should be read in conjunction with the following legislation and departmental policy and procedures

### 17.1 Legislation

This code must also be read in conjunction with, but not limited to, the listed legislation:

- [Anti-Discrimination Act \(NSW\) 1977;](#)
- [Children and Young Persons \(Care and Protection\) Act \(NSW\) 1998;](#)
- [Children \(Community Service Orders\) Act \(NSW\) 1987;](#)
- [Children \(Criminal Proceedings\) Act \(NSW\) 1987;](#)
- [Children \(Detention Centres\) Act \(NSW\)1987;](#)
- [Children's Guardian Act 2019](#)
- [Child Protection \(Working with Children\) Act \(NSW\) 2012;](#)
- [Crimes Act \(NSW\)1900;](#)
- [Crimes \(Administration of Sentences\) Act, 1999;](#)
- [Crimes \(Administration of Sentences\) Regulation 2014;](#)
- [Disability Inclusion Act 2014;](#)
- [Government Information \(Public Access\) Act \(NSW\) 2009;](#)
- [Government Sector Employment Act \(NSW\) 2013;](#)
- [Government Sector Employment Regulation \(NSW\) 2014;](#)
- [Government Sector Employment Rules \(NSW\) 2014;](#)

- [Health Records and Information Privacy Act 2002](#);
- [Housing Act 2001](#);
- [Independent Commission Against Corruption Act \(NSW\) 1988](#);
- [Industrial Relations Act \(NSW\) 1996](#);
- [Lobbying of Government Officials Act 2011](#);
- [Ombudsman Act \(NSW\) 1974](#);
- [Privacy and Personal Information Protection Act \(NSW\) 1998](#);
- [Public Interest Disclosures Act \(NSW\) 1994](#);
- [Public Finance and Audit Act \(NSW\) 1983](#);
- [Public Works and Procurement Act 1912](#);
- [State Records Act \(NSW\) 1998](#);
- [Workers Compensation Act \(NSW\) 1987](#);
- [Work Health and Safety Act \(NSW\) 2011](#);
- [Work Health and Safety Regulation \(NSW\) 2011](#);
- [Workplace Injury Management and Workers Compensation Act \(NSW\) 1998](#);
- [Young Offenders Act \(NSW\) 1997](#).

Other legislation, such as the [Health Administration Act \(NSW\) 1982](#) the [Psychologists Act \(NSW\) 2001](#) may be relevant to particular professional areas of responsibility. Practising professionals who are employees of the department must understand and comply with legislation, codes of conduct and/or codes of practice that relate to their professional work.

## **17.2 Policies and procedures**

This code must also be read in conjunction with, but not limited to, the following departmental policies, procedures and guidelines:

- [Bullying and Harassment Policy](#)
- [Managing Workplace Issues Procedure](#)
- [Corrective Services NSW Alcohol and Other Drugs Policy and Procedure](#)
- [Secondary Employment and Unpaid Work Policy and Procedure](#)
- [Conflicts of Interest Policy and Procedure](#)
- [CSNSW Declaration of Contact with Offenders](#)

- the department's gifts and benefits policies and procedures, which are available in the [Corporate Policy Library](#)
- the department's information management and technology policies and procedures, which are available in the [Corporate Policy Library](#)
- the department's social media policies and procedures, which are available in the [Corporate Policy Library](#)
- the department's procedures for managing misconduct, which are available in the [Corporate Policy Library](#)

Employees should also refer to any other policies and procedures or recognised local practices which may apply in the division where they work. The policy list will be updated periodically in keeping with new policies and procedures as they are approved.

## **18 Annexure A – Corrective Services NSW**

The DCJ Code of Ethical Conduct describes the standards of conduct, ethics and behaviour required of all DCJ employees. The following additional obligations apply to employees of Corrective Services NSW (CSNSW).

### **18.1 Professional boundaries with offenders**

All people have the right to be treated fairly. The treatment of offenders must encourage their self-respect, sense of personal responsibility and pro-social behaviour.

Employees must always be impartial, consistent and fair in their contact and interaction with offenders, whether in a correctional facility or in a community setting. Employees must act with integrity and compassion towards offenders, without bias, prejudice or discrimination.

Employees who work with offenders must be professional and transparent at all times and must not overstep boundaries established for the performance of their role.

Employees should be aware of the dangers that can arise from inappropriate contact with offenders, including manipulation, exploitation or compromise. This includes contact through social networking sites on the internet, such as Facebook, Instagram, Twitter or Snapchat.

Offender Management and Community Offender Services employees often have contact with offenders in both the custodial and community environments. This may also involve contact with an offender's friends and family. Employees must be professional and discreet in all contact with offenders, their families and friends in the community.

CSNSW recognises that employees may face additional pressures or challenges when managing offenders, or in their contact with community members, as a result of a shared linguistic, cultural, indigenous, ethnic, religious or other background. Where this is or may be perceived to be an issue, employees must discuss the situation with their supervisor or manager, so that appropriate action can be taken to manage any risk.

## **18.2 Respectful language in the workplace**

Employees have the right to expect that they will be spoken to in a reasonable manner by all other employees, including their superiors. Employees must not use insulting, abusive, obscene or sexualised language to any colleague, offender or visitor to a CSNSW workplace.

Employees who witness such language or behaviour should report it, as it may cause offence, undermine workplace morale, create conflict and mistrust, or constitute harassment.

The use of such language by a senior officer to a subordinate is particularly unacceptable, as senior officers share a duty to promote professional conduct in the workplace and to rectify any unacceptable behaviour.

Offensive language toward offenders is equally unacceptable, as it sets a poor example, it normalises and reinforces such behaviour and it could provoke conflict and retaliation.

## **18.3 Performance of official duties**

All public servants should be mindful that they are providing a service to the NSW community. This service should be of the highest standard and responsive to the community's needs.

The decisions and actions of employees must be reasonable, fair, justifiable, appropriate to the circumstances and based on careful consideration of the relevant facts. Employees must create and keep relevant records, be prepared to explain their decisions, and communicate their decisions clearly and promptly to those who need to know.

## **18.4 Responsibilities of positions and post duties**

Every position in CSNSW has specific duties and responsibilities. Managers must ensure that their employees clearly understand the duties and responsibilities of their positions. Managers must periodically review their employees' work performance and must provide their employees with constructive feedback.

Employees must comply with every direction or instruction they receive from their superiors that is lawful and reasonable. A failure to do so may result in sanctions, including termination of employment.

If employees believe a superior's direction or instruction is unlawful or unreasonable, they should seek guidance from a more senior officer, or consult the CSNSW Professional Standards Branch. Employees must never obey an instruction or direction that they know involves an unlawful act.

Employees must remain vigilant at all times, devoting the whole of their attention to the performance of their duties.

Employees must not prevent, obstruct or hinder another employee's performance of their duties, nor do anything that will distract another employee from the performance of their duties.

DCJ and CSNSW have established policies and procedures to ensure their operations are lawful, effective and efficient. If employees encounter operational difficulties with current policies or procedures, they must discuss the issue with their supervisor or manager, so that the issue can be resolved as quickly as possible. Employees must not disregard DCJ and CSNSW policies and procedures.

### **18.5 Misleading statements and official documentation**

Strong sanctions can apply to employees who knowingly make false or misleading statements or entries in official records, or when providing verbal information. This may include prosecution for criminal offences.

Employees must be honest and truthful at all times. Employees must not make any verbal or written statement they know, or ought reasonably to know, to be false or misleading. Employees must not destroy or mutilate, or alter or erase any entry in, an official document.

Employees must ensure that all official statements and records are truthful and accurate to the best of their knowledge. This includes (but is not limited to) timesheets, notebook entries, official reports, logbooks, computer entries, leave forms, overtime claims, vehicle usage records, reimbursement requests, expenditure claims and any other records of their business transactions and activities.

Because facts may be challenged and memory may fail over time, it is important to record information as soon as possible after the event.

### **18.6 Conflicts of interest**

Employees must always act in the public interest, rather than their own interest. Employees must not seek to advantage themselves at the expense of CSNSW and they must also seek to prevent any perception by other people that they are doing so.

A conflict of interest exists or has the potential to exist when an employee has personal interests that could improperly influence the performance of their official duties. In these situations, the employee may have divided loyalties and be tempted

to act with self-interest. If other people know about the situation, they may perceive that a conflict of interest exists, even when the employee is acting ethically.

An actual conflict of interest may lead to corrupt conduct. A potential conflict of interest may become a serious issue if it is not identified and managed. A perceived conflict of interest may undermine public confidence in the integrity of CSNSW and the employee.

The DCJ Conflicts of Interest Policy and Procedure describes the obligations of employees when they have an actual conflict of interest. Due to the special role of CSNSW employees, they must also report potential and perceived conflicts of interest.

Examples can include:

- situations where a relative, friend or associate has a personal or financial interest in a work-related matter
- social or personal contact with, or a family connection to, an offender
- offers or receipt of gifts or other benefits
- offers to buy items from offenders or sell items to them
- other paid employment
- responsibility for approving or authorising an action or expenditure in which the employee has a personal interest.

Employees must report any actual, potential or perceived conflicts of interest in writing to their manager immediately, or on the next occasion the employee attends duty.

Managers must then:

- assess the report and decide what action is required to reduce the risk to CSNSW and to affected employees
- initiate that action and create appropriate records
- ensure that any actual conflict of interest is reported in accordance with the DCJ Conflicts of Interest Policy.

## **18.7 Gifts and benefits**

All employees should perform their duties without demand or expectation of any gift, benefit or reward. The soliciting of personal gifts or benefits by an employee of CSNSW is strictly prohibited.

You should therefore:

- never solicit gifts or benefits
- never lend, gift or offer any money, goods or benefits



- avoid accepting or borrowing gifts or benefits, in particular money
- always consider the value and purpose of a gift or benefit before making any decisions about offering or accepting it
- immediately declare any offer of a gift or benefit to your supervisor.

In most circumstances, you will be expected to refuse or politely decline any offer of a gift or benefit that is offered to you in relation to any duty, responsibility or function you have as an employee.

For more information regarding gifts and benefits please refer to the department's policies.

## **18.8 Contact with offenders**

It is inevitable that some employees of CSNSW will have social or off-duty contact with offenders to whom they are related, or with whom they are otherwise involved through community, social or sporting activities. This may create actual, potential or perceived conflicts of interest.

To maintain public confidence in the integrity of CSNSW and the employee concerned, all current and former personal relationships and social or off-duty contact with offenders must be disclosed to the employee's supervisor or manager. This prevents incorrect assumptions about the nature of the contact and it allows any actual, potential or perceived risks to be managed.

Reports must be made in accordance with the [CSNSW Contact with Offender Policy \(2012\)](#), using the [CSNSW Declaration of Contact with Offenders](#) form.

Managers must guide and assist the employee by providing written advice/directions about appropriate ways to manage any such contact and by initiating appropriate action to prevent any negative consequences.

Any failure to report such contact, or misrepresenting its nature, is a very serious matter. It may give rise to a presumption of misconduct, leading to further investigation and possible disciplinary action.

## **18.9 Use of offender labour for private purpose**

Employees are prohibited from using the skills and/or work of offenders for any private or personal benefit, whether financial or otherwise.

Employees may purchase inmate art or handiworks through normal commercial channels, at the same prices offered to members of the public, or may purchase goods manufactured by inmates through Corrective Services Industries, at normal commercial rates. However, prior approval must be obtained from a CSNSW senior executive before the transaction takes place.

## **18.10 Appendix A - References**



The above provisions are to be read in conjunction with, but are not limited to, the following legislation, policy and CSNSW Commissioner's Instructions.

- [Crimes \(Administration of Sentences\) Regulation 2014 \(NSW\)](#):
  - Clause 241 – Compliance with Commissioner's Instructions and Governor's directions
  - Clause 243 – Declaration about association with inmates
  - Clause 249 – Insulting or abusive language
  - Clause 251 – Honesty
  - Clause 252 – Vigilance.
- [Commissioner's Instruction 07/2002](#) - Misleading Statements and Official Documentation
- [CSNSW Contact with Offender Policy \(2012\)](#)

## 19 Document information

Document name	Code of Ethical Conduct
Applies to	All Department of Communities and Justice employees, contractors, consultants, volunteers, students, suppliers, apprentices / trainees and those on work experience.
Replaces	Department of Family and Community Services Code of Ethical Conduct Department of Justice Code of Ethics and Conduct Policy
Document reference	SUB21/27050
Approval	Department of Communities and Justice Executive Board 14 April 2021
Version	1.0
Commenced	19 April 2021
Due for review	18 April 2023
Policy owner	Conduct and Professional Standards People Corporate Services