

# Code of Conduct

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# 1. Introduction

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## 1.1 Scope and purpose

Public Service Commissioner [Direction 2 of 2022](#) sets out a Code of Ethics and Conduct for NSW government sector employees, and requires the heads of government sector agencies to implement the code.

The implementation of the Code may be by way of incorporation in a Crown Solicitor's Office (CSO) Code of Conduct to form a single consolidated document, or by adoption separately.

The CSO has developed this supplementary Code, to be read and complied with in conjunction with the Public Service Code of Ethics and Conduct.

This document and the Code of Ethics and Conduct for NSW government sector employees sets out the standards of conduct, ethics and behaviour required of all employees, and a process for managing non-compliance.

## 1.2 Definitions

- The Code of Ethics and Conduct for NSW government sector employees and the supplementary Code of Ethics and Conduct are considered jointly to be "the Code".
- "CSO Executive" refers to the Crown Solicitor, Assistant Crown Solicitors (Heads of Legal Divisions) ("ACSs"), the Manager, Legal Operations, and the Directors of People & Culture, Finance & Support Services, and Information Management & Technology.
- "Team leaders" refers to Directors Legal Practice Groups ("Directors") and corporate services managers.
- "Contractors" refers to agency staff and consultants employed by the CSO to carry out legal or administrative functions. It does not include contractors employed for building maintenance and cleaning.

## 1.3 Roles and responsibilities

The Code applies to all executives and employees of the CSO (including contractors and volunteers working in the CSO) (CSO staff).

When accepting employment with the CSO, all CSO staff must agree to comply with this Code.

### Employees

- Must demonstrate high levels of personal conduct consistent with the *Ethical framework for the government sector*.
- Should seek assistance when unsure how to implement the *Ethical framework for the government sector*.

- Must promote implementation of the *Ethical framework for the government sector* to their colleagues.
- Are required to report possible breaches of the *Ethical framework for the government sector* to relevant officers.

### **Contractors, consultants, volunteers and students**

- Must be aware of this Code and act in line with the conduct described in it.
- While contractors, consultants, volunteers and students are not subject to misconduct action, conduct that would be assessed as being a serious breach of the Code may result in their contract/placement being terminated.
- When engaging or managing external consultants, contractors, volunteers or students, it is an employee's responsibility to make them aware of the CSO's expectations during the period of their engagement. It is also an employee's responsibility to take the necessary action to address any concerns about their conduct.

### **CSO People & Culture ("CSO P&C")**

- Monitors and maintains the Code.
- Provides advice and guidance to the CSO Executive, team leaders, and individuals and ensures that training and support is provided to employees.

### **Team leaders/managers/executive officers**

- Lead and promote implementation of the *Ethical framework for the government sector* in the CSO.
- Ensure CSO workplace culture, practices and systems (including recruitment and promotion) operate consistently with the *Ethical framework for the government sector*.
- Recognise and promote employee and team conduct that exemplifies the *Ethical framework for the government sector*.
- Act promptly and with due process to prevent and address any breaches of the *Ethical framework for the government sector*.
- 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 Crown Solicitor, in addition to the responsibilities of executives, has the responsibility to:

- Lead and promote implementation of the *Ethical framework for the government sector* in the CSO.
- Ensure the general conduct and management of the functions and activities of the CSO are in accordance with the core values of the *Ethical framework for the government sector*.

- Oversee the implementation of the *Ethical framework for the government sector*, and make improvements where necessary.

## 2. What drives our conduct

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The people of New South Wales have a right to expect CSO employees to work with a high level of efficiency, fairness, impartiality and integrity.

An employee's prime responsibility is to place the public interest above their own personal interests and to demonstrate the core values of the Public Sector and the CSO at all times:

Integrity	<ul style="list-style-type: none"><li>■ Consider people equally, without prejudice or favour.</li><li>■ Act professionally with honesty, consistency, and impartiality.</li><li>■ Take responsibility for situations, showing leadership and courage.</li><li>■ Place the public interest over personal interest.</li></ul>
Trust	<ul style="list-style-type: none"><li>■ Appreciate difference and welcome learning from others.</li><li>■ Build relationships based on mutual respect.</li><li>■ Uphold the law, institutions of government, and democratic principles.</li><li>■ Communicate intentions clearly and invite teamwork and collaboration.</li><li>■ Provide apolitical and non-partisan advice.</li></ul>
Service	<ul style="list-style-type: none"><li>■ Provide services fairly, with a focus on customer needs.</li><li>■ Be flexible, innovative and reliable in service delivery.</li><li>■ Engage with the not-for-profit and business sectors to develop and implement service solutions.</li><li>■ Focus on quality while maximising service delivery.</li></ul>
Accountability	<ul style="list-style-type: none"><li>■ Recruit and promote employees on merit.</li><li>■ Take responsibility for decisions and actions.</li><li>■ Provide transparency to enable public scrutiny.</li><li>■ Observe standards for safety.</li><li>■ Be fiscally responsible and focus on efficient, effective and prudent use of resources.</li></ul>

In addition to demonstrating the core values of the Public Sector, all employees should demonstrate values of ethical and honest behaviour; professionalism and responsibility; fairness and equity; learning and innovation; respect, and collaboration.

The Code does not attempt to provide a detailed and exhaustive list of what to do in every aspect of our work. Instead, it represents a broad framework that will help all employees decide on an appropriate course of action when faced with an ethical issue or professional decisions.

## What happens if an employee breaches this Code?

Part 8 of the *Government Sector Employment (General) Rules 2014* sets out the procedural steps to be taken when dealing with allegations of misconduct. These steps are taken in compliance with the principles of procedural fairness.

When deciding what, if any action should be taken in relation to a breach of this Code, each case should be considered on its own facts and circumstances.

The options to consider when deciding what action to take include:

- The seriousness of the breach; the likelihood of the breach occurring again.
- Whether the staff member has committed the breach more than once.
- The risk the breach poses to staff, clients, or any others.
- Whether the breach would be serious enough to warrant misconduct action.

Employees must report breaches of the Code by colleagues to their supervisor or team leader. If the breach is by their supervisor or team leader, then it should be reported to the next line manager.

Matters involving a breach of the Code may constitute misconduct and may be managed as a Professional Standards matter.

Section 69(1) of the *Government Sector Employment Act 2013* (the *GSE Act*) states that misconduct extends to the following:

- (a) A contravention of this Act or an instrument made under this Act.
- (b) Taking any detrimental action (within the meaning of the *Public Interest Disclosures Act 1994*) against a person that is substantially in reprisal for the person making a public interest disclosure within the meaning of that Act.
- (c) Taking any action against another employee of a government sector agency that is substantially in reprisal for a disclosure made by that employee of the alleged misconduct of the employee taking that action.
- (d) A conviction or finding of guilt for a serious offence.

The subject matter of any misconduct by an employee may relate to an incident or conduct that happened while the employee was not on duty or before his or her employment.

## Procedural fairness

Procedural fairness, also known as natural justice, applies in situations where a decision is to be taken which could have a detrimental effect on the rights, interests or legitimate expectations of an employee. Any employee who might suffer detriment as a result of a decision (be they the complainant or the relevant employee) should be afforded procedural fairness.

Procedural fairness refers to a process that provides fairness to all parties. It includes the right to be heard, the right to be treated without bias, the right to be informed of allegations being made and to be provided with an opportunity to respond to them and the right to be advised of the status of the complaint.

## 2.3 Unlawful or criminal conduct

Unlawful or criminal conduct at work or whilst off duty may also involve a breach of the Code and may constitute misconduct.

Employees convicted of a serious offence/s may be liable to court-imposed sanctions and may also be liable to misconduct action.

Given the nature of risk to the CSO and the high level of expectation of ethical behaviour by employees in the Justice Portfolio, breaches of this Code may result in suspensions from duty. Depending on the nature and/or seriousness of the breach and/or offence, suspension may be with or without pay.

### 3. Fostering ethical behaviour

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Employees must be aware of the CSO's policies, procedures, guidelines and delegations, particularly those that apply to their work and/or their exercising of authority or authority to act. Many of these are available online; others may be made available to employees through induction and training and development programs. If employees are uncertain about the scope or content of a policy, procedure or guideline with which they must comply, they should seek clarification from their supervisor.

Employees must also be familiar with the legislation and/or regulations under which they are employed as this may specify requirements with which they need to comply.

Employees are expected to:

- Encourage colleagues to act ethically by making ethical decisions and acting ethically.
- Perform their duties to the best of their ability and be accountable for their performance.
- Adhere to all reasonable instructions and/or directions.
- Comply with lawful directions.
- Carry out their duties in a professional, competent and conscientious manner.
- Act in good faith in providing advice or service that is honest, impartial and comprehensive, irrespective of their personal views.
- Be courteous, respectful and responsive in dealing with their colleagues, clients, and members of the public.
- Work collaboratively with their colleagues.
- Be mindful of their duty of care and safety of themselves and others; and be aware that if their conduct has the potential to damage the reputation of the CSO, even if it is in a private capacity, this could lead to further action.



## 4. Professional and ethical decision making

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### 4.1 Conflict of interest

A conflict of interest occurs when an employee is in a position to be influenced by their private interests when doing their job. Real or perceived conflicts of interest exist when it is likely that an employee could be influenced or could be perceived to be influenced by a personal interest when performing their official duties. Conflicts of interest may lead to biased decision making, which may constitute corrupt conduct.

#### 4.1.1 *What is a conflict of interest?*

Examples of conflict of interests relating to a personal interest may include (but are not limited to) situations where an employee may have:

- A financial interest or the employee is aware that a family member, relative, friend or associate has a financial interest in a matter they deal with in the course of their work.
- A personal relationship that could be seen to unduly affect the employees decision, for instance, when conducting a job selection.
- A close personal relationship with another staff member.
- Acceptance of gifts, benefits or hospitality that may, or may be perceived to, influence the conduct of duties.
- Personal beliefs or attitudes that could influence, or may be perceived to influence, the employees impartiality.
- Other paid employment which conflicts with the employees duties.
- Membership of external Boards or Committees.
- Participation in political activities or making political comments that may relate to, or be seen as relating to, the work of the CSO.

Conflicts of interest, whether real or perceived, must be reported to the employees' supervisor and recorded.

#### 4.1.2 *Resolving conflicts of interest and managing potential conflicts of interest*

To resolve or manage a conflict of interest which occurs or could occur, a range of options is available depending on the significance of the conflict. These include:

- Given the nature of work the CSO performs for its clients, there are significant risks that membership of employees on boards and committees may give risk to real, perceived for potential conflicts of interest. Employees must, therefore and in consultation with their Director, obtain the approval of the Crown Solicitor **before** they nominate themselves (or accept a nomination by another person) for any position on a board or committee whether a paid or unpaid position.

- The supervisor/team leader recording the details of the conflict and taking no further action in relation to the conflict because the potential for conflict is minimal or can be eliminated by disclosure or effective supervision.
- The supervisor/team leader removing the employee from the particular activity or decision where the conflict arises and documenting this.
- The employee transferring from the area of work or particular task where the conflict arises without disadvantage.
- The supervisor/team leader of the employee with the conflict checking and endorsing (if appropriate) all action with respect to the matter creating the conflict.
- The supervisor/team leader in consultation with their Executive referring the decision to the Crown Solicitor (or delegate).
- The employee relinquishing the personal interest.
- The employee restricting their personal interest so that it does not impinge on the workplace.

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

- Recognise and disclose any actual, potential, or perceived conflict of interest to their supervisor, team leader, Executive or the Crown Solicitor.
- Take appropriate steps to resolve the conflict of interest in accordance with policy prior to engaging in the affected work.
- Not knowingly make decisions or convey information that may obtain, or may appear to obtain, a personal benefit or a benefit for family members, relatives, close friends, business partners or associates, unless it is a benefit received in common with a class of people who would ordinarily receive the benefit.

All supervisors/team leaders/executives are additionally responsible for facilitating compliance by those they supervise by:

- Being aware of the risks of conflicts inherent in the work of the employees they manage.
- Advising employees on appropriate ways to manage a conflict of interest.
- Use the Disclosure of Conflict of Interest form to report conflicts of interest to the Crown Solicitor via the team leader (copied to People & Culture via [csopeople.culture@csso.nsw.gov.au](mailto:csopeople.culture@csso.nsw.gov.au)) to be recorded in the Disclosures of Conflicts of Interest Register.
  - This is to be kept confidential in a secure place by the Director, People & Culture for future reference if necessary.

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

## 5. Professional behaviour

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### 5.1 Treating people with dignity and respect

All employees have the right to be treated with respect, and it is everyone's responsibility to ensure this occurs. Employees are to treat their colleagues, clients, and members of the public with respect, fairness and consistency. Employees are to be courteous and sensitive to the needs of others and provide all necessary and appropriate assistance as practicable. For further information please refer to the CSO's Respectful Workplaces - Bullying and Harassment Policy.

### 5.2 Professional behaviour towards employees and others

As professionals, employees must strive at all times to relate professionally to colleagues, clients, and members of the public and to act with courtesy and fairness. In dealings with others, staff should ensure that they do not prejudice the operations, security or reputation of the CSO.

In performing their duties, all employees must act consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures and in a non-discriminatory manner.

Employees must use courteous and respectful language in their interactions with colleagues, clients, and members of the public.

#### 5.2.1 *Maintaining employee confidentiality, privacy and appropriate records*

Employees have a right to expect that their personal information is private and confidential.

In acting with a high level of professionalism, employees must ensure that information about their colleagues remains confidential and private. Employees should always exercise caution and sound judgment in discussing other peoples' personal information with other staff.

Normally information should be limited to those who need to know in order to conduct their duties, or to those who can assist in carrying out our work because of their expertise. Unauthorised disclosure of private information (personal phone numbers, address etc.) is considered to be unprofessional and a breach of this Code.

In relation to the maintenance of appropriate records, a record serves an essential administrative, legal and historical purpose. Records may be (but not limited to) emails, electronic documents, digital images and audio recordings, correspondence and files.

Employees have a responsibility:

- To create and maintain full, accurate and honest records of their work activities, decisions and other business transactions.
- To capture or store records in line with the *State Records Act 1998*.

Team leaders and supervisors have a responsibility to ensure that all employees reporting to them comply with their records management obligations. Employees must not destroy records without appropriate authority.

Employees must maintain the confidentiality of all official information and documents which are not publicly available or which have not been published.

The CSO may utilise and collect employment related data in accordance with legislative requirements and privacy considerations.

### 5.3 Signatures

Employees are accountable for any documents that they sign. Therefore, employees should carefully read all documents they are asked to sign. Employees must not sign a document, which they know is not factually correct.

Employees must only sign their own name and must never permit or encourage anyone to sign a name other than their own.

- When signing in capacity of the Crown Solicitor, the Crown Solicitor's name is to be typed.

Employees must only use their own name when, for example, sending emails, and should not give the impression that they have the authority of another person without his or her permission. In addition, when using electronic signatures of a manager or supervisor, an employee must have that person's express approval on each occasion the electronic signature is used.

### 5.4 Use of alcohol and drugs

The CSO is committed to providing a productive, safe and healthy workplace. Employees are responsible for ensuring that their capacity to perform their duties is not impaired by the use of alcohol or drugs, and that the use of such substances does not put them or any other person's health and safety at risk.

Employees must not have illegal drugs in their possession while at work. Any illegal drugs found on CSO property or in the possession of any person on CSO property will be reported to the Police.

In addition, employees must:

- Take action to resolve any alcohol or other drug-related problems that exist (all employees have access to counselling support from the Employee Assistance Provider).
- Consult a supervisor/team leader if there is concern about working with other employees who are perceived to be affected by drugs or alcohol.

#### 5.4.1 *Tobacco*

Smoking is prohibited in CSO premises. In addition, the CSO premises falls under the ban on smoking within four metres of a pedestrian access point of a public building.

The CSO has a responsibility to, so far as is reasonably practicable, ensure that employees, clients and visitors whilst at a CSO worksite, are safe from injury and risks to health.

#### 5.4.2 *Gambling*

Gambling in the workplace, other than harmless team building activities such as workplace Lotto syndicates, football or other sport tipping competitions or Melbourne Cup sweeps, is inappropriate as it may lead to conflict, indebtedness and perceptions of impropriety.

## 6. Representing the CSO

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### 6.1 Conduct while off duty

Employees should be aware that unlawful or unprofessional conduct, even in a private capacity, which may damage, or has the potential to damage, the reputation of the CSO, may constitute misconduct and attract action by the CSO in accordance with section 69(4) of the *GSE Act*.

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

If an employee is charged and receives a court attendance notice in relation to a serious offence or is declared bankrupt, they are required to immediately notify their supervisor/team leader. A serious offence is an offence that is punishable by imprisonment for 12 months or more. For further information please refer to the *Government Sector Employment Regulation 2014*.

It should be noted that employees may be suspended with or without pay as a result of being charged.

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.

### 6.2 Public Comment

Public comment is any comment made where it is expected that it will be seen or heard by members of the public. It includes (but not limited to) the following:

- Speaking engagements.
- Comment made on social networking sites (such as "Facebook," "LinkedIn," and "Twitter"); on radio, television or in newspapers (including letters to the editor); in books, journals or notices; on the internet, including media-related websites that seek comments on their stories 'anonymously' eg. where a face on the television is obscured; and in e-mail messages.

As a private individual, employees have the right to participate in public debate on political and social issues. In exercising this right, CSO employees are acting in a private capacity, and should not imply or suggest that they are representing the official views of the CSO or NSW Government

In participating in any political, community and personal activity, employees must:

- Not make any comment where it could be inferred that the public comment, although made in a private capacity, is in some way an official comment of the Government or of the CSO.
- Not make public comment, where the comment, even though unrelated to their normal duties, amounts to criticism sufficiently strong or persistent to give the

impression that they are not prepared to implement or administer the policies, procedures and guidelines objectively of the CSO or the Government.

- Not participate in private political activities in the work environment.
- Not use the CSO's resources to assist political, community or personal activities.
- Not use information obtained through their work at the CSO to assist their political, community or personal activities, or make the information known to any other person.
- Not misrepresent the position of the CSO on any issue.

Comments made on matters relating to union business by members of unions in their capacity as a local delegate within the CSO or by union office holders employed by the CSO are permitted under this Code, as long as the employee makes clear that the comments are about the industrial matters that are only related to union business and are made in a union capacity and not as an employee or on behalf of the CSO.

Employees are sometimes required to represent the CSO in an official capacity at interagency meetings, and other meetings with outside agencies and individuals. In representing the CSO, employees must ensure that they have the appropriate delegation and authorisation to do so and that they are sufficiently briefed on the issues likely to be raised and the appropriate CSO responses.

All employees must have the approval of the Crown Solicitor before agreeing to address or be involved in seminars or conferences by professional associations, other organisations or non-profit bodies where the program is relevant to the public sector. Employees must also have the approval of the Crown Solicitor before making a written submission to such associations or organisations.

As a general rule, employees may only disclose official information that is already in the public domain, such as the Annual Report or official media releases and avoid offering a personal comment. The provision of information should also be consistent with CSO and Government policy.

The CSO's Media Contact and Use of Social Media Policy outlines circumstances where it is and is not appropriate to make comment to media. Employees must not approach the media on CSO-related matters, or discuss CSO business with the media unless authorised to do so by the Crown Solicitor.

### 6.3 Social media and public websites

When engaging in social media in a private capacity, CSO employees should not imply or suggest that they are representing the official views of the CSO or NSW Government.

Only official information that is already in the public domain and does not breach confidentiality requirements may be disclosed.

Unlawful or unprofessional conduct, even in a private capacity, which may damage, or has the potential to damage the reputation of the CSO, may attract misconduct action by the CSO. This includes comments made in social media or public websites in which CSO employees may be perceived to represent the CSO. This extends to comments made on sites including Facebook, Twitter and LinkedIn which, because of employment with the CSO, is inconsistent with professional responsibilities or has the potential to adversely affect the reputation of the CSO.

Employees must also be mindful of making private comment on public media websites, ensuring that any comment made is not referable to the CSO and does not bring discredit to the CSO.

#### 6.4 Political and community participation

As public servants, employees are free to take part in lawful political activity outside of working hours, so long as it does not interfere with normal duties.

However, employees need to 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 or actual conflict of interest, employees must discuss this with their supervisor/team leader immediately.

Special arrangements apply to public employees who have been pre-selected as candidates for, or who propose to contest, State or Federal elections.

#### 6.5 Personal references

Employees are not permitted to use CSO letterhead when writing a personal reference for another employee that is considered the employee's personal assessment or opinion, and not those of the CSO.

Employees are not permitted to supply references to other employees who are the subject of misconduct action.

If asked to provide a referee report in relation to a recruitment action, the employee is responsible for completing the report honestly and it should be based on information that can be verified. False or derogatory statements should not be made about an individual.

#### 6.6 Other paid employment

Other paid employment includes furthering the aims, objectives or interests of any of the below for actual or prospective gain:

- Any employment for an employer, even when on leave.
- Self-employment.
- The private practice of any profession, occupation or trade.
- Engaging in or undertaking any commercial business, whether as principal, agent, partner or employee.



- Provision of consultancy services.
- Accepting or holding office, other than in the CSO, with any government of a state, the Commonwealth or any local government.
- Writing or editing of books, articles and other published documents.
- Lecturing, teaching and tutoring in universities, recognised professional associations and other recognised educational bodies.
- Commercial activity associated with owning or participating in the ownership of a primary producing property where the commercial activity is related to the employee's duties.
- Any position with a corporation, company or firm.

Approval of other paid employment can only be given for periods of up to 12 months. Employees who seek to renew an existing approval must do so in writing at least four weeks prior to the anniversary date or expiration date (whichever is the sooner) of the approval.

The CSO will consider applications for other paid employment so long as the following conditions are met:

- The nature of the proposed work is clearly defined.
- The number of hours of the proposed work are clearly defined.
- The activity is not in competition with or does not have links to the CSO.
- Consideration is given to any potential conflict of interest.
- The work will not damage the reputation of the CSO.
- The work will not create a conflict and/or perceived or potential conflict of interest.
- No CSO time, employee, intellectual property, facilities, or equipment are to be used in connection with other paid employment.
- The other paid employment must not interfere with the proper and efficient performance of usual duties.
- The other paid employment does not pose a work health and safety risk to the employee (including working excessive hours without sufficient breaks between work).

Employees must not use their official position for personal advantage. Where a conflict of interest arises during other paid employment it must be referred to the supervisor/team leader who supported the other paid employment immediately, and if it cannot be managed then approval for other paid employment should be withdrawn. Approval can be obtained by following the Secondary Employment procedure.

Casual employees and contractors are not required to gain approval for other paid employment provided that:

- The work is undertaken during the period that the person is not required to discharge duties for the CSO.
- That the discharge of duties for the CSO is not adversely affected.
- And the other paid employment does not pose a work health and safety risk to the staff member (including working excessive hours without sufficient breaks between work). For further information please refer to the *Government Sector Employment Regulation 2014*.

## 6.7 Pro bono work and volunteering

CSO lawyers may undertake pro bono work of their choice in their personal capacity and on a voluntary basis, provided their pro bono work does not create a conflict, or perceived or potential conflict, with the operations of the CSO, or damage the reputation of the CSO.

Pro bono work for the purposes of this policy may include:

- A CSO lawyer giving (or being involved in giving) free legal advice and/or representation to charitable or community organisations.
- A CSO lawyer giving (or being involved in giving) free community legal education and/or law reform.
- A CSO lawyer participating in administrative committees involved in law reform and/or the determination of legal matters (such as Legal Aid Review Committees or Law Society Committees).

Before commencing pro bono work, CSO lawyers are required to seek approval from the Crown Solicitor (or delegate) to ensure there is appropriate consideration of any conflicts of interest.

Approval can be obtained by following the Secondary Employment procedure.

All CSO lawyers undertaking approved pro bono work will be included on the CSO's Register of Pro Bono Work, available in the CSO records management system.

CSO lawyers working pro bono must immediately notify their manager if an actual, perceived or potential conflict of interest arises in the course of their pro bono work.

The CSO encourages voluntary participation in community organisations, charities and professional associations.

- Such participation does not require approval unless the involvement is likely to conflict with or affect the efficiency or performance of the employee's official duties.
  - Staff who anticipate a potential conflict or impact on performance must notify the Crown Solicitor, and obtain written approval of participation.
  - Trade union delegates, however, are not required to obtain approval in relation to their duties as delegates even if those duties are likely to conflict with or affect the efficiency or performance of their duties as a CSO employee.

- Volunteers/students coming into the CSO must be properly inducted into the CSO by a supervisor and People & Culture representatives..

## 6.8 Dress and presentation

All employees should be mindful of the way in which they present themselves in the workplace, particularly if they are in contact with clients or members of the community. Clothing should always be appropriate to the workplace, consistent with work health and safety standards and enable employees to respond in an emergency.

Dress and presentation should at all times project an image that is consistent with accepted community standards and the work of the CSO.

## 6.9 Prior to leaving

Employees must not improperly use their role to improve their own prospects of future employment. Employees must not allow their work to be improperly influenced by plans for, or offers of, employment outside the CSO. Employees must not create a conflict of interest and/or place their integrity and that of the CSO at risk.

Employees must return any property they have belonging to the CSO prior to leaving.

## 6.10 After separation

When employees cease employment with the CSO, they should not use or take advantage of any confidential information obtained in the course of their official duties unless it has become publicly available.

Current employees must be careful in their dealings with former employees of the CSO and make sure that they do not give them, or appear to give them, favourable treatment or access to privileged information.

Employees should report to their supervisor or line manager any attempts made by former employees to influence or lobby current employees about the CSO's activities.

## 7. Accountability

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Whilst at work an employee's primary responsibility is to perform their official duties efficiently and use government and CSO resources economically.

### 7.1 Procurement

In accordance with the *Public Works and Procurement Act 1912*, employees must ensure they obtain value for money in the exercise of their duties in relation to the procurement of goods and services.

Employees must also take reasonable steps to ensure that goods and services procured for the CSO are not a product of modern slavery within the meaning of the *Modern Slavery Act 2018*.

### 7.2 CSO resources

Employees must be familiar with the procedures relating to:

- Management of finances.
- Use of meeting rooms and equipment.
- Completion of time & attendance records (if relevant to an employee's role).
- Use of work e-mail.
  - Employees are not to use CSO resources to carry out any secondary employment. Limited personal use of email is permitted, but in such cases staff must ensure that they do not include the standard CSO footer denoting their position.

Employees should also be vigilant in ensuring that the CSO's resources are not misused including responsibly using work computers, internet access and email facilities. For more information, please see the Information Security Policy and Mobile Device Policy.

#### 7.2.1 *Electronic communication devices*

The CSO provides electronic communication facilities for administrative purposes. The CSO reserves the right to monitor and view any data stored or transmitted using the CSO's facilities. By its nature, electronic communication is a fast and informal way of communicating.

Employees must:

- Exercise good judgment when using electronic mail, following the principles of ethical behaviour.
- Use appropriate language in electronic mail messages.
- Be aware that if an issue addressed in an email becomes the subject of a legal dispute, then those emails would be 'discoverable': that is, the court and all parties to the dispute would be entitled to see them.

- Not send messages that are harassing, defamatory, threatening, abusive or obscene.
- Remember transmission, storage, promotion or display of inappropriate, offensive, defamatory, or harassing material is strictly forbidden.
- Report any situations of inappropriate use of electronic communication and social networking sites.

The CSO's networks must not be used to view, upload, download or circulate any of the following materials:

- Inappropriate material.
- Sexually related or pornographic messages or material.
- Violent or hate-related messages or material.
- Racist or other offensive messages aimed at a particular group or individual.
- Malicious, libellous or slanderous messages or material.
- Subversive or other messages or material related to illegal activities.

#### 7.2.2 *Intellectual property*

Documentation such as policies, programs, manuals, courses, training resources, written, developed or produced by an employee or a colleague during the course of the employee's employment with the CSO remains the property of the CSO.

Employees must not use such material for personal benefit or without the express approval of an appropriately delegated manager.

### 7.3 **Compliance**

All employees have a responsibility to comply with legislation, policies, procedures, guidelines, this Code and perform their duties effectively.

## 8. Service

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### 8.1 Model litigant

The Crown Solicitor complies with the [NSW Government Model Litigant Policy](#).

The role of CSO solicitors in the application of the Model Litigant Policy is, at all times, to assist and facilitate agencies in complying with their model litigant obligations.

The Model Litigant Policy states (at paragraph 3.1) that:

"the obligation to act as a model litigant requires more than merely acting honestly and in accordance with the law and court rules. It also goes beyond the requirement for lawyers to act in accordance with their ethical obligations. Essentially, it requires that the State and its agencies act with complete propriety, fairly and in accordance with the highest professional standards".

See the CSO's Guidance on the application of the Model Litigant Policy for further detail.

## 9. Where to get more information

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If employees have questions about the content of this Code, they need to seek advice from their supervisor or manager in the first instance, and then CSO P&C.

Employees are expected to be aware of the Acts and Regulations that legally govern the way they undertake their work. This Code does not stand alone and should be read in conjunction with the following legislation:

- *Anti-Discrimination Act 1977.*
- *Child Protection (Working with Children) Act 2012.*
- *Children and Young Persons (Care and Protection) Act 1998.*
- *Children (Community Service Orders) Act 1987.*
- *Children (Criminal Proceedings) Act 1987.*
- *Children (Detention Centres) Act 1987.*
- *Crimes Act 1900.*
- *Data Sharing (Government Sector) Act 2015.*
- *Government Information (Public Access) Act 2009.*
- *Government Sector Employment Act 2013.*
- *Government Sector Employment Regulation 2014.*
- *Government Sector Employment (General) Rules 2014.*
- *Government Sector Finance Act 2018.*
- *Health Records and Information Privacy Act 2002.*
- *Independent Commission Against Corruption Act 1988.*
- *Industrial Relations Act 1996.*
- *Modern Slavery Act 2018.*
- *Ombudsman Act 1974.*
- *Privacy and Personal Information Protection Act 1998.*
- *Public Interest Disclosures Act 1994.*
- *Public Works and Procurement Act 1912.*
- *State Records Act 1998.*
- *Workers Compensation Act 1987.*
- *Work Health and Safety Act 2011.*
- *Work Health and Safety Regulation 2011.*
- *Workplace Injury Management and Workers Compensation Act 1998.*
- *Young Offenders Act 1997.*

Other legislation, such as the *Health Administration Act 1982* or the *Psychologists Act 2001* may be relevant to a particular professional area of responsibility. Practising professionals who are employees of the CSO should be familiar with and comply with the legislation and codes of conduct and/or codes of practice relating to their area.

Employees are expected to be aware of the policies, procedures and guidelines that apply to their work. This Code does not stand alone and must be read in conjunction with all CSO policy, procedures and guidelines.



## 10. Monitoring and review

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CSO P&C is responsible for reviewing the Code and for amending the Code in relation to issues raised across the CSO.

This Code will be reviewed in accordance with the policy review schedule and at other times if any significant new information or legislative or organisational change warrants a change in this document. Reviews will be completed in consultation with the appropriate stakeholders for relevance and effectiveness.

### 10.1 Related documents

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

- Advice Writing Guide (CSO).
- [Code of Ethics and Conduct for NSW government sector employees](#) (PSC 2 of 2022).
- Email Policy (CSO).
- Employee Assistance Program.
- Fraud and Corruption Control Policy (CSO).
- [Government Sector Employment Act 2013](#) .
- [Government Sector Employment \(General\) Rules 2014](#) .
- Guidance on the application of the Model Litigant Policy (CSO).
- Media Contact and Use of Social Media Policy (CSO).
- [NSW Government Model Litigant Policy](#).
- [Premier's Memorandum M2019-02: NSW Lobbyists Code of Conduct](#).
- Public Interest Disclosures Policy (CSO).
- Respectful Workplaces - Bullying and Harassment Policy
- Secondary Employment procedure (CSO).

### 10.2 Support and advice

An employee can get advice and support about anything in this Code from their supervisor/team leader.

A supervisor/team leader can get advice and support from the Director, People & Culture.

## 11. Policy information

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### Document details

<b>Title:</b>	Code of Conduct
<b>Number:</b>	A8
<b>File reference:</b>	AD504
<b>Date of effect:</b>	1 May 2023
<b>Date of last review:</b>	4 May 2023
<b>Security classification:</b>	Official
<b>Policy owner:</b>	Crown Solicitor

### Document history

Date	Version	Approved By	Comment
1/3/2016	1	Lea Armstrong, Crown Solicitor	First CSO Code of Conduct. Previously adopted Departmental Code.
19/5/2017	2	Tom Gilmartin, Practice Manager	Participation on Boards. Minor update for roles.
21/6/2019	3	Karen Smith, Crown Solicitor	Secondary employment / voluntary work.
4/11/2022	4	Karen Smith, Crown Solicitor	In accordance with PSC Direction 2 of 2022.
1/5/2023	5	Jane Francis, Director, People & Culture	Minor update for roles.
4/5/2023	5	Karen Smith, Crown Solicitor	Correction to remove reference to archived Dress Code A17.

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Related documents:

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