

# Code of Conduct

Fairness, respect, integrity and responsibility

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# Statement of Ethics

The NSW Department of Education and Training is committed to improving the social and economic well being of the people of NSW through the provision of high quality education and training.

As employees of the NSW Department of Education and Training, we have significant influence in developing an informed, dynamic and democratic society by providing experiences that inspire and facilitate teaching and learning.

We can do this by promoting an organisational culture of innovative thinking and continuous self-development and by creating a place where people are proud to work.

The values that underpin our work include **fairness, respect, integrity and responsibility**.

We demonstrate these values in our daily work by:

- providing quality services to public education and training, whether in the classroom, the office or the community
- being consistently honest, trustworthy and accountable
- being courteous and responsive in dealing with others
- being committed to social justice by opposing prejudice, injustice and dishonesty
- making decisions that are procedurally fair to people and which avoid discrimination, for example, on grounds such as gender, race, religion and culture
- promoting dignity and respect by avoiding behaviour which is, or might reasonably be perceived as, harassing, bullying or intimidating
- maintaining professional relationships with:
  - students
  - parents and carers
  - colleagues, and
  - business partners
- working collaboratively with colleagues to reach our common goals
- maintaining and developing our professional and work practices
- acknowledging our stakeholders as partners in our work, and
- behaving in ways that advance public education and training.

# 1

## Introduction

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The *Code of Conduct* draws on the Department of Education and Training's Statement of Ethics and the values that underpin our work: **fairness, respect, integrity and responsibility.**

The *Code* is based on NSW legislation, regulations and Government policies and procedures.

The main legislation applying to employees is:

***Teaching Service Act 1980***

***Education (School Administrative and Support Staff) Act 1987***

***Technical and Further Education Commission Act 1990***

***Public Sector Employment and Management Act 2002.***

The following legislation is also relevant:

***Anti-Discrimination Act 1977***

***Crimes Act 1900***

***Freedom of Information Act 1989***

***Independent Commission Against Corruption Act 1988***

***Industrial Relations Act 1996***

***Occupational Health and Safety Act 2000***


***Ombudsman Act 1974***

***Privacy and Personal Information Protection Act 1998***

***Protected Disclosures Act 1994, and***

***Public Finance and Audit Act 1983.***

If there is any conflict between this *Code* and legislation, the provision of the legislation will take precedence.



This document replaces the *Code of Conduct* – Unique Identifier: PD/2004/0020/V02 Implementation

Approved: 26 October 2009

Implementation date: 27 January 2010

Policy Owner: Director Employee Performance and Conduct

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## What is the purpose of the Code of Conduct?

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The aim of this *Code* is to establish a common understanding of the standards of behaviour expected of all employees of the Department of Education and Training.

This *Code* does not attempt to provide a detailed and exhaustive list of what to do in every aspect of your work. Instead, it represents a broad framework that will help you decide on an appropriate course of action when you are faced with an ethical issue.

While 'the Department' is often referred to as one entity responsible for decisions and outcomes, the reality is it is a large and complex organisation that achieves good outcomes when employees exercise sound judgement in fulfilling the duties of their particular roles. This also requires managers to supervise, support and provide training to staff.

The *Code* places an obligation on all of us to take responsibility for our own conduct and work with colleagues cooperatively to establish consultative and collaborative workplaces where people are happy and proud to work.

# 3

## Who has to comply with the Code of Conduct?

This *Code of Conduct* applies to all employees of the NSW Department of Education and Training, including the TAFE NSW whether employed on a permanent, temporary or casual basis.

It also applies to members of the Senior Executive Service (SES) who must also comply with the current *Code of Conduct and Ethics for Public Sector Executives*.

- 3.1 By accepting employment with the Department, you must be aware of and comply with this *Code*.
- 3.2 Therefore, you must:
  - i. engage in personal or professional conduct that upholds the reputation of the Department
  - ii. apply the Department's policies and procedures
  - iii. act ethically and responsibly, and
  - iv. be accountable for your actions and decisions.

### Contractors and volunteers

- 3.3 Contractors, consultants and volunteers working with the Department of Education and Training must be aware of this *Code* and act in line with the conduct described in it. While contractors, consultants and volunteers are not subject to disciplinary action, conduct that would be assessed as being a serious breach of the Code of Conduct may result in their contract being terminated.
- 3.4 If you are engaging or managing external consultants, contractors or volunteers, it is your responsibility to make them aware of the Department's expectations of conduct during the period of their engagement. It is also your responsibility to take the necessary action to address any concerns about their conduct.

# 4

## What does the Department expect of its employees?

As an employee, you should be aware of the Department's policies, procedures and delegations, particularly those that apply to your work. Many of these are available online; others may be made available to you through induction and training and development programs.

If you are uncertain about the scope or content of a policy with which you must comply, you should seek clarification from your supervisor or the policy owner<sup>1</sup>.

You should also be familiar with the legislation under which you are employed as this may specify requirements with which you need to comply.

Managers are required to tell their staff about this essential information and to make the documents readily accessible to them.

### 4.1 As a departmental employee, you are expected to:

- i. perform your duties to the best of your ability and be accountable for your performance
- ii. follow reasonable instructions<sup>2</sup> given by a supervisor
- iii. comply with a lawful direction<sup>3</sup>
- iv. carry out your duties in a professional, competent and conscientious manner, while seeking suitable opportunities to improve your knowledge and skills, including through participation in relevant professional development
- v. act honestly and in good faith in providing advice or service that is honest, impartial and comprehensive, irrespective of your personal views on a matter
- vi. be courteous and responsive in dealing with your colleagues, students and members of the public
- vii. work collaboratively with your colleagues
- viii. be mindful of your duty to the safety of yourself and others and

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<sup>1</sup> A policy owner is the person with overarching responsibility for a policy and procedure. Normally this is the director of the directorate or unit, which wrote and implemented the policy. There should be a contact officer within the directorate to deal with enquiries. The contact details of that officer will appear on the policy.

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<sup>2</sup> See Glossary

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<sup>3</sup> See Glossary

- ix. be aware that if your conduct has the potential to damage the reputation of the Department, even if it is in a private capacity, this could lead to disciplinary action.

4.2 If your role requires you to manage or supervise staff, in addition to the above responsibilities you are also expected to:

- i. promote collaborative and collegial workplaces by developing a positive working environment in which all employees can contribute to the ongoing development of the Department
- ii. exercise leadership by working with your staff to implement performance and development processes that are consistent with the employee's conditions of employment
- iii. provide ongoing support and feedback to your staff
- iv. establish systems within your area of responsibility which support effective communication and consult with and involve your staff in appropriate decision-making
- v. take appropriate action if a breach of the *Code of Conduct* may have occurred.

### An example of good management practice

is a supervisor who identifies an employee's skill levels by observing their work and regularly provides useful, positive feedback. A good supervisor deals with any issues early, provides feedback sensitively and constructively, and in negotiation with the employee, develops strategies that address any concerns in a positive fashion.

At times, you may not personally agree with all decisions made by your managers. You may also have personal views that differ from those of the elected Government or the Department's management.

However, your views should not interfere or be seen to interfere with the performance of your duties; nor can they take precedence over the Department's or Government policy and decisions.

You are required to comply with reasonable instructions related to your work. If you consider an instruction unreasonable, you should say so to the person issuing the instruction in a civil manner, giving your reasons for concern and allowing the person an opportunity to respond.

If, after the response, you are still concerned or object to the instruction, you may seek advice at the next management level. You are not prevented from seeking the advice of your Union at any time.

Managers should be open to constructive questions regarding their instructions. They have a responsibility to respond appropriately and promote collaborative and collegial workplaces.



# 5

## What happens if I breach the Code of Conduct?

As a departmental employee, you hold a position of trust and are accountable for your actions.

- 5.1 Consequences of inappropriate behaviour and breaches of this *Code* are described in the various employment legislation and regulations, and in the corresponding guidelines.
- 5.2 If you are a supervisor or manager, you have a responsibility to address a possible breach of the *Code of Conduct* by any employee as soon as you become aware of it. Each case should be determined on the facts and circumstances when deciding on the appropriate action to take, including reporting of serious matters and those where an employee has failed to follow a reasonable direction.
- 5.3 Other employees must also report possible breaches by colleagues to their supervisor or manager. If the possible breach is by their supervisor or manager then it should be reported to the next in line of management.
- 5.4 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 officer has committed the breach more than once
  - the risk the breach poses to employees, students or any others, and
  - whether the breach would be serious enough to warrant formal disciplinary action.
- 5.5 Actions that may apply to proven (after investigation) breaches of the *Code* can include management or remedial action, or disciplinary action ranging from a caution and reprimand to dismissal from the Department.
- 5.6 The outcome of criminal proceedings against employees may be considered as possible breaches of the *Code of Conduct* and action, including disciplinary action, may be taken.

Procedural fairness requires a decision-maker to:

- inform you of the allegations made against you
- give you an opportunity to respond, and
- not have a personal interest in the outcome.

# 6

## Reporting concerns about employee conduct

The Department is committed to supporting employees who report concerns about the conduct of their colleagues. Such conduct includes corrupt conduct, maladministration and serious and substantial waste.

You can do this by reporting these matters to your manager, Director or directly to the Employee Performance and Conduct Directorate.

- 6.1 All employees are required by law to inform the Director-General/Managing Director TAFE NSW if they are charged with or convicted of a serious offence (those punishable by 12 months or more in gaol).
- 6.2 If you become aware of a serious crime committed by another person, you are required to report it to the police.
- 6.3 As a departmental employee, you must report possible 'risk of harm' to children or young persons to your supervisor or principal. They must in turn determine whether a report to the Department of Community Services is required. For guidance on reporting, refer to the Department's policy ***Protecting and Supporting Children and Young People***.
- 6.4 You must also report your concerns about the inappropriate actions of any other employee that involves children or young people to your supervisor or principal, or directly to the Employee Performance and Conduct Directorate. This Directorate will deal with the information in line with the policy ***Responding to Allegations against Employees in the Area of Child Protection***.
- 6.5 All employees are required to report suspected instances of suspected corrupt conduct, maladministration or serious and substantial waste to a ***Nominated Disclosure Officer***.
- 6.6 Employees reporting matters of suspected corrupt conduct, maladministration or serious and substantial waste may be subject to the protections offered by the ***Protected Disclosures Act 1994***. The Department's ***Protected Disclosures - Internal Reporting Procedures*** explains this in more detail.
- 6.7 If you are aware that such a report has been made, it is essential that you do not take detrimental action against the complainant in reprisal for reporting it. This includes any action that could reasonably be perceived to be detrimental action in reprisal.
- 6.8 Anyone who takes detrimental action against an employee in reprisal for having made a *Protected Disclosure*<sup>4</sup> is committing a criminal offence, which could result in imprisonment if convicted. Detrimental action will also be treated as serious misconduct by the Department and would be dealt with as a disciplinary matter, which could lead to dismissal.

4. See Glossary for definition

# 7

## Respect for people

The Department is committed to a workplace that provides *dignity and respect*.

Our daily interaction with others reflects on the Department's reputation. Therefore, all employees are expected to be approachable, courteous and prompt in dealing with other people, including students, other employees (irrespective of their position or seniority), and members of the community.

In dealing with other people, you should be able to accommodate and tolerate different opinions and perspectives, and sort out your disagreements by rational discussion.

Rational discussion presupposes that there is open communication and the freedom to voice another point of view. Such a discussion should not involve verbal abuse or physical intimidation. For example, you may criticise a person's ideas but you should not criticise the person; and you should not verbally abuse, vilify or belittle students or colleagues (including your supervisors) personally or to others.

- 7.1 You must not discriminate against or harass your colleagues, students or members of the public on a number of grounds including; sex, marital status, pregnancy, age, race, ethnic or national origin, physical or intellectual impairment or sexual preference. Such harassment or discrimination may constitute an offence under the **Anti-Discrimination Act 1977**. In addition, you must not harass or discriminate on the grounds of political or religious conviction.
- 7.2 Managers and principals must lead by example and must take all necessary steps to ensure that workplaces and classrooms are free from all forms of harassment, bullying and unlawful discrimination, and that their staff are informed of the principles of equal opportunity and anti-discrimination.
- 7.3 If you believe you or anyone else in your workplace is being treated in a discriminatory or harassing manner, it is your obligation to report the behaviour to your supervisor or director. The Department takes reports of discrimination and harassment seriously and will take steps to prevent and correct them. Most incidents can be addressed effectively if reported early.
- 7.4 You must not make unfounded complaints with malicious, frivolous or vexatious intent against another employee or students.
- 7.5 Employees who work with students have a special responsibility in presenting themselves as appropriate role models for those students. Modelling effective leadership and respect in your interactions with students can have a profoundly positive influence on a student's personal and social development.

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- 7.6 Similarly, it is important for you to treat your colleagues with respect. Rude or insulting behaviour, including verbal and non-verbal aggression, abusive, threatening or derogatory language and physical abuse or intimidation towards other employees is unacceptable.
- 7.7 You must not use information and communication technologies, such as email, mobile phones, text or instant messaging and websites to engage in behaviour that could reasonably be considered to have a negative impact on another person, cause them harm, or make them feel unsafe.

Policies that set this standard are:

***Premier's Memo 2007-02: Dignity and Respect: Policy and Guidelines on Preventing and Managing Workplace Bullying***

***Dignity and Respect in the Workplace Charter***

***Anti Racism Policy***

# 8

## Duty of care

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A duty of care is the legal obligation to provide reasonable care while performing any acts or making any omissions that could foreseeably harm others.

The duty encompasses a wide range of matters, including (but not limited to)

- the provision of adequate supervision
- ensuring grounds, premises and equipment are safe for students use
- implementing strategies to prevent bullying from occurring in school, and
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a student who is injured or becomes sick at school.

- 8.1 As a departmental employee, you have a duty to take reasonable care for the safety and welfare of the departmental school and TAFE students in your charge. That duty is to take all reasonable action to protect students from risks of harm that can be reasonably predicted. For example, risks from known hazards and from foreseeable risk situations against which preventative measures can be taken. The standard of care that is required, for example the degree of supervision, needs to be commensurate with the students' maturity and ability.
- 8.2 Duty of care to students applies during all activities and functions conducted or arranged by schools and TAFE where students are in the care of employees. The risks associated with any activity need to be assessed and managed before the activity is undertaken.
- 8.3 You also have a duty to ensure your safety and that of others in your work.
- 8.4 Considerations of safety relate to both physical and psychological wellbeing of individuals.

# 9

## Professional relationships between employees and students

All students have a right to a safe physical and emotional environment.

As a departmental employee, you are expected to always behave in ways that promote the safety, welfare and well-being of children and young people. You must actively seek to prevent harm to children and young people, and to support those who have been harmed.

While not all employees are required to manage and supervise students, it is important for all departmental employees to understand and observe the *Department's child protection policies*.

- 9.1 You must not impose physical punishment on a student in the course of your professional duties.
- 9.2 You must not develop a relationship with any student that is, or that can be misinterpreted as having a personal rather than a professional interest in a student.
- 9.3 You must not have a sexual relationship with a school student. It is irrelevant whether the relationship is homosexual or heterosexual, consensual or non-consensual or condoned by parents or caregivers.
- 9.4 As a TAFE NSW employee, you must not enter into a romantic or sexual relationship with any student (including any adult student) that you are responsible for teaching, tutoring, advising, assessing, or for whom you provide pastoral or welfare support. To do so raises serious questions of conflict of interests, trust, confidence, dependency, and of equality of treatment. Such relationships may also have a negative impact on the teaching and learning environment for other students and colleagues, and may carry a serious reputational risk for the Department.
- 9.5 Where a personal relationship, such as family relationship or close friendship exists between you and a student, or where there is a pre-existing sexual relationship with an adult student attending the same workplace, you must report the conflict of interest, or any potential conflict, to your supervisor or principal, and it must be managed carefully.
- 9.6 Wherever practical, you should avoid teaching or being involved in educational decisions involving family members or close friends. Where it is not practical to avoid such situations completely, another member of staff should make any significant decisions relating to the student's assessments and have those endorsed by a supervisor.
- 9.7 Your professional relationship may be compromised if you:
  - vi. invite students to join your personal electronic social networking site or accept students' invitations to join theirs
  - vii. attend parties or socialise with students
  - viii. invite a student or students back to your home or attend theirs without an appropriate professional reason and without the consent of their parent or carer
  - ix. transport a school student in your car without prior approval from a supervisor and a parent or carer.

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9.8 The boundaries of the professional relationship will be breached if you:

- x. have a sexual relationship or develop an intimate relationship with a student
- xi. use sexual innuendo or inappropriate language and/or material with students
- xii. hold conversations of an intimately personal nature, where you disclose private information about yourself
- xiii. have contact with a student via written or electronic means including email, letters, telephone, text messages or chat lines, without a valid context
- xiv. give students gifts of a personal nature that encourages them to think they have an individual and special relationship with you.

9.9 You are reminded of:

- xv. the law prohibiting sexual relations with a person under the age of consent (16 years)
- xvi. the law prohibiting sexual relations between a teacher and their student under the age of 18 years
- xvii. the law prohibiting child pornography.

# 10

## Appropriate use of electronic communication and social networking sites

The Department provides electronic communication facilities for its students and employees for educational or administrative purposes. It reserves the right to monitor and view any data stored or transmitted using the Department's facilities. By its nature, electronic communication is a fast and informal way of communicating. However, once a document or image has been sent there is no way to recall it and it exists forever.

- 10.1 You must, therefore, comply with the Department's *Employer Communication Devices Acceptable Use Guidelines*, and:
- 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
  - not invite students into your personal social network site, if it contains personal information or inappropriate comments or images
  - remember transmission, storage, promotion or display of offensive, defamatory, or harassing material is strictly forbidden
  - report any situations where you become aware of the inappropriate use of electronic communication and social networking sites.
- 10.2 You must never use the Department's networks to view, upload, download or circulate any of the following materials:
- 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.

People sometimes respond too quickly or express their thoughts and feelings with undue frankness when using electronic communication.

Avoid getting personal in electronic mail or in blogs, wikis or social networking sites.

Remember, people can't hear the tone of your voice in an electronic message and you can easily be misunderstood, particularly if your message is provided out of its original context.



# 11

## Use of alcohol, drugs and tobacco

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

- 11.1 You are responsible for ensuring your capacity to perform your duties is not impaired by the use of alcohol or drugs, and that the use of such substances does not put at risk you or any other person's health and safety.
- 11.2 As a departmental employee, you must:
- i. not attend work under the influence of alcohol, illegal drugs or non-prescribed and/or restricted substances
  - ii. not endanger your own safety or the safety of any other person in the workplace by consuming alcohol, illegal drugs or non-prescribed and/or restricted substances
  - iii. notify your supervisor if you are aware that your work performance or conduct could be adversely affected as a result of the effect of a prescribed drug
  - iv. take action to resolve any alcohol or other drug-related problems that you have (remember that you have access to counselling support from **Employee Assistance Program (EAP)**, and
  - v. consult with your supervisor if you are concerned about working with other employees who may be affected by drugs or alcohol.

### Drugs

- 11.3 As a departmental employee, you *must not*:
- i. have illegal drugs in your possession while at work. Any illegal drugs found on departmental property or in the possession of any person on departmental property will be reported to the Police
  - ii. give students or other employees illegal drugs or restricted substances, or encourage or condone their use
  - iii. supply or administer prescription or non-prescription drugs to students unless following the directions set down in the **Administering Prescribed Medication at School procedures**.
- 11.4 Managers and principals must report incidents involving illegal drug use to the Police or to the **School Safety and Response Hotline**.

### Alcohol

- 11.5 You must not take alcohol to a school or consume it during school hours or at any school function at any time school students are present, including those events conducted outside school premises. A school function is any occasion organised by the school and/or in the school's name, including dances, farewells, excursions, sporting fixtures and fund raising events. (Refer to the **Drugs in Schools** policy)
- 11.6 Therefore:
- i. you must not purchase alcohol for, or give alcohol to, any school student or other person under the age of 18 years

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- ii. you must not encourage or condone the use of alcohol by students of any age during educational activities unless prescribed by the curriculum (such as TAFE NSW hospitality courses).
- 11.7 The **Community Use of School Facilities** Policy Statement and Implementation Procedures 1994 contains information on the consumption of alcohol on school premises by community groups.
- 11.8 In the case of cross-sectoral sites (eg joint school/TAFE NSW sites), the Executive staff may need to define the term “school premises”. Refer to **Alcohol and Other Drugs: Policy Framework for TAFE NSW Institutes**

Being under the influence of alcohol while you are ‘on duty’ could affect your ability to work safely and efficiently, especially when you have a responsibility to supervise students or work in close proximity to them.

## Tobacco

- 11.9 You must not smoke or permit smoking in any departmental buildings, enclosed area or on departmental grounds. This includes all buildings, gardens, sports fields, cars and car parks, other than those clearly defined areas on TAFE NSW campuses. (Refer to **Smoke Free Environment Act 2000**).
- 11.10 You must not purchase tobacco or tobacco products for any school student, or give them tobacco or tobacco products.

Children and young people have a greater vulnerability to alcohol than adults. To provide alcohol to a person under the age of 18 years is against the law.

# 12

## Identifying and managing conflicts of interest

Personal views or private interests can, or have the potential to, influence a person's capacity to perform their duties and in turn compromise their integrity and that of the Department.

12.1 As a departmental employee, you must be objective and impartial, and be seen to be so. A conflict of interests can involve:

- pecuniary interests i.e. financial gain or loss or other material benefits
- non-pecuniary interests i.e. favours, personal relationships and associations.

It may not only be about your own interests. It may include:

- the interests of members of your immediate family or relatives (where these interests are known)
- the interests of your own business partners or associates, or those of your workplace
- the interests of your friends.

Hostility as well as friendship can also give rise to actual or perceived conflicts of interests.

12.2 A conflict exists when a reasonably minded and informed person would form that view.

12.3 When faced with a situation in which conflict of interests may be present, you should:

- assess the situation and the surrounding circumstances that could affect any decisions or actions you may take in the matter (Ask yourself "What is my **public duty**?" and "What is my personal interest?")
- identify whether any conflicts of interests exist ("Could my personal interest influence my performance of the public duty?")
- determine the type of conflict of interests ("Is it actual, perceived or potential?" "Is it pecuniary or non-pecuniary?"), and
- report any conflict to your manager.

12.4 A key issue to consider in determining whether conflict of interests exists is what the perceptions of others might be. Questions you might ask yourself would be:

- What assessment would a reasonable or fair-minded member of the public make of the circumstances?
- Could my involvement in this matter cast doubt on my integrity or on the Department's integrity?

### Examples of Conflicts of Interests Situations include:

- an employee taking part in the evaluation and selection of textbooks, reference books or learning materials which were written or edited by a relative or close friend, or published by a company in which they have a financial interest
- an employee taking part in the selection and appointment of a supplier or contractor who is a relative or a close friend, or owns a company in which they have a financial/business interest
- an employee supervising a relative or a close friend and determining their promotions or pay increases
- a teacher tutoring or coaching students from their school or workplace in return for payment
- a teacher referring their students to attend private tutorial sessions in which they have, or a relative or a close friend has, a financial/business interest.

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- 12.5 You should also report situations where a superior or colleague who has an identified conflict is, or may be perceived as, unduly influencing your decision.
  - 12.6 As a manager or supervisor, you are required to develop appropriate management strategies to deal with any conflicts of interests and document your decisions and actions.

*Refer to the **Conflict of Interests Factsheet** for more detail (Appendix 3)*

# 13

## Recruitment

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The recruitment of employees in the Department is conducted in line with the relevant legislation, industrial instruments, policies and procedures.

Recruitment and staff selection processes must meet the principles and the standards of merit selection. It must be ethical, fair and effective.

These are outlined in the *Merit Selection Guide for NSW Public Sector Panels – Picking the Best Person for the Job*.

- 13.1 In order to avoid any possible accusation of bias, you must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any employee, or prospective employee, to whom you are related, or with whom you have a close personal or business relationship.
- 13.2 Selection panel members need to declare to the panel any prior personal knowledge or interest in any of the applicants. This is to ensure that any conflicts of interest, which might unduly influence that person in the panel's deliberations is carefully managed. Prior knowledge of the applicant does not necessarily amount to a conflict of interests or exclude participation in the selection process.
- 13.3 Where the selection panel considers a conflict of interests could prejudice the outcome of the process, it must be resolved or managed according to the conflict of interests' provisions in section 12 of these procedures. This includes the requirement to document any perceived or actual conflict and the requirement of the panel member to disclose to the convenor or other person appointing them to the panel if they have a conflict of interests arising from the work of the panel.

# 14

## Record keeping

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A record serves an essential administrative, legal and historical purpose.

Records may be class rolls, student assessment records, emails, electronic documents, digital image and audio recordings, correspondence, files, forms, plans, drawings, notes, photographs and films.

- 14.1 All employees have a responsibility:
- the likelihood of the breach occurring again
  - to create and maintain full, accurate and honest records of their activities, decisions and other business transactions, and
  - to capture or store records in the Department’s records systems in line with the ***DET Records Management Procedures*** and the ***State Records Act 1998***.
- 14.2 You must not destroy records without appropriate authority.
- 14.3 Managers have a responsibility to ensure that the employees reporting to them comply with their records management obligations.
- 14.4 Employees responsible for assessing and recording marks for students’ work must do so accurately, fairly and in a manner that is consistent with relevant policy and the requirements of the particular school, institute or educational facility.
- 14.5 Employees must maintain the confidentiality of all official information and documents which are not publicly available or which have not been published.

# 15

## Declaring gifts, benefits and bribes

As an employee, you may be offered a gift or benefit as an act of gratitude. There are some circumstances when to refuse a gift would be perceived as rude, insulting or hurtful.

You are expected to exercise sound judgment when deciding whether to accept a gift or benefit. It is important that the acceptance of a gift does not influence or is not seen to influence your decision-making.

- 15.1 You must never ask for money, gifts<sup>5</sup> or benefits and you must never accept any offer of money, gifts or benefits. To do so may amount to bribery, which is a crime.
- Bribery** is soliciting, receiving or offering any undue reward to or by a person to influence the way that person acts. A reward can encompass anything of value and is not limited to money or tangible goods. The provision of services may amount to a reward.
- 15.2 If you are offered a bribe (i.e. anything given in order to persuade you to act improperly), you must refuse it, explain why it is not appropriate, and immediately report the matter to a senior line manager. Any attempt to bribe an employee or the acceptance of a bribe by an employee, is an act of corrupt conduct and must be reported to the Employee Performance and Conduct Directorate.
- 15.3 Accepting gifts and other benefits has the potential to compromise your position by creating a sense of obligation and undermining your impartiality. It may also affect the reputation of the Department and its officers. You must not create the impression that any person or organisation is influencing the Department or the decisions of any of its employees.
- 15.4 Always consider the value and purpose of a gift or benefit before making any decision about accepting it. A gift that is more than nominal value (\$50) must not become personal property. You should either politely refuse it or advise the contributor that you will accept it on behalf of your school or workplace.
- 15.5 When such a gift is accepted, you must advise your manager or Principal. They will determine how it should be treated and make a record of its receipt. Depending on the nature and value of the gift, it may be appropriate to record the gift in the asset register as a donation or other such record established for that purpose.

It would be **acceptable** to receive gifts in the following situations:

- if, after giving a presentation at a meeting or seminar, you are presented with a small gift as thanks for your time and effort
- when parents or students arrive with a small gift for a teacher at the end of the school year
- a parent gives \$1000 dollars to the Principal, specifically requesting that the money be donated to the school library for the purchase of audio-books because her son has poor vision.

<sup>5</sup> See glossary for definition

- 
- 15.6 Sometimes employees might, in the course of their work, win a prize of significant monetary value e.g. a computer, from another organisation. Prizes are usually considered the property of the Department. If you win a prize you must advise your principal or manager who will determine how the prize should be treated and recorded.

It would **not be acceptable** to receive gifts or benefits in the following situations:

- a company wanting to do business with the Department offers an employee two tickets to the VIP box at the football final
  - a parent gives the school \$1000 dollars for sporting equipment on condition that her son is chosen for the cricket team
  - at the end of Term 2, a parent gives a teacher an envelope containing \$150 and says "I hope this will help you enjoy your holiday. Have a dinner on me."
- a parent gives a teacher an obviously expensive gift e.g. an item of jewellery.



# 16

## Private and secondary employment

It is permissible for employees to undertake paid secondary work within or outside the Department, subject to *Private and Secondary Employment Policy* and guidelines. However, employees must recognise their primary commitment is to their principal employment in the Department. Engaging in other employment; for example, part-time university lecturing or tutoring, or working as a consultant, may have the potential to compromise or be seen to compromise their duties as a departmental employee.

- 16.1 If you are employed in a permanent full-time or temporary full-time position, you must seek approval from your manager prior to engaging in any secondary employment. You can only commence the private or secondary employment once you have received approval. Approval must be obtained annually.
- 16.2 Permanent part-time and temporary part-time employees, casual employees, and temporary SAS staff (employed for less than 10 weeks) are not required to gain approval for other employment, providing the other paid work is not undertaken during the period that the person is employed to discharge duties for the Department. However, these employees must ensure that their responsibility to the Department is not adversely affected and that no conflicts of interests arise.
- 16.3 In cases where a real or perceived conflict of interests exists, the employee must advise their immediate supervisor. The supervisor must then assess the manageability of the conflict of interests and/or review the continuation of the private or secondary employment. Further conditions are contained in the Private and Secondary Employment Policy and guidelines.
- 16.4 Special arrangements apply to employees who are contesting State or Federal elections. Details of these arrangements are in Premier's Memo **C2006-41 Public Sector Employees Contesting Elections**.
- 16.5 Specific advice is available for staff considering private employment in the tutoring industry in Memo DN/09/00198 **Advice to Staff Considering Undertaking Private Employment in the Tutoring Industry**.

An example of inappropriate secondary employment would include the following scenario:

In addition to performing full-time employment for the Department, an employee worked the 6.00pm to 3.00am taxi shift on three nights a week without prior approval for secondary employment. His colleagues observed him sleeping at various times during the day. He explained to his supervisor that he was experiencing significant financial difficulties and needed additional income. They reached an agreement that he would only drive a taxi on Friday and Saturday nights and approval was granted on this basis.

# 17

## Protecting confidential information

The Department collects and stores a lot of confidential information. Unauthorised disclosures may cause people harm, or give an individual or agency an improper advantage. The Department's integrity and credibility may be damaged if it cannot keep information secure.

- 17.1 As a departmental employee, you must only use official information for the work-related purpose it was intended.
- 17.2 Unless authorised to do so by legislation, you must not disclose or use any confidential information without appropriate approval.
- 17.3 You must make sure that confidential information, in any form, cannot be accessed by unauthorised people. Sensitive information should only be provided to people, either within or outside the Department, who are authorised to have access to it.
- 17.4 You should always exercise caution and sound judgment in discussing other people's personal information with other departmental employees. Normally information should be limited to those who need to know in order to conduct their duties, or to those who can assist us in carrying out our work because of their expertise.
- 17.5 Former departmental employees must not be given access to confidential information.

Information concerning privacy is available on the Department's [Legal Services intranet site](#) and also refers specifically to [Collection, use and disclosure of information about TAFE NSW students with a history of violence](#).

### Examples of inappropriate release of confidential information might include:

- an employee providing information to another department or agency involved in an investigation or complaint without permission from their manager or where legally compelled to do so
- an employee supplying confidential information to a company tendering for Government work
- employees accessing their colleagues' or students' contact details or workplace records inappropriately.

# 18

## Managing your political, community and personal activities

- 18.1 As a departmental employee, you are required to serve the elected Government of the day by:
- implementing Government policy
  - providing impartial and accurate advice to the Government of the day
  - administering laws passed by the Parliament, and
  - providing responsive service to the community in line with Government policy.
- 18.2 As an elected or nominated spokesperson for a professional association or a union, you are entitled to make public comments in relation to education and training matters as long as it is clear that those comments represent the association or union views, and not necessarily those of the Department. You are required to clearly acknowledge the capacity in which you are expressing such views.
- 18.3 As an individual, you have the right to participate in political and community activities and to pursue personal interests, provided any conflict that arises is recognised and adequately managed.
- 18.4 It is your obligation to ensure that your involvement in any political party, industrial organisation, or community and personal activity is understood to represent your view or those of the organisation you represent, and not those of the Department.
- 18.5 In participating in any political, community and personal activity, you must:
- not make any comment that may cast doubt on your capacity to implement departmental policies and –guidelines objectively
  - not participate in private political activities in the work environment
  - not use the Department’s resources to assist your political, community or personal activities
  - not use information obtained through your work at the Department to assist your political, community or personal activities, or make the information known to any other person, and
  - not misrepresent the position of the Department on any issue.

Refer to the Department’s [Media Relations Policy](#) for more information.

Examples of inappropriate conduct include people who identify themselves as departmental employees, especially on public social networking and blog sites and make:

- disparaging comments about the Government or the Department
- public comment about their dissatisfaction with current Government policy to the media, or
- public comment about their own political or religious beliefs while purporting to represent the Department.

# 19

## Lobbying

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Lobbying is the practice of influencing the decisions of Government officials and legislators by an external person, organisation or agency. A lobbyist is a person who tries to influence legislation on behalf of a special interest or a member of a lobby. Governments often define and regulate organised group lobbying.

“A lobbyist” does not include:

- an association or organisation constituted to represent the interests of its members eg a trade union or the Parents and Citizens Association
- a religious or charitable organisation; or
- an entity or person whose business is a recognised technical or professional occupation.

19.1 As a departmental employee, you must comply with the ***NSW Government Lobbyist Code of Conduct***. It states:

A Government Representative shall not at any time permit lobbying by:

- a Lobbyist who is not on the Register of Lobbyists;
- any employee, contractor or person engaged by a Lobbyist to carry out lobbying activities whose name does not appear in the Lobbyist’s Details noted on the Register of Lobbyists in connection with the Lobbyist;
- any Lobbyist or employee, contractor or person engaged by a Lobbyist to carry out lobbying activities who, in the opinion of the Government Representative, has failed to observe any of the requirements of clause 4.3 of the Code.

# 20

## Post separation employment

### Prior to separation

- 20.1 As a departmental employee, you must not use your position unfairly to improve your own prospects of future employment. If you allow your work to be improperly influenced by plans for, or offers of, employment outside the Department there is a conflict of interests and your integrity and that of the Department is at risk.
- 20.2 You must return any property you have belonging to the Department.

### After separation

- 20.3 When you cease employment with the Department, you should not use or take advantage of any confidential information obtained in the course of your official duties until it has become publicly available.
- 20.4 As a current employee, you must be careful in your dealings with former employees of the Department and make sure that you do not give them, or appear to give them, favourable treatment or access to privileged information.
- 20.5 You should report any attempts made by former employees to influence or lobby you about the Department's activities to your supervisor or line manager.

### Example of inappropriate conduct would include

A former employee now works for a private registered training organisation, which competes with TAFE NSW. Before leaving the Department, the employee downloaded teaching resources and used them to benefit her new employer.

### Example of appropriate conduct would include

A Department manager of a section that employs contractors to supply a service decides to resign and set up his own business to supply the same service to the Department. Clearly, the manager has an unfair advantage over other competitors as he has detailed knowledge of the Department's requirements and tendering processes and established relationships with the Department's current employees who might be involved in awarding the contract. The employee declares the conflict of interests and ensure that any decisions made in relation to the contracting are made together with an independent person.

# 21

## Signatures

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As a departmental employee, you are accountable for any documents that you sign. Therefore, you should carefully read all documents you are asked to sign.

- 21.1 You must not sign a document, which you know is not true and correct.
- 21.2 You must only sign *your own* name and must never permit or encourage anyone to sign a name other than their own. Managers and supervisors must not encourage or coerce their staff to sign a document with which the employee is not satisfied.
- 21.3 You should only use *your own* name when, for example, sending emails, and should not give the impression that you have the authority of another person without their permission.
- 21.4 You should never give another person your staff portal password and you should take care to ensure that you have 'logged off' fully from your computer before leaving it unattended.

# 22

## Personal references

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A personal reference is a document, which provides information or makes assertions about another person's skills, conduct, performance, character, and suitability or non-suitability for employment.

You may agree to a request from an employee or student to write a personal reference. In doing so, you should comply with the departmental policy *Procedures for the Provision of Personal References*.

- 22.1 You cannot use departmental letterhead when writing a personal reference for an employee that is considered your personal assessment or opinion, and not those of the Department.
- 22.2 Official references; ie on the Department's letterhead, can only be obtained with the approval of a Director, Deputy Director-General, or Director-General.
- 22.3 If asked to provide a reference, it is your responsibility to complete the report honestly and based on information that can be verified. You must not make false or derogatory statements about an individual.

# 23

## Using public resources wisely

The resources you use at work are publicly funded assets. This includes your time.

- 23.1 As a departmental employee, you have an obligation to:
- use public resources efficiently and effectively for official purposes
  - make decisions relating to the use of public resources that are reasonable, are correctly authorised and can withstand public scrutiny
  - treat departmental property with due care and ensure it is secured against theft and misuse.
- 23.2 You should be economical and avoid waste and extravagance in your use of resources such as office facilities and equipment, including the use of motor vehicles, travel and catering.
- 23.3 You may use departmental resources in your personal time for work-related purposes only. If you wish to use departmental property and facilities for personal use, you must obtain approval from your manager. To use departmental equipment off-site, you must seek approval from your office manager, preferably in writing.

*Refer to the **Use of Equipment document** – Appendices 3 for further information.*

### Examples of inappropriate conduct

An employee uses her departmental phone number on her private business card, and receives regular private business calls during work time. She spends extended periods of work time responding to her private business interests to the detriment of the Department.

An employee appropriately takes a departmental car to attend a scheduled meeting. However, after the meeting, the employee picks up two friends and drives into the city for dinner.



# 24

## Copyright and intellectual property

The Department relies on its intellectual property to deliver its services. All employees play an important role in ensuring the Department's intellectual property is properly identified, protected, used and where appropriate shared so as to ensure its benefit to the organisation and stakeholders.

- 24.1 When creating material you need to ensure the intellectual property rights of others are not infringed and information is recorded about any third party copyright/other rights included in materials.
- 24.2 Advice relating to sharing or licensing the Department's intellectual property should be sought from the unit/directorate that created the intellectual property and the **Department's Copyright Unit** prior to any arrangement taking place.
- 24.3 The Department cannot give away or assign its intellectual property without the approval of the Attorney-General's Department.
- 24.4 If you develop material that relates to your employment with the Department, the copyright in that material will belong to the Department. This may apply even if the material was developed in your own time or at home.
- 24.5 You should not use the Department's intellectual property (including copyright) for private purposes without obtaining written permission from the directorate or unit that created the material.

### Examples of appropriate conduct

A teacher is writing a textbook based upon teaching materials developed in the course of her work duties. The teaching materials are the intellectual property of the Department of Education and Training. The teacher seeks the Department's consent to include the materials in the textbook.

An organisation approaches the Department to use the TAFE NSW logo on its website. As the TAFE NSW logo is a valuable trademark, a probity check should be completed on the organisation and a copy of the Corporate Identity Guidelines and the Department's Statement of Business Ethics provided.

The Department owns all intellectual property rights (including copyright) in material created by its employees, pursuant to their employment. Refer to the fact sheet *Copyright Ownership when DET Staff Create Material* and to the *TAFE NSW Intellectual Property Policy and Guidelines* for more information.

# 25

## Glossary

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**Benefit** A non-tangible item of value (eg a new job or promotion, preferential treatment or access to confidential information etc.) that one person or organisation confers on another.

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**Bribe** A gift or benefit offered to or solicited by a public official to influence that person to act in a particular way.

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**Bribery** The term 'bribery' also includes offences committed under section 249B and associated sections of the Crimes Act 1900 (NSW), involving acts of offering or soliciting a corrupt commission or reward to or by a public official to influence that person to act in a particular way.

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**Breach of policy or procedures** The breaking or violation of a law, a right, an obligation, or a duty, either by commission or omission. It involves a breach of public service policies or procedures or the Department's internal policies or procedures.

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**Corrupt conduct** The abuse of public office (ie 'public trust') for private or personal advantage.

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**Department or departmental** All parts of the NSW Department of Education and Training, including schools, TAFE NSW, AMES, State Training Centres and state office directorates.

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**Gift** A gift is an item of value (eg gift voucher, entertainment, hospitality, travel, commodity, property etc) which one person or organisation presents to another. In the business context, gifts can have different meanings and purposes. The purpose of the gift, to a certain extent, affects how it should be managed.

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**Gift of influence** A gift that is intended to generally ingratiate the giver with the recipient for favourable treatment in the future.

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**Gift of gratitude** A gift offered to an individual or agency in appreciation of performing specific tasks or for exemplary performance of duties. Gifts to staff who speak at official functions would be considered gifts of gratitude.

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**Token gift** A gift that is offered in business situations to an agency or public official representing an agency. Such gifts are often small office or business accessories (eg pens, calendars, folders) that contain the company logo. They are usually products that are mass-produced and not given as a personal gift.

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**Ceremonial gift** An official gift from one agency to another agency. Such gifts are often provided to a host agency when conducting official business with delegates from another organisation. Although these gifts may sometimes be offered to express gratitude, the gratitude usually extends to the work of several people in the agency, and therefore the gift is considered to be for the agency, not a particular individual.

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**Lawful direction** A lawful direction is a direction which falls within the scope of the job description, involves no illegality and which is reasonable.

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**Maladministration** Inefficient, bad or improper administration. Maladministration is defined in the *Protected Disclosures Act* as 'conduct that involves action or inaction of a *serious nature*' that is: contrary to law, or unreasonable, unjust, oppressive or improperly discriminatory, or based wholly or partly on improper motives.

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**Nominal value** The acceptable monetary limit of gifts that conform to the community's norms, usually no more than \$50 (eg an inexpensive pen, tie, scarf, book, box of chocolates or bottle of wine).

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**Protected disclosure** Any public official who makes known information about a relevant form of wrongdoing (ie corrupt conduct, maladministration, serious and substantial waste) is 'protected' under the *Protected Disclosure Act*.

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**Reasonable instruction** An employee must have the necessary knowledge, skill, capability and ability to carry out the instruction. Instructing an employee to do something, which they clearly cannot do, is unfair and unreasonable. The instruction must fall within the ambit of the job. Sometimes it is not always clear whether or not a particular task falls within the parameters of an employee's job description, when not specifically stated in the document.

**Serious and substantial waste** The NSW Auditor-General has adopted a definition that 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.

**Supervisor** A manager, head teacher, principal, director, the 'boss'.

**Under the influence** A person is under the influence of alcohol or drugs when, because of drinking any amount of alcohol or taking drugs, their mental or physical faculties are so impaired as to reduce their ability to think and act with ordinary care.

# Appendix 1

## Frequently asked questions

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### Is there a departmental dress code?

No, the Department does not consider that an employee dress code should be incorporated into the Code of Conduct.

As a general guide, the appearance and dress of departmental employees should be appropriate to their duties and the people with whom they are dealing.

You have an obligation to dress appropriately in a way that upholds the good reputation of the Department. Wearing thongs, singlets, revealing clothes, or clothes with offensive slogans are examples of inappropriate dress in a workplace. You should also be aware of relevant workplace health and safety considerations that may require particular protective equipment to be worn such as gloves, safety shoes and breathing masks. Refer to [Management Guidelines for Safe Learning and Working](#) for more information.

### Why doesn't the Code of Conduct apply to students?

All students are expected to abide by the [Core Rules Student Discipline in NSW Government Schools](#). Allegations or complaints against students should be handled according to their School Discipline Policy. For more information, see the [Student Welfare Policy](#) and the [Student Discipline Mandatory Procedures TAFE NSW](#).

### What is nominal value?

For the purposes of these procedures, "nominal value" describes goods and/or services, which have nominal value (ie less than \$50.00).

Generally speaking, nominal (token) gifts and benefits may include:

- gifts of single bottles of reasonably priced alcohol to an individual at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- free or subsidised meals, of a modest nature, and beverages provided infrequently (and/or reciprocally) that have been arranged primarily for the discussion of official business
- free meals, of a modest nature, and/or beverages provided at work related events such as training, education sessions and workshops
- ties, scarves, diaries, chocolates or flowers
- invitations to appropriate out of hours social functions organised by groups, committees and community organisations.

Nominal value gifts and benefits may only be accepted if the gift is not likely to be seen as compromising employees. If you have any doubt if the gift/benefit is nominal you should discuss it with your manager or principal.

# Appendix 2

## Use of departmental equipment

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The Department's equipment cannot be used by groups or individuals for private commercial activity, except in special circumstances such as fund-raising for charity.

As an employee, you can ask for approval to use the Department's equipment for non-departmental use.

### Is there a hire fee for equipment?

Not normally, though you must pay for or replace consumable items such as fuel. Management can set hire fees if appropriate.

### Will I always be granted approval for its use?

No, not necessarily. Approval for the use of equipment is at the discretion of the office manager. If the equipment is needed for departmental use, this will take priority. In some cases, the equipment may be too valuable or fragile to permit non-departmental use. In addition, for equipment used off departmental premises you must arrange a return date and make sure you return it by that date. If you have used equipment before and returned it later than agreed or in bad condition you may find your request refused.

### What procedures must I follow to use the Department's equipment privately?

Check with your supervisor or principal about the local approvals for using phones and photocopiers and fixed equipment such as vehicle hoists and workshop facilities. In general, make sure you have written approval to use equipment before you use it.

No equipment should be moved without prior signed approval in the equipment movements register by an authorised staff member. The person delegated to approve the use of equipment ensures that its use and movement are recorded and that all the loan conditions are met.

### What happens if I lose or damage the equipment, or it is stolen while in my care?

You should check the policy for your liability before you use any of the Department's equipment and also be aware of the procedures to follow if theft, loss or damage occurs.

In most cases, the Department's insurance covers equipment that is moved from its normal location, provided the policies and procedures on the use of equipment are followed. The cost of any loss, theft or damage may be charged to you if you do not follow the correct procedures.

# Appendix 3

## Conflict of interest factsheet

### Take the Con out of Conflicts

Abuse of position to gain a benefit for family or friends is...



#### What is a conflict of interest?

A conflict of interest occurs when a public official is in a position to be influenced, or appear to be influenced, by their private interests when doing their job.

Conflicts of interests may be actual, perceived or potential.

Private interests may include social and professional activities and interests with individuals or groups, including family and friends, as well as financial interests.

#### Are conflicts of interest corrupt conduct?

Conflicts of interest are not wrong in themselves. It is how they are managed that is important. Unmanaged conflicts of interest may lead to biased decision making and abuse of position which may constitute corrupt conduct.

The community expects that public officials at all levels perform their duties in a fair and unbiased way, and that the decisions they make are not affected by self-interest, and or private affiliations.

A good test to decide whether you have a conflict of interest is to ask:

- would I be happy if my colleagues became aware of my involvement?
- would I be happy if my involvement appeared in the local newspaper?

#### What do I do if I have a conflict of interest?

Conflicts of interest must be avoided if possible, and must not be created for others.

All conflicts of interest must be disclosed in writing as soon as you become aware of them, and be discussed with your supervisor in order to manage the conflict effectively and transparently .

#### What strategies can be used to manage a conflict of interest?

The strategies used to manage a conflict of interest should be based on what is most appropriate to the circumstances :

- **RECORD** all conflicts of interest
- **RESTRICT** involvement in the activity or process where the conflict of interest is not likely to arise frequently
- **RECRUIT** a disinterested third party to oversee part or all of the process where it is not feasible or desirable for you to remove yourself from the decision-making process
- **REMOVE** yourself completely from the matter where the conflict of interest is serious and or ongoing.
- **RELINQUISH** the private interest where your commitment to public duty that is creating the conflict outweighs your attachment to your private interest
- **RESIGN** from your position where no other options are workable, changes to work responsibilities or environment are not feasible or you prefer this course as a matter of personal principle

#### To report suspected corrupt conduct or to obtain more information...

Contact your supervisor, the Manager Corruption Prevention, Audit and Risk Management Directorate or the Director, Employee Performance and Conduct.

Visit the DET Intranet site for the Corruption Prevention Procedures and the Code of Conduct Procedures.



For further information, please contact:

Senior Adviser, Systems and Practice at the Employee Performance and Conduct Directorate  
T 02 9266 8070

or go to <https://www.det.nsw.edu.au/employment/codeofconduct/index.htm>

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