

Code of Conduct



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Contents

About the ODPP Code of Conduct	4
Overview	4
ODPP Signature Behaviours	4
Public sector obligations	5
Other laws and policies	5
Who is covered	5
Applying the Codes	6
Personal conduct	6
Professional conduct	6
Conflicts of interest	7
Conflicts to be alert to	8
Ensuring confidentiality	8
Using public resources/facilities efficiently and appropriately	10
Presentation/dress requirements	10
Alcohol, tobacco and other drugs	11
Public comment	11
In a private capacity	11
On behalf of the ODPP	12
Social media use	12
Work related use	12
Private use	12
Gifts, benefits and hospitality	13
Gifts or benefits	13
Hospitality	13
Offering gifts, benefits or hospitality	13
References	13
Bribery	14



Secondary and future employment	14
Secondary employment	14
Future employment	14
Bankruptcy	15
Speaking up: Reporting unethical, corrupt or criminal conduct	15
Unethical conduct	15
Corrupt conduct and serious misconduct	15
Criminal conduct	15
Accountability/consequences of non-compliance	16
Accountability	16
Consequences of non-compliance	16
Further Information	17
Review of the ODPP Code	17
Appendix A: Significant Legislation and Rules	18



About the ODPP Code of Conduct

Overview

The Office of the Director of Public Prosecution's (ODPP) Code of Conduct (the ODPP Code) establishes the ethical principles and standards of conduct that are to inform and guide:

- all decisions made and action taken on the ODPP's behalf and
- all behaviour, professional and personal, while performing work for the ODPP.

These principles and standards are integral to the ODPP fulfilling its role in the NSW criminal justice system as a fair, just and independent prosecution service, and to maintaining public confidence in its integrity.

The ODPP Code provides examples of the conduct the ODPP requires in particular circumstances but these are not intended to be exhaustive.

ODPP Signature Behaviours

All work and conduct at the ODPP should be characterised by its Signature Behaviours. These are a key aspect of the ODPP Strategic Plan and a key component of staff performance development.

The ODPP Signature Behaviours are:

- **Act with integrity**, by behaving ethically and professionally and adhering to public service values (see '[Public sector obligations](#)')
- **Communicate** clearly, both verbally and in writing, and actively listen to others and respond in a respectful way
- **Be courageous**, by being open and honest, prepared to express your professional views and willing to accept and commit to change
- **Be accountable**, by taking responsibility for your actions, adhering to legislation and policy and using resources efficiently
- **Be adaptive**, by planning and achieving priority outcomes, responding in a flexible manner and participating in initiatives that encourage positive change across the ODPP
- **Promote a supportive environment**, by showing respect for diverse backgrounds, experiences and perspectives, accepting differing opinions and views and working collaboratively
- **Keep learning**, by adopting and maintaining a commitment to ongoing learning and development.



Public sector obligations

The Public Service Commissioner has adopted a [Code of Ethics and Conduct for NSW Government Sector Employees](#) under section 8A of the *Government Sector Employment Act 2013* ('[GSE Act](#)') (the PSC Code).

The PSC Code identifies mandatory requirements for all government sector employees that are consistent with Part 2 of the GSE Act (the Ethical Framework for the government sector). The PSC Code applies at all times when government sector employees are acting in the course of, or in connection with, NSW government sector employment. The PSC Code also extends to conduct outside of work hours where that conduct may affect your employment. This includes conduct that is undertaken in a private capacity but conflicts with your ability (or could reasonably be perceived to conflict with your ability) to fulfil your duties in your government sector role. The PSC Code does not apply to individuals who are not NSW government sector employees.

The ODPP has supplemented the PSC Code with requirements specific to our operating environment and business risks. ODPP employees who are also government sector employees must ensure they comply with both the Code as adopted by the Public Service Commissioner, as well as the ODPP Code (collectively the Codes).

Other laws and policies

All individuals performing work for the ODPP are required to comply with relevant federal and state legislation, whole-of-government policies and directives, industrial instruments, and the ODPP's policies, procedures, guidelines and work instructions.

(The ODPP *Legislative Compliance Register* lists the major legislation relevant to the ODPP and the measures that ensure compliance. [Appendix A](#) lists legislation relevant to conduct.)

Who is covered

The ODPP Code applies to anyone performing work for the ODPP (referred to collectively as 'you'). This includes:

- the Director of Public Prosecutions
- the Deputy Directors of Public Prosecutions
- the Senior Crown Prosecutor
- the Solicitor for Public Prosecutions
- Deputy Senior Crown Prosecutors and Crown Prosecutors
- Public Sector Senior Executives
- privately briefed barristers
- solicitors, witness assistance officers, administrative and other staff employed under the GSE Act (including anyone on secondment)
- contractors
- volunteers and participants on work experience and work training schemes.



Applying the Codes

Personal conduct

Respect, courtesy and honesty should underscore how everyone performing work for the ODPP treats colleagues, external stakeholders and members of the public and should expect to be treated themselves.

This means:

- supporting and encouraging an environment that values all individuals and respects and upholds their rights
- not bullying, harassing or demeaning any individual, or discriminating against anyone on the grounds of gender, race, social status, age, religion, sexual preference or physical or intellectual capacity
- reporting harassment or discrimination you become aware of, or are subjected to, to a manager or supervisor
- not using offensive language at work or behaving in an offensive manner
- ensuring any physical contact you initiate is appropriate for a law firm
- respecting individuals' privacy, confidence and values, unless obliged by the Codes or another lawful directive or requirement to disclose or report.

Professional conduct

Your professional behaviour should uphold the reputation of the ODPP and promote confidence in the integrity of its operations and processes. As outlined in the Signature Behaviours, this means:

- acting with honesty, consistency and impartiality
- putting the public interest above your personal interest (see '[Conflicts of interest](#)')
- taking responsibility for your actions
- considering people equally without prejudice or favour
- being prompt, courteous and professional in all communication with colleagues and stakeholders, in person or by phone, letter, email or other means
- raising concerns when you have them
- reporting misconduct
- respecting public money and resources.



You are expected to comply with any lawful and reasonable direction from someone with authority to give the direction; and to act within the limits of your delegation.

At all times, you are to adhere to relevant ODPP Guidelines and Delegations and to professional standards, including:

- the Director's Prosecution Policy and Guidelines
- the Director's Instrument of Delegations
- the Director's Administrative Delegations
- the professional conduct and practice rules and requirements of the Bar Association and Law Society
- other relevant professional standards, including the Accounting Professional and Ethical Standards.

You should also keep up to date with changes in your area of expertise; participate in training and development; and look for ways to improve performance and achieve high standards in a cost effective manner.

Conflicts of interest

A conflict of interest exists when a reasonable person might perceive that your personal interest(s) could be favoured over your public duties, you must:

- disclose reasonably perceived conflicts of interest to your manager (or supervisor) as soon as you become aware of them. This allows for an informed decision to be made as to what (if any) steps need to be taken to protect both you and the organisation. All disclosures are to be in writing
- resolve any conflicts of interest in the public interest.

Typically, you alone will be aware if you have, could have, or could be seen to have a conflict of interest. If you have any doubts, discuss them with your manager or supervisor.

In assessing whether a conflict of interest could be perceived, you should do so from the perspective of colleagues, stakeholders and members of the public. A perceived conflict of interest will make a decision or action taken appear compromised, even if there was no actual or potential conflict.



Conflicts to be alert to

If you have previously worked as a defence lawyer, you are to be vigilant in immediately declaring any actual or perceived conflict of interest in any prosecution being conducted by the ODPP arising from that employment.

Other conflicts that could arise at the ODPP include when:

- you have a personal (which includes familial) relationship with an individual who is involved in a matter you are conducting or working on (for example, with the victim, a witness, a police officer, the defendant or defendant's legal representative, or another individual working for the ODPP). This has the potential to compromise your ability to make objective professional judgments, such as the extent of prosecution disclosure to the defence
- you, or a friend or relative, have
 - an interest in a matter the ODPP is prosecuting
 - a financial interest in the supply of goods or services to the ODPP
- you have a personal relationship with an individual you report to or who reviews your work, or who reports to you or whose work you review
- your secondary employment obligations or arrangements change and are now in conflict with your obligations to the ODPP (see 'Secondary employment')
- your political party, social or community membership or activities conflict with your public duty (for example, you are prosecuting someone known to be a member of or participant in a political party or social or community organisation you are involved in, or a rival party or organisation)
- you are on a recruitment panel and a close friend or relative is an applicant
- your personal beliefs conflict with your prosecutorial and ODPP obligations.

Conflicts may also arise in the contexts covered by professional practice and conduct rules of the Law Society, Bar Association and other relevant professional bodies.

See the ODPP Conflict of Interest Policy and Procedures for Managing Conflict of Interest for your full responsibilities in managing, disclosing and reporting conflicts of interest.

Ensuring confidentiality

As the prosecutor in criminal matters, most of the information the ODPP creates or receives is confidential, and its existing culture, practices and systems reflect this. Maintaining these standards requires respecting and protecting the privacy, integrity and security of ODPP and stakeholder information in all its forms, not misusing information accessed through work, and complying with ODPP information handling requirements.



Examples include:

- only sharing or releasing information/communication (electronic or otherwise) outside of the ODPP with the author or owner's consent, unless doing so is necessary to perform official duties or official union duties, or otherwise authorised by law
- securely handling all official information, especially when outside of the office. Information should not be left unattended in public locations, including cars or unsecured courtrooms, unless there is no reasonable alternative
- when viewing official information outside of the office, ensuring it cannot also be seen by others
- always using discretion when discussing work matters with colleagues in public places (for example, in elevators or cafes)
- using official information gained in the course of your work for work purposes only, or for official union duties
- accessing or seeking to access only the official information you need to fulfil your duties
- complying with the requirements of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*
- complying with the ODPP Information Security Policy
- ensuring you do not give former employees access to any information, particularly privileged or confidential information
- not downloading, emailing, copying or taking in any other way, any ODPP material to use in future employment, even if you authored it
- when you are no longer performing work for the ODPP, not using, divulging or taking advantage of confidential information obtained in the course of your duties unless and until it becomes publicly available.



Using public resources/facilities efficiently and appropriately

The ODPP is a publicly funded agency and its resources, including your work time, are to be used and managed efficiently and for proper purposes. This means:

- following correct procedures and ODPP instructions
- observing the highest standards of probity with money, property and facilities, including for work related travel
- where required to record your hours, doing so honestly, diligently and promptly
- using official facilities and equipment for private purposes only with permission, and with proper care
- not misusing office facilities or public resources, or permitting others to do so
- complying with the copyright and licensing conditions of documents, services and equipment provided to the ODPP
- making only limited and appropriate private use of the ODPP's email and internet services, in compliance with the ODPP Information Security Policy
- adhering to the *ODPP Travel Policy and Procedures*.

Presentation/dress requirements

You must maintain a professional appearance appropriate to your role in a legal workplace attended by members of the public, police and private practitioners.

The ODPP supports staff to dress in a way that reflects their gender identity, including transgender, gender diverse and non-binary employees, and in a manner that offers reasonable accommodations for people with disabilities (temporary or permanent) and people from diverse cultural backgrounds, ethnicity and religions.

The following must not be worn:

- casual clothing, including singlets, T-shirts and shorts, or casual footwear, including hiking boots, thongs and casual sandals
- revealing clothing, including garments that are excessively tight or short, strapless, have spaghetti straps, or expose the back or midriff; and
- items that are inappropriate, likely to cause offence or promote a cause.

You must maintain appropriate standards of neatness, cleanliness and personal hygiene.

Jeans and runners may be worn only on approved occasions, such as casual Fridays, or with your manager's agreement. Casual attire must remain smart and professional.

The ODPP supports participation in sport and physical activity. However, exercise attire must not be worn while working or for longer than necessary in the office.



Clothing and footwear must comply with workplace health and safety requirements and must not create a risk of injury or liability for the ODPP.

Additional requirements apply when meeting face-to-face with anyone external to the ODPP, whether in or outside the office.

Your appearance must represent the ODPP positively and be appropriate to your role and the circumstances. Solicitors must wear court-appropriate professional attire, including a suit or equivalent clothing with a jacket. Body piercings, other than earrings, must be removed and tattoos covered where practicable. Your presentation must reflect the conservative nature of the legal profession and the seriousness and consequences of criminal proceedings. You must also observe the Prosecution Guideline on the role and duties of the prosecutor. If you do not ordinarily dress to this standard in the office, keep suitable clothing and footwear available for an unexpected court appearance or meeting.

Alcohol, tobacco and other drugs

While at work, you must not be under the influence of alcohol or drugs, or in possession of a drug or substance that is illegal to possess or distribute. 'Under the influence' for the purpose of the ODPP Code means an obvious state of disturbance to your physical and/or mental faculties that impairs your performance, or may pose a risk to yourself, your colleagues or members of the public.

The ODPP has a strict prohibition on the consumption of alcohol on ODPP premises during working hours unless expressly endorsed by the Director or Solicitor for Public Prosecutions at an official ODPP function. If staff wish to organise work-related social events involving the consumption of alcohol, which must be at their own expense, they must be arranged outside of working hours, not on ODPP premises and abide by principles of the Responsible Service of Alcohol (RSA).

If you have any addiction to drugs or alcohol you are encouraged to speak to your manager or supervisor, and to seek assistance. As addiction is a health condition, you are also encouraged to speak confidentially with the Employee Assistance Program provider or the Wellbeing & Safety Manager. No smoking is permitted in any ODPP building or enclosed area. (Note: Section 6A of the *Smoke-free Environment Act 2000* bans smoking within four metres of a pedestrian access point to a public building)

Public comment

In a private capacity

The ODPP respects your right to contribute to public discussions on political, community and social issues in your private capacity. However, you are to make clear when doing so that you are expressing your personal views, not those of the ODPP, and you should refrain from commenting if your audience could reasonably assume you are representing the ODPP.



You should not comment publicly about an issue if doing so means you could be perceived as being unable to perform your ODPP role in an independent and unbiased way. The PSC contains additional restrictions in relation to making public comment.

You must not provide comment or share information with journalists from any media outlet, including local, national or trade even if you have an existing relationship with an enquiring journalist or someone at a media outlet. This includes providing information to other external sources who in turn provide such information to the media.

On behalf of the ODPP

Unless authorised, individuals are not to make any official comment on matters relating to the ODPP. Any contact with the media must comply with the Director's Prosecution Guideline on Media Contact.

Social media use

Work related use

The ODPP does not use social media in relation to its functions as a prosecutor; and uses it in a limited way only when performing its administrative functions, for example, when advertising job vacancies.

Permission from your manager or supervisor is required to post any content on social media that could be taken as having been posted by or on behalf of the ODPP.

Private use

The ODPP respects your right to participate in public and political debate in a private capacity. This extends to being active on social media. However, when using social media (which, for the purpose of the ODPP Code, includes texting and emailing) you have a responsibility not to harm in any way:

- the integrity and reputation of the ODPP
- the discharge of any ODPP function
- your professional standing
- the professional or personal lives of your colleagues
- the reputation or the operations of the ODPP's stakeholders, including judicial officers, other individuals, courts and other agencies.

See the ODPP's Social Media Policy for your full responsibilities when using social media, and guidance on and examples of unacceptable social media use.



Gifts, benefits and hospitality

You should always refuse offers of gifts, benefits or hospitality made in connection with work performed for the ODPP if acceptance could reasonably be seen as intended or likely to cause you to perform an official duty in a particular way, or to conflict with your public duty.

Gifts or benefits

All offers of **gifts** or **benefits** are to be reported to your manager. The details of the offer and your response to it will be recorded in the online *Gifts, Benefits and Hospitality Register*.

Gifts or benefits of an estimated value of \$50 or more require approval to keep.

Hospitality

You do not have to record offers of hospitality you do not accept.

You also do not have to record, or seek approval to accept, offers of:

- modest hospitality that is a common courtesy, such as light refreshments offered during a meeting
- other forms of hospitality offered by public sector agencies that are not extravagant or controversial, such as a welcome function for a new appointee.

All other hospitality offers can only be accepted with the approval of your manager. The offer and your response to it will be recorded in the online Register.

Offering gifts, benefits or hospitality

It is inconsistent with the ODPP's role as an independent prosecutor and/or a publicly funded agency to offer gifts, benefits or hospitality in all but a limited number of circumstances. These include when a gift offer/exchange is customary, or when it is appropriate to offer light refreshments.

For your full responsibilities when offered or offering gifts, benefits or hospitality, see the ODPP's Gifts, Benefits and Hospitality Policy.

References

If you provide a reference while engaged by the ODPP, you must do so in your personal capacity, not as a representative of the organisation. This includes general references for someone you have had professional contact with and court character references.

The ODPP's Provision of Reference Policy sets out your full responsibilities when considering whether to provide, and when providing, a reference.



Bribery

It is an offence to offer or accept a bribe. If you believe that you have been offered a bribe, or that a colleague has been offered or accepted a bribe, you must follow the reporting requirements for corrupt conduct outlined in this Code (see '[Speaking up: Reporting unethical, corrupt or criminal conduct](#)').

Secondary and future employment

Secondary employment

Staff employed under the *GSE Act* require written approval by the delegated officer to:

- perform any other work, service, or undertaking for wages or income, including while on paid or unpaid leave
- volunteer for any work/position that could potentially
 - affect your work performance, for example, as a result of the number of hours you will contribute
 - conflict with the ODPP's role as an independent prosecutor, for example, volunteering at a Community Legal Centre, or accepting membership on particular Boards or Committees.

An Application for Secondary Employment is available on the intranet.

Crown Prosecutors require the consent of the Attorney General or the Director to practise law in or outside of NSW or engage in paid employment outside the duties of their office. The Director, Deputy Directors and the Solicitor for Public Prosecutions require the consent of the Attorney General in similar circumstances.

The ODPP Secondary Employment Policy sets out in detail the obligations on all staff and statutory appointees when applying for or performing secondary employment. Approval will not be granted for secondary employment that involves private practice as a legal practitioner.

Any paid or unpaid private work must be in your own time and must not give rise to a conflict of interest. If a conflict of interest does arise, you are to report this immediately to your manager or supervisor, as outlined in '[Conflicts of interest](#)'.

Future employment

Independence is integral to the role of the prosecutor. It is important that your work at the ODPP should not be influenced by plans you have, or offers you receive, for future work. You must not use your position to obtain opportunities for future employment. If you do, there is a conflict of interest and your integrity as well as that of the ODPP is at risk.



Bankruptcy

If you become bankrupt, or make a composition, arrangement or assignment for the benefit of creditors, you must promptly notify the Director, or the Solicitor for Public Prosecutions. If the Director or Solicitor requires further information, you are to provide it within a reasonable time. Where relevant, the ODPP will refer these notifications to the Law Society or Bar Association.

Speaking up: Reporting unethical, corrupt or criminal conduct

Speaking up when you are aware of, or suspect, conduct in breach of this Code is in itself a component of acting with integrity. It can also require courage, one of the ODPP's Signature Behaviours.

If you suspect or witness conduct that is **unethical, corrupt, serious misconduct** or **criminal** (see below) you are to report it first to your manager, or, if it is more appropriate in the circumstances, to the next level of management.

Unethical conduct

Managers or supervisors should escalate any reports of serious breaches of ethical standards to, as appropriate, the Director of Public Prosecutions, Senior Crown Prosecutor, Solicitor for Public Prosecutions, Chief People Officer or their manager.

When there are grounds for doing so, the ODPP will report suspected or alleged unethical behaviour by professionals to the relevant professional association (for example, the Law Society, Bar Association or Legal Services Commissioner).

Corrupt conduct and serious misconduct

The [ODPP Public Interest Disclosures Act 2022 Policy](#) describes in detail how you are to report/disclose actual or suspected conduct that is considered *serious wrongdoing* (please refer to the ODPP Public Interest Disclosures Policy for details as to what constitutes serious wrongdoing).

The *Public Interest Disclosures Act 2022* protects public officers from reprisals for reporting/disclosing such conduct.

Criminal conduct

Where there are reasonable grounds for doing so, managers or supervisors should escalate reports of actual or suspected criminal conduct at work to the Director of Public Prosecutions or the Solicitor for Public Prosecutions (or a Deputy).

If the Director/Solicitor reasonably suspects that criminal conduct has or may have occurred, they are to report it to the police without first notifying the individual concerned, and to consult with police on the future conduct of the matter. At no time should an individual suspected of criminal conduct be given the opportunity to interfere with a potential police investigation – for



example, by deleting files from their computer, or by being made aware that they are under suspicion.

Managerial action should only be taken if there is no risk of prejudicing any police investigation or the criminal process.

Common sense exemptions apply to reporting criminal conduct – for example, you should call the police yourself if a colleague is behaving violently at work.

If you are arrested, charged, summonsed, issued with a court attendance notice, cautioned, convicted, issued with a police or court order, or receive a fixed penalty notice in relation to any criminal conduct, you are to report this immediately to your manager or supervisor, who should notify the Director/Solicitor if appropriate. Fixed penalty notices for minor driving/traffic offences are excluded, unless they result in your licence being disqualified.

You should also inform your manager or supervisor if anyone in your immediate family or household is charged with a serious criminal offence.

The extent to which any criminal conduct will adversely affect your employment/contract at the ODPP will depend on the nature of the behaviour, whether it impacts on your suitability for your position, and whether it reflects adversely on the ODPP.

Accountability/consequences of non-compliance

Accountability

Accountability is one of the ODPP's Signature Behaviours, and everyone performing work for it is accountable for their actions, decisions and behaviour.

If an individual breaches the Codes and their actions or behaviour were so serious, repeated or widespread that their manager or supervisor should have known of and addressed them, then the manager or supervisor will also be held accountable for those actions or behaviour.

Consequences of non-compliance

Any breach of the Codes by staff employed under the *GSE Act* may result in disciplinary action as available under the Act, including termination of employment.

Sanctions against statutory appointees are subject to the *Director of Public Prosecutions Act 1986*, the *Crown Prosecutors Act 1986* and the Legal Profession Uniform Law.

A suspected breach of the Codes may also be reported to the Independent Commission Against.

Corruption (ICAC), Law Society, Bar Association, Legal Services Commissioner or other relevant professional body.



Breaches of the ODPP Code by contractors may result in the termination of their contract.

Further Information

For further information on ethical behaviour and professional standards, see the ODPP Respectful Workplace Policy and [Behaving Ethically: a guide for NSW government sector employees](#).

Review of the ODPP Code

The ODPP Code is to be reviewed at least every three years and may require amendments from time to time due to legislative and/or whole-of-government changes. The Public Service Commissioner may also amend the *Code of Ethics and Conduct for NSW government sector employees*.

Document ownership, control and history

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Appendix A: Significant Legislation and Rules

A principle of this Code and of the Ethical Framework for the government sector is to uphold the law relevant to the ODPP. This includes, but is not limited to the:

- *Age Discrimination Act 2004 (Cth)*
- *Anti-Discrimination Act 1977 (NSW)*
- *Australian Human Rights Commission Act 1986 (Cth)*
- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Crimes Act 1900 (NSW)*
- *Crown Prosecutors Act 1986 (NSW)*
- *Director of Public Prosecutions Act 1986 (NSW)*
- *Disability Discrimination Act 1992 (Cth)*
- *Government Advertising Act 2011 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Government Sector Employment Act 2013 (NSW)*
- *Government Sector Employment Rules 2013 (NSW)*
- *Government Sector Finance Act 2018 (NSW)*
- *Health Records and Information Privacy Act 2002 (NSW)*
- *Independent Commission Against Corruption Act 1988 (NSW)*
- *Legal Aid Commission Act 1979 (NSW)*
- *Legal Profession Uniform Law Application Act 2014 (NSW) and Regulation (NSW) and Barristers and Solicitors Rules*
- *Ombudsman Act 1974 (NSW)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Public Interest Disclosures Act 2022 (NSW)*
- *Public Works and Procurement Act 1912 (NSW)*
- *Racial Discrimination Act 1975 (Cth)*
- *Sex Discrimination Act 1984 (Cth)*
- *State Records Act 1998 (NSW)*
- *Victims Rights and Support Act 2013 (NSW)*
- *Work Health and Safety Act 2011 (NSW)*



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