

Code of Conduct - NSW Health

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Functional Sub group Corporate Administration - Governance
Personnel/Workforce - Conduct and ethics
Personnel/Workforce - Conditions of employment

Summary The NSW Health Code of Conduct outlines the standards expected of staff within NSW Health in relation to their conduct in employment.

Replaces Doc. No. Codes of Conduct - Principles and Minimum Standards for Development - Health Service [PD2005_130]
Code of Conduct Department of Health - A Message from the Director-General [PD2005_199]

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, NSW Dept of Health, Public Health Units, Public Hospitals

Audience All staff including permanent, temporary, casual, termed appointment of honorary capacity.

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Health Associations Unions, Health Professional Associations and Related Organisations, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Tertiary Education Institutes

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Director-General

Compliance with this policy directive is mandatory.

NSW Health Code of Conduct



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About this document

Title	NSW Health Code of Conduct Copies may be obtained at http://internal.health.nsw.gov.au/
Responsibility	Employee Relations Policy, NSW Department of Health
Version	October 2005
Updates and feedback	Feedback is welcome and should be addressed to the Manager, Employee Relations Policy, NSW Department of Health.
Further information	At the end of each section within Part 2 of this document a list of policy directives and other reference documents have been included. Policy directives require compliance while the other reference documents listed provide additional information to staff. If staff have any questions on the issues outlined in this document they should discuss the matter with their immediate supervisor or contact their Health Service Human Resource of Internal Audit Manager.
Communicating the Code of Conduct	Health Services should refer to Policy Directive PD2005_627 which outlines policy and best practice for the communication and implementation of the NSW Health Code of Conduct.

Introduction to NSW Health Code of Conduct

Purpose and scope of document	<p>This document outlines the NSW Health Code of Conduct and applies to staff working in any permanent, temporary, casual, termed appointment or honorary capacity within any NSW Health facility.</p> <p>NSW Health provides a comprehensive range of health and health related services covering health protection, health promotion and education, research, health screening, diagnosis, treatment, transport, acute care, rehabilitation, continuing care for chronic illness, counselling, support and palliative care. These services are provided in a wide range of settings from primary care outposts to metropolitan based tertiary health centres and within patients/clients' homes and are supported by a range of policy, corporate services and administrative functions.</p> <p>The environment in which this Code of Conduct operates is a complex one. This Code of Conduct has been developed to assist staff by providing a framework for day to day decisions and actions while working in Health Services.</p> <p>Specifically this document will:</p> <ul style="list-style-type: none"> • State the standards expected of staff within Health Services in relation to conduct in their employment • Assist in the prevention of corruption, maladministration and serious and substantial waste by alerting staff to behaviours that could potentially be corrupt or involve maladministration or waste • Provide a resources list to assist staff to gain further information or more detailed guidance.
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Structure of the document The document is divided into two parts. **Part 1** of the document is the **NSW Health Code of Conduct** and outlines the specific standards and behaviours required from staff. **Part 2** provides explanatory information to assist staff in understanding and meeting the required standards outlined in the NSW Health Code of Conduct.

Values and principles underpinning this Code of Conduct Staff in Health Services, like other public sector organisations, must conduct themselves in a way that promotes public confidence and trust in their organisation.

Staff have a duty of care to the patients and clients utilising services as well as to other staff. Staff must ensure that, as far as practicable, the best interests of patients and clients are maintained in decision-making and when undertaking duties within the Health Service, having regard to the duty of care the Health Service has to staff as well as patients and clients.

The reputation of the public sector and its standing in the community are built on the following principles and these principles must be incorporated into the decisions, actions and behaviour of all staff:

- Competence
- Courtesy and respect for individuals
- Cultural sensitivity
- Ethical behaviour
- Fairness and impartiality
- Transparency, openness, honesty and accountability
- Responsibility and
- Efficiency and effectiveness.

(based on NSW Ombudsman, *Good Conduct and Administrative Practice*, August 2003)

Staff must not be subjected to unnecessary employment conditions simply because they work in the public sector. Staff retain all the usual rights under common and statute law.

Key definitions

Corrupt Conduct – is broadly defined in sections 8 and 9 of the Independent Commission Against Corruption Act 1988. The key notion is the misuse of public office. Commonly this involves the dishonest or partial use of power or position that results in one person/organisation being advantaged over another.

Corruption can take many forms including (but not limited to):

- Official misconduct
- Bribery and blackmail
- Unauthorised use of confidential information
- Fraud and
- Theft

Health Service - for the purposes of this policy, Health Service refers individually to the NSW Department of Health, public health organisations, Public Health System Support Division, the Health Professionals Registration Boards, Institute of Psychiatry, Mental Health Review Tribunal and the Ambulance Service of NSW.

Maladministration – is defined in the Protected Disclosures Act 1994 as conduct that involves action or inaction of a serious nature that is:

- Contrary to law
- Unreasonable, unjust, oppressive or improperly discriminatory or
- Based wholly or partly on improper motives.

NSW Health - for the purposes of this policy, NSW Health refers collectively to the NSW Department of Health, public health organisations, Public Health System Support Division, the Health Professionals Registration Boards, Institute of Psychiatry, Mental Health Review Tribunal and the Ambulance Service of NSW.

Public Health Organisation – is defined by the Health Services Act 1997 as an Area Health Service, statutory health corporation, and an affiliated health organisation in respect of its recognised establishments and recognised services.

Serious and Substantial Waste – is defined in the Protected Disclosures Act 1994 and refers to any uneconomical, inefficient or ineffective use of resources, authorised or unauthorised, which results in significant loss/wastage of public funds or resources.

Staff – for the purposes of this policy staff refers to any person working in a permanent, temporary, casual, termed appointment or honorary capacity within NSW Health. It includes volunteers, patient advocates, contractors, visiting practitioners, students, consultants and researchers performing work within NSW Health facilities.

Note: This Code of Conduct applies to the conduct of Visiting Medical Officers and other contract staff at any time in which they are receiving payment (including fee for service or sessional payment) for work done within a Health Service or where they are acting in an official capacity on behalf of the Health Service.

Violence – is defined as any incident in which an individual is abused, threatened or assaulted and includes verbal, physical or psychological abuse, threats or other intimidating behaviours, intentional physical attacks, aggravated assault, threats with an offensive weapon, sexual harassment and sexual assault.

Part 1: NSW Health Code of Conduct



1.0 Competence and professionalism

All staff will carry out their duties to the best of their ability and to follow the highest standards of conduct.

1.1 Personal and professional behaviour

I will carry out my job with:

- Courtesy and respect for everyone
- Openness, honesty and accountability.

I will be mindful and accepting of the needs of people from different backgrounds and cultures when doing my job.

My decisions will be fair and impartial.

I will take care in my duties and will always present myself for work in a fit and proper condition. I will never present myself for work under the influence of alcohol, drugs or other substances that could affect my ability to work safely and efficiently.

When carrying out my tasks I will always:

- Observe any laws, professional codes of conduct and ethics relevant to my profession.
- Follow lawful directions from a person in authority. If I have a concern about following any lawful direction, I may appeal either through my workplace complaint/grievance procedures or to the Chief Executive of the Health Service or her or his delegate.
- Behave with honesty and openness. I have a duty to report other staff who are behaving in a way that breaches this Code of Conduct.
- Report to an appropriate person or authority any situations that may affect clinical or professional standards.
- Try to work to a standard that reflects favourably on NSW Health.
- Follow the policies of the Health Service, whether or not I agree with these policies. If a situation arises where I cannot comply with a policy because of my personal or clinical views I will discuss the matter with my immediate supervisor to try and resolve the situation.

1.2 Good faith

- I will undertake all my duties in good faith and in the spirit of honesty, correct purpose and with the best motives. I will ensure that my actions are appropriate and totally within the area of my authority.

1.3 Professional standards

- If I find any conflict between my professional standards and this Code of Conduct I will take up the matter with my immediate supervisor or the Health Service Chief Executive or his or her delegate.
- I will fulfil my professional responsibilities by continuing to maintain and enhance my skills, knowledge and competence while undertaking my Health Service duties.

1.4 Personal relationships with patients or clients

- I will not have personal relationships with patients or clients that result in any form of exploitation, obligation or sexual gratification.
- If a family member/spouse/partner becomes a patient or client of the service where I work, I will report this to my immediate supervisor so she or he can assess any conflict of interest issues.

Dealing with finance or property for patients or clients

- As a general rule I will not become involved in any transaction that involves dealing with cash, bank accounts, credit cards or property.
- Where a patient or client requires such services, especially if they live at home and cannot conduct such transactions for themselves, I will discuss low risk alternatives with them. If they give their consent I will do the following:
 - Contact relatives
 - Contact other agencies that can assist in such matters (eg Department of Community Services)
 - Contact patient or client's bank etc. and advise them of the situation and make appropriate accountable arrangements.
 - Use accountable methods, such as a 'non-negotiable' cheque made payable to the appropriate payee.
- I will contact the Guardianship Tribunal if I am concerned that a patient or client's capacity to manage financial affairs may be impaired.

Management of employment, promotion and transfer where close relationships exist

- Where I am required to work with a close relative or another person with whom I share a close personal relationship, potentially compromising circumstances may occur. I will advise my immediate supervisor that a real and/or perceived conflict of interest may arise in the course of my work.

1.5 Sexual relationships with patients or clients

- I will not exploit my relationship of trust with patients or clients in any way because I recognise that such behaviour is a breach of professional and ethical boundaries and amounts to serious misconduct.
- I will not have a sexual relationship with a patient or client during the professional relationship.

1.6 Quality service

- To the best of my ability, I will provide accurate, frank and honest information to decision-makers, as required.
- I am responsible for helping to create and maintain a public health system that provides safe and high quality health care.
- I will ensure that I get good value for any public money spent, and avoid waste.
- I will ensure that all the money I spend is for legitimate items related to the work of the Health Service, and not for personal benefit.
- While at work, my attention will remain focussed on my duties.

- I will carry out my duties within the agreed time frames. If resource issues prevent me from fulfilling my duties or meeting the time frames, I will report this to my immediate supervisor for advice and action.

2.0 Conflicts of interest

Staff will avoid and resolve any conflict of interest and be open and honest in all activities where personal interests may clash with work requirements.

2.1 Managing conflicts of interest

- I will perform my duties fairly and ensure that my decisions are not influenced by self-interest or personal gain.
- I will avoid situations that give rise to conflicts of interest.
- I will report any actual, potential or perceived conflicts of interest to my immediate supervisors, my Health Service Chief Executive or his or her delegate at the first available opportunity, preferably in writing. A decision can then be made as to what action should be taken to avoid or to deal with the conflict.
- If I am not sure whether a conflict exists, I will discuss the matter with my immediate supervisor to try and resolve the matter.
- If I am aware that another staff member has a real, potential or perceived conflict of interest I will report the matter to my immediate supervisor.

2.2 Bribes, gifts and benefits

- I will not allow the offer of any gift or bribe to change the way I work or the decisions I make.
- I will never accept gifts of cash and as a general rule I will not accept any gifts or benefits.
- I will take all reasonable steps to ensure that neither myself nor my immediate family members accepts gifts or benefits that an impartial observer could view as a means of securing my influence or favour.

Token gifts

- I may accept token or inexpensive gifts offered as a gesture of appreciation, and not to secure favour.
- I will report the acceptance of the gift to my supervisors and seek their agreement to retain the gift.

Non token gifts

- As a general rule I will not accept gifts that are more than a token.
- If I do receive a non-token gift I will declare it to my immediate supervisor straight away.

- I will only accept a gift or other benefit that is more than a token (including modest acts of hospitality) in the following cases:
 - Where these are given for reasons other than my job or status
 - Where the gift is given to me in a public forum in appreciation for the work, assistance or involvement of myself or the health service, and refusal to accept the gift would cause embarrassment or affront eg an overseas delegation (the issue of causing embarrassment or affront does not apply to gifts offered by commercial organisations)
 - Where there is no chance that accepting the gift could reflect badly on myself or the Health Service
 - In circumstances generally approved by the Chief Executive or delegate of my Health Service. Otherwise I need the formal written approval of the Chief Executive or delegate, preferably in advance.
- If I accept a gift in these circumstances, I will indicate that I am accepting the gift on behalf of my Health Service. The Chief Executive or delegate will determine the most appropriate use of the gift.
- If any offer or suggestion of a bribe is made directly or indirectly to me, I will report the facts to my immediate supervisor as soon as possible.
- I am particularly alert to attempts to influence me when I am dealing with, or have access to, sensitive or confidential information.

2.3 Recommending services

- I will not recommend a particular private service provider to patients or their relatives for either my own personal gain or to benefit my family members or friends.
- If patients or clients request a list of private practitioners, I will include the statement that the Health Service does not recommend or favour these services and does not accept responsibility for any private practitioners whose names are included on the list. I will do this even when the list contains names of practitioners who work within the facility.
- In all circumstances, I will make it clear that the information is provided to assist the patient, client or relative in making informed decisions between a wide range of alternative and appropriate services. These may be private or public, clinical or non-clinical.

2.4 Outside employment and business activities

- If I work full-time in a Health Service and want to undertake another paid job or participate in other business activities (including a family company or business) I will seek the approval of my Health Service Chief Executive or his or her delegate.
- If there is any real, potential or perceived conflict of interest, I will put the duties of my Health Service job first or reach an agreement on ways to resolve the conflict.
- If I work for a Health Service on a part-time or casual basis (includes permanent, sessional (less than 10 sessions per week), temporary or contract) I will advise my Chief Executive or delegate of any actual, potential or perceived conflict of interest between my job in the Health Service and any other employment.

- I will provide details of any other employment to my Health Service in the event of allegations of conflict of interest.
- Any work I perform outside my Health Service employment will:
 - Be performed outside my normal working hours
 - Not conflict with Health Service work
 - Not adversely affect my work performance
 - Not affect my safety or the safety of colleagues, patient, clients or the public
 - Not involve the use of Health Service resources.
- I will not misuse my Health Service position to obtain opportunities for future employment and will not allow myself to be inappropriately influenced by plans for, or offers of, outside employment.

2.5 Party political participation

- I will carry out my duties in a politically neutral manner.
- When participating in political activities, I will ensure that I present my views as my own and not as the views of NSW Health.
- I will also ensure, as far as possible, that others do not present my views or actions as an official comment of NSW Health, but as my individual views or those of the political organisation I am representing.
- I will not undertake political activities in paid Health Service time.
- I will meet the special requirements that exist if I contest State or Federal elections.

2.6 Participation in voluntary organisations, charities and Professional Associations

- When participating in voluntary organisations, charities or professional associations, I will ensure that I present my views as my own and not as the views of NSW Health and ensure I do not commit my Health Service to any action without approval to do so.
- If I wish to join the Rural Fire Service Volunteers/State Emergency Service I will seek the approval of my Chief Executive or delegate, in the same way as seeking approval to undertake secondary employment.

2.7 Public comment

- If I make public comment and publicly debate political and social issues, I will make it clear that I am presenting my own views and not speaking as a Health Service staff member representing an official position of NSW Health.
- I will not use my job title when making such comment as this may create the impression that I am officially representing the views of the Health Service.

- I may make official comment on matters relating to NSW Health or my Health Service if I am:
 - Authorised to do this by my Chief Executive or delegate
 - Giving evidence in court or
 - Authorised or required by law.
- I will only release official information when given authority to do this.

3.0 Use of official resources

Staff will use all equipment, goods and materials provided to them at work for work related purposes only.

3.1 Using official resources

- I will use official resources lawfully, efficiently and only for official purposes.
- I understand that it is illegal to use official resources to:
 - Intentionally create, transmit, distribute or store any offensive information, data or material that violates Commonwealth or State laws
 - Produce, disseminate or possess child pornography images
 - Transmit, communicate or access any material that may discriminate against, harass or vilify colleagues, patients/clients or the public.
- I will not use official resources to display, access, store or distribute inappropriate or objectionable (non work related) material that may be offensive to others.
- I understand that this includes material that depicts, expresses or deals with matters of nudity, sexual activity, sex, drug misuse or addiction, crime, cruelty or violence in a manner that a reasonable adult would generally regard as unsuitable.
- I will only use official resources for non-official purposes if I have obtained permission from my Chief Executive or his or her delegate beforehand.
- If I am authorised to use official resources for non-official purposes I will:
 - Take responsibility for maintaining, replacing and safeguarding the property and follow any special directions or conditions that apply to its use for non-official purposes
 - Ensure the resources are used effectively and economically.
- I will not use official resources for any private commercial purposes, under any circumstances.

4.0 Use of official information

All staff will ensure that they keep all information they may obtain or have access to, in the course of their work, private and confidential. The trust of our patients and clients is paramount.

4.1 Using official information

- I will **never**:
 - Use official information without proper authority or for purposes that breach privacy law
 - Use or disclose official information acquired in the course of my employment outside of my workplace or professional relationships (eg Professional Colleges) unless required by law or given proper authority to do this
 - Misuse information gained while undertaking my work role for personal gain.

4.2 Personal health information

- I will always comply with the *Privacy and Personal Information Protection Act 1998, Health Records and Information Privacy Act 2002 and PD2005_362 (Privacy Manual)* with regard to personal information held by my Health Service.

- In doing this I will:
 - Follow privacy and security procedures in relation to any personal information accessed in the course of my duties
 - Preserve the confidentiality of this information
 - Inform the appropriate person immediately if a breach of privacy or security relating to information occurs
 - Only access personal information that is essential for my duties. This includes accessing any records relating to other staff
 - Ensure that any personal information is used solely for the purposes for which it was gathered
 - Only divulge personal information to authorised staff of the Health Service who need this information to carry out their duties.

4.3 Security of official information

- I will:
 - Ensure that unauthorised parties cannot readily access confidential and/or sensitive official information held by me, in any form whether documents, emails, computer files etc
 - Maintain the security of confidential and/or sensitive official information overnight and at all other times when my place of work is unattended
 - Only discuss confidential and/or sensitive official information with authorised people, either within or outside NSW Health.

- 4.4 Staff information** ➤ If I am requested to release information about staff of the Health Service to external bodies (eg in response to Freedom of Information or Health Care Complaints Commission requests) I will first obtain appropriate legal authority and the authorisation of my Chief Executive or delegate.
- 4.5 Providing referee reports** ➤ I will:
- Provide honest and accurate comments when giving verbal or written references for other staff members, or people outside the Health Service
 - Take care to avoid making statements that could be regarded as malicious
 - Keep a record of what was said, when providing verbal references
 - Avoid using Health Service letterhead for writing references.
- 4.6 Using intellectual property** ➤ I will respect other people's/parties intellectual property rights.

5.0 Employment screening and reporting of serious offences

Staff must report serious criminal charges against them to their Chief Executive.

- 5.1 Employment screening** ➤ I will undergo probity screening (criminal record checks and working with children checks as appropriate) when working in any capacity in NSW Health.
- 5.2 Reporting serious offences**
- I will report any charges and convictions against me relating to any serious sex or violence offence in writing to my Chief Executive within 7 days of the charge being laid or of conviction.
 - As a visiting practitioner, if I have a finding of unsatisfactory professional conduct or professional misconduct made against me under any relevant health professional registration Act, I will, within 7 days of receiving notice of the finding, report the fact to my Chief Executive. I will provide a copy of the finding.
 - I will report to my Chief Executive any charges brought against me relating to the production, dissemination or possession of child pornography.

6.0 Fairness in decision making

Staff must be fair, in all actions, when making decisions at work.

- 6.1 Fairness in decision making**
- I will:
 - Deal with issues, cases or complaints consistently, promptly, openly and fairly
 - Act fairly and reasonably when using any statutory or discretionary power that could affect individuals within or outside of NSW Health
 - Avoid any unnecessary delay in making decisions or taking action
 - Follow the principles of equal employment opportunity in employment-related decisions
 - Take all reasonable steps to ensure that the information I act or decide on is factually correct and relevant.
- 6.2 Use of statutory power**
- When I make a decision based on a statutory power (ie power defined in legislation), I will ensure that:
 - I am authorised by the law to make the decision
 - I comply with any required procedures
 - I document my decision and the reasons for it.
- 6.3 Use of discretionary power**
- I will only exercise discretionary power (ie power to act according to my own judgement) for proper purposes and on relevant grounds.
- 6.4 Appealing decisions**
- I will promptly inform individuals who are adversely affected by or who wish to challenge a decision, of their rights to object, appeal or obtain a review. I will also inform them how they can exercise those rights.

7.0 Discrimination, harassment, bullying and violence

Staff must treat all people in the workplace with dignity and respect.

- 7.1 Discrimination, harassment and bullying**
- I will never:
 - Harass, discriminate or bully other staff, patients or members of the public
 - Encourage or support other staff in harassing, discriminating or bullying staff, patients or members of the public

- Discriminate against someone because of their sex, race, ethnic or ethno-religious background, marital status, pregnancy, disability, age, homosexuality, transgender or carers' responsibilities
- Victimise or take detrimental action against individuals
- Make malicious or vexatious allegations.

7.2 Violence

- I will not act violently or knowingly place myself at unnecessary risk of violence.

8.0 Occupational health and safety

Staff must look out for their safety and the safety of all others in the workplace.

8.1 Occupational health and safety

- I will:
 - Follow all occupational health and safety policies and safe working procedures
 - Take reasonable care for the health and safety of people who are at my place of work and who may be affected by anything that I do or fail to do
 - Cooperate with my Health Service to comply with OHS legislative requirements including reporting workplace hazards when I become aware of them
 - I will never intentionally or recklessly interfere with or misuse anything provided to me in the interests of health, safety or welfare (eg personal protective equipment such as safety glasses, gloves etc).

8.2 Injury management

- I will take care and cooperate with my Health Service to prevent work related injuries to myself and others.
- If I am injured in the workplace I will register my injury in the *Register of Injuries* and, if appropriate, seek first aid or medical attention.

9.0 Complying with reporting obligations

Staff must abide by all legal and policy reporting obligations.

- | | |
|---|---|
| 9.1 Complying with reporting obligations | <ul style="list-style-type: none"> ➤ I will meet all the legal reporting obligations that apply to me including those related to: <ul style="list-style-type: none"> - Corruption, maladministration and serious and substantial waste - Public health issues - Reportable conduct related to child protection (eg sexual misconduct, assault, neglect) - Other criminal matters. |
| 9.2 Child protection | <ul style="list-style-type: none"> ➤ I will follow NSW Health and Health Service policy in relation to the care and treatment of children and young people. ➤ I will report any behaviour or circumstance that leads me to suspect reportable conduct towards a child by another staff member to my supervisor or the designated person within my Health Service. |
| 9.3 Reporting corrupt conduct, maladministration and serious and substantial waste | <ul style="list-style-type: none"> ➤ I will report any suspected instances of possible corrupt conduct, maladministration and serious and substantial waste of public resources to my Chief Executive or delegate or the appropriate external body. I will refer to local Health Service policy to determine reporting procedures. |
| 9.4 Protected disclosures | <ul style="list-style-type: none"> ➤ I will not take action against or victimise another person for making a protected disclosure. |

10.0 Conduct of former staff members

Former staff must not take workplace information or property with them when they leave.

- | | |
|---|---|
| 10.1 Conduct of former staff members | <ul style="list-style-type: none"> ➤ When I leave my current employment I will not use or take advantage of confidential information obtained in the course of my official duties until this information is publicly available. ➤ I will not take documents that are the property of the Health Service to another position prior to or after my resignation without approval. ➤ I will not give, or appear to give, favourable treatment or access to privileged information to former staff of NSW Health. |
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11.0 Breaches of the NSW Health Code of Conduct

Staff must be aware of, and abide by, this Code of Conduct.

11.1 Breaches of this Code of Conduct

- I will familiarise myself with the contents of Part 2 of the *Code of Conduct Policy Directive*, to ensure that I have a clear understanding of all of the standards of behaviour required in this Code of Conduct.
- If I do not understand any issue covered in this Code of Conduct I will discuss it with my immediate supervisor or my Health Service Human Resource or Internal Audit Manager.
- I will abide by the standards outlined in this Code of Conduct and the legislation, policies and procedures it reflects. Breaches of this Code of Conduct may lead to disciplinary action.
- Certain sections of the Code of Conduct reflect the requirements of legislation, and I am aware that breaches of these conditions may be punishable under law.
- If I become aware of a breach of this Code of Conduct, by either myself or by other staff members, I will immediately report the matter to my supervisor.

Part 2 – Explanatory Information - NSW Health Code of Conduct

1.0 Competence and professionalism

1.1 Personal and professional behaviour

While the Code of Conduct outlines standards of conduct there may be situations that arise in the course of employment where it may be useful to apply the following six points as a guide to ethical decision making and behaviour:

- 1 Is my decision or behaviour lawful?
- 2 Is my decision or behaviour in line with the policies of my Health Service?
- 3 What will be the outcome of my decision or behaviour for me, work colleagues, my Health Service, my patient/client or other parties/stakeholders?
- 4 How will my decision be viewed by my Registration Board and/or my Professional Society?
- 5 Is my decision or behaviour a conflict of interest, or could it be perceived as a conflict of interest, and/or will it lead to private gain at public expense?
- 6 Can my decision or behaviour be justified in terms of public interest and could it withstand public examination?

1.2 Good faith

Acting in bad faith can include:

- Dishonesty, fraud or intentional bias
- Acting in the knowledge of an actual, potential or perceived conflict of interest
- Discrimination or an abuse of power
- Knowingly making malicious or vexatious allegations
- Knowingly acting beyond the scope or ambit of the power available to the staff member
- Corruption or conduct with an improper motive or ulterior purpose.

1.3 Professional standards

The standards outlined in this Code of Conduct are to be read in conjunction with any existing legislation and professional standards (eg Australian Nursing and Midwifery Council, *Code of Professional Conduct for Nurses* – <http://www.anmc.org.au>).

1.4 Personal relationships with patients and clients

Personal relationships with patients/clients, as referred to in this section, may be social, sexual or other types of relationships (eg financial) and may not be acceptable conduct. Any of these kinds of relationships may result in some form of exploitation of a patient/client or involve some form of obligation or expectation being created in the patient/client.

Staff must be aware that there is a power imbalance and that unconscious processes are at work in relationships with patients, clients and their carers.

Staff must be aware that many patients or clients may be particularly vulnerable through having experienced abuse or exploitation in the past.

Management of employment, promotion and transfer where staff are closely related or have a close personal relationship

Being closely related to or having a close personal relationship with another staff member does not of itself present any grounds for refusing employment, promotion or transfer. Unfavourable treatment based on such grounds may constitute discrimination under the NSW Anti-Discrimination Act 1977.

However it is recognised that the placement of staff in the same facility can be compromising for individuals. Difficulties may arise, particularly in supervisor/subordinate situations, or other circumstances where one of the individuals is in a position to make or influence decisions concerning the other, or where one of the individuals is required to make objective and unbiased judgements about the other. A perception of a conflict of interest may also arise and affect the way the individuals concerned, and their colleagues, operate.

1.5 Sexual relationships with clients and patients

Various Professional Boards set standards of behaviour for health professionals in their relationships with clients or patients (eg NSW Medical Board Policy on Medical Practitioners and Sexual Misconduct – http://www.medeserv.com.au/nswmb/publications//Sexual_Misconduct.cfm). These standards apply during, and in many cases, after the professional relationship has ended.

The term ‘sexual relationship’ is not restricted to sexual intercourse. A ‘sexual relationship’ includes any form of physical contact, whether initiated by the patient/client or staff member and regardless of whether there is consent, which has as its purpose some form of sexual gratification, or which might be reasonably interpreted by the patient or client as having that purpose.

Sexual relationships with children constitute a criminal offence under the *NSW Crimes Act 1900*. Sexual relationships with physically and intellectually disabled persons may also constitute an offence under the *NSW Crimes Act 1900*. Failure to report such matters, may also constitute a criminal offence.

1.6 Quality service

If statutory or legal deadlines apply to areas of the work undertaken by staff they must be met unless the Chief Executive, or their delegate, is advised in a timely manner that achievement of the deadline is not possible.

Providing advice to decision-makers

Advice provided must be materially accurate, frank and honest, cover all issues relevant to the matter (including the consultation undertaken) and contain relevant and appropriate recommendations. This advice and information must be as complete as possible in the circumstances and within the resources available.

Apologies

It is appropriate for senior staff to issue timely and genuine offers of sympathy where there is an adverse event in the delivery of service.

1.7 Further information

For further information refer to the following documents (as amended from time to time):

- Strategic Directions for Health: 2000 – 2005 (October 2000)
- PD 2005_201-Management of Employment, Promotion and Transfer – Employees who have a Close Personal Relationship
- PD2005_167 – Employees Conducting Financial Transaction and/or Dealing with Money/Property for Patients/Clients
- Guidelines in the Management of a Complaint or Concern About a Clinician: Guidelines for Policy Development in Area Health Services and Other Public Health Organisations (Nov 2001)
- Model Policy on the Management of a Complaint or Concern About a Clinician: A Model Policy For Area Health Services and Other Public Health Organisations (Nov 2001)
- GL2005_061 - Better Practice Guidelines for Frontline Complaint Handling (Feb 1998)
- Accountancy Manual for Public Health Organisations (<http://www.health.nsw.gov.au/audit/manuals>)
- Premier's Department – Model Code of Conduct for NSW Public Agencies (1997)
- Premier's Department – Code of Conduct for Public Sector Executives (1998)
- Local Health Service procedures for: reporting misconduct; managing personal relationships with patients and clients; dealing with patient/client property/money; and making apologies
- Local Health Service Statements of Values

Other reference documents:

- NSW Ombudsman – Good Conduct and Administrative Practice (August 2003)
- NSW Ombudsman – Fact Sheet: Apologies by Public Officials and Agencies (April 2003)
- NSW Ombudsman – Fact Sheet: Bad Faith, Bias and Breach of Duty (July 2003)
- NSW Ombudsman – Fact Sheet: Frankness and Candour (March 2004)
- University of Sydney – Legal Issues Surrounding Open Disclosure (2002)
- Safety and Quality Council – Open Disclosure: Managers Handbook (2003)
- Independent Commission Against Corruption – Developing a Statement of Business Ethics: A Guide to Building Ethical Business Relationships Between NSW Public Sector Organisations and the Private Sector (May 2004)
- Independent Commission Against Corruption – Do-It-Yourself Corruption Resistance Guide (March 2002)
- St James Ethics Centre – Developing Codes of Ethics (Parts 1,2 &3)
- NHS (UK) – Code of Conduct for NHS Managers (October 2002)

2.0 Conflicts of interest

2.1 Managing conflicts of interest

Conflicts of interest must be dealt with in an open and transparent way. Conflicts of interest exist when it is likely that a staff member could be influenced, or perceived to be influenced, by personal interest when carrying out their public duty.

Conflicts of interest that lead to biased decision making may constitute corrupt conduct.

The integrity and fairness of decisions and actions staff take could be undermined if, when performing their duties, a conflict between work and private interest exists or appears to exist.

A staff member may often be the only person aware of the potential for conflict. Therefore it is their responsibility to avoid any situation that could compromise their ability to perform duties impartially.

Conflicts of interest can be actual, perceived or potential:

- An **actual conflict of interest** involves a direct conflict between a staff member's current duties and responsibilities and existing private interests
- A **perceived or apparent conflict of interest** can exist where it could be perceived, or appears, that a staff member's private interests could improperly influence the performance of their duties – whether or not this is in fact the case
- A **potential conflict of interest** arises when a staff member has private interests that could conflict with other duties in the future.

Interests can be pecuniary (financial) or non-pecuniary (do not relate to money). Some situations that may potentially give rise to a conflict of interest include:

- Financial interests in a matter the Health Service deals with or where I am aware that friends or relatives have a financial interest in the matter
- Directorships/Management or membership of Boards of outside organisations, such as Non-Government Organisations, particularly where the organisation publicly challenges aspects of Health Service policy
- Secondary employment, business, commercial, or other activities outside the workplace, which impact on patient/clients and/or staff of the Health Service
- A personal belief or attitude is not openly declared, that may influence the impartiality of advice given or decisions made by the Health Service
- Personal relationships with the people the Health Service is dealing with or investigating which go beyond the level of a professional working relationship
- Authorising appointments, transfers, reclassification, or changes in employment details or employment status, award classifications or allowances for relatives or close personal friends and
- Access to information that can be used for personal gain, whether that personal gain, be that of the staff member or their relatives or friends.

Conflicts of interest must be dealt with in an open and transparent way.

A staff member may often be the only person aware of the potential for conflict. If uncertain whether a conflict exists, the matter must be discussed with immediate supervisors in an attempt to resolve the matter.

To resolve any conflicts of interest that occur, or could occur, a range of options is available depending on the significance of the conflict, the nature of the situation and sensitivity of the issue.

These options include:

- Taking no action because the conflict is assessed as being minor in nature or is eliminated by disclosure or effective supervision
- Allow limited involvement (eg participate in discussions but not in decision making)
- Prohibit any involvement
- Request the individual concerned relinquish or divest the personal interest which creates the conflict or
- Appoint an independent in the process to provide assurances of probity (eg for tendering or recruitment panels).

A Conflict of Interest Register will be maintained by the Manager of the Health Service Internal Audit Unit or another delegated officer. The purpose of this Register is to record the details of all conflicts of interest (real, potential or perceived) including:

- Name of staff member declaring the conflict of interest
- To whom the conflict of interest was declared
- Date of declaration
- Organisation or individual involved
- Brief description of the matter and
- Action taken/comments.

2.2 Bribes, gifts and benefits

It must be recognised that gifts or benefits are rarely offered by commercial organisations unless the giver expects to receive or has received some advantage or reward. Staff should be aware that even gifts from commercial organisations which are of nominal financial value can be offered to engender a sense of indebtedness. Staff must be wary of accepting any such offers and the inherent debt or obligation that can result.

Health Services must ensure processes for approving benefit arrangements, such as sponsorships, are open and transparent and meet the requirements of the NSW Health Sponsorship Policy (PD2005_415).

Token gifts

Generally speaking, **token** gifts and moderate acts of hospitality would include:

- Gifts of single bottles of reasonably priced alcohol to individual public officials at end-of-year functions, public occasions or in recognition of a presentation or
- Free or subsidised meals and/or beverages provided infrequently (and/or reciprocally) by representatives of other public sector agencies or Commonwealth Government departments or agencies or
- Free meals and/or beverages provided to public officials who formally represent their agency at government-related functions or
- A box of chocolates or flowers from a grateful patient/client.

Non token gifts

Approval of the Chief Executive or delegate to accept a non-token gift must only be given where the acceptance of the gift is unlikely to be seen by a reasonable 'impartial observer' to create a conflict of interest, or influence the performance of duties or functions. The Chief Executive or their delegate is to determine what use the gift is to be put to within the Health Service.

If any offer or suggestion of a bribe is made directly or indirectly to a staff member, they must report the facts to their immediate supervisor at the first opportunity. The supervisor must immediately inform the Chief Executive or their delegate who is required by law to report the matter to the Independent Commission Against Corruption.

Gifts register

A Gifts and Benefits Register will be maintained by the Manager of the Health Service Internal Audit Unit or appropriate delegate. Supervisors and managers are to ensure that **non token gifts** received are reported by staff for whom they are responsible and are entered into the Register.

2.3 Recommending services

Any lists provided by staff must include a number of practitioners to ensure equity and eliminate any perception of favouritism. Where possible the information provided should reasonably represent the range of services/service providers that relate to the request and circumstances. It is acknowledged that the ability to provide a range of practitioners may be more limited in rural and remote areas.

2.4 Outside employment/other external business activities

Conflicts of interest can arise where staff have an official role in more than one organisation. In these situations it may be difficult for staff to keep the roles separate and this can lead to poor performance of one of the roles, at least, and unlawful or improper decision making at worst.

Approval for other employment must not be unreasonably withheld. However if there is any real, potential or perceived conflict of interest the duties of the Health Service job must come first or agreement reached on action to resolve the conflict.

2.5 Party political participation

Staff have a responsibility to carry out their duties in a politically neutral manner.

When participating in party political activities, staff must not present themselves as representing the official view of NSW Health and must ensure, as far as possible, that their views or actions are not presented by others as an official comment of NSW Health, but rather as the individual's views or those of the political organisation they are representing.

When contesting State or Federal Elections special arrangements apply. Generally speaking staff must resign from their position before they can nominate for election to the Commonwealth Parliament. When standing for election to State Parliament staff are not required to resign until declared elected. There are no statutory arrangements for staff contesting local government elections.

Staff must be aware of any conflicts of interest that may arise when contesting local, State or Commonwealth elections. In all circumstances staff must comply with the requirements for the use of official information.

2.6 Participation in voluntary community organisations, charities and professional associations

NSW Health encourages all staff in their contribution to society and as such staff are free to participate in voluntary community organisations and charities and in professional associations so long as it does not conflict with their primary role in their Health Service or any other requirement under this Code of Conduct (eg use of official resources, information etc).

2.7 Public comment

Public comment includes public speaking engagements, comments on radio and television or in letters to newspapers and expressing views in books, journals or notices.

Comments made by members of unions, in their capacity as local delegates or office holders, employed within the Health Service are permissible under this Code of Conduct however the requirements related to the use of official information apply.

2.8 Further information

For further information refer to the following documents (as amended from time to time):

- PD 2005_469 – Managing Conflicts of Interest in the Public Health System
- PD 2005_201 - Management of Employment, Promotion and Transfer – Employees who have a Close Personal Relationship
- PD 2005_415 – Sponsorship Policy for NSW Health
- PD2005_067 – Making of Wills in Public Health Facilities
- PD2005_372 – Leave to undertake Defence Force Duties
- PD2005_179 – Employment Conditions for Health Service Staff who Volunteer for Service in East Timor

2.8 Further information (continued)

- PD2005_272 – Public Sector Employees Contesting Elections
- Premier’s Circular 2002/46 – Public Sector Employees Contesting State Elections
- Premier’s Circular 2004/07 – Conflicts of Interest
- Local Health Service procedures: for managing conflicts of interest; recommending services; outside employment; party political participation; participation in voluntary/charitable/professionals associations; and public comment.

Other reference documents:

- Independent Commission Against Corruption – Managing Conflicts of Interest in the Public Sector, Guidelines and Toolkit (November 2004)
- NSW Ombudsman – Fact sheet, Pre-requisites to Avoid or Manage Conflict of Interests
- NSW Ombudsman – Fact Sheet, Gifts and Benefits
- NSW Ombudsman – Good Conduct and Administrative Practice (August 2003)
- Independent Commission Against Corruption – Gifts, Benefits or Just Plain Bribes, Guidelines for Public Sector Agencies and Officials (June 1999)
- Royal Australasian College of Physicians – Ethical Aspects of Conflicts of Interest (January 2004)
- Royal Australasian College of Physicians – Ethical Guidelines in the Relationship Between Physicians and the Pharmaceutical Industry
- Royal Australasian College of Physicians – Ethics: A Manual for Consultant Physicians (1999)
- Australian Medical Association – Code of Ethics (2004)
- Australian Medical Association – Position Statement, Doctors’ Relationship with the Pharmaceutical Industry (2002)

3.0 Use of official resources

3.1 Overview

Official Resources refers to Health Service funds, staff, facilities, equipment and materials. Some examples of resources include (but are not limited to) telephones, facsimiles, email, internet, photocopiers, scanners, typing facilities, computers, motor vehicles, office stationery and general stock inventory.

Inappropriate use includes, but is not limited to:

- Excessive use for private purposes
- Any use for private commercial or business purposes
- Any use of official resources to intentionally transmit, communicate or access offensive, pornographic or sexually explicit material, images, text or other material (even where the material is not unlawful)
- Any use of NSW Health communication systems (for private purposes) to access any subscription or fee based services

Staff must not use official resources for non-official purposes without gaining prior approval or they could face disciplinary and/or criminal action.

Managers should exercise judgement on reasonable personal use of official resources (eg using the phone/facsimile/email for personal communications that do not affect work performance) and be mindful of NSW Health policy for balancing work and family responsibilities.

3.2 Further information

For further information refer to the following documents (as amended from time to time):

- PD2005_290 – Electronic Messaging Policy (under review)
- PD2005_026 – Reporting Thefts and Losses
- PD2005_146 – Leasing of Equipment
- PD2005_329 – Disposal of Surplus Goods, Obsolete/Unserviceable Stores (Excluding Motor Vehicles)
- Premier's Department – Policy and Guidelines for the Use by Staff of Employer Communication Devices (1999)
- Premier's Department – Protocol for Acceptable Use of the Internet and Electronic Mail (1999)
- Local Health Service procedures for the use of official resources

4.0 Use of official information

4.1 Overview

Official information is any recorded information, in any form including data in computer systems, created or received and maintained by NSW Health in the transaction of business or the conduct of affairs and kept as evidence of such activity (adapted from AS4390 Pt 1 – s4.21).

Current privacy legislation outlines requirements related to the disclosure of personal and personal health information.

Misuse of official information includes:

- Unauthorised use or disclosure
- Speculation on shares on the basis of confidential information about the affairs of a business or of proposed government action
- Seeking to take advantage, for personal reasons or for another person, of information about a person held in official records or data
- Providing or trading confidential information for use by private investigators, banks or credit agencies and
- Gossiping on the basis of personal or other information held in official records.

4.2 Personal health information

Personal health information is personal information or an opinion about:

- A person's physical or mental health or disability
- A person's express wishes about the future provision of health services for themselves
- A health service provided, or to be provided, to a person.

Any personal information collected for the purposes of the provision of health care will generally be 'personal health information'. It will also include personal information that is not itself health related but is collected in connection with providing health services or connected in association with decisions to donate organs or body substances.

4.3 Security of official information

Managers are responsible for ensuring that premises are secure and that suitable arrangements are in place to maintain the security of confidential and/or sensitive official information. This includes transferring documents by hand where necessary.

Where appropriate, managers must make sure that confidential and/or sensitive papers are tabled at meetings rather than circulated and agreement is reached within the meeting about the level of detail to be included in the Minutes.

4.4 Staff information

Health Services may confirm details held by financial institutions if staff are applying for financial assistance. Health Services will validate the *bona fide* of the caller as a representative of the financial institution (usually with a call back). In all instances a staff member's permission will be sought prior to confirming the information held.

There are some instances when an external body will be required to provide a written request for information (eg insurance matters). In some instances information regarding employment will be provided to external bodies (eg the Superannuation Board and the Australian Taxation Office).

- 4.5 Providing referee reports** When providing either verbal/written references for other staff members, or persons outside the Health Service, staff have a duty to provide frank and accurate comments and take care to avoid making statements that could be regarded as malicious.
- Situations which may potentially be regarded as malicious include:
- Knowingly including false or unsubstantiated allegations
 - Using language which is excessively strong or weak, in a manner which might unreasonably mislead the recipient of the report or misrepresent the staff member who is the subject of the report or
 - Deliberately introducing extraneous material or deliberately making omissions so as to create a misleading impression.
- 4.6 Intellectual property** The term 'intellectual property' is the legally recognised outcome of a creative effort and economic investment in creative effort. It includes scientific discoveries, industrial designs, trademarks, service marks, commercial names and designations, inventions in all fields of human endeavour and all other rights resulting from activity in the industrial, scientific, literary or artistic fields.
- Generally the Health Service is the owner of intellectual property created by staff in the course of employment unless specific agreement has been made to vary this principle or where variation is allowed through specific NSW Health policy.
- Staff must clarify the intellectual property position before making use of any property. For example where there is a joint project (eg research partnership with a University), ownership of the information and resources developed would need to be established prior to the commencement of the project.
- 4.7 Further information** For further information refer to the following documents (as amended from time to time):
- PD2005_314 – NSW Health Electronic Information Security Policy
 - PD2005_127 – Principles for the Creation, Management, Storage and Disposal of Health Care Records
 - PD2005_230 - Records Management of Electronic Messages (Email) Policy and Guidelines (Department of Health staff only)
 - PD2005_231 – Records Management Policy Statement (Department of Health staff only)
 - PD2005_188 – Disclosure of Information in NSW Government Contracts
 - PD2005_285 – Transfer of Departmental Records from Central Office to Areas/Other Organisations (Department of Health staff only)
 - PD2005_236 – Privacy of Personal Information on Aboriginal Staff and Clients
 - PD2005_254 – Policy and Guidelines for the Physical Storage of NSW Department of Health Records (Department of Health staff only)
 - PD2005_554 – NSW Health Privacy Management Plan
 - GL2005_055 – Adoption Information Act – Protocol for Release of information

**4.7 Further information
(continued)**

- PD2005_593 – NSW Health Privacy Manual
- PD2005_370 - Policy on Intellectual Property Arising From Health Research
- Premier's Department – Intellectual Property Management Framework for the NSW Public Sector (2005) which will be implemented across NSW Health
- Protecting People and Property: NSW Health Policy and Guidelines for Security Risk Management in Health Facilities (<http://www.health.nsw.gov.au/audit/manuals>)
- Local Health Service procedures for establishing intellectual property
- Local Health Service procedures for the use of official information

Other reference documents:

Audit Office of New South Wales – Performance Audit Report: Management of Intellectual Property (2001)

5.0 Employment screening and reporting serious offences

5.1 Employment screening

Health Services have a duty of care to all patients and clients receiving services and for these reasons will undertake probity screening of staff working in any capacity in NSW Health (including students, volunteers, contractors and visiting practitioners).

Probity checks (or criminal record checks) are conducted for the following convictions:

- Sexual offences
- Serious offences involving a threat or injury to another person and
- Other serious offences but only where directly relevant to the duties of the positions (eg embezzlement/larceny for financial positions).

In addition all individuals commencing employment which primarily involves direct contact with children where that contact is unsupervised must be checked against any relevant criminal record, any relevant apprehended violence order and any relevant disciplinary proceeding. A person convicted of a serious sex offence is classified as a prohibited person and cannot work with children.

A serious sex or violence offence is defined in the Health Services Act 1997 as an offence involving sexual activity, acts of indecency, physical violence or the threat of physical violence that:

- (a) If committed in New South Wales, is punishable by imprisonment for 12 months or more, or
- (b) If committed elsewhere than in New South Wales would have been an offence punishable by imprisonment for 12 months or more in New South Wales.

5.2 Reporting serious offences

As outlined in the Health Service Act 1997 and the Public Sector Employment and Management Act 2000 staff must report any charges and convictions relating to serious sex or violence offence in writing to their Chief Executive within 7 days of the charge being laid or the conviction.

Under the Health Services Act, a visiting practitioner who has a finding of unsatisfactory professional conduct or professional misconduct made against them under any relevant health professional registration Act, they must within 7 days of receiving notice of the finding, report the fact to their Chief Executive and provide a copy of the finding.

Any staff member who is charged with an offence under section 91H of the Crimes Act (production, dissemination or possession of child pornography) should be suspended from duty until those criminal proceedings are finalised.

5.3 Further information

For further information refer to the following documents (as amended from time to time):

- PD2005_109 – Procedures for Recruitment and Employment of Staff and Other Persons – Vetting and Management of Allegations of Improper Conduct
- PD2005_177 – Policy and Procedures for Employment Screening of Staff and Other Persons in Child Related Areas
- PD2005_196 – Determination of Child Related Employment
- PD2005_299 – Protecting Children and Young People
- PD2005_552 – NSW Department of Health Policy for Employment Screening Using Criminal Record Checks (Department of Health staff only)
- PD2005_574 – Child Abuse Allegations – Ombudsman Amendment (Child Protection and Community Services) Act 1998
- Local Health Service procedures for criminal record checking and reporting charges

6.0 Fairness in decision making

- 6.1 Fairness in decision making** Staff must deal with issues, cases or complaints consistently, promptly, transparently and fairly. This involves dealing with matters in accordance with approved procedure, in an impartial, non-discriminatory manner and in good faith.
- Staff must be fair and reasonable when exercising statutory or discretionary power that could affect the rights, interests or legitimate expectations of individuals within or outside of NSW Health. Situations must be dealt with in a fair and timely manner.
- Staff must take all reasonable steps to ensure that the information upon which their decisions or actions are based is factually correct and relevant to the decisions or actions. Staff must avoid acting in a way that could be seen as unreasonable or discriminatory.
- 6.2 Use of statutory power** Where staff make a decision based on a statutory power (ie power defined in legislation), they must ensure that:
- The legislation under which the decision is made authorises the making of that decision
 - I have the authority or the delegation to make the decision
 - Any procedures which are required by law to be complied with in the making of a decision have been observed and
 - The decision, the evidence upon which it is based and the reasons for the decisions are properly documented.
- 6.3 Use of discretionary power** Staff must not exercise discretionary powers (ie powers to act according to ones own judgement) for improper purposes or on irrelevant grounds. Improper use includes errors such as failing to take all relevant facts into consideration, not having regard to the merits of each particular case or taking into account irrelevant information.
- 6.4 Appealing decisions** If individuals are adversely affected by a decision or if they wish to challenge a decision they must be informed promptly of their rights to object, appeal or obtain a review as well as the means by which they exercise those rights.
- 6.5 Further information** For further information refer to the following documents (as amended from time to time):
- PD2005_565 – Recruitment and Selection: Policy and Better Practice for Public Health Organisations and the Ambulance Service
 - GL2005_061 - Better Practice Guidelines for Frontline Complaint Handling (Feb 1998)
 - Interim Corporate Governance Guidelines for Chief Executives for Area Health Services (Jan 2005)
 - Local Health Service delegations for decision making
- Other reference documents:
- NSW Ombudsman – Fact Sheet: Handling Complaints
 - NSW Ombudsman – Good Conduct and Administrative Practice (August 2003)

7.0 Discrimination, harassment, bullying and violence

7.1 Discrimination, harassment and bullying

Workplace bullying and/or harassment means behaviour that will generally meet the following four criteria:

- It is repeated
- It is unwelcome and unsolicited
- The recipient considers the behaviour to be offensive, intimidating, humiliating or threatening
- A reasonable person would consider the behaviour to be offensive, intimidating, humiliating or threatening

It is unlawful to discriminate on the basis of people's sex, race, ethnic or ethno-religious background, marital status, pregnancy, disability, age, homosexuality, transgender or carers' responsibilities.

Incidents of bullying, harassment or discrimination may constitute a breach of NSW Health policy, NSW Anti-Discrimination and/or occupational health and safety legislation. Should unacceptable behaviour occur staff have a right to make a complaint using their Health Service procedures.

Health Services will not tolerate the victimisation of or reprisal against any staff member involved in a complaint. Staff must not make vexatious and/or malicious complaints.

Managers must ensure, to the extent of their authority, that the workplace is free from all forms of bullying, harassment and unlawful discrimination. Managers must ensure that grievances and complaints of bullying and harassment are dealt with in a fair, timely and impartial way.

7.2 Violence

Violence is defined as any incident in which an individual is abused, threatened or assaulted and includes verbal, physical or psychological abuse, threats or other intimidating behaviours, intentional physical attacks, aggravated assault, threats with an offensive weapon, sexual harassment and sexual assault.

7.3 Further information

For further information refer to the following documents (as amended from time to time):

- PD2005_584- Effective Workplace Grievance Resolution: Policy and Better Practice for the Department of Health and Public Health Organisations
- PD2005_223 – Joint Management and Employee Association Statement of Bullying, Harassment and Discrimination
- PD2005_250 – Joint Management, PSA and Nursing Association Statement on Bullying, Harassment and Discrimination
- PD2005_315 – Zero Tolerance to Violence in the NSW Health Workplace
- PD2005_234 – Effective Incident Response: A Framework for Prevention and Management in the Health Workplace
- Local Health Service procedures for managing incidents of bullying, harassment, discrimination and violence

Other reference documents:

- NSW Ombudsman – Fact Sheet: Handling Complaints (March 2004)

8.0 Occupational health and safety

- 8.1 Occupational health and safety** Staff must abide by all occupational health and safety policies and safe working procedures and take reasonable care for the health and safety of people at their place of work and who may be affected by their acts or omissions at work.
- 8.2 Injury management** Staff must take reasonable care and cooperate with the Health Service to prevent work related injuries to themselves and others.
- Staff have a number of obligations in the event of suffering a workplace injury / illness. In particular if injured in the workplace they must register their injury in the Register of Injuries and, if appropriate, seek first aid / medical attention.
- 8.3 Further information** For further information refer to the following documents (as amended from time to time):
- PD2005_409 – Workplace Health and Safety: Policy and Better Practice Guide
 - PD2005_328 – NSW Health Policy and Procedures: Injury Management and Return to Work
 - Premier’s Department – Taking Safety Seriously (2002)
 - Local Health Service procedures for managing OHS issues/Injury Management and consulting with staff on OHS matters
- Other reference documents:
- NSW Nurses Association – Occupational health and Safety Essentials for Nurses (2004)
 - NSW Nurses Association – Workers Compensation Essentials for Nurses (2004)

9.0 Complying with reporting obligations

- 9.1 Complying with reporting obligations**
- Staff must comply with all legal reporting obligations that apply to them including (but not limited to) those related to:
- Corruption, maladministration and serious and substantial waste
 - Public health issues
 - Reportable conduct related to child protection and
 - Other criminal matters.
- 9.2 Child protection**
- Staff must follow NSW Health and Health Service policy in relation to the care and treatment of children and young people.
- The Ombudsmans Act 1974 requires the notification of reportable allegations to the Ombudsman. In line this staff must report any behaviour or circumstance that leads them to suspect reportable* conduct towards a child by another staff member to their supervisor or the designated person within their Health Service.
- Chief Executives are then required to refer all notifications of reportable allegations and convictions of child abuse to the Director-General Department of Health immediately for review and to the NSW Ombudsman within 30 days.
- *Reportable conduct is:
- Any sexual offence, or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence) or
 - Any assault, ill treatment or neglect of a child of
 - Any behaviour that causes psychological harm to a child whether of not, in any case, with the consent of the child of
 - Filming for indecent purposes or
 - Installing a device to facilitate filming for indecent purposes.
- Reportable conduct does not extend to:
- Conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant professional standards or
 - The use of physical force that, in all circumstances, is trivial or negligible but only if the matter is investigated and the result of the investigation recorded under workplace employment procedures or
 - Conduct that the Ombudsman exempts under 25CA of the Ombudsman Act 1974
 - Inappropriate behaviour, such as yelling at a child, telling rude jokes or making rude gestures in front of children, making inappropriate reference to a child such as calling the child 'stupid' or 'smelly' and discussing personal family issues with a child.

- 9.3 Reporting corrupt conduct, maladministration and serious and substantial waste**
- Staff must report any suspected instances of possible corrupt conduct, maladministration and serious and substantial waste of public resources to their Chief Executive or delegate. Staff should refer to local Health Service policy to determine reporting procedures.
- Staff wishing to report suspected instances of possible corrupt conduct, maladministration and serious and substantial waste of public resources to an external organisation should notify the following bodies:
- Independent Commission Against Corruption (for corrupt conduct)
 - Ombudsman (for maladministration) and
 - Auditor-General (for serious and substantial waste).
- 9.4 Protected disclosures**
- The Protected Disclosures Act 1994 provides certain protection against reprisals for staff who voluntarily report possible corruption, maladministration or serious and substantial waste using the Health Service internal reporting system.
- The protection of the Act can also extend to the reporting of possible corruption, maladministration and serious and substantial waste to one of the three external investigative bodies (ie ICAC, Auditor-General and the Ombudsman) or in certain limited circumstances to a Member of Parliament or the media.
- The Protected Disclosures Act 1994 makes it an offence to take 'detrimental action' against another person in reprisal for making a protected disclosure.
- The Protected Disclosures Act is not intended to be used by staff lodging a workplace grievance.
- 9.5 Further information**
- For further information refer to the following documents (as amended from time to time):
- PD2005_173 – Reporting Possible Corrupt Conduct to the Independent Commission Against Corruption
 - PD2005_135 – Policy and Guidelines for the Development of Protected Disclosures Procedures in Health Services
 - PD2005_263 – Protected Disclosures Policy – NSW Department of Health (Department of Health staff only)
 - PD2005_299 – Protecting Children and Young People
 - Local Health Service procedures for child protection, reporting corrupt conduct, maladministration and serious and substantial waste and making protected disclosures

10.0 Conduct of former staff members

10.1 Overview

When leaving employment staff must not use or take advantage of confidential information obtained in the course of their previous official duties to seek gain or profit, until this information is publicly available. Staff must not take documents that are the property of the Health Service to another position prior to or after resignation without approval.

Staff must be careful in their dealings with former staff members of NSW Health and ensure they do not give them, or appear to give them, favourable treatment or access to privileged information.

10.2 Further information

Other reference documents:

- Independent Commission Against Corruption – Strategies for Managing Post Separation Employment Issues: A Corruption Prevention Project (1998)

11.0 Breaches of the NSW Health Code of Conduct

- 11.1 Overview** Staff must abide by the standards outlined in this Code of Conduct and the legislation and policies and procedures it reflects. Breaches of this Code of Conduct may lead to disciplinary action.
- Staff must also be aware that breaches of certain sections of the Code of Conduct, where the conditions reflect the requirements of legislation, may be punishable under law.
- If staff become aware of a breach of this Code of Conduct, by either themselves or by other staff members, they should report the matter immediately to their supervisor.
- 11.2 Further Information** For further information refer to the following documents (as amended from time to time):
- PD2005_225 – A Framework for Managing the Disciplinary Process in NSW Health
 - Local Health Service procedures for managing discipline.
- 11.3 Related Legislation** A range of Acts and Regulations impact on me as a staff member working within NSW Health and this legislation can be found at:
<http://internal.health.nsw.gov.au/csd/lisb/acts/index.html>