

Knowledge of wrong conduct

Integrity

Public officials are under an obligation to act with integrity in the performance of their official functions, including in all their dealings with members of the public, private organisations, each other, members of Parliament and the government of the day.

Both by word and deed, public officials should promote public confidence in the integrity of public administration and should promote and encourage the highest standards of honesty. They are there to serve the public and the public are entitled to rely on them to do the right thing.

Being frank and candid

Public officials are obliged by the law, codes of conduct and any applicable professional ethics to be frank and candid in the advice they give in the performance of their official functions, eg. to be honest, open and sincere.

This obligation is not only an obligation to tell the truth, but to tell the whole truth. The dictionary definitions of these terms emphasise being open, unreserved, outspoken, sincere, honest, straightforward, blunt and undisguised.

There is a common law obligation of fidelity on all employees. This obligation implies a duty in every contract of employment that the employee will act in good faith and will assist the employer by supplying information known to the employee which concerns the business and operation of the employer's business.

There is another common law duty to obey the lawful orders of employers which includes an obligation to answer questions about how an employee has done his or her work or what they have done during working hours.

Essentially, both these duties require employees to be frank and candid with their employer, and representatives of their employer.

Correcting mistakes

Public officials should take appropriate action to correct any mistakes or errors of which they become aware.

Agencies and their staff must ensure that any mistakes, errors, oversights or improprieties (whether personal or organisational) are rectified, voluntarily and promptly, as soon as they are identified.

Agencies should not try to cover up mistakes, as they are invariably found out, resulting in serious damage to their credibility.

Disclosing wrong doing

Public officials should disclose any serious wrong conduct by their colleagues or agency so that something can be done to stop it.

They should bring such wrong doing to the attention of senior managers in their agency or a relevant watchdog body (such as the NSW Ombudsman or Independent Commission Against Corruption).

The staff of an agency are in the best position to know how well it is performing its functions and whether there is anything or anyone inhibiting that performance. By actively using this information and addressing the deficiencies that such disclosures highlight, agencies can become fairer, more accountable and more responsive in the way they operate. Without such disclosures it will often be unlikely that the dishonesty or wrong conduct would have otherwise been uncovered so it probably would have continued.

There are various statutory obligations on members of the public and certain categories of public official to report a range of conduct involving wrong doing. There are also other statutory provisions which give some protection for certain reports (for example, if a disclosure is made under the *Protected Disclosures Act 1994* about corrupt conduct, maladministration or serious and substantial waste), and others which allow reports to be made.

Statutory obligations to report

Type of report	People obliged to report	Relevant law
Reporting knowledge about the committing of a serious indictable offence	Any person	<i>Crimes Act 1900</i> – s.316
Reporting suspicions that a child is at risk of harm	Any person who in paid employment delivers or manages the delivery of certain services to children	<i>Children and Young Persons (Care and Protection) Act 1998</i> – s.27
Reporting suspicions that a matter concerns or may concern corrupt conduct	Principal officers of public authorities and certain others	<i>Independent Commission Against Corruption Act 1988</i> – s.11
Reporting allegations (and convictions) against employees concerning child protection related issues	Heads of government agencies and certain non-government agencies delivering services to children	<i>Ombudsman Act 1974</i> – s.25C
Reporting belief that a police officer has engaged in conduct that constitutes a criminal offence or other misconduct	Police officers	Police Regulation 2000 – cl.20
Reporting belief that a correctional officer has engaged in conduct that constitutes a criminal offence or other misconduct	Correctional officers	Crimes (Administration of Sentences) Regulation 2001 – cl.247
Reporting suspicions that a child or young person is at risk of harm	Any person	<i>Children and Young Persons (Care and Protection) Act 1998</i> – s.24

Further information

For further information see also:

- *Good Conduct and Administrative Practice – Guidelines for state and local government*, NSW Ombudsman, August 2003
- *Child Protection in the Workplace* (3rd edition), NSW Ombudsman, June 2004
- *Protected Disclosures Guidelines* (6th edition), NSW Ombudsman, April 2009.

Contact us for more information

Our business hours are: Monday to Friday, 9am–5pm (*Inquiries section closes at 4pm*)

If you wish to visit us, we prefer you make an appointment. Please call us first to ensure your complaint is within our jurisdiction and our staff are available to see you.

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We can arrange an interpreter through TIS or you can contact TIS yourself before speaking to us.