

Political neutrality policy

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1. Abbreviations

Abbreviations

cl.	Clause
Electoral Act	<i>Electoral Act 2017 (NSW)</i>
GSE Act	<i>Government Sector Employment Act 2013 (NSW)</i>
GSE Rules	<i>Government Sector Employment (General) Rules 2014</i>
PPIP Act	<i>Privacy and Personal Information Protection Act 1998</i>
s.	Section

2. Introduction

- 2.1. Political neutrality is one of a number of inherent requirements for employment and continued employment with the NSW Electoral Commission. The NSW Electoral Commission implements the democratic principles of an impartial and fair electoral system in which elections are conducted at arm's length from government and in accordance with the law.
 - 2.2. It is the duty of the NSW Electoral Commission to exercise its functions under the Electoral Act or any other Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations. This duty applies to all staff of the NSW Electoral Commission. It is essential that all staff are, and are seen to be, politically neutral.
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3. Purpose

- 3.1. This policy highlights the requirements that underpin the political neutrality requirements of all staff engaged by the NSW Electoral Commission. It is also designed to assist job applicants in determining whether they are precluded from employment with the NSW Electoral Commission based on their political affiliations and activities.
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4. Scope

- 4.1. This policy applies to all staff engaged by the NSW Electoral Commission – this includes ongoing, temporary, casual, fulltime and part-time staff, and includes Election Officials and staff on secondment to the NSW Electoral Commission¹.

¹ The political neutrality requirements for suppliers, including labour hire personnel provided the NSW Electoral Commission through contracted agencies, are included in the NSWEC's *Statement of Business Ethics, Declaration of Political Neutrality, Supplier Confidentiality & Compliance Agreement for Service Providers, and Procurement Policy*.

5. Policy details

General principles

Electoral Act

- 5.1. It is the duty of the NSW Electoral Commission to exercise its functions under the Electoral Act or any other Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations (see ss. 10(3) & 12(3) of the Electoral Act).

Ethical framework for the government sector

- 5.2. The *Government Sector Employment Act 2013* (GSE Act) establishes an [Ethical Framework](#) for a merit-based, apolitical and professional government sector. Government sector core values relevantly include:
- Act professionally with honesty, consistency and impartiality
 - Place the public interest over personal interest
 - Provide apolitical and non-partisan advice
 - Provide services fairly with a focus on customer needs.

Codes of Conduct

- 5.3. The *Code of Ethics and Conduct for NSW government sector employees* requires that, amongst other things, all government sector employees conduct themselves consistently with the Ethical Framework. The Ethical Framework is to be applied at all times in working relations with colleagues, clients and customers, stakeholders and the government of the day. The Code requires all staff to disclose actual, potential or reasonably perceived conflicts of interests.
- 5.4. The *Code of Ethics and Conduct* makes it clear that persons active, or who have been active, in political affairs that may compromise the NSW Electoral Commission's impartiality and strict political neutrality cannot be employed.
- 5.5. The *Code of conduct and employment conditions acknowledgement* provides that Election Officials have no relevant association with political parties/candidates or involvement in political affairs and disclose interests which may impact on their impartiality.

Condition of Employment/Engagement at the NSW Electoral Commission

- 5.6. Political neutrality is one of a number of fundamental and inherent requirements for employment and continued employment with the NSW Electoral Commission. Persons active, or who have been active, in political activities that may compromise the NSW Electoral Commission's impartiality and strict political neutrality cannot be employed. It is essential that all staff are, and are seen to be, politically neutral.
- 5.7. Under s. 54 of the GSE Act, employment may be made subject to conditions notified to the employee on his or her engagement. All NSW Electoral Commission recruitment advertising, selection criteria and role descriptions include a reference or link to the political neutrality requirement. Further, all prospective employees are required to declare whether they are or have been, involved in political affairs.
- 5.8. All successful applicants for ongoing and temporary roles (other than Election Officials), are required to complete a *Code of Conduct Acknowledgement form* in which they declare amongst other things, that they have read and understood the standards and expectations of the NSW Public Service Commission's *Code of Ethics and Conduct for NSW government sector employees* and the NSW Electoral Commission's *Code of Ethics and Conduct*. All staff will be reminded of their obligations at least annually and asked to acknowledge that they have read the *Code of Ethics and Conduct*, understand its content and agree to apply it within the workplace.

- 5.9. Election Officials are required to sign a *Code of Conduct and employment conditions acknowledgement form* when they commence employment.

Meeting the requirement for political neutrality

- 5.10. A conflict of interest occurs if an employee's private interests make it difficult to perform their duties impartially in the public interest. This may happen when there is a direct conflict between their current duties and responsibilities and their private interests (an 'actual' conflict of interests); when a person could reasonably perceive that the employee's private interests are likely to improperly influence the performance of their official duties, whether or not this is in fact the case (a 'reasonably perceived' conflict of interests); or when an employee's private interest could conflict with their official duties in the future (a 'potential' conflict of interests).
- 5.11. The perception that a conflict of interest has influenced an election outcome can undermine the public confidence, the NSW Electoral Commission and the employee's integrity. The types of private interests and activities that could come into conflict with official duties will depend on the work to be done and the issues being dealt with, and include amongst other things, political affiliations and activities.
- 5.12. While each person's individual circumstances will be dealt with according to the relevant facts, some examples of past or present activities that could be interpreted as conflicting with political neutrality, and which would preclude engagement by or continued employment with the NSW Electoral Commission, include:
- Campaigning for a political party or candidate at either Federal, State, Territory or Local elections for example, making media statements or attributable comments on the internet including social media, handing out how-to-vote material, or comments on talk back radio
 - Standing as a candidate at either Federal, State, Territory or Local elections
 - Being a member of a political party in a State, Territory or the Commonwealth
 - Public support for, or opposition to, a particular political party, candidate or a political position in respect of an issue currently before the electorate for example writing letters to the editor, comments on talk back radio, attending political rallies/forums, publication of comments or material on online platforms including social media or making other publicly available comments of political views (see also the NSW Electoral Commission's *Social Media Policy: Responsible use by NSW Electoral Commission staff*)
 - Activities which could be interpreted by a reasonable person as publicly supporting or opposing a particular political party or candidate, for example regular public appearances or association with a political party or candidate
 - Close relationship with members or staff of a political party, candidates, official agents, lobbyists or members of parliament
 - Working for a political party, candidate, official agent, lobbyist or member of parliament on a paid or voluntary basis
 - Being a member of a lobby group (not being a union or professional association), which promotes a political position in respect of an issue currently before the electorate.
- 5.13. The following are examples of situations where political neutrality is not necessarily compromised:
- Membership of professional association supporting or opposing the policies of political parties, or
 - Trade union membership or activity, provided the activity is not of a political nature.

- 5.14. If a prospective employee declares that they are or have been a member of any political party within the past 10 years, their application will not be progressed to the next stage of recruitment. Any other declared activities will be considered in terms of the role being sought (including geographical location), the nature of the activity and its potential to compromise the independence and impartiality of the NSW Electoral Commission, and the time the activity took place.

Staff declarations about political conflict of interest

- 5.15. All staff members must immediately inform their director (or supervisor) if there are any changes that could impact their political neutrality (real, perceived or potential). This disclosure is to be followed by a declaration in writing to the Director of Human Resources. Any declaration will be assessed to determine whether a conflict exists, and if so, how it will be managed. The staff member may be required to cease an activity that creates a real, perceived or actual conflict of interest, withdraw from the area of work where the conflict of interest is occurring, or the staff member's employment may be terminated. A declaration is to be disclosed through relevant reporting lines: for example, to Executive Directors and/or the Electoral Commissioner for the purpose of ascertaining a person's suitability for employment.

End of employment for political conflict of interest

- 5.16. If it is alleged that a staff member has been or is currently involved in political activities the NSW Electoral Commission will undertake an initial assessment of the allegation. If the allegation has already been dealt with and considered in full as part of that employee's recruitment process or in response to a previous staff declaration made by the employee – the NSW Electoral Commission may decide not to take further action in relation to the matter.
- 5.17. The matter may be dealt with as a proposed termination of employment for failure to meet a condition of employment (s. 47 of the GSE Act and cl. 14 of the GSE Rules) and/or as an allegation of misconduct depending on the circumstances. As mentioned earlier, political neutrality is an inherent requirement for employment and continued employment with the NSW Electoral Commission. It is also supported by codes of conduct and the Electoral Act.
- 5.18. Part 8 of the GSE Rules sets out the procedural requirements for dealing with allegations of misconduct. If, after an initial assessment, the NSW Electoral Commission decides to proceed with the matter, the relevant employee will be advised of the details of the allegation of misconduct and the action that may be taken under s. 69(4) of the GSE Act in relation to the employee. The NSW Electoral Commission may suspend the relevant employee from duty until the allegation of misconduct has been dealt with and any subsequent action has been determined by the NSW Electoral Commission. The relevant employee will also be given a reasonable opportunity to make a statement in relation to the allegation. The NSW Electoral Commission may, as a result of any such statement by the relevant employee, decide to proceed to deal with the matter in accordance with Part 8, or decide not to proceed any further with the matter. The relevant employee will be notified of the NSW Electoral Commission's decision (refer to Part 8 of the GSE Rules for next steps).
- 5.19. The GSE Act and GSE Rules set out the actions that a public service agency head may take where there is a finding of misconduct against an employee. These actions include termination of employment, assigning the employee to a different role, cautioning or reprimanding the employee. The action taken would be dependent on the type of activities that could be interpreted as a conflicting interest.
- 5.20. Allegations will be handled without delay to ensure that any real or perceived conflicts of interests are avoided and/or effectively managed.

How disclosures under this policy will be managed

5.21. The NSW Electoral Commission collects information associated with employment at an election or at the NSW Electoral Commission. The NSW Electoral Commission holds past and current employee records containing personal and health information. These records are used for employee history, payroll, administrative and related activities. Information about an individual's suitability for employment or employment as a public sector official is not personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* (PPIP Act). Information disclosed to a recruitment officer, supervisor or director as part of questions asked during an interview, declarations made by an employee or allegations made by other persons may be disclosed through relevant reporting lines: for example, to the Director of Human Resources, Executive Directors and/or the Electoral Commissioner for the purpose of ascertaining a person's suitability for employment.

Meeting the requirement for political neutrality

5.22. A conflict of interest occurs if an employee's private interests make it difficult to perform their duties impartially in the public interest. This may happen when there is a direct conflict between their current duties and responsibilities and their private interests (an 'actual' conflict of interests); when a person could reasonably perceive that the employee's private interests are likely to improperly influence the performance of their official duties, whether or not this is in fact the case (a 'reasonably perceived' conflict of interests); or when an employee's private interest could conflict with their official duties in the future (a 'potential' conflict of interests).

6. Roles and responsibilities

The following table outlines the nature of the commitment expected from staff and the way that commitment should be implemented:

Who	Commitment	How
The Electoral Commissioner	To exercise functions under the Electoral Act or any other Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.	<ul style="list-style-type: none">• Lead and promote implementation of this policy.• Ensure the general conduct and management of the functions and activities of the NSWEC are in accordance with the core values of the Ethical Framework and this policy.• Oversee the implementation of this policy and make improvements where necessary.
Executive directors, directors and managers	To be aware of the obligations relating to political neutrality with respect to the continued employment of staff and the recruitment of staff, the implications of non-compliance with these obligations and their implications for staff who disregard their obligations for political neutrality.	<ul style="list-style-type: none">• Lead and promote implementation of this policy.• Ensure their workplace culture, practices and systems (including recruitment and promotion) operate consistently with this policy.• Act promptly and with due process to prevent and address any breaches of this policy.• Ensure that any real or perceived conflicts of interests are avoided or effectively managed.

Who	Commitment	How
Director of Human Resources	In addition to the above commitment, monitor, review and evaluate this policy.	<ul style="list-style-type: none"> • To advise executive directors and managers on available options for handling situations where there is potential for political neutrality to be breached, for example counselling, reassignment to other duties, redeployment to another agency, termination of employment. • Manage the process for staff to annually acknowledge the NSW Electoral Commission <i>Code of Ethics and Conduct Acknowledgment</i> requirements. • Include in all recruitment advertising, selection criteria and role descriptions a statement of the political neutrality requirement. • Require prospective employees to declare their non-engagement in political affairs.
Contract Owners	Manage supplier political neutrality requirements relating to the provision of temporary personnel in accordance with the NSW Electoral Commission Procurement Policy	<ul style="list-style-type: none"> • When needed, ensure tendering documentation and contracts include provisions that ensure specific suppliers and their agents and employees make a written declaration about political neutrality
All staff	<p>To exercise functions under the Electoral Act or any other Act in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.</p> <p>It is essential that all staff are, and are seen to be, politically neutral by not engaging in any political activities.</p>	<ul style="list-style-type: none"> • All staff are required to acknowledge and declare at least annually the requirement for political neutrality. With respect to Election Officials, this is done in relation to a particular election event. • Immediately declare in writing any conflict of interest, including engagement in any political activities or a change in personal circumstances, for example an intention to contest an election. • Demonstrate high levels of personal conduct consistent with the Ethical Framework and this policy. • Seek assistance when unsure about how to implement the Ethical Framework and this policy. • Report possible breaches of this policy to relevant officers (also disclosures may be made under the NSW Electoral Commission's <i>Public Interest Disclosures Policy</i>).

7. Monitoring, evaluation and review

- 7.1. This policy will be monitored, evaluated and reviewed by the Director of Human Resources.
 - 7.2. It will be reviewed at least every 4 years.
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8. Associated documents

- NSW Electoral Commission Code of Ethics and Conduct Acknowledgment form
 - NSW Electoral Commission Code of Ethics and Conduct: NSWEC Staff Agency
 - NSW Electoral Commission Code of Conduct and employment conditions acknowledgement (Election Officials)
 - NSW Electoral Commission Code of Conduct for all Election Officials
 - Code of Ethics and Conduct for NSW government sector employees
 - Ethical Framework for the government sector
 - NSW Electoral Commission Procurement Policy
 - NSW Electoral Commission Public Interest Disclosures Policy
 - NSW Electoral Commission Risk Management Policy
 - NSW Electoral Commission Social Media Policy: Responsible use by NSWEC staff
 - NSW Electoral Commission Statement of Business Ethics
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9. Relevant legislation

- *Electoral Act 2017 (NSW)*
 - *Local Government Act 1993 (NSW)*
 - *The Government Sector Employment Act 2013*
 - *Government Sector Employment (General) Rules 2014*
 - *Privacy and Personal Information Protection Act 1998*
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10. Document control

Document management

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John Schmidt	28 February 2023
Executive Director Corporate Review:	
Matt Phillips	
Director Human Resources Review:	
Christy McKay	

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