

Department of the Premier and Cabinet

CODE OF CONDUCT

May 2010



Foreword

Throughout our working day each of us makes decisions. These decisions vary from recommending whether a particular policy option is a superior alternative, determining to recommend that a Cabinet Submission should not be supported, selecting a person for a new position or deciding whether it is acceptable to use our work computer to send a personal email. One thing all of these decisions have in common is that they each have an ethical dimension. The central ethical issue in each case should be viewed in the light of what will be in the public interest.

This Code of Conduct is based on the ethics principles and obligations provided in the *Public Sector Ethics Act 1994* and has been developed following consultation with all staff. It is designed to provide assistance and guidance to enable us to apply appropriate ethical standards. The Queensland public sector has been built on sound ethical foundations. The complexities of contemporary life and public administration, however, mean that application of common sense ethical understandings may not always yield optimal ethical decision-making. The principles set out, with numerous hypothetical examples, in this Code will assist us all to continue to provide the people of Queensland with professional and impartial public services.

We are both committed to the content of this Code and the principles on which it is based.



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1.0 Introduction

Public sector employment involves a position of trust. The standards of conduct of public sector employees at all levels are a matter of legitimate concern by government, your fellow public sector employees, and the community.

As a budget-funded public sector employee you receive your salary and the resources which enable you to perform your work from taxes paid by the community. In performing official duties, you are expected to act 'in the public interest', which generally means - in accordance with the law and the policy objectives of the elected government, under the direction of the responsible Minister - to exercise a duty of care in respect of present and foreseeable interests of the whole community. This clearly implies taking into account and judiciously balancing a multiplicity of considerations when providing advice or administering policy, but does not involve public sector employees seeking to influence the course of community or political debate.

Public sector employees at all levels under whatever statutory or administrative arrangements who make decisions, exercise powers, or who provide policy advice which may affect the welfare, rights or entitlements of the community and individuals, are subject to an ethical obligation to ensure that their powers and influence are used lawfully and fairly. All state power derives ultimately from the people and individual members of the community have legitimate expectations that they will not be subjected to arbitrary or prejudiced action by employees acting on the community's behalf.

It is similarly expected that those who manage the financial and other resources provided by the community have an ethical obligation to ensure that those resources are applied efficiently and appropriately. The community has a right to expect that public funds will not be expended lavishly.

Concern will also arise where public sector employees (especially those in positions of authority or sensitivity) become involved in, for example, questionable use of official information or inappropriate personal conduct in the workplace; conflicts between their personal interests and their duty as officials; or where their preparedness to implement the policies of the government of the day appears to be in question.

How public sector employees use their official positions, their powers and the resources available to them are central concerns of this Code of Conduct. It is therefore essential that you have a clear understanding of your role as a public sector employee and of the 'professional ethics' standards which may be expected.

This Code provides a general indication of expected standards of official conduct, relationships and behaviour, based on the principles set out in the *Public Sector Ethics Act 1994*. As a public sector employee, you should also be aware of any government policy statements which may have a bearing on expected ethical standards.

1.1 Does this Code of Conduct apply to me?

This Code of Conduct has been developed for the Premier's Portfolio and applies to all officers employed in the areas of the Portfolio listed below.

This Code is the approved Code for:

- the Department of the Premier and Cabinet
- the Public Service Commission.

This Code covers all officers of these organisations, including voluntary workers. The Code also covers consultants, and members of boards, reviews, advisory panels and selection committees insofar as they use public resources or have access to official information.

This Code does **not** relate to staff employed in Ministerial Offices, the Office of the Leader of the Opposition, or the Office of the Queensland Parliamentary Counsel.

1.2 Structure of this Code

This Code consists of seven sections and where relevant, additional attachments which deal with the specific requirements of individual agencies, divisions, offices and bureau.

The first section is an introductory section overviewing the general requirements of the Code and the Act. Section Two deals with the application of public sector ethics within the workplace, how they are to be interpreted and applied. The remaining five sections deal with each of the five ethics principles in turn, specifying the requirements and responsibilities associated with those principles.

Throughout the Code hypothetical examples are used to explain the ethics obligations and associated concepts as they relate to the Portfolio.

1.3 How does the Code of Conduct relate to the *Public Sector Ethics Act 1994*?

The *Public Sector Ethics Act* ('the Act') came into effect on 1 December 1994. The Act had its genesis in a long period of community discussion and consultation beginning with the Fitzgerald Report and including reports by the Electoral and Administrative Review Commission and the Parliamentary Committee for Electoral and Administrative Review. The Act provides the legislative basis for the development of agency-specific Codes of Conduct. The objectives of the Act are:

- to declare specific ethics principles as the basis of good public administration in the Queensland public sector generally, and to define the framework for the Code of Conduct to be developed by each agency ('public sector entity')
- to require each agency to develop a Code of Conduct consistent with the ethics obligations set out in the Act
- to require Chief Executives to implement the agency's Code effectively, by means of consultation, consistent administrative practices and procedures, and adequate ethics training and education
- to provide a statutory basis for standards of exemplary conduct, and for disciplinary action for a breach of an agency's Code of Conduct.

This Code provides the basis for disciplinary action under s. 187(2) of the *Public Service Act 2008*.

1.4 What are the Public Sector Ethics obligations?

The Act sets out five ethics principles and related obligations. The principles and obligations have been reproduced here in a form consistent with the way in which they appear in the Act. Further explanations in relation to their application within the workplace are provided throughout this Code. It is hoped that reproducing the principles and obligations here will assist you when situations arise that are not explicitly covered: although almost every work situation has an ethical dimension, exceptional rather than routine circumstances may present special difficulties in determining an appropriate ethical course.

Ethics Principle 1: Respect for the law and the system of government

Section 7 of the Act defines respect for the law and system of government as an obligation in the following terms:

A public official should uphold the laws of the State and the Commonwealth, and carry out official public sector decisions and policies faithfully and impartially.

[This obligation] does not detract from an appointed public official's duty to act independently of government if the official's independence is required by legislation or government policy, or is a customary feature of the official's work.

Ethics Principle 2: Respect for persons

Section 8 of the Act defines respect for persons as an obligation in the following terms:

A public official should treat members of the public and other public officials honestly and fairly, and with proper regard for their rights and obligations. A public official shall act responsively in performing official duties.

Ethics Principle 3: Integrity

Section 9 of the Act defines integrity as an obligation in the following terms:

In recognition that public office involves a public trust, a public official should seek:

- (a) to maintain and enhance public confidence in the integrity of public administration*
- (b) to advance the common good of the community the official serves.*

Having regard to [that obligation], a public official

- (a) should not improperly use his or her official powers or position, or allow them to be improperly used*
- (b) should ensure that any conflict that may arise between the official's personal interests and official duties is resolved in favour of the public interest*
- (c) should disclose fraud, corruption, and maladministration of which the official becomes aware.*

Ethics Principle 4: Diligence

Section 10 of the Act defines diligence as an obligation in the following terms:

In performing his or her official duties, the official should exercise proper diligence, care and attention, and should seek to achieve high standards of public administration.

Ethics Principle 5: Economy and efficiency

Section 11 of the Act defines economy and efficiency as an obligation in the following terms:

In performing his or her official duties, a public official should ensure that public resources are not wasted, abused, or used improperly or extravagantly.

1.5 Terms and acronyms

The following terms and acronyms have been used throughout this Code:

Term/acronym	Meaning
The Act	<i>Public Sector Ethics Act 1994</i>
Chief Executive Officer	Director-General, Department of the Premier and Cabinet; and Commission Chief Executive, the Public Service Commission
CMC	Crime and Misconduct Commission
Manager	Officer with financial and/or human resource management responsibilities or delegations
Misconduct	Wrongdoing involving a public official or the exercise of official functions (as defined by s 187 of the <i>Public Service Act 2008</i> - see also 'official misconduct') generally of such a nature as to constitute more than mere negligence, error of judgement or innocent mistake, e.g. victimisation of a fellow employee
Official Misconduct	Corrupt behaviour involving a public official or the exercise of official functions (as defined by s32 of the <i>Crime and Misconduct Act 2001</i>), generally of such a serious nature as to constitute a criminal offence and/or warrant dismissal (see also 'misconduct'), e.g. lodgement of a false expenses claim
Principles and Obligations	The Obligations are a restatement and expansion of the Principles and are defined by the Act
Public Sector Employee	An officer or employee of: <ul style="list-style-type: none">- Department of the Premier and Cabinet- the Public Service Commission
Privacy of personal information	Personal information held by Queensland Agencies must be responsibly and transparently collected and managed (including any transfer or sale of personal information held by agencies to other agencies, other levels of Government or the private sector) in accordance with the requirements of the Information Privacy Principles (IPPs) contained in the <i>Information Privacy Act (Qld) 2009</i> . The IPP's set the standards for the collection, storage, use and disclosure of personal information and protects the privacy of this information.
Personal Information	Information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

1.6 Who is responsible for ensuring the Code is complied with?

Public sector employees all have a responsibility to ensure that the provisions of this Code are complied with. You in particular are responsible for your own actions. Section 18 of the Act states that 'a public official of a public sector entity must comply with the conduct obligations stated in the entity's code of conduct that apply to the official'.

The Act also imposes additional responsibilities on the Chief Executive Officer to ensure that a Code of Conduct is prepared, adequate consultation occurs in the development of the Code, the Code is made available to all officers, the Code is available for inspection by any person, appropriate education and training of officers in relation to public sector ethics occurs, and the procedures and practices of the organisation have proper regard to the Code and the Act. The Chief Executive Officer is required to report on these issues in each annual report.

To further assist in ensuring compliance with this Code the following officers are responsible for implementing and administering this Code within their area of responsibility:

- Commission Chief Executive, Public Service Commission
- Associate Director-General, Policy Division, Department of the Premier and Cabinet
- Deputy Director-General, Governance Division, Department of the Premier and Cabinet.

All managers are to ensure that this Code is complied with.

1.7 Does the Code apply if I am on leave?

The Code of Conduct continues to apply to you whilst on leave in so far as it relates to your conduct whilst on leave that may negatively impact on the integrity of the department or your ability to resume duties at the completion of your leave. In particular, any situation which may involve a conflict of interest (see section 5) is to be avoided, or resolved in favour of the public interest and the department.

Hypothetical example

An officer from Strategic Projects may be on long service leave and is offered employment for the duration of his leave with a major developer who has submitted a development proposal to government. This employment would involve an apparent conflict of interests and the Code will apply to the officer although the officer is on leave. (See section 5.5 of the Code in relation to employment within the private sector.)

2.0 Application of Public Sector Ethics

2.1 Ethics and Decision Making

Ethics form part of the values and beliefs that are brought into play when making decisions and are not just about distinguishing right from wrong. Often these values or beliefs are not consciously held, but they influence all the choices and decisions we make on a daily basis nonetheless.

Public sector employees are called upon to make decisions and apply laws which can have a significant impact on the lives of people in the community. We are required to make decisions;

implement policy; provide policy advice informing decisions which may affect the welfare, rights or entitlements of the community and individuals; and manage, in various ways, financial and other scarce and valuable resources provided by the community. It may also be necessary to recommend a course of action in a matter involving conflicting interests, or competing views about what 'the public interest' requires.

Making these decisions may involve conflicts between our personal values and beliefs or individual interests and government policy. The ethics principles and obligations contained in the Act and further expanded in this Code are to be applied in the resolution of these conflicts. Accordingly, every decision made may involve an ethical dimension.

It is not possible to detail in the Code all possible ethical situations or possible dilemmas that employees of the Portfolio may find themselves facing. Possible ethical dilemmas vary according to individual circumstances and should be examined on their merits on a case by case basis.

Judgement in balancing competing values will often be required in a similar manner to the judgement you exercise when making other decisions. Furthermore, the provisions of this Code can not be viewed in isolation and reference should be made to any relevant Departmental and Agency policy documents and relevant legislation where necessary. Documents relevant to each area are held at Branch level. Copies of specific policy documents and legislation can also be obtained.

If you are unsure of the ethical issues surrounding a proposed course of action, you are encouraged to discuss the matter with your colleagues and supervisor. An open discussion of ethics in the workplace is likely to assist the resolution of any potential problems. Remember that ethical questions are often not straightforward and resolution will involve reflection, judgement and dialogue. The model below provides a simple five step process that you may find useful in practical ethical decision-making.

A 5-step model for ethical decision-making

- (1) **Assess the Situation.** The first stage in any well founded decision-making process is to gather as much relevant information as possible.
- (2) **Use the Code and any other guidelines or policy documents for direction.** If you find the answer to the problem here, then there is no need to go any further. However, if the situation is still unclear then proceed to the next stage.
- (3) **Re-consult the principles contained in the Act.** Apply them in turn to the situation. Do this, however, in light of any general guidance for resolving the situation you have already obtained from step two.
- (4) **Make a comprehensive assessment.** Having applied each of the principles individually to the situation, decide which are the most appropriate for the case. Though the ethics principles are deliberately not hierarchically ordered, a decision may warrant priorities to be made depending on the situation. For example, is the public interest better served in this instance by affording a higher priority to a strict application of the law (Principle 1) than to economy (Principle 5).
- (5) **Document your decision.** All decisions and the supporting reasons and justifications should be documented, particularly in light of the requirements of the *Judicial Review Act 1992*. This requires that each decision which may be subject to review should be backed by documented findings of fact, reference to evidence or other material on which those findings were based, and the reasons for the decision.

2.2 Competing values and conflicting obligations

You should note that the ethics principles and obligations are not prioritised either by the Act or this Code. Each is equally fundamental to good public administration. The Act recognises that there will be circumstances in which, for example, compliance with the 'Integrity' principle may be more in the public interest than observance of the 'Respect for Persons' obligation and vice versa. The weight accorded to an ethics obligation under the Act will always depend on the facts and the circumstances of the particular case.

2.3 Codes of professional ethics

Codes of 'professional ethics' are generally promulgated by the established professions to govern the conduct and behaviour of the members of those professions. If you are a member of a profession, from time to time conflict may arise between your perceived 'professional' legal and ethical duty and the requirements of your position in the public sector.

These conflicts are usually based on different views of what the 'public interest' requires in a particular case - the organisation's (or the Government's) policy, the profession's standards, and your conscience.

Employed 'professionals' may either be employed to provide professional services to clients of the employer, on terms which the employer determines, or may be employed to give professional services where the client is the employer. An example of the former is a medical practitioner employed in a public hospital; an example of the latter is a staff lawyer.

Where a conflict arises involving professional ethics standards and the requirements of this Code, the employer's right to determine what is to be done should be recognised. In the case of a professional employed to provide services to the employer's clients, the employer determines the level of resources available and may make general policy determinations guiding allocation of those resources. In the case of a professional employed to provide services to the employer as client, the professional must respect the client/employer's right to issue instructions as to the services required and to reject advice or services tendered.

Apparent conflict between professional codes of ethics or conduct and this Code will in most cases arise from a misunderstanding or misapplication of this Code.

Hypothetical example

A public sector employee employed as a professional lawyer to give legal advice to the department and Minister is instructed to write an advice that a proposed course of action is within the law. The person concerned does not believe that the proposed course is within the law. There is an apparent conflict between the professional code which requires legal advice to be objective and well-founded, and this Code which imposes an obligation to 'carry out official public sector decisions and policies faithfully and impartially'. In fact there is no such conflict. The obligation of Respect for the Law and System of Government under this Code certainly includes the injunction to 'carry out official ...decisions' but also requires that employees 'uphold the laws of the State and Commonwealth'. The obligation of Integrity similarly requires that advice be 'comprehensive, rigorous and impartial'. Clearly, an instruction to provide advice at variance with the employee's understanding of the law is itself in breach of this Code. An instruction to provide advice on lawful means to achieving a specified policy objective would not, however, be in breach of this Code, nor of legal professional ethics.

In any event, you should discuss any apparent conflicts between your professional ethics and this Code with your supervisor and colleagues.

2.4 How does the Code impact on my personal ethics?

The Act and this Code are concerned with your ethics as they relate to and impact on the performance of your official duties. The Code is not concerned with your personal ethics or moral standards outside the workplace, except of course where particular conduct may be directly related to the workplace.

Possible conflicts may arise between different standards of conduct. Such conflicts usually focus on:

- job-related standards arising from the duties of your position
- 'professional ethics' as defined by traditional professional bodies such as 'legal ethics' or 'journalists' ethics' (especially in the case of those staff who are employed to act in a professional capacity)
- your personal ethics.

Your personal standards, to the extent that they are broadly consistent with the values of the community, can provide a relevant basis for critical evaluation of the standards of conduct expected of you as a public sector employee.

As a public sector employee you have a right and a duty to test what appears to be an unreasonable or unconscionable instruction against the standards of the community, for example, in relation to moral or human rights matters. Conflicts between these various ethical standards which can not be resolved within the relevant work unit are to be referred to the responsible officer nominated in section 1.6 of this Code.

If you are still facing difficulties, assistance should be sought from the Commission Chief Executive, Public Service Commission.

2.5 Ethics advice

Ethical problems often involve conflict between the various ethical obligations outlined in this Code, or between the obligations and your personal ethical universe. In making a determination which obligation or principle should receive the highest priority in any given situation, it may help you to talk the matter over and so clarify what matters need to be taken into account and what matters may be peripheral to the central issues.

If your work area faces ethical problems on a recurring basis, it may also be helpful to establish an informal ethics focus group where common problems can be discussed and satisfactory solutions determined.

2.6 What happens if my conduct is inconsistent with the provisions of the Code?

Obviously, situations may arise from time to time where your conduct may appear to be inconsistent with the provisions of the Code. Often possible breaches of the Code relate to genuine mistakes. If you are concerned that your actions may have been contrary either to a specific provision or the spirit of the Code, you are encouraged to discuss the matter with your supervisor as soon as possible to enable circumstances that gave rise to the situation to be examined and the matter rectified (if necessary). This will assist in either establishing that no breach of the Code has occurred or minimising any adverse consequences arising from the breach for both yourself and the organisation.

Employees will not be adversely treated where their conduct reflects a genuine attempt to meet the spirit of this Code and the Act.

The Act does not create any new offences for wrongdoing by public sector employees. Where warranted, however, failure to comply with the Code may be dealt with under existing disciplinary provisions. Other options also exist for dealing with breaches of the Code and these may include informal or formal counselling, and/or the application of procedures for the management of diminished performance.

Serious breaches of the Code which amount to fraud, stealing or corruption are criminal matters and are to be referred to the Police and the CMC. All allegations of official misconduct are to be referred to the CMC for investigation consistent with the provisions of the *Crime and Misconduct Act 2001* and the Department's policy for 'Reporting Official Misconduct'.

Protection may be available under the *Whistleblowers Protection Act 1994* if you make a disclosure regarding another person's breach of the Code. Further details in relation to 'Whistleblowing' are contained in section 5.16.

3.0 Ethics obligation 1: Respect for the law and the system of government

This obligation is based on Queensland's system of responsible parliamentary government, its conventions such as Ministerial responsibility, and the rule of law.

This obligation requires you to exercise powers lawfully, obey lawful instructions, be responsive to the mandate of the government of the day, and provide information and assistance as required to the Minister.

You may also be required to provide information and assistance to a Parliamentary Committee consistent with the provisions of the *Parliament of Queensland Act 2001* and the Guidelines contained in the *Governing Queensland suite of Policy and Administrative Handbooks*. In certain circumstances you may also be required to give evidence before a court or a commission of inquiry in your official capacity.

The obligation also recognises that government policy supports public servants acting independently of government policy in specified cases (for example, the Office of the Queensland Parliamentary Counsel's responsibility to draft Private Member's Bills on the instruction of the Member, not necessarily in accordance with government policy).

In exceptional circumstances, the public interest may be served by not complying with the requirements of a law which is in conflict with another law, or where compliance would result in consequences adverse to the public interest. If you contemplate such an action, you should approach your supervisor for advice and support.

In summary this obligation means that you are required to:

- comply with all reasonable, lawful instructions relating to your work
- exercise your role lawfully
- act in the public interest
- accept that the elected government has the right to determine policy and priorities
- observe the conventions of Cabinet government and Queensland's Westminster system
- be responsive to the government of the day
- implement decisions and policies faithfully and impartially.

3.1 When should I question an instruction?

You are entitled to object to an instruction which you consider to be either unlawful or unreasonable. However, you are still required to comply with that instruction until your objection is determined except where the instruction is manifestly unlawful or unreasonable, or the implementation of the instruction could have immediate or irreversible serious adverse consequences (for example, could endanger life or safety).

You may challenge an instruction if you believe:

- that you have a reasonable objection to the instruction (for example, the direction would involve aspects of 'maladministration' as defined in the Act, or would be unconscionable); or
- that an instruction is unreasonable because it goes beyond what is appropriate in all the circumstances (eg. you do not have the resources or competence to comply); or
- that an instruction involves actions which you reasonably consider to be unlawful or improper.

If an instruction is challenged under this Code and the matter cannot be resolved, the person issuing the instruction should refer the matter to the appropriate officer listed at 1.6 above for further advice.

Section 7(2) of the Act recognises that some employees are required either by legislation, government policy or a customary feature of their work to act independently of the government of the day. The extent to which an employee can act independently or contrary to government policy is limited to the extent recognised for that employee's position. Section 7(2) does not allow an employee to contravene a law.

3.2 How do I challenge an official instruction?

If you believe that a direction or instruction is either unreasonable or unlawful, you are to discuss the matter with the person giving the direction or instruction.

If, after the person giving the direction has had an opportunity to respond to your concern, you are still not convinced of the reasonableness or lawfulness of the direction, the issue may be raised with the supervisor of the person giving the direction. In the interim you are generally obliged to carry out the instruction unless it is manifestly unlawful or unreasonable, or the implementation of the instruction could have immediate, irreversible, serious adverse consequences.

If you consider that there is a case of Official Misconduct or a crime is being committed, you are to notify an appropriate authority. In most cases this will be the Chief Executive Officer, your CMC Liaison Officer, the police or the CMC directly. Protection for employees under the *Whistleblowers Protection Act 1994* would apply to public interest disclosures made in the course of the processes mentioned above. Further details in relation to 'Whistleblowing' are contained in section 5.16.

3.3 Personal objections

Occasions may arise when you feel the need to object to a lawful and reasonable instruction on an issue of conscience, especially where there is significant division in the community in relation to that issue.

Hypothetical example

An officer from Policy Division may be asked to prepare policy advice to the Premier supporting legalised euthanasia, however, he or she strongly objects to euthanasia as a matter of conscience. That officer has a right to object to working on that policy and an obligation not to advise on matters about which he or she is unable to provide objective advice.

All reasonable steps are to be taken to ensure that employees are not forced to perform duties to which they have a genuine objection.

Should you be faced with a situation where you are instructed to do something which you object to strongly as a matter of conscience you are required to raise your concern with the person issuing the instruction with a view to negotiating an acceptable solution. In the case of our hypothetical example mentioned above, a suitable solution would be to assign the task to another officer. If the matter cannot be resolved on a basis which you are able to accept, you must either comply with the instruction or give consideration to resorting to the Department's internal grievance mechanism. Policy and advice in relation to this mechanism is contained in the *Human Resource Services Policy and Procedure for Grievance Resolution*.

4.0 Ethics obligation 2: Respect for persons

The obligation is concerned with your conduct in your dealings with others, including members of the public, other employees, and public officials in any jurisdiction. You are expected to be responsive to the reasonable demands of the public and other officials. For example, you are expected to be courteous and helpful, especially where a person is unaware of their rights and entitlements, is uncertain of precisely what to ask for, or is ignorant of official procedures.

This obligation also relates to dealings among public sector employees. It requires that you avoid patronage and favouritism, act fairly and equitably, and avoid any behaviour which may appear discriminatory on the basis of any of the attributes listed in the *Anti-Discrimination Act 1991*¹.

In summary this means that you are required to:

- treat the public and other staff in a reasonable, courteous, equitable and fair manner
- observe merit in recruitment and promotion
- avoid bias, favouritism and discrimination in policy formulation and implementation
- follow principles of natural justice
- ensure clients and staff receive all their entitlements
- not harass or abuse clients or other staff
- not distract officers from carrying out their duties
- adhere to management principles and practices which foster the rights, dignity and well-being of employees

¹ The following attributes are listed in this Act: sex, marital status, pregnancy, parental status, breastfeeding, age, race, impairment, religion, political belief or activity, trade union activity, and lawful sexual activity.

- acknowledge and encourage the contributions and aspirations of co-workers
- refrain from any unwelcome sexual advances or any behaviour which may be construed as sexual harassment
- recognise the importance to employees of personal and family commitments and obligations outside the workplace
- be timely in responding to clients and staff.

4.1 Treat others with respect

You are to treat both your co-workers and clients with dignity and respect, and you should be tolerant of the views held by others which may differ from your own. You should not allow personal feelings to influence your judgement or decisions on work related issues. You are required to ensure that your conduct in the workplace recognises cross-cultural issues and how a lack of tolerance or understanding can have significant unintended consequences.

You are to comply with the equal employment opportunity policy and policies and procedures for preventing and resolving sexual harassment in the workplace and for the elimination of discrimination and harassment in the workplace. These policies and procedures are contained in the *Human Resource Services Policy and Procedure for Elimination of Discrimination and Harassment in the Workforce*.

The 'Multicultural Queensland' policy also recognises the value of cultural diversity and provides relevant guiding principles. Copies of the document and advice on these issues can be obtained from Multicultural Affairs Queensland.

4.2 Workplace safety

You have a duty to take all reasonable steps to ensure your own safety, health and welfare in the workplace, as well as that of others, whether co-workers or clients.

Specific details in relation to your obligations and responsibilities under the provisions of the *Workplace Health and Safety Act 1995* and the procedures for reporting workplace injuries are contained within the Departmental Policy for Workplace Health and Safety.

4.3 Managerial obligations

If you manage or supervise other staff you have a special responsibility to:

- set good examples for staff through your own behaviour, especially in relation to the implementation of this Code
- maintain open, honest and thorough communication with all staff
- treat staff fairly, equitably and consistently
- ensure staff have a personal agreement in place detailing performance standards to be achieved, in accordance with the Departmental *Performance Development System*
- be aware of the competency and abilities of staff
- provide development opportunities
- not demand or set unrealistic performance standards
- monitor your own behaviour as a manager/supervisor to ensure that it complies with the requirements of this Code and any other performance standards which may apply to you.

4.4 Procedural fairness in decision-making

Procedural fairness or 'Natural Justice' is an integral part of good administrative decision-making. Generally speaking, in any decision involving use of discretionary powers (even those where discretion is highly circumscribed) which is likely to adversely affect an individual's rights, liberties, interests or legitimate expectations, the person concerned should be afforded the opportunity to put forward facts and arguments to support their case.

When exercising a discretionary power you shall:

- not pursue a purpose other than that for which the power has been conferred
- observe objectivity and impartiality, taking into account only the factors relevant to a particular case
- observe the principle of equality before the law by avoiding unfair discrimination
- maintain a proper balance between any adverse effects which the decision may have on the rights, liberties or interests of persons, and the purpose which it pursues
- make the decision within a time which is reasonable having regard to the matter at stake
- apply any general administrative guidelines in a consistent manner while at the same time taking account of the particular circumstances of each case.

Generally speaking, all decisions of substance and your reasons for those decisions are to be documented and justified. The documentation of decisions and reasons for those decisions will be particularly relevant if your decision is challenged or is subject to Judicial Review.

4.5 Personal appearance

What you choose to wear is a matter of personal discretion. It must be acknowledged, however, that work attire will have an impact upon the organisation's image as well as your work colleagues with whom you work in close proximity.

Accordingly, you are required to dress in a clean, tidy and inoffensive manner consistent with your position, job requirements, client needs and occupational health and safety requirements. The reasonable expectations of your supervisor are to be complied with.

Personal hygiene in the workplace is also important, not just out of respect for your work colleagues and clients, but also from an occupational health and safety perspective. You should also keep in mind that some people are allergic to substances such as perfume or aftershave and their excessive application may cause others discomfort, or even give rise to allergic reactions.

Hypothetical example

An officer in the Protocol Branch regularly represents the department and the government and meets with senior representatives from foreign countries, the Commonwealth and other States and Territories. It is expected that this officer would wear business attire, particularly when the officer is to meet with people outside the department. The officer's personal appearance and correct business attire for the situation will assist in projecting the professional image of the department and maintaining public confidence.

Conversely, an officer working on a particular day packing materials in boxes prior to an office removal would not wish to soil 'good' clothes and would in any case not be coming in contact with persons outside his or her work area. In such circumstances, jeans, casual shoes and a t-shirt could well be appropriate.

5.0 Ethics obligation 3: Integrity

This obligation focuses on the position of trust that you have been placed in as a public sector employee. This position of trust is unique in that public confidence in the entire public sector may be put at risk should a conflict between your private interests and your duty be inappropriately dealt with or concealed.

In summary this means that you are expected to:

- serve the government of the day, through the responsible Minister, in an absolutely unbiased and apolitical manner and be committed to Westminster conventions in serving the government
- provide comprehensive, rigorous and impartial advice
- base your decisions and other actions on thorough and dispassionate analyses
- exercise powers and distribute resources to the sole advantage of agency goals and beneficiaries
- ensure that personal, religious, or professional interests do not improperly affect your official capacity
- keep personal political allegiances outside the workplace
- be truthful in reporting the skills and qualities of staff in testimonials, references and performance reports
- safeguard official information and not disclose or use it improperly
- uphold public respect for the agency and its mission
- declare private interests where they might present a conflict of interests with your public duties
- refrain from seeking gifts and benefits for personal or private gain in connection with the performance of official duties
- avoid concurrent outside employment or post-separation employment if it involves or is perceived to involve conflict of interests
- respect the rights of the owners of intellectual property and copyright
- refrain from becoming involved in public comment or debate on matters that are properly the concern of Ministers or other politicians
- disclose fraud, corruption and maladministration to the relevant authority
- realise that when the matter of integrity is involved, conduct outside of the workplace can have a bearing on a person's suitability for certain official roles
- resolve all conflicts of interests in favour of the public interest
- respect the right of privacy of individual's personal information.

5.1 Conflict of interests

Conflict of interests is the most significant issue of integrity facing most public sector employees. This section will deal with conflicts of interests in general. Following sections will deal with specific conflicts of interests such as gifts and benefits, and declaring and registering personal interests.

For the purpose of this Code a conflict of interests arises in situations where you have a private or personal interest sufficient to influence or appear to influence the independent exercise of your official duties. It is important to note that conflicts of interests can cover the full spectrum of interests and are not restricted to pecuniary (financial) interests. Many conflicts of interests are criminal offences and will be dealt with appropriately.

Conflicts of Interests which are criminal offences include:

- bribery - the acceptance of money by an official for special favours
- influence peddling - attempts by an official to influence decisions in favour of a third party in order to secure personal gain

- improper use of official information - provision of inside information for personal advantage
- insider trading with official financial transactions - where officials may stand to make personal gain if they make certain decisions.

Conflicts of interests which may not constitute criminal offences, but which must be handled with care according to the principles and procedures outlined in this Code, include:

- gifts and entertainment - seeking or accepting gifts which may influence impartiality
- outside employment - part-time employment or consulting outside of official duties which may have an adverse impact on the performance of those duties
- future employment - the giving of favourable treatment to private organisations which may be future sources of employment
- relatives and friends - using an official position to do favours for relatives and friends.

The potential exists for many of us to be involved in a conflict of interest situation in the normal course of carrying out our duties. In most cases, however, the conflict is only an apparent or potential conflict of interests rather than an actual conflict. For an actual conflict to occur there must be a private interest that is known to you, and that interest must have sufficient influence over you to be likely to influence decisions you make or advice you give.

An apparent conflict of interests is one which is deduced from appearances. An apparent conflict of interests exists when it *appears* that your private interests have the potential to interfere with the proper performance of your official duties. Remember that it is important not just to behave ethically, but to be seen by the community to be behaving ethically, if community confidence in the organisation's impartiality and professionalism is to be maintained.

A potential conflict of interests is one which may develop into an actual conflict of interests. The potential for a conflict of interests arises whenever an employee has a private interest that may be seen to be sufficient to influence his or her decision making.

Hypothetical example

An officer who is employed as a purchasing officer may award a contract to a firm which employs one of his or her close relatives. This may appear to involve a conflict of interests even though there may be no wrongdoing.

Hypothetical example

A senior officer is in a position to influence the granting of an approval to a major developer in whose company the officer holds shares. This situation involves a conflict of interests even though the officer may not have attempted to exercise his or her influence over the decision. For a conflict of interest to arise it is not necessary for any dishonest or compromising action to be taken by the officer concerned. The important issue is how to resolve the conflict of interests in favour of the public interest.

In this situation it may be possible to assign the officer to other work within the Branch. If the officer is sufficiently senior for this situation potentially to arise on a regular basis, the officer may like to consider divesting him or herself of control of (and knowledge about) the share portfolio through entering into a 'blind trust' arrangement.

Unless addressed promptly, apparent and potential conflicts of interests can be as damaging as an actual conflict of interests or turn into an actual conflict of interests. In the course of your duties, you should not give preference to any person, organisation, or interest as a result of any private association with that person, organisation or interest.

You are to ensure that your actions, conduct and relationships do not raise questions about your willingness and ability to:

- serve the government of the day, through the responsible Minister, in a politically non-partisan manner
- use the powers, influence, resources and information available to your official position properly
- maintain proper confidentiality of official information and privacy of personal information
- refuse to use, or avoid using, the powers or influence of public office, official resources, or official information, for personal or other improper advantage.

Senior officers and members of the senior executive service are encouraged to seek advice from the Integrity Commissioner concerning the identification and resolution of a potential or actual conflict of interest in accordance with the provisions of the *Public Sector Ethics Act 1994*.

5.2 How to deal with conflicts of interests

It is recognised that from time to time conflicts of interests will arise which are unavoidable. The important issue is not so much the existence of the conflict, but how to resolve it or manage it appropriately to ensure that public confidence in the impartiality and integrity of the public sector is maintained.

Immediately on becoming aware that a conflict between private interest and official duty, whether real or apparent, has arisen or is likely to arise, you are required to approach your manager and explain the potential conflict and the reasons for that conflict. If at any time you are unsure whether a conflict of interests exists you are to discuss the issue with your manager.

In general, managers are to determine the extent of any conflict of interests and direct the action to be taken to resolve the conflict.

Hypothetical example

You are the manager of an area and you are approached by an officer. She advises you that her father is a director of the company that is seeking government assistance in relation to a major development proposal on which she has been assigned to work, providing advice and analysis. Given the officer's personal interest, a conflict of interests exists if this officer continues to work on this particular project.

A suitable resolution of this situation would be to assign responsibility for this project to another officer.

Situations may also arise on rare occasions where the conflict of interests is on-going and of such a nature that it can not be managed on a temporary or one-off basis such as that referred to in the hypothetical example above. In these situations consideration may have to be given to transferring the officer concerned to other duties on a permanent basis. This option should be considered as a last resort and be undertaken in consultation with the officer concerned. Great care should be taken to ensure that any such action in no way disadvantages or discriminates against the officer, since such action could discourage officers coming forward with information about conflicts of interests. Human

Resource Services is able to provide assistance and should be contacted to assist in facilitating the placement of the officer into a suitable position either on a temporary or permanent basis.

5.3 Declaration and Registration of Personal Interests

The routine annual Registration of Personal Interests by Senior Executive Officers and employees in sensitive positions, together with *ad hoc* declaration of emergent conflicts of interests provides an effective means of protecting the integrity of an agency and individual officers from criticism.

Registration of Personal Interests

Chief Executives and all Senior Executive Service officers (or officers in equivalent positions), and all employees involved in making final decisions on a regular basis affecting contracting, tendering or regulatory functions, are required to register their personal or immediate family interests (including, but not limited to, pecuniary interests) which are significant and relevant to the integrity of the agency on an annual basis. This system of regular disclosure is designed both to engender public confidence in the integrity of the organisation and its decision-makers, and to encourage those decision-makers within the organisation to focus on potential conflicts of interests which may arise from their own or their immediate family's financial dealings.

The registration of personal interests is to be lodged with the relevant Chief Executive Officer annually. A copy of the Registration of Personal Interests form is at Appendix 1 of this Code.

Registration of Personal Interest forms are retained on a permanent basis. Subject to any applicable legislative provisions or orders of a court, the Crime and Misconduct Commission, Integrity Commission or a properly constituted commission of inquiry, access to these documents and the information contained therein is to remain absolutely confidential between the Chief Executive Officer and the officer concerned. Administrative access will not be provided to any third party, other than an investigator appointed by the Chief Executive Officer, without the express written approval of the officer concerned.

Decision-makers appointed under the *Right to Information Act 2009* (Qld) will pay close attention to the exemption provisions of that Act when considering any application by a third party for access to Registration of Personal Interests declaration documents.

Declaration of Interests

A Declaration of Interests is an *ad hoc* declaration (either written or oral) by an employee that, in relation to a particular task or set of tasks, or a particular policy issue, the employee has or may have an actual, potential or apparent conflict of interests that might preclude them from undertaking the task or advising on the issue. You are required immediately to declare any actual, potential or apparent conflicts of interests arising between your private interest and official duty, irrespective of whether you are required to formally register your pecuniary interests. Refer to the Guideline *Declaration of Interests – Reporting Requirements 2009* for further information.

5.4 Gifts, benefits and hospitality

This section should be read in conjunction with the Department's Gifts policy as contained in the Financial Management Practice Manual, which sets out the principles for acceptance and non acceptance of gifts and details the procedures for the acceptance of the following:

Retaining a gift or benefit

Any gift or benefit which has a retail value of \$150 or less and is accepted by a public service employee or agency, may remain the property of the employee if acceptance is not likely to affect, or could reasonably be perceived to affect, the independent and impartial performance of the employee's official duties.

Any gifts of cultural or historical significance must remain the property of the agency, regardless of their value.

Any gift or benefit, which has a retail value of more than \$150 and is accepted by a public service employee, is the property of the employee's agency.

If the gift or benefit has a retail value of between \$150 - \$350 (and is not a gift of cultural or historical significance), the accountable officer may give approval for a public service employee to retain the gift or benefit in appropriate circumstances.

If the gift or benefit has a retail value of over \$350 (and is not a gift of cultural or historical significance), the accountable officer may give approval for a public service employee to retain a gift or benefit, in exceptional circumstances.

If a gift or benefit is retained by the agency, it must be used for public benefit and in an appropriate manner. If an agency does not have an appropriate use for the gift or benefit, it may be disposed of in accordance with the Guidelines for Gifts and Benefits.

Acceptance of gifts and benefits

If you are offered a gift or benefit, you (or the agency) must always consider whether a gift or benefit is appropriate to accept. Issues to consider include why the offer was made and the public perception of acceptance.

Any gift or benefit that has a retail value of more than \$150 must not be accepted unless it can be shown to be of benefit to the agency, the State of Queensland and/or the public generally.

You are required to advise your manager, in writing, of the receipt of **all** gifts or benefits and your intention to keep the gift or benefit. In circumstances where a manager believes that acceptance of the gift or benefit or a series of gifts or benefits by an employee has the potential to cause a conflict of interest or to undermine the integrity of the organisation, the manager is to direct that the gift or benefit not be retained by the employee and that the gift or benefit be either returned to the donor or retained and treated as a reportable gift. If the gift has a retail value between \$150 and \$350 the decision to accept or not accept and the reasons for the decision should be recorded.

Any offer of cash, or any items which are readily converted into cash, must be refused in all circumstances. Accepting money in any form will breach a number of public service policies and legislative requirements and may be seen as an attempt at bribery.

Details of all retained gifts or benefits and relevant decisions are to be maintained by the officer nominated in each area for this purpose under the provisions contained in the Financial Management Practice Manual.

Reporting of gifts and benefits

Any gift or benefit that has a retail value of more than \$150 must be recorded in a gifts and benefits register. If multiple gifts are from the same donor or from donors in a similar relationship with the public service employee, in any financial year and the cumulative value is more than \$150, then each gift or benefit must be reported. Gifts or benefits must be reported within one month of receipt.

Any gifts of cultural or historical significance must be reported, regardless of their value.

Public service employees in sensitive roles (for example providing advice or making decisions about [but not limited to] granting licences, inspecting and regulating businesses or giving approvals, internal audit, tendering, purchasing) should give consideration to reporting all gifts or benefits offered.

If public service employees are in any doubt about whether a gift or benefit should be reported, they should discuss this with their supervisor, manager or accountable officer within their agency.

Public service employees are encouraged to have an appropriate person verify the estimated value of a gift, if the value is not easily established. Deliberately undervaluing a gift or benefit to avoid reporting it or to fraudulently keep it may be official misconduct.

Gifts or benefits received or given with a retail value of more than \$150 must be recorded in the agency's gifts and benefits register. Declaration forms can be located on the Financial Management site of the DPC intranet. Agency registers must be in a form approved by the Commission Chief Executive. The register must be published under the *Right to Information Act 2009* as part of an agency's publication scheme. The register must be published online each quarter, within 10 calendar days of the end of the quarter.

The agency's gifts and benefits register is to be subject to regular review. The reviewer must be independent and should communicate any results of the review to the accountable officer. The purpose of such a review should include analysis for trends or patterns which may cause concern and need corrective and preventative action.

Gifts or benefits should not involve time away from official duties

Public service employees should not be away from their official duties at public expense. Gifts or benefits can only be used outside the public service employee's normal working hours or on approved leave, unless the gift or benefit forms part of the public service employees' official duties and appropriate approval is obtained.

Offers of tickets or corporate hospitality at sporting events, the theatre or other major recreation attractions are to be treated in the same manner as all other gifts or benefits. Any public service employee attending a sporting event, theatre or recreation attraction as part of a gift or benefit, must ensure that this occurs outside the public service employee's normal working hours or on approved leave.

Accepting hospitality

Hospitality includes any intangible gift or benefit offered to an employee by any outside individual or organisation in connection with the employee's official position (e.g. a cup of tea and a biscuit through to travel and accommodation or seats in a corporate box at a sporting fixture). It may be offered by clients, contractors, lobbyists, professional groups or other government agencies. It may be part of the course of normal business or constitute a unique event.

It may be entirely appropriate and in the public interest to accept certain offers of hospitality, in order to establish effective business relationships, exchange information, and gain operational intelligence to enhance the administration and effectiveness of the Department's programs.

In determining the appropriate course under this Code, consideration must be given to the circumstances in which the hospitality is offered. Where these circumstances may give rise to an impression that you may be compromised in relation to any decision or advice which it is your duty to give, the hospitality must be rejected and the offer reported in writing to your manager.

The span of availability of the hospitality will be useful in making such an assessment. The larger the group of recipients, the less you are singled out for 'special' attention, the less likely there can be any impression given that you may be compromised. Caution should particularly be exercised where an offer of hospitality is made to only one employee, as there can be no subsequent corroboration of events.

Hypothetical examples

- A buffet lunch is offered to a large group of employees of public and private organisations in connection with a product launch. It is your duty to gain knowledge about products of this sort. There will not normally be a reasonable suspicion that you may be compromised by accepting the meal.
- A prospective tenderer invites you and you alone to an expensive restaurant for a meal and it is your duty to draft the tender documentation. A reasonable observer could well conclude that you may be compromised by accepting the invitation.
- A large development project has received final approvals, agreements have been signed and a media conference has been held to announce the imminent start of work.

The proponent consortium negotiating team invites you and all other members of the government negotiating team to a dinner to discuss policy concerns arising from the negotiating process which may impact on project implementation. You will continue to be involved in some negotiations on implementation issues as the project progresses. Because the major negotiations are at an end, and because the whole team is invited, it is most likely appropriate to accept. It will be in the public interest to establish effective working relationships with people who in future you will be working with, and you may be able to communicate the department's general policy concerns.

It may also be useful to consider the timing of the offer - is there any conceivable future action you may be required to take where the acceptance of the hospitality may give rise to suspicion that you have been compromised? The value and scale of the hospitality will also be an issue - lavish hospitality will be much more likely to present a problem than will a sandwich and a glass of orange juice. The social context should also be considered - a working lunch is generally appropriate, where a dinner on the weekend may give greater cause for concern.

Offers of travel or accommodation are to be assessed using similar criteria. Where such offers will save public funds and are in context appropriate, acceptance will be in the public interest and in line with this Code. Where such offers have the potential to compromise, they should be rejected and reported.

Hypothetical examples

- You have been invited to give a presentation on directions in government policy at a commercial conference 200km outside Brisbane. You have received approval from the Director-General to give the paper. Your presentation is scheduled for the last session of the day, immediately before dinner. The conference organizers offer to pay for your travel, to accommodate you in the conference venue overnight, and ask you to the conference dinner. In the circumstances, it is appropriate for the conference organisers to meet the cost of your travel, accommodation and meals, thereby saving public funds. There is no prospect of your being compromised by acceptance of the offer.
- A proponent of a major resort development is having difficulty meeting government approval criteria. You are involved in negotiations on behalf of the department. He has repeatedly asked you to put a 'favourable gloss' in your reports to the Premier on the proposal. He asks you to spend the weekend on his luxury yacht anchored off the proposed resort site so he can 'explain the detail' of the proposal. It would be most inappropriate to accept such an offer. It should be reported and may result in a prosecution.

Where any doubt exists, you should err on the side of caution - seek advice from your supervisor and colleagues; make a record of your assessment; pay for the hospitality yourself or at departmental expense as appropriate.

Hospitality is covered by the Department's Gifts policy and all the principles of acceptance and non-acceptance, giving and not giving must be adhered to. If the value of the hospitality exceeds \$50.00 it must be recorded in the register of gifts.

Expenditure for official hospitality should be considered only where it is considered essential to facilitate the conduct of public business through persons who are able to do so, either by advice or because of their vocation or business needs. Such hospitality should not be a substitute for business meetings which would ordinarily be conducted in the workplace.

In certain cases, it may be periodically appropriate to provide hospitality to individuals of particular importance to the agency or the State. Examples would include:

- Interstate and overseas visitors (where the department or agency has an interest in, or a specific obligation towards, facilitating the visit)
- Representatives of business or industry, trade unions and recognised community organisations, the press and other media
- Representatives of other levels of government (in exceptional circumstances only).

Other types of hospitality which may be considered reasonable may include:

- Provision of tea, coffee, morning or afternoon tea for official visitors
- Provision of light refreshments/lunches for internal meetings, conferences, seminars and workshops.

Generally, working meals should be of a light nature at the work/meeting location, unless associated with a seminar or other function at a particular venue.

5.5 Employment in the private sector

Employment in the private sector while concurrently employed in the public sector, in either a full-time or part-time capacity, or on a contract or casual basis, can give rise to a real or apparent conflict of interests, especially if the private sector employment uses specific skills, knowledge or official contacts which are only available to the employee by virtue of his or her public sector employment.

Any employee undertaking or intending to undertake external employment, including self employment, is to make application to the Chief Executive Officer where the present or prospective employment may conceivably adversely affect the proper and efficient performance of official duties. Examples include where the employment could give rise to a potential conflict of interests between official obligations and private interests, or where the outside employment will involve some relationship with the government.

In considering applications to undertake external employment Chief Executive Officers should seek to achieve a reasonable balance between the legitimate interests of a public sector organisation to protect its integrity and the rights of public servants to lead their private lives free of unnecessary intrusion by their employers.

Hypothetical example

A senior officer of the Department is also to be employed by a major construction company as a consultant to prepare a corporate strategic plan for the company's Queensland office. This employment may involve a conflict of interests and the officer would need to make application to the Director-General of the department.

The Director-General would then need to decide whether the conflict of interests can be suitably resolved and the officer concerned can retain the second job. Alternatively, the Director-General may determine that employment within both areas is incompatible with this Code and the officer must decide which position may be retained. The Director-General would have to consider not only the conflict of interests which may arise should the officer have to brief the Premier in relation to the project, but also the public perception of a senior policy officer from this Branch being involved with a private operation of this nature.

Company directorships also raise particular concerns. In addition to the general requirements governing private sector employment, consideration is to be given to the following when assessing whether an unacceptable conflict of interests is likely to be created by a directorship:

- whether the company is in a contractual or regulatory relationship with the government or its agencies
- whether the company receives government assistance, the entitlement to which depends on the exercise of discretion by a public official
- whether the company's primary purpose is to represent particular interests before Ministers, Members of Parliament, government departments or agencies.

Outside employment also has the potential to impact adversely on an individual's work performance if the officer is too tired to perform his or her official duties. Should situations arise where work performance is being adversely affected due to outside employment, managers should refer to the *Human Resource Services Policy and Procedure for Performance Improvement*.

Should you leave public sector employment to take up work in the private sector, you are required to respect the confidentiality of official information formerly available to you in the course of your duties

(for further information see section 5.9 of the Code in relation to the Use and Disclosure of Official Information).

5.6 Appointment to government boards

Public servants may be appointed to government boards as a government or departmental representative either as holders of a specified position within the department or as individual public servants by name.

Where appointment to a government board is by name and not linked to a specified position, public servants have an ethical obligation to formally resign from such appointments if they cease employment in the public service or with the department or agency relevant to the board position. Enabling legislation will usually specify to whom the resignation should be tendered. For boards not constituted under legislation and where the Minister is the appointing authority, a written resignation should be tendered to the responsible Minister. If there is any doubt to whom the resignation should be tendered, advice should be sought from the department responsible for the administration of the board.

5.7 Use of political and other influence to secure advantage

As a public sector employee you are not to use your influence with any person improperly to obtain appointment, promotion, advancement, transfer, or any other advantage, either personally or on behalf of another, or to affect the proper outcome of any procedure established under legislation or government policy.

If you are required to make a decision under legislation, or a recommendation for the purpose of making such a decision, you are not to take account of any attempt to influence the making of that decision unless the involvement of the person concerned is required by or consistent with the relevant legislation or government policy.

Hypothetical example

You are a member of a selection panel for an AO4 position and you are approached by a senior officer who indicates to you that a friend of his, an applicant for the position, would be highly suitable for the position and that giving the position to his friend would be 'a very wise decision'. You should not let yourself be influenced by the senior officer. In addition, consideration may also need to be given to reporting the senior officer to the Chief Executive for inappropriately attempting to influence the outcome of a merit selection process.

5.8 Party-political activity, professional and trade union activity

While public sector employees have a right to engage in party-political, professional and trade union activity, the Integrity obligation requires you to recognise that these activities, especially if you are likely to be identified by the public in relation to your official capacity, can give rise to perceived conflicts of interests or loyalties.

Public sector employees who are elected as workplace representatives or officials of a trade union or professional association need not seek official permission before expressing publicly the union's views

on a matter. Spokespersons should, however, make it clear that any such comment is made on behalf of the union or association which they represent.

5.9 Testimonials, referee, selection and performance reports

Testimonial and referee reports should be provided on official stationery by an officer acting in an official capacity only where they relate to the work performance and perceived character of a current or former officer with whose work you are familiar. Testimonial and referee reports concerning personal friends or family members are provided in a private capacity only.

False or deliberately misleading assessments of an individual's performance or merits are not only dishonest, but may also amount to abuse of office, and may possibly constitute official misconduct.

When providing testimonial and references for others, you are to take care not to make false or derogatory statements about an individual, or assessments which cannot be substantiated. Similarly, you should also take care not to exaggerate the substance or relevance of a person's competence, qualifications or experience.

5.10 Disclosure of official information

Government policy also requires that public servants in general not speak directly to the media unless prior authorisation has been given, since advocacy of government policy is a matter for Ministers. If you receive a request for information from a journalist, unless you have been authorised to speak to the media about certain specific matters, you should redirect the inquiry to the Minister's office or to Communication Services Group.

The law requires that information be released in certain circumstances. For example, all documents captured by a request under the *Right to Information Act 2009* (Qld) or the *Information Privacy Act 2009* (Qld) must be released to the applicant unless the release would be contrary to the public interest. Similarly, access must be given under the *Public Service Regulation 2008* to a person's own personnel file. The provisions of the *Information Privacy Act 2009* (Qld) should be complied with at all times in dealing with personal information held by the agency (refer to section 5.15). Requests for access to documents under these provisions should be referred to officers holding delegations under the *Right to Information Act 2009* (Qld) and officers of Human Resource Services as appropriate.

In any event, official information should not be treated carelessly or left in circumstances where unauthorised persons may inadvertently gain access to it. All official information should be appropriately stored and access regulated to those persons requiring it for legitimate purposes.

Public sector employees are to be sensitive to the needs of the public, the news media, and elected representatives, for access to information on government policy and other publicly available information. Requests for information which is already in the public domain are to be dealt with and provided promptly. In the first instance, requests for official information should be referred to the Manager, Administrative Law Services, for advice.

5.11 Private use of official information

The use of confidential or privileged information which comes into your possession through your employment in the public sector to further your personal interests, either pecuniary or otherwise, involves a conflict of interests and possibly a criminal offence and is prohibited.

Hypothetical example

Through your employment you learn of a proposal to build a dam which is not yet public knowledge. The land surrounding the proposed dam is currently of little value, however, with the building of the dam the land will appreciate in value considerably. Acting on this knowledge you purchase some land in the vicinity as a speculative investment.

This amounts to "insider trading" - the use for personal benefit of official information that is not generally available to the public and is clearly inappropriate behaviour which would lead at the very least to serious disciplinary action being taken.

5.12 Public comment on government policy or administration

'Public comment' covers a wide range of activities which involve evaluative comment on government policy or administration. Providing factual information about the content of announced government policy does not constitute public comment.

As a public sector employee you have the same rights as any member of the community to enter into discussion of community and social issues in a private capacity. However, you should recognise that you may be seen as speaking about the government or your agency from a privileged position and your right to comment may be limited with respect to information you obtain in an official capacity.

Public comment by you in a private capacity requires judgement, especially where the comment may be seen as involving official or privileged information. Doubts about your loyalty to your employer, political neutrality, and integrity may arise, and have the potential to compromise the government and the department/ agency.

The circumstances and content of the comment are centrally important in deciding whether a particular comment is acceptable. The context of the comment, the extent and timing of any media coverage, and the political or administrative sensitivity of the subject matter will all be relevant and need to be taken into account.

Depending on the content, a letter to the editor of a newspaper, an article for a professional journal, a contribution to a panel discussion on radio or television, a 'vox populi' footpath interview, a public demonstration, or a speech to an interest-group may be regarded as public comment.

Comment, including criticism of government or opposition policy, made in a purely private context, such as at a dinner party at which only family and friends are present, generally would not fall within the scope of this section. If comment made in such a context becomes public, discretion should be exercised as to whether to enter the public arena further about the matter. You are under no obligation to answer questions posed by journalists concerning your private affairs, and this would include any comment made in a private context.

Contributing to public discussion of government policy or administration, *in an official capacity* is generally acceptable in circumstances where:

- providing information on government policy is part of your official duties, or is consistent with those duties, or has been appropriately authorised
- the facts concerning government policy or administration, are not misrepresented
- the merits of government policy and policy alternatives are not canvassed.

Contributing to analysis and criticism of a policy of a political party *in a private capacity*, for example, during an election campaign, is normally acceptable provided that:

- the comment or discussion is not likely to raise reasonable doubt about your willingness to implement the policies of the government or a potential alternative government objectively
- you do not misrepresent the facts concerning government policy or administration.

It is your responsibility to take all reasonable steps to ensure that any comment you make will be understood as representing your personal views as a private citizen.

5.13 Communication with Ministers and other Members of Parliament

As private citizens, you have the right to communicate directly with a Member of Parliament on any issue affecting you as a private citizen. However, while employed in the public sector, communications with Members on matters which are relevant to your official duties or the affairs of the department are restricted to the proper formal channels.

Hypothetical example

Writing to your local Member or the Minister for Transport in relation to the condition of a local road without making reference to your position within the department is an appropriate communication between yourself and the elected representative.

However, it would not be appropriate to write to your local Member - whether of the government or opposition parties, or an independent - to comment upon the internal operations of the Department of the Premier and Cabinet.

5.14 Intellectual property and copyright

Intellectual property is an invention, original work, the results of scientific research or product development which can be protected. Protection of intellectual property in Australia is governed by specific legislation (State and Commonwealth) and by common law, depending on the type of intellectual property involved.

The concept of ownership of intellectual property is coupled with the entitlement to apply for statutory protection of that property and its use. The question of who is entitled to use the intellectual property, and who may benefit from any commercial exploitation of it, is determined by resolving the issue of ownership.

Ownership is determined by consideration of the circumstances in which the intellectual property was conceived, researched and developed.

All material in which copyright subsists and which was created by you in your official capacity or during work time is owned by the Crown. Accordingly you must obtain prior permission from either senior management or the Minister (where appropriate) before entering into any arrangements regarding the publication or disclosure of any articles or materials which you have produced as part of your official duties.

5.15 Privacy of personal information

Personal information held by Queensland Government Agencies must be responsibly and transparently collected and managed in accordance with the requirements of the 11 Information Privacy Principles (IPPs) contained in the *Information Privacy Act 2009* (Qld)

Personal information is defined as information or an opinion (including information or an opinion forming part of a database) whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

The IPPs set standards for the collection, storage, use and disclosure of personal information which must be adhered to by Department of the Premier and Cabinet employees in the conduct of the day to day business activities of the Department.

All staff should familiarize themselves with the IPPs. Further information is available from the Department's Privacy Contact Officer (the Manager, Administrative Law Services) or email privacy@premiers.qld.gov.au

5.16 Public information services networks

Employees are not deliberately to access, store or forward information where that action might reasonably be anticipated to:

- be contrary to provisions of State and Commonwealth legislation;
- be contrary to stated Queensland Government policies;
- prejudice relations between the Queensland Government and another jurisdiction; or
- contain offensive or libelous material unless access to, storage of or transmission of that information is part of the employee's official duties.

You are to ensure that your lawful private activities on public information services networks (e.g. Internet) are not identified with the government where those activities could be reasonably construed as contrary to government interests in policies and activities.

5.17 Whistleblowing

Whistleblowing (disclosing wrong doing, public danger or maladministration) by public sector employees and others is the subject of specific legislation, the *Whistleblowers Protection Act 1994*.

The *Whistleblowers Protection Act 1994* is designed to protect whistleblowers making public interest disclosures as defined by that Act. The disclosure must be of a matter which, in the honest belief of the whistleblower, is a substantial matter which it would be contrary to the public interest to remain hidden. If you are aware of such a matter, it is your duty to disclose it to an appropriate authority, and the *Whistleblowers Protection Act 1994* will protect you by imposing severe penalties upon any person taking any action to your detriment resulting from your disclosure.

Public interest disclosures are defined in the *Whistleblowers Protection Act 1994* as disclosures about the following matters:

- official misconduct;
- maladministration;
- negligent or improper management affecting public funds;
- danger to public health or safety or the environment;

- danger to a person with a disability;
- offences against environmental legislation listed in Schedule 2 to the Act; or
- a reprisal against any person in connection with a whistleblower's disclosure or presumed disclosure.

The Departmental policy and procedures for making public interest disclosures under the *Whistleblowers Protection Act 1994* are contained in the document titled 'Guidelines for the Protection of Whistleblowers and the Investigation of Public Interest Disclosures'. This document is available in each Branch or other organisational unit, and may also be obtained through the Research and Information Centre and union representatives.

If you are concerned about whether a disclosure you may be considering making would be a public interest disclosure under the Act, you should contact the Whistleblower Coordinator, the Whistleblower Contact Officer in your organisational unit, the Office of the Public Service Commissioner, or the CMC Whistleblower Support Unit (in relation to disclosures to the CMC) to discuss the matter. All such contacts will be treated in the strictest confidence, including the substance of any disclosures which have not yet been determined to be public interest disclosures as defined.

5.18 Lobbyists

Lobbyists can enhance the strength of the democratic process by assisting individuals and organisations to communicate their views on matters of public interest to the Government, and so improve outcomes for the individual and the community as a whole.

The public has a clear expectation that lobbying activities will be carried out ethically and transparently and that Government Representatives who are approached by lobbyists are able to establish whose interests the lobbyists represent so that informed judgments can be made about the outcome they are seeking to achieve.

Regulations over contact between professional lobbyists and Government Representatives are set out in the *Integrity Act 2009* (which replaced the Queensland Contact with Lobbyists Code from 1 January 2010). Any interaction between a Government Representative and a lobbyist must be conducted in accordance with the *Integrity Act 2009*. Government Representatives who have contact with professional lobbyists should check that the lobbyist is listed on the Lobbyists Register, which may be accessed at www.integrity.qld.gov.au. The Queensland Integrity Commissioner is responsible for maintaining the Lobbyists Register, as well as providing advice on ethics or integrity issues to designated persons.

The Department is required to keep written records of communications between departmental staff and registered lobbyists. Each division (Policy, Governance and Arts) is therefore responsible for maintaining a register of contact with lobbyists for employees within that division. To ensure consistency, a common register is kept by each division.

5.19 Post separation employment

The Government has introduced restrictions over the post-separation employment activities of former chief executives, senior executives, and persons employed at CEO and SES equivalent levels.

Former senior government officers are not permitted to:

- have business meetings with a Queensland Government representative on any matter which they had official dealings as a former senior government officer within their last 18 months for 18 months after they ceased public sector employment
- disclose confidential information in breach of their contract of employment
- undertake lobbying activity for a third party on matters which they had official dealings within their last two years in public sector employment for two years after they ceased public sector employment, where they have ceased such employment – restriction is imposed by section 70 of the *Integrity Act 2009*. Where the officer left public sector employment prior to the commencement of the *Integrity Act 2009* on 1 January 2010, the restrictions apply for 18 months, in accordance with the former Queensland Contact with Lobbyists Code.

The *Guidelines - lobbying/employment restrictions for former CEO/SES or equivalent officers* have been developed to assist in the interpretation of the current restrictions imposed under the *Integrity Act 2009*. The Guidelines can be accessed on the department's website at www.premiers.qld.gov.au.

5.20 Business meetings

Public sector employees are not to hold business meetings with the following former public officials which relate to the former official dealings of those former public officials:

- Persons who have ceased to hold office as a Minister (within the last 24 months) on matters that they had official dealings with in their last 24 months in office
- Persons who have ceased to hold office as a Parliamentary Secretary (within the last 18 months) on matters they had official dealings with in their 24 months in office
- Persons who have ceased employment as Senior Departmental Staff or Ministerial Staff (within the last 24 months) on matters they had official dealings with in their last 24 months of public sector employment.

6.0 Ethics obligation 4: Diligence

As a public sector employee you are required to exercise due diligence, care and attention, and shall at all times seek to achieve high standards of public administration in relation to the duties and responsibilities of your official position.

In summary this means that you are required to:

- possess the competence and skills for the job in hand
- strive for high standards in public administration
- foster competent management strategies
- not overwork other staff
- avoid negligence by, for example, giving sufficient attention to detail
- exercise duty of care in relation to clients and other staff
- ensure health and safety conditions in the workplace
- be able to take responsibility and give justifications for decisions and actions
- engage in appropriate performance management practices
- be able to invoke and enforce effective management, including disciplinary procedures
- be willing to update and expand concepts, skills and abilities.

6.1 Diligence, care and attention

As a public sector employee paid from the public purse you have an obligation to work diligently and perform your duties to the best of your ability.

In addition, you also have a duty to exercise due care in your work, particularly where members of the public may rely on the information or advice you provide to them, or where your decisions may affect the rights, property or entitlements of others.

6.2 Provision of accurate and complete information

As a public sector employee you are expected to provide management, the Minister, and where appropriate, the Parliament, with advice which is frank, is based on an accurate representation of the facts and which is as comprehensive as possible. This includes setting out the advantages, disadvantages, costs and consequences of the available options and, where appropriate, recommending a particular course of action.

6.3 Self development

The development and improvement of your professional skills and knowledge is essential to your contribution to good public management. There is an obligation upon you to ensure that you continue to develop your skills and knowledge and keep up-to-date with advances and changes within your area of expertise.

Managers are to assist employees with the provision of relevant work-related self development, however, it is also your responsibility to take reasonable steps to identify and apply for development opportunities.

6.4 Professional conduct in the provision of advice

As a public sector employee you are required to serve the duly constituted government of the day, regardless of your personal political preferences or beliefs. You must not use your position to pursue private interests in relation to policy, or the development of policy, or the use or procurement of public assets. You are therefore expected to provide honest, impartial and comprehensive advice, irrespective of your personal views on a matter.

Should you feel incapable of maintaining this degree of neutrality in a particular case, you are to bring this to the attention of your manager or Chief Executive Officer. See sections 5, 5.1, and 5.2 of this Code relating to Conflict of Interests and their resolution as these sections are applicable when this situation arises.

6.5 Use of alcohol and drugs

You should not:

- at any time, allow the consumption of alcohol or other drugs adversely to affect your work performance or official conduct; or
- consume alcohol while on duty except where related to official duties and subject to the Chief Executive Officer's approval and conditions.

7.0 Ethics obligation 5: Economy and efficiency

This obligation requires public sector employees to ensure that taxpayer-provided resources of all kinds are used economically for the purposes for which they were provided, treated with appropriate care, and secured against theft or misuse.

It is also implicit in this obligation that public sector employees will refrain from indulgent, ostentatious or luxurious treatment of themselves at public expense, even though such expenditure may be within lawful discretion.

All employees are required to:

- use or manage both human and material resources efficiently and effectively
- seek to optimise program outcomes
- conserve and safeguard public assets
- implement corruption prevention strategies
- budget honestly
- not misuse agency equipment or vehicles
- respect the environment.

The Financial Management Practice Manual contains specific guidance on principles and practices to be deployed in the administration of public resources, and expands upon the matters given below. Specific references to the Financial Management Practice Manual are provided wherever appropriate. Copies of the Manual are available in each Branch, through the Library and from the Financial Management Branch.

7.1 Use of public property and facilities

Public property and facilities are in general only to be used for approved activities. Government property and facilities should not be used for non-government or private use without appropriate prior permission, preferably given in writing. Managers should have regard to the potential legal liabilities which could result from the nonofficial use of property and facilities by employees. They should also ensure that the government incurs no cost on such use of property and facilities, or, where a cost is to be incurred, that this has prior approval.

In addition employees are to be economical, and avoid waste and extravagance in the use of resources for the legitimate activities of public sector agencies. 'Public resources' include not only material and financial resources, but human skills and knowledge, intellectual property, and official information. Intangible assets such as corporate learning, public support, and positive staff morale and commitment should also be regarded as valuable resources.

The *Financial Accountability Act 2009 and its relevant Financial and Performance Management Standard 2009* sets out relevant requirements in relation to the avoidance of waste and extravagance in the expenditure of public resources.

7.2 Use of government owned information and communication technology facilities and devices

Government owned information and communication technology (ICT) facilities and devices including internet and email facilities and devices are provided for officially approved purposes. Limited personal use of internet and email facilities and devices may be allowed at the discretion of the chief executive officer. Employees found to be intentionally accessing, downloading, storing or distributing pornography using government owned ICT facilities and devices will be dismissed.

All staff are required to fulfil all recordkeeping responsibilities in accordance with relevant Information Standards and associated recordkeeping guidelines.

7.3 Use of government issued credit cards

Credit cards are issued on the basis that the card is both a necessary and convenient facility for meeting commitments incurred in the course of official business. Holders of credit cards have a responsibility to utilise the card in a proper and appropriate manner and to fully account for all transactions.

Further details in relation to the use of government issued credit cards including the validation of expenditure are contained in section 2.7 of the Delegations and Associated Policies, Part B of the Financial Management Practice Manual.

7.4 Authority to approve expenditure

Expenditure must be validated and authorised by an independent person with a delegated authority to approve expenditure. In most cases this will be the employee's supervisor. With the exception of Chief Executive Officers and the Principal Policy Officer to the Leader of the Opposition, delegated officers may not validate their own personal expenditure.

The guiding principle for a delegate to consider when approving expenditure is that the expenditure must:

- be for official purposes
- be properly documented
- be available for scrutiny by Financial Services, agency Corporate Support staff and internal and external audit
- appear reasonable.

In all instances the expenditure must be publicly defensible with the maintenance and retention of adequate declarations and documentation. Further details in relation to expenditure approval are contained in section 2.2.1 of the Delegations and Associated Policies, Part B of the Financial Management Practice Manual.

7.5 Hospitality and official functions

Expenditure on hospitality and official functions may be incurred where it is considered appropriate to facilitate the conduct of public business. However, such hospitality should not be a substitute for business meetings.

Further details in relation to expenditure on hospitality and official functions are contained in section 3.2 of the Delegations and Associated Policies, Part B of the Financial Management Practice Manual.

7.6 Home and community use of assets

The home use of information technology assets, office equipment and other assets may be approved by the officers authorised in section 3.7.3 of Part B of the Financial Management Practice Manual.

The home use of assets shall only be approved in cases where the asset is required to be used for official purposes. Assets are not to be made available for private nonofficial purposes and are to be

used with due care and diligence and returned to the workplace in good order upon the expiration of the approval.

In certain circumstances, assets may also be lent to community organisations, or used for their purposes. For example, permission may be given to use an official computer to draft an article for a professional journal, or a display may be lent to a show society. Such requests will be considered on a case by case basis.

Further details in relation to the home use of assets are contained in section 3.7.3 of the Delegations and Associated Policies, Part B of the Financial Management Practice Manual.



Registration of Personal Interests

CONFIDENTIAL

To the Director-General – Non Requirement to Complete

I have no personal, pecuniary and other relevant interests to declare.

I undertake to advise you should a situation arise where an interest of mine or an interest of a member of my immediate family of which I am aware, whether that interest is pecuniary or otherwise, conflicts, or may reasonably be thought to conflict, with my public duty.

(name)

(signature)

(date)

Director-General

(name)

(signature)

(date)

To the Director-General – Requirement to complete

Particulars of my personal, pecuniary and other relevant interests and those of my immediate family of which I am aware are set out in this form.

I undertake to advise you should a situation arise where an interest of mine or an interest of a member of my immediate family of which I am aware, whether that interest is pecuniary or otherwise, conflicts, or may reasonably be thought to conflict, with my public duty.

(name)

(signature)

(date)

Director-General

(name)

.....
(signature)

.....
(date)

Return of Personal Interests of Officer and Immediate Family (including spouse and dependant children)

Real Estate

Real Estate in which a beneficial interest is held other than principal place of residence:

Location	Owner	Purpose for which held
----------	-------	------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

Share holdings (where total value exceeds (\$5,000))

Include registered shares, options and current applications (other than nominal share holdings by way of qualification for membership of a credit union, building society or other co-operative society):

Owner of shares	Name of Company (including holding companies and subsidiary companies if applicable) companies if applicable)
-----------------	--

_____	_____
_____	_____
_____	_____

Directorships in Companies

In regard to any directorships, whether remunerated or not:

Name of Director	Name of Company	Activities of Company (whether public or private)
---------------------	--------------------	--

_____	_____	_____
_____	_____	_____
_____	_____	_____

Partnerships etc.

Person holding Interest	Nature of Operations	Nature of Business Interest
----------------------------	-------------------------	--------------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

Investments

Investments in bonds, debentures, savings or investment accounts with banks or other financial institutions. Exceeding a cumulative value of \$5,000.

Person holding Investment	Type of Investment	Body in which investment is held
------------------------------	-----------------------	-------------------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

Other Assets

List each asset valued at over \$5,000 including collections. Household or personal effects and motor vehicles for personal use are to be excluded:

Owner of Asset

Nature of Asset

Employment by a public or private company

Exclude salary from principal public sector employment:

Person receiving income

Nature and annualised amount of income

Any Gifts, Substantial, Sponsored Travel or Hospitality exceeding \$150 other than benefits provided by the Department

Person receiving Gift, etc.

Nature of Gift, etc.

Liabilities

Liabilities exceeding \$5,000 other than mortgage over principal place of residence

Person concerned

Nature of liability Creditor

Other interests - including membership or office holding of an organisation other than an industrial or professional organisation, or a political party.

Please return to:
Director, Human Resource Services
Level 1, Executive Building, 100 George Street BRISBANE QLD 4000
Fax: 07 3210 2848

(print on white paper)