

Ministerial Code of Conduct

The Ministerial Code of Conduct applies to Ministers (including Assistant Ministers) the highest standard of ethics. It combines the ethical standards that apply to them both as Members of Parliament and as Members of the Executive Government.

As MPs, Ministers have obligations that flow from the following fundamental principles, set out in the Code of Ethical Standards of the Legislative Assembly of Queensland:

1. Integrity of the Parliament
2. Primacy of the public interest
3. Independence of action
4. Appropriate use of information
5. Transparency and scrutiny
6. Appropriate use of entitlements.

Ministers should also observe the ethics values set out in the *Public Sector Ethics Act 1994* that apply to the Queensland public sector as a whole where they are relevant:

- Integrity and impartiality
- Promoting the public good
- Commitment to the system of government
- Accountability and transparency.

There is considerable overlap between many of these standards and values, the content of which are detailed in the Code of Ethical Standards and the relevant sections of the Public Sector Ethics Act, in Attachment 1. This Ministerial Code of Conduct details some of the particular obligations that Ministers have that flow from these principles and values.

Accountability

The Constitution of Queensland states in s. 42(2) “The Cabinet is collectively responsible to the Parliament”. Ministers must act in conformity with the principles of responsible government and Cabinet conventions set out in the Cabinet Handbook. The collective Decisions of Cabinet are binding on all Ministers. If a Minister is unable to publicly support a Cabinet decision, the proper course is to resign.

Cabinet proceedings are confidential and details of a Minister’s submission should not be announced before consideration by Cabinet, unless with the consent of the Premier.

Ministers are also responsible individually to Parliament. Ministers have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of themselves and their departments and agencies. Ministers must give accurate and truthful information to Parliament, and correct any inadvertent error at the earliest opportunity. Ministers must not knowingly mislead Parliament.

If a Minister is the subject of an official investigation into a matter of serious impropriety or alleged illegal behaviour of a serious nature, a Minister must accept that to whether the Minister should stand down is a matter of discretion for the Premier. The exercise of the Premier's

discretion will be informed by the nature of the investigation in question. Ministers accept that they should stand down if they are charged with such an offence, and may be required under the *Parliament of Queensland Act 2001* to resign if convicted.

Ministers will also accept that the talents and abilities of public servants should be maximally available to the people of Queensland. Ministers should employ the talents of public servants to their fullest, whatever the political preferences of those public servants may be, provided only that those public servants behave in accordance with the Westminster convention of public service neutrality.

Fairness

Ministers must observe fairness in making official decisions – that is, to act honestly and reasonably, with consultation appropriate to the matter at issue, taking proper account of the merits of the matter, and giving due consideration to the rights and interests of the persons involved, and to the public interest. They should observe procedural fairness and natural justice, to the greatest extent possible.

Integrity

Ministers must make decisions, and be seen to make decisions, with the objective of advancing the public interest, and must act at all times in accordance with the principles of responsible government and Cabinet conventions set out in the Cabinet Handbook.

Ministers must ensure that there is a clear delineation between the activities of the Executive Government under their portfolio and that of their political party. For example, they should not allow party officials to become involved in, or to review or oversight, the operations of Executive Government.

Ministers must not use information obtained in the course of their official duties, including in the course of Cabinet discussions, or make any decisions, to gain for themselves or any person a direct or indirect financial advantage that may accrue either during or after their term of office. They also will not solicit nor accept any benefit in respect of the exercise of their discretion for the benefit either of themselves or any other person.

Interests

Ministers must comply with the requirements of the Register of Members' Interests, and the Register of Members' Related Persons Interests, held by the Clerk of the Parliament.

Each Member of the Legislative Assembly (including Ministers) is required to declare their pecuniary interests within one month of making and subscribing an oath or affirmation as a member. These statements form the Register of Members' Interests maintained and published by the Clerk of the Parliament. The interests of related persons are also to be declared which are maintained in a private register by the Clerk.

In addition, every member (including Ministers) must notify the Clerk in writing of any change to their last statement of interests within one month of becoming aware of the change.

Any other pecuniary or other interests of the Minister or Minister's related persons that might affect the Minister's responsibilities must be declared to the Premier.

Ministers must resign or decline memberships of boards of public companies and declare memberships of, and the nature of, any private companies in which they are involved, including not-for-profit entities.

Ministers must advise the Premier in writing, within one month of taking office, that there are no other pecuniary or other interests of the Minister or Minister's related persons that might affect the Minister's responsibilities; that they have resigned from directorships of public companies; and that all directorships in private companies have been declared (including how any potential conflicts of interest for these directorships will be managed).

Conflicts of Interest

Ministers will manage and resolve real, perceived and potential conflicts of interest in accordance with this Code.

A conflict of interest involves a direct or indirect conflict between Ministerial responsibilities and private interests. A perceived conflict of interest exists when there could be a perception that private interests could improperly influence the performance of duties, whether or not this is the case. A potential conflict of interest arises when private interests could interfere with official duties in the future. Examples of potential conflicts of interest are included in Attachment 2. Ministers may wish to seek the advice of the Integrity Commissioner on specific matters in relation to a conflict of interest of any kind.

Ministers must divest themselves of any shareholding in any company of which a conflict of interest exists or could reasonably be perceived to exist. Such shareholdings cannot be divested to the Minister's related persons, or to close associates.

Ministers will advise the Premier should they find themselves in a situation of a conflict of interest including any pecuniary or other interests of the Minister's partner or dependent family members, and advise how any conflicts will be resolved or managed. If those interests potentially are relevant to a matter before Cabinet or a Cabinet Committee, the Minister will tender advice at the meeting and withdraw from the Cabinet Room. A record will be made that the Minister so declared a potential conflict of interest and withdrew from the meeting room.

It is recognised that situations may arise whereby a Minister may have a perceived conflict of interest due to their own interests or the interests of a partner, family member or close associate, but that the possibility of a conflict does not properly arise because the matter to be determined concerns a matter of general public policy or where the Minister has no greater interest than that of other classes of people in the community or within the Cabinet generally. In such circumstances, the Minister is to declare the nature of the interest and may continue to participate fully in the determination of the Government's policy on the matter. A record will be made that the Minister so declared a perceived conflict of interest.

Transparency

Ministers are not to accept any gift offered in connection with the discharge of their office except as permitted within the Ministerial Handbook (refer to section 3.6).

To avoid falling under an obligation to those in the hospitality or travel industry, a Minister will not knowingly accept travel or hospitality sponsored wholly or partly by any person, organisation, business or interest group which carries on the business of travel or hospitality,

where such acceptance would create an obligation and is not related to the business of the Minister's portfolio; unless the travel or hospitality is approved by the Premier, or unless it is provided at rates which are openly available to groups of people other than Ministers of the Crown, or by reason of its triviality could not reasonably be construed as creating an obligation.

Use of public resources

Ministers shall make economical use of the public resources that are made available to them as office holders and will make every endeavour to prevent misuse by other persons. Those resources must only be used in connection with official duties and not for personal benefit.

Caretaker conventions

Ministers and their departmental public servants are bound by the caretaker conventions, in particular, that during the period after the dissolution of the Legislative Assembly, Ministers should not, except in cases of urgency, make any new significant appointments, enter into new contracts or undertakings that would bind an incoming Government, or embark on any new policy initiatives that would bind an incoming Government. Ministers should be aware that a breach of this convention justifies an incoming government reviewing such appointments, contracts or initiatives.

Post Ministerial Employment

In accepting their appointment, Ministers undertake not to take personal advantage, in any future employment, of information obtained as a Minister which is not publicly available, including confidential information on pending contracts or dealings. This does not apply to statutory appointments, nor does it apply to information that a Minister may have of another Minister's department which is not confidential.

Ministers should note that unlawful disclosure of confidential information, including Cabinet-in-Confidence information, may constitute an offence under the Criminal Code.

Ministers undertake that, for a period of two years after leaving office (Assistant Ministers for a period of 18 months), they will exercise care in considering offers of employment or providing services, and will not have business meetings with Government representatives, in relation to their official dealings as a Minister during their last two years in office.

Further, Ministers undertake that, for a period of two years after leaving office, they will not undertake lobbying activities (as set out in the *Integrity Act 2009*) in relation to their official dealings as a Minister in their last two years in office.

Ministers should note that these guidelines do not apply to Government appointments (such as board memberships), advocacy or dealings on behalf of not-for-profit entities (such as engagements with charity organisations, churches or the like), or personal, social or other contact generally available to members of the public.

Where there is any doubt regarding compliance with these requirements, the Premier may seek the advice of the Integrity Commissioner.

Random Checks by the Integrity Commissioner

In accordance with Section 16 of the *Integrity Act 2009*, the Integrity Commissioner will undertake random checks of Minister/Assistant Minister compliance with this Code.

The Integrity Commissioner will meet with each Minister and Assistant Minister once a year, at a time determined by the Integrity Commissioner, to discuss their compliance. Ministers and Assistant Ministers are expected to provide the Integrity Commissioner with such relevant materials as are requested, and answer any relevant questions in order for the Integrity Commissioner to carry out the random checks.

The Integrity Commissioner will advise the Premier of any unresolved issues concerning Ministers or Assistant Ministers' interests.

Attachment 1

EXTRACT FROM CODE OF ETHICS STANDARDS¹

2. STATEMENT OF FUNDAMENTAL PRINCIPLES

The following six fundamental principles draw together the various concepts underpinning the duties of, and obligations on, a member of Parliament, to assist members to better understand their representative role and responsibilities.

1. Integrity of the Parliament

The public's confidence in the institution of Parliament is essential. Members are to strive at all times to conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and avoid any action which may diminish its standing, authority or dignity.

2. Primacy of the public interest

Members are elected to act in the public interest and make decisions solely in terms of the public interest. Members also have a continuing duty to declare any private interests relating to their public duties as they arise, and to take steps to avoid, resolve or disclose any conflicts arising in a way that protects the public interest.

3. Independence of action

Parliamentary democracy requires that members make decisions, and be seen to make decisions, in accordance with the public interest and not because they are under any financial obligation or influence. Therefore, members are not to place themselves under any financial obligation to outside individuals or organisations, including the executive government, that might influence them in the discharge of their duties and responsibilities, and must act at all times in accordance with rules set down by the Parliament for outside appointments.

4. Appropriate use of information

In the course of their duties members often receive information which is either confidential or prized (that is, not available to the general public). Members are not to misuse any confidential or prized information, particularly for personal gain.

5. Transparency and scrutiny

It is vital to parliamentary democracy that the public has confidence in the integrity of the decision-making process of Parliament. To ensure transparency, public scrutiny and public confidence, it is necessary that each member disclose their pecuniary interests on a continuing and ad hoc basis when the need arises.

7. Appropriate use of entitlements

Members are provided certain entitlements to assist them to discharge their duties and responsibilities. Members are to ensure that they comply with any guidelines for the use of these entitlements.

¹ Adopted by the Legislative Assembly on 17 May 2001. Legislative Assembly (Queensland), *Votes and Proceedings*, No. 12, 17 May 2001, p 112.

EXTRACT FROM PART 3 OF PUBLIC SECTOR ETHICS ACT 1994

Division 2 The ethics values

6 Integrity and impartiality

In recognition that public office involves a public trust, public service agencies, public sector entities and public officials seek to promote public confidence in the integrity of the public sector and—

- (a) are committed to the highest ethical standards; and
- (b) accept and value their duty to provide advice which is objective, independent, apolitical and impartial; and
- (c) show respect towards all persons, including employees, clients and the general public; and
- (d) acknowledge the primacy of the public interest and undertake that any conflict of interest issue will be resolved or appropriately managed in favour of the public interest; and
- (e) are committed to honest, fair and respectful engagement with the community.

7 Promoting the public good

In recognition that the public sector is the mechanism through which the elected representatives deliver programs and services for the benefit of the people of Queensland, public service agencies, public sector entities and public officials—

- (a) accept and value their duty to be responsive to both the requirements of government and to the public interest; and
- (b) accept and value their duty to engage the community in developing and effecting official public sector priorities, policies and decisions; and
- (c) accept and value their duty to manage public resources effectively, efficiently and economically; and
- (d) value and seek to achieve excellence in service delivery; and
- (e) value and seek to achieve enhanced integration of services to better service clients.

8 Commitment to the system of government

- (1) In recognition that the public sector has a duty to uphold the system of government and the laws of the State, Commonwealth and local government, public service agencies, public sector entities and public officials—
 - (a) accept and value their duty to uphold the system of government and the laws of the State, the Commonwealth and local government; and
 - (b) are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and
 - (c) accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.
- (2) Subsection (1) does not limit the responsibility of a public service agency, public sector entity or public official to act independently of government if the independence of the agency, entity or official is required by legislation or government policy, or is a customary feature of the work of the agency, entity or official.

9 Accountability and transparency

In recognition that public trust in public office requires high standards of public administration, public service agencies, public sector entities and public officials—

- (a) are committed to exercising proper diligence, care and attention; and
- (b) are committed to using public resources in an effective and accountable way; and
- (c) are committed to managing information as openly as practicable within the legal framework; and
- (d) value and seek to achieve high standards of public administration; and
- (e) value and seek to innovate and continuously improve performance; and
- (f) value and seek to operate within a framework of mutual obligation and shared responsibility between public service agencies, public sector entities and public officials.

Attachment 2

POTENTIAL CONFLICTS OF INTEREST

Example 1: Direct Interests

Ministers may have pecuniary interests which may be affected, positively or negatively, by decisions they make as a Minister or as a Member of Cabinet. Examples could include:

- an interest in a company that trades directly with the State of Queensland;
- directorship or management of a company which is affected by a Cabinet or other government decision; or
- membership of a superannuation scheme or an interest in a managed fund where a Minister has control over investment decisions.

Direct interests such as these may raise actual conflicts of interest or give rise to a perception of a conflict of interest, and must be managed appropriately.

Example 2: Indirect Interests

Ministers may have pecuniary interests several steps removed from themselves that are sufficiently indirect so as not to pose a realistic risk of conflict.

The most common instance of this interest is where a Minister holds an interest in a company which is not itself affected by a Cabinet or other government decision, but where that company in turn holds shares in another company that will be affected by such a decision. These situations may arise at multiple removes, i.e. a company may hold shares in a second company that holds shares in a third company which is affected by a Cabinet or other government decision. In this type of scenario the company affected by the relevant decision may be several steps distant from the company in which the Minister has an interest.

While this may give rise to a conflict of interest in some circumstances, the interests of the Minister could be so distant and insignificant so as to pose no legitimate perception of a conflict of interest. In some cases such interests will be unknown to a Minister, especially when the interest resides with a Minister's partner. Whether it is reasonable for a Minister to have been unaware of this interest when involved in a related Cabinet decision will depend on all the circumstances, including the size and value of the interest concerned, its degree of remoteness from the Minister and the nature of the decision being made.

For example, if a Minister is the Trustee of a trust fund together with other trustees and has the power to vote or make decisions on the investments or business conducted by the fund then the risk of a conflict of interest increases even if the fund is managed by another party. This risk would have to be carefully managed to avoid a conflict or perception of conflict.

Given the potential variation and complexity of financial investments, it is strongly recommended that Ministers seek their own legal and financial advice on their personal circumstances.

Example 3: Remote Interests

Ministers may have pecuniary interests that are sufficiently remote from their influence and control that they do not pose a realistic risk of conflict. Examples could include:

- membership of a large superannuation scheme with numerous members and widely diversified investments; or
- an interest in a managed fund, where a Minister has no control over investment decisions, and where the investment profile of the fund is broadly spread.

The Minister should declare this interest i.e. membership or investment in the relevant superannuation fund, managed fund or other entity. Details of the investments of that entity are not required.

Once a remote interest has been declared no further declaration or disclosure is required unless a Minister becomes aware of circumstances that might give rise to a real or perceived conflict of interest.

For the purpose of determining whether an interest should be treated as a remote interest, the following factors are relevant:

- the extent to which the Minister can influence investment decisions of the entity;
- the extent to which the Minister is involved in the management of the entity;
- the extent to which a Minister reasonably may be expected to have a detailed knowledge of the investments of the entity; and
- the extent to which an entity's investments are sufficiently diversified that the value of a Minister's interest would be unlikely to be significantly affected by decisions of Cabinet.

Categorisation and declaration of an interest as a remote interest is the responsibility of the Minister concerned.

The remote interest classification and reporting requirements apply to the interests of the partner of a Minister as well.

Example 4: Non-pecuniary Interests

During the course of official duties Ministers will be privy to a substantial amount of confidential and government information. The use of confidential and government information by a Minister to gain for themselves, or a family member, friend or associate, a direct or indirect financial advantage that may accrue either during or after their term of office may be contrary to law, as well as to this Code of Conduct.

For example, a Minister may obtain confidential information about a proposed development in a bushland area within their electorate. The Minister may secretly trade that information to an environmental group that the Minister knows would start protest action to protect the area, and in return seek support from the group's leadership at the next election. Or the Minister may share information with a person who uses it for their own advantage, or for the disadvantage of others.

Example 5: General Interests

Ministers may have a perceived conflict of interest due to their own general interests or those of a partner, family member or close associate. However, the possibility of a conflict does not arise because the matter to be determined by Cabinet concerns a general public policy or where the Minister has no greater interest than that of other classes of people in the community or within the Cabinet generally.

For example, a Minister may bring a submission to Cabinet which proposes changes to the way in which boat licence fees are set, while that Minister may also personally own a boat. Given that the Minister has no greater interest than that of other boat owners in the community, it is appropriate for the Minister to declare the interest and for a record to be made that the Minister declared a perceived conflict of interest. The Minister may continue to participate fully in the determination of the Government's policy on the matter.