

CODE OF CONDUCT MINISTERIAL STAFF MEMBERS

23 February 2015



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Message from the Premier

The importance of the role of ministerial staff in providing advice and assistance to Ministers in the performance of their functions is well recognised and accepted. Their closeness to the most significant decisions of government is a privilege that carries with it an obligation to act at all times with honesty and integrity.

The way in which you carry out your duties can impact on how the public regards the government and how effective we can be.

By working together to uphold the Ministerial Staff Code of Conduct's high standards of ethical behaviour, we will continually improve our performance and enhance the community's regard for public officials.

Introduction

From time to time, in our roles, we come across situations where we are uncertain what behaviour is appropriate under the circumstances. To help us determine what is appropriate in our role, the *Code of Conduct Ministerial Staff Members* (the Code) has been developed.

The purpose of the Code is to provide you with a clear understanding of the standards of conduct expected when performing your duties as a ministerial staff member.

Framework for ethical conduct

The Code does not attempt to provide an exhaustive list of what to do in all situations, instead the Code represents a broad framework of ethical conduct that you have an obligation to uphold.

The Code also provides the basis for disciplinary action for those who fail to meet their obligations.

The standards of conduct in the Code are based on the six principles contained in the *Ministerial and Other Office Holder Staff Act 2010*. The principles which a ministerial staff member's work performance and personal conduct must be directed to are:

1. acting honestly, fairly and in the public interest; and
2. ensuring the effective, efficient and appropriate use of public resources; and
3. interacting with public service employees respectfully, collaboratively and with integrity; and
4. observing all laws relevant to the staff member's employment; and
5. ensuring the staff member's personal conduct does not reflect adversely on the reputation of his or her employing member; and
6. complying with any code of conduct that applies to the staff member.

Ministerial staff members must also comply with ethics values, which are based on the ethics principles in the *Public Sector Ethics Act 1994* to the extent they are relevant. For instance, the ethics values about providing advice, or acting in relation to policies, priorities and decisions apply to ministerial staff members to the extent they may reasonably be expected to honestly and properly carry out their functions assisting their Minister.

The ethics principles are:

- integrity and impartiality
- promoting the public good
- commitment to the system of government
- accountability and transparency.

About the Code

What will this Code do for me?

This Code will:

- inform you of the standards of conduct expected from you
- promote positive behaviours in accordance with the expectations of high ethical standards in the Queensland Government
- provide a guide to identify and resolve situations that could result in:
 - misconduct
 - official misconduct
 - unauthorised release of official information
 - conflicts of interest.
- ensure that embarrassment is not brought upon the Queensland Government because of a lack of understanding of the ministerial standards of conduct
- assist you to act in ways that enhance the positive public perception of and confidence in the Queensland Government.

At all times under the provisions of the Code, you are expected to conduct yourself in a manner that does not discredit:

- individual ministerial staff members, having regard to their official position in the ministerial office
- the reputation of the government.

It is your responsibility as a ministerial staff member to familiarise yourself with the Code and observe its provisions.

Who must comply with the Code?

All ministerial staff members must comply with the principles of the *Ministerial and Other Office Holder Staff Act 2010* and the ethics values of the *Public Sector Ethics Act 1994* and standards of conduct of this Code.

When does the Code apply to me?

The Code applies continuously throughout the entire period of your ministerial engagement, including periods of leave and off-duty times.

Ethical Dilemmas – deciding the right course of action

Public sector ethics concerns how you should behave as a public official. In most circumstances, the answer should be clear. In situations where the answer is not clear or there is some ethical dilemma refer to “A Model for ethical decision making”.

A model for ethical decision making

Ask yourself these six questions:

1. Is the action legal and consistent with Government policy?
2. Is it consistent with the Code of Conduct Ministerial Staff Members?
3. Is it the ‘right’ thing to do? (What is your ‘gut feeling’)
4. What will the consequences be for –
 - the Minister
 - your colleagues?
 - others?
 - yourself?
5. Can you provide sound reasons for your decision or action?
6. What would happen if your conduct was subjected to public scrutiny?

What happens when I leave the Ministerial Office?

If you leave your ministerial position to work elsewhere, you have a legal obligation to respect confidentiality of information and ownership of intellectual property to which you had access in the course of your work here. Unless otherwise authorised, when you cease duty with the Ministerial office, you cannot take any resources such as articles, processes and materials produced as part of the official functions of your employment or download information. These are the property of Ministerial Services, Department of the Premier and Cabinet.

Refer also to Principle 4 and the compliance with post separation employment restrictions.

What happens if I breach the Code?

Situations may arise where your conduct or that of others appears to be inconsistent with the Code. This may be as a result of a genuine mistake or a deliberate action. You will not be adversely treated where your conduct reflects a genuine attempt to meet the spirit of the Code.

Breaches of the standards of conduct contained in the Code may be addressed under the provisions of your employment contract.

Breaches that could constitute criminal offences and/or official misconduct may be referred to the police and the Crime and Misconduct Commission (CMC).

Official misconduct is conduct that could, if proved, amount to a criminal offence or a disciplinary breach providing reasonable grounds for termination of employment. Such breaches must be referred to the Director-General, Department of the Premier and Cabinet.

Under certain circumstances, breaches may be reported to the Queensland Ombudsman.

Should I report a breach of the Code?

Yes. If you become aware of, or suspect a ministerial staff member has breached the Code, you must report the matter. This includes any complaint against another ministerial staff member that you may have received from any person inside or outside the Ministerial Office. You will not suffer discrimination for reporting suspected misconduct.

Similarly, you have an obligation to report to your Principal Advisor or any other appropriate senior staff member, any conduct by yourself that breaches the standards contained in the Code.

The *Public Interest Disclosure Act 2010* (PID Act) offers some protection for ministerial staff members who make public interest disclosures, from reprisal. The PID Act imposes penalties on anyone who takes detrimental action against a person making a public interest disclosure.

Refer also to Principle 6 – Complying with any code of conduct that applies to a ministerial staff member

The role of Ministers and senior ministerial staff members

As senior leaders, Ministers and Principal Advisors have a responsibility to demonstrate their conscious commitment to ethics by communicating the importance of ethical decision making in the workplace and promoting ethical behaviour in day-to-day actions.

If you are a Principal Advisor, you should closely observe your workplace to ensure appropriate standards of behaviour and provide constructive support at all times. If you become aware of inappropriate conduct, you are required to address the situation.

Where can I go for advice?

Usually your Principal Advisor will be able to help if you have any questions regarding the principles and values or the contents of this Code.

If you are unsure whether your conduct or proposed conduct, or conduct of another ministerial staff member, is in conflict with the Code, you should seek advice from your Principal Advisor before allowing that conduct to continue. If this is not practical or comfortable for you, you may also wish to contact the HR Manager, Ministerial Services Branch for interpretation of possible breaches of conduct under the Code.

You may also seek advice from the Integrity Commissioner on conflict of interest issues or other integrity issues.

Who decides if a breach of the Code has occurred?

The Director-General, Department of the Premier and Cabinet or his/her delegate will assess whether a ministerial staff member's conduct, while on or off duty, is right and proper in terms of this Code.

Within this framework, appropriateness of conduct is determined with reference to the expectations of the ministerial office, the government, the wider community and the provisions of the Code.

It is expected that ministerial staff members will not only meet the minimum standards of conduct required in fulfilling their obligations under this Code, but will strive to achieve, and encourage others to achieve, the highest standards of conduct possible.

Principles and Values

Principle 1 – Acting honestly, fairly and in the public interest

Ethics Values (Integrity)

A ministerial staff member:

- is committed to the highest ethical standards
- shall 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
- shall demonstrate respect for all persons, including towards other staff members, clients and the general public
- shall seek to achieve excellence in service delivery
- shall exercise proper diligence, care and attention
- is committed to honest, fair and respectful engagement with the community
- shall act responsibly in performing official duties.

Required standards of conduct

- Act honestly and with integrity in the course of your employment.
- Exercise proper diligence, care and attention in the performance of your duties.
- Treat with respect and courtesy all those with whom you have contact in the course of your employment and recognise that others have the right to hold views which may differ from your own.
- Ensure your conduct reflects our commitment to a workplace that is inclusive and free from harassment.
- Actively discourage any form of harassment or unlawful discrimination

Refer to: [Anti-Discrimination Act 1991](#) and Federal Human Rights legislation and the Ministerial *Discrimination and Harassment in the Workplace* policy.

- Avoid offensive, abusive and discriminatory language and behaviour.
- Treat all people with dignity, courtesy, honesty, fairness and respect at all times.
- Respect and be sensitive to an individual's cultural and ethnic background.
- Treat all people equitably and consistently and demonstrate the principles of procedural fairness and natural justice when making decisions.
- Avoid bias, favouritism and discrimination in policy formulation and implementation.
- Ensure that personal, religious or professional interests do not improperly affect your official capacity.
- Base your decisions and other actions on thorough and dispassionate analyses.

- Deliver services that are fair, courteous and effective.
- Disclose, and take reasonable steps to avoid any conflict of interests (real or apparent) in connection with your employment, noting that you are required to provide your Minister with a [Declaration of Interests](#). The [Ministerial and Other Office Holder Staff Act 2010](#) and the [Declaration of Interests directive](#) outline your obligations in this regard.

Conflicts of interest can cover the full spectrum of interests and are not restricted to pecuniary interests. Many conflicts of interests are criminal offences.

Conflicts of interest which are criminal offences, include:

- **Bribery** - the acceptance of money by a ministerial staff member for special favours;
- **Influence peddling** – attempts by ministerial staff member to influence decisions in favour of a third party in order to secure financial gain;
- **Improper use of official information** – provision of inside information for personal advantage; and
- **Insider trading with official financial transactions** – where ministerial staff members may stand to make personal gain if they make certain decisions.

Refer to: s 3.10 of the [Queensland Ministerial Handbook](#)- Interactive Gambling (Player Protection – disqualified Persons) Amendment Regulation (No 1) 2000

- Actively participate with your Minister in developing and implementing resolution strategies for any conflict of interest.
- Ensure that any conflict of interest is resolved in the public interest.
- Divest 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 any related persons, or to close associates.
- Observe the procedures set out in the Public Service Commission Information Sheet on [Public Sector Employees Contesting Elections](#) if standing for elected political office.
- Recognise the importance to ministerial staff members of personal and family commitments and obligations outside the workplace.
- Demonstrate leadership in the performance of your duties. Principal Advisors who manage the work of other ministerial staff members have further important responsibilities –
 - set an example of ethical conduct, treating all staff fairly and equitably, with consistency and respect.
 - encourage and promote ethical behaviour among ministerial staff members.
 - maintain open, honest and thorough communication with and among staff members.

- ensure that the demands made on staff members are reasonable in the circumstances, and that health and safety requirements are always met.
- ensure ministerial staff members understand the performance standards expected of them.
- support staff's professional development.
- respect divergent thinking, different ideas and working styles.
- Take reasonable steps to ensure the safety, health and welfare in the workplace of yourself as well as your co-workers and clients.

Refer to: [Workplace Health and Safety Act 2011](#).

- Provide testimonial and referee reports using official stationary only when you are acting in an official capacity (i.e. commenting on the work performance of a current or former ministerial staff member with whose work you are familiar). Testimonial and referee reports concerning personal friends or family members are provided in a private capacity only.

Principle 2 – Ensuring the effective, efficient and appropriate use of public resources

Ethics Values (Accountability and transparency)

In performing official duties, a ministerial staff member shall:

- use public resources in an effective and accountable manner
- accept and value their duty to manage public resources effectively, efficiently and economically
- ensure that resources are not wasted, abused, or used improperly or extravagantly
- seek to achieve high standards of public administration
- continuously improve performance
- manage information as openly as practicable within the legal framework.

Required standards of conduct

- Use Queensland Government resources for the effective conduct of public business in a proper manner. Queensland Government resources are not to be subject to wasteful or extravagant use, and due economy is to be observed at all times.
- Be scrupulous in ensuring the legitimacy and accuracy of any claim for entitlements.
- Not use official resources for party political purposes. Avoid anything which might reasonably lead to the criticism that people paid from public funds are being used for party political purposes.
- Aspire to the highest standards of excellence and be prepared to take ownership of and responsibility for your actions and decisions.
- Maintain and develop professional skills and knowledge.

- Ensure your personal use of Government email, internet and telecommunications systems (includes mobile phones, blackberrys, iPhones, iPods and iPads) is limited and occasional.
- Not misuse the ministerial electronic communication systems to access, create, store, copy, retrieve or distribute offensive material.
- Ensure proper use of official information while complying with transparency requirements of the [Right to Information Act 2009](#).
- Not misuse personal information and ensure the lawful collection and handling of personal information in accordance with the [Information Privacy Act 2009](#).
- Treat official information with care and use it only for the purpose for which it was collected.
- Store official information securely and limit access to those persons requiring it for legitimate purposes.
- Responsibly utilise human assets such as corporate knowledge and intellectual property, as public resources.

Principle 3 – Interacting with public service employees respectfully, collaboratively and with integrity

Ethics Value (Commitment to the system of government)

A ministerial staff member shall accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.

Required standards of conduct

- Not direct, or attempt to direct, a public service employee unless you are acting under the express direction or expressly on behalf of a person with authority to direct a public service employee.
- Not ask or direct a public service employee to take any action which would be inconsistent with that person's duties and obligations under the [Public Service Act 2008](#) or under the [Public Sector Ethics Act 1994](#).
- Recognise that executive decisions are the preserve of Ministers and public servants and not ministerial staff members acting in their own right.
- Facilitate accurate advice and direct and effective communication between the Minister's department and the Minister. Respect the protocols established to guide these relationships and ensure the prompt handling of paperwork and advice.

Refer to: [Premier's Communiqué](#) "Interaction between ministerial staff and public servants"

- Not knowingly or intentionally encourage or induce a public official by your decisions, directions or conduct to breach the law, parliamentary obligations, official standards, policies or procedures or guidelines or fail to comply with an applicable code of conduct.

Principle 4 – Observing all laws relevant to the staff member’s employment

Ethics Value (Commitment to the system of government)

A ministerial staff member:

- shall accept and value their duty to uphold the system of government and the laws of the state, commonwealth and local governments
- shall observe the conventions of Cabinet government and Queensland’s Westminster system

Required standards of conduct

- Comply with any authorised and reasonable direction received in the course of your employment.

You are always entitled to seek clarification of a lawful direction and to challenge it if you believe it is either unlawful or unreasonable. Such matters should be addressed promptly with the person issuing the direction, or through their manager.

You should do nothing deliberate to delay or prevent the implementation of a lawful instruction and you will generally be required to carry out the instruction pending the outcome of your objection unless there is a serious risk to health and safety, to the Government’s reputation or to the public interest.

- Comply with all applicable Australian laws.
- Observe the caretaker conventions when a Queensland state election is called.
- Adhere to the procedures and conventions for the operation of the Queensland Cabinet.
- Ensure the ongoing confidentiality of Cabinet and related records are maintained.

Refer to: [Queensland Cabinet Handbook](#)

- Declare to your Minister in writing, all hospitality, gifts and sponsored travel received in association with your employment. All hospitality is to be declared upon receipt of any invitation. Gifts and sponsored travel received in association with your employment shall be declared within a reasonable time.

Refer to: [s4.7.3 of the Queensland Ministerial Handbook](#).

- Manage gifts, benefits and/or hospitality in accordance with the Queensland Ministerial Handbook.

Refer to: [s3.3 “Gifts - received”](#) and [s4.7 “Hospitality and Official Functions”](#) of the [Queensland Ministerial Handbook](#).

- Have no involvement in outside paid employment or in the daily work of any business, or retain a directorship of a company, without the written agreement of your Minister.

- Not have any lobbying contact with a third-party lobbyist unless they are on the *Lobbyists Register* maintained by the Integrity Commissioner. If they are, they will have to tell you who they are representing, the issue they want to raise, the reason for approaching you and whether they are a *former senior government representative*. The *Integrity Act 2009* and *Lobbyists Code of Conduct* outline the regulation of lobbying activity.
- Comply with post separation employment restrictions and ensure that you will not:
 - have business meetings with a Queensland Government representative on any matter with which you had official dealings within your last eighteen months, for a period of eighteen months after ceasing ministerial employment
 - disclose confidential information in breach of your contract of employment
 - undertake lobbying activities for a third party on matters with which you had official dealings within your last two years of ministerial employment, for a period of two years after you cease ministerial employment.
- Take care in dealing with business contacts to abide by probity requirements at all times and not hold business meetings with the following former public officials:
 - persons who have ceased to hold office as a Minister (within the last two years) on matters that they dealt with in their last two years in office
 - persons who have ceased to hold office as an Assistant Minister (within the last eighteen months) on matters they dealt with in their last two years in office
 - persons who have ceased employment as senior departmental staff or ministerial staff members (within the last eighteen months) on matters they dealt with in their last eighteen months of public sector employment.

Principle 5 – Ensuring the staff member’s personal conduct does not reflect adversely on the reputation of his or her employing member

Ethics Values (Integrity)

A ministerial staff member:

- shall not engage in behaviour or make comment that adversely affects or tends to adversely affect the Minister’s reputation
- shall ensure their individual actions or conduct are consistent with maintaining and enhancing public confidence in the integrity of the government
- shall not engage in behaviour that is improper, disgraceful or unbecoming or that shows unfitness to continue as a ministerial staff member.

Required standards of conduct

- Maintain appropriate confidentiality about your dealings with your Minister, other Ministers, Members of Parliament, other ministerial staff members, and Queensland public sector and Parliamentary Service employees.
- Continue to respect the confidentiality of official information when you leave ministerial employment.
- Not knowingly or intentionally provide false or misleading information in response to a request for information that is made for official purposes in connection with your employment.

- Not make improper use of your position or access information to gain or seek to gain a benefit or advantage for yourself or any other person.
- Not ask for or encourage the offer of any gift or benefit in connection with the performance of your official duties.
- Be aware of the provisions of the *Criminal Code* and the *Crime and Misconduct Act 2001* in relation to secret commissions (“kickbacks” and “gifts”) and official misconduct. Asking for and/or accepting money, gifts or other benefits may amount to criminal conduct where you compromise your official position.
- Not allow the consumption of alcohol or other drugs to adversely affect your work performance or official conduct and abstain from the use of illegal drugs whether on duty or not.
- Ensure your standard of attire is clean, tidy and appropriate to your work role and environment.
- Be aware of the importance of your personal hygiene in the workplace and its impact on colleagues and clients.

Principle 6 – Complying with any code of conduct that applies to the staff member

Ethics Value (Commitment to the system of government)

A ministerial staff member shall accept and value their duty to uphold desired standards of ethical conduct in the workplace.

Required standards of conduct

- Be familiar with this code upon commencement of your employment.
- Ensure the Code’s provisions are observed during the course of your employment.
- Comply with all applicable codes of conduct, policies and directives relevant to your employment as a ministerial staff member.
- Make yourself aware of the Codes of Conduct which bind Queensland Public Sector employees.

GLOSSARY

TERM

DESCRIPTION

Conflict of Interest

involves a conflict between a public officials duties and responsibilities in serving the public interest, and the public official's private interests. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage – whether Conflicts of interest may be actual, or be perceived to exist, or potentially exist at some time in the future.

Actual conflict of interest

involves a direct conflict between a public official's current duties and responsibilities and existing private interests.

Perceived or apparent conflict of interest

can exist where it could be perceived, or appears, that a public official's private interests could improperly influence the performance of their duties – whether or not this is in fact the case.

Potential conflict of interest

arises where a public official has private interests that could conflict with their official duties in the future.

Pecuniary Interests

means interests involving an actual or potential financial gain or loss.

Non-Pecuniary Interests

means interests that do not have a financial component but may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias your judgement or decisions.

Divest

The selling or relinquishing of interests to ensure there is no conflict with your public duty. It is not appropriate to sell or relinquish interests to a spouse, partner, close family member or dependents.

Gifts and benefits

(a) the transfer of property or other benefit -
(i) without recompense; or
(ii) for a consideration substantially less than full consideration; or
(b) a loan of property made on a permanent, or an indefinite, basis;
received or given by an official when they are acting in their official capacity.
Gifts and/or benefits include tangible items of lasting value and intangible items of no lasting value (including hospitality).

Workplace Harassment

repeated behaviour, other than behaviour amounting to sexual harassment, by a staff member of a Ministerial Office that –

- is unwelcome and unsolicited; and the person considers to be offensive, intimidating, humiliating or threatening; and
- a reasonable person would consider to be offensive, intimidating, humiliating or threatening; and
- is not reasonable management action taken in a reasonable way in connection with the person's employment.

Sexual Harassment

any behaviour where a person –

- subjects another person to an unsolicited act of physical intimacy;
- makes unsolicited demands or requests for sexual favours;
- makes a remark with sexual connotations relating to the other person; or
- engages in any other conduct of a sexual nature in relation to the other person,

where the conduct is done –

- with the intention of offending, humiliating or intimidating the other person; or
- where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Lobbyist

an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity for a third party client.

Former senior government representative

any person who is was one of the following people -

- the Premier or another Minister
- an Assistant Minister;
- a councillor;
- a public sector officer, who was a chief executive, senior executive or senior executive equivalent;
- a ministerial staff member;
- an Assistant Minister's staff member;

and is no longer a government representative.

**Procedural Fairness
(natural justice)**

requires that:

- a person whose interests will be adversely affected by a decision should be given adequate time and a fair and reasonable opportunity to be heard and to hear the case made against them (the hearing rule);
- the decision maker be unbiased (the bias rule);

- the decisions be made on findings of fact which are based on logically probative material (the no evidence rule);

Public Resources

includes government premises, money, credit cards, goods, services, vehicles, office equipment, official records (including electronic records), and telecommunications and information technology applications.

My name is _____. I hereby certify that I have read and understand my obligations under the Code of Conduct Ministerial Staff Members.

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Please forward to
The HR Manager
Ministerial Services
Department of the Premier and Cabinet
Level 1, Executive Building
100 George Street