



QUEENSLAND  
OMBUDSMAN



# Practical ethics for state government

RESOURCE

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# Our role

Our role is established under these three acts:

- *Ombudsman Act 2001*
  - Under the Ombudsman Act, the Office of the Queensland Ombudsman investigates complaints about the actions and decisions of state government departments and agencies (including state schools and TAFE), local governments and public universities. Our complaints assessment and investigation service is free and independent.
  - We give people a timely, effective and independent way to have administrative actions of agencies investigated.
  - We improve the quality of decision-making and administrative practice in government agencies.
- *Public Interest Disclosure Act 2010*
  - We review the management of public interest disclosures, provide education and advice to agencies as the oversight agency.
- *Inspector of Detention Services Act 2022*
  - We promote the humane treatment of detainees and the prevention of harm through reviews, inspections and independent reporting.

## Terminology

In this resource, we use the word 'agency' to describe all of the Queensland state government departments, local councils, public universities and government authorities that we can investigate.

## Referenced legislation

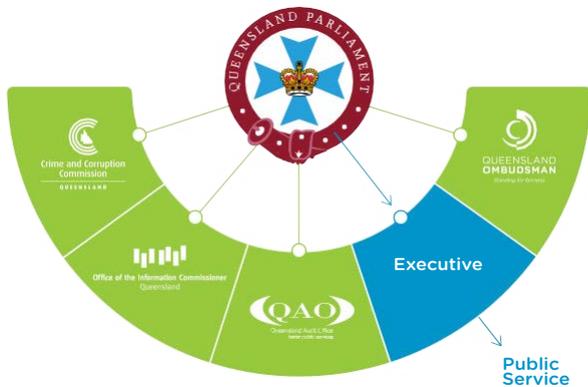
### Queensland

*Public Interest Disclosure Act 2010*

*Public Sector Act 2022*

*Public Sector Ethics Act 1994*

# Queensland's ethics framework



## Public Sector Ethics Act

Public offices are created to serve the community. The community expects that officers in the public service will not only act legally, but also meet the highest ethical standards when carrying out their duties.

## Principles and values

The *Public Sector Ethics Act 1994* (PSEA) governs ethics and conduct in the Queensland Public Service.

It contains four principles fundamental to good public administration:

1. Integrity and impartiality – being honest, fair and respectful and ensuring decisions are unprejudiced, unbiased and just
2. Promoting the public good – delivering the programs and services that benefit the people of Queensland
3. Commitment to the system of government – respecting the government and its institutions, and upholding the law
4. Accountability and transparency – taking responsible actions and decisions that can be explained and easily understood.

The PSEA also features a range of 'ethical values' that describe behaviours that demonstrate each of the four ethics principles.

The principles and values are equally important and provide overarching guidance for public officers on ethical conduct in the public sector.

While the ethics principles and values are not legally enforceable, they are intended to provide the basis for codes of conduct for public service agencies and entities.

The four ethics principles are listed in Appendix A

## Codes of conduct

### Public service agencies

There is one code of conduct covering all public service agencies in Queensland.

The Queensland Public Service Code of Conduct 2011 (QPS code) applies to employees of Queensland Government agencies. For the purposes of the Code of Conduct, agencies are departments, TAFE Queensland, court or tribunal administrative offices and entities prescribed by regulation.

### Public sector entities

Each public sector entity must have its own approved code.

This includes local councils, public universities, and any entity established under an Act for a public, state, or local government purpose.

### Contents of codes

Under the PSEA, a code may contain anything useful or necessary to achieve its purpose.

A code may contain information, guidelines, examples and explanatory notes about

the application and operation of the ethics principles and values and standards of conduct. In particular, a code may contain standards of conduct that must be complied with by public officers.

## Compliance with codes

Codes of conduct apply to agencies, entities and public officers performing their official functions.

Disciplinary action for contravention of the approved code by a public officer should be dealt with according to the relevant disciplinary legislation. For example, the *Public Sector Act 2022* for public service employees and the *Local Government Act 2009* and the *Local Government Regulation 2012* for local government officers.

## Accessibility of codes

Each approved code must be available to staff and the public.

The PSEA requires each agency or entity to ensure its officers have reasonable access to the approved code that applies to them. It also requires each agency or entity to publish and keep available for inspection by any person copies of the approved code.

The QPS code is available on the Department of Premier and Cabinet, Public Service Commission and departmental websites.

## Standards of practice

The PSEA provides that a public service agency may prepare a standard of practice. An agency's standard of practice applies additional standards of conduct to its officers. It must have regard to the ethics principles and values and support the standards of conduct in the QPS code.

## Education and training

Public officers should have access to regular education and training about ethics.

The PSEA requires agencies and entities to provide education and training on ethics to public officers. For public service agencies, the education and training must be part of an induction program for officers and at regular intervals during their employment.

The education and training must cover the operation of the PSEA, the application of ethics principles and obligations to public officers, the contents of the approved code of conduct and the rights and obligations of the officers when the approved code is contravened.

## Procedures and practices

The PSEA requires that the administrative procedures and practices of each agency or entity should have proper regard to the PSEA, ethics principles and values and the approved code.

## Reporting

Each public service agency and public sector entity must include details in their annual report on the implementation of their approved code and action taken on education and training and procedures and practices.

# Queensland Public Service Code of Conduct 2011

In January 2011, the Premier approved a single code of conduct for public service agencies – the QPS code. This replaced all previous agency codes.

## Purpose

The QPS code is there to ensure the public service demonstrates the highest ethical standards consistent with a robust system of public sector integrity and accountability.

According to the PSEA, the purpose of a code is to provide standards of conduct for public service agencies/entities and officials consistent with the ethics principles and values.

The QPS code has a dual purpose:

1. **educational and aspirational**, outlining the standards of conduct expected, facilitating ethics education and encouraging officials to attain those standards.
2. **regulatory or disciplinary**, by setting minimum standards of conduct, with consequences for failing to comply with those standards.

## Application

### Who does the QPS code apply to?

The QPS code applies to employees of public service agencies (departments, TAFE Queensland, court or tribunal administrative offices and entities prescribed by regulation).

All employees are subject to the code. The QPS code also applies to volunteers, students, contractors, consultants and any other person who works for a public service agency.

### When does the QPS code apply?

The code applies to agencies and employees in performing their official functions.

This position is reflected in the QPS code where it provides that it applies at all times when we are performing official duties.

The code goes on to clarify that official duties include representing the government at conferences, training events, business trips and attending work-related social events.

## Operation

### How does the QPS code work?

The QPS code describes how public officials will conduct themselves while delivering services to the Queensland community.

The code contains the four ethics principles and supporting values. It also includes standards of conduct for each ethics principle.

The standards of conduct help understand how the principles and values are put into practice. They are not intended to cover every possible situation. In upholding the code, officials should commit to uphold the intention and spirit of the principles and values.

The code is supported by legislation, awards, certified agreements, directives, whole of government policies and standards and agency policies and procedures.

## Special obligations

The QPS code identifies particular obligations and responsibilities for managers and staff.

### Chief executives and senior executive officers

Senior managers have a responsibility to demonstrate and uphold the ethics principles and values.

They are also expected to promote an organisational culture that values high ethical standards, openly demonstrate their commitment to ethics by communicating the importance of ethical decision-making and promote ethical behaviour in their daily actions.

### Managers and supervisors

Managers and supervisors set the tone for the conduct of all employees and have a responsibility to promote and model the code.

They should make sure employees understand the code and any other relevant legislation, delegations, policies or other information required to satisfactorily perform their duties. They should ensure employees have the appropriate development and training to allow them to perform their duties.

Managers and supervisors should support employees who report conduct inconsistent with the code, and manage those reports in a fair, transparent and consistent manner.

### Employees

All employees have a personal responsibility to uphold the code and demonstrate the ethics principles and values in the way they perform their duties. Employees need to identify and report conduct inconsistent with the code.

## Standards of conduct

The QPS code contains 58 standards of conduct. The standards are linked to each of the principles and values.

Public service officers must comply with the standards. The standards are enforceable through the *Public Sector Act 2022* (PSEA).

One of the grounds for disciplinary action under the Act is when an officer has contravened, without reasonable excuse, a standard of conduct applying to the employee under an approved code of conduct under the PSEA.

The code's specified standards are not exhaustive. Appendix A outlines all standards of conduct in the QPS code.

However, one standard of conduct worthy of special mention is ethical decision-making.

# Ethical decision-making

## What does the QPS code say?

The QPS code requires that decision-making is ethical.

This standard of conduct is part of the principle of integrity and impartiality and the commitment to the highest ethical standards in carrying out our responsibilities. However, the code does not define 'ethical decision-making'.

## What is ethical decision-making?

The ordinary definition of 'ethics' is a system of moral principles by which actions and decisions may be judged as 'good' or 'bad' or right or wrong.

According to the PSEA, four ethics principles are fundamental to good public administration. These principles and values should be used to evaluate whether decision-making is ethical under the code.

For the purposes of the code, ethical decision-making is making the right decision consistent with the PSEA principles and values.

## A guiding approach to ethical decision-making

Ethical decision-making may be particularly difficult where there is conflict between competing obligations or between duties and self-interest.

A sound guiding approach must be used to consider the issues and arrive at the right decision.

Key failures in ethical decision-making include not considering:

- relevant facts and circumstances
- relevant principles or values
- standards of conduct
- laws and policies
- reliable advice
- changes to past or regular practice.

A recommended guiding approach to ethical decision-making includes the following steps:

1. Identify the subject matter involved.
2. Identify the ethical framework relating to the subject matter (e.g. principles or values and standards of conduct).
3. Identify the key ethical issues.
4. Consider the issues by looking at the spirit and intention of the principles or values and any relevant standards of conduct, laws and policies.
5. Consider relevant and informed advice from reliable and knowledgeable sources.
6. Consider options and consequences.
7. Make a proposed decision, including reasons.
8. Reflect on whether a proposed decision meets a commitment to the highest ethical standards (is it lawful, reasonable, defensible, well explained and will it withstand scrutiny from external accountability agencies and public perception).
9. Make a final decision.
10. Record the decision and reasons.

## Decision-making hotspots

### Recordkeeping

The QPS code requires compliance with law and agency policies.

Public agencies are required by the *Public Records Act 2002* to make and keep, full and accurate records of their official activities, including decision-making.

Comprehensive, timely and accessible recordkeeping is central to good decision-making.

### Conflicts of interest

The QPS code requires that agency officers disclose, manage and resolve conflicts of interest. A conflict of interest involves a conflict between a duty to serve the public interest and personal interests.

Conflicts may arise from a range of factors, including personal relationships, other employment and financial or property interests, gifts, benefits and hospitality.

The code provides that gifts, benefits and hospitality should be managed in accordance with agency policy.

Conflicts of interest may be direct or perceived. The key is to be aware that personal interests could now or in the future be seen as influencing the performance of duties and to disclose such a conflict as soon as possible so it can be considered and managed.

A conflict of interest must be resolved in the public interest to ensure the integrity of the decision-making process.

### **Natural justice**

Natural justice is about giving a person who may be affected by a decision a fair hearing before the decision is made.

The QPS code requires that agency officers demonstrate the principles of natural justice when making decisions. Natural justice is presumed to apply to administrative decisions unless contrary to legislation.

The requirements of a fair hearing are flexible and are about practical fairness. They may vary depending on the legislation, subject matter, particular circumstances, potential consequences and seriousness, urgency and volume of decision-making.

Generally, a fair hearing involves disclosing the critical issues and adverse information to the affected person, giving the affected person a reasonable opportunity to respond, and an impartial decision-maker.

### **Discretion**

Discretion is a decision-making process where the decision-maker has latitude or choice as to the decision. It is usually indicated by the use of the word 'may' or similar expression.

The QPS code does not specifically refer to exercising discretion in decision-making. However, it requires that the exercise of lawful powers and authority with care and for the purpose for which these were granted.

Discretion should be exercised reasonably and the nature and scope of the discretion depends on the statutory provision and/or policy.

Lawful and reasonable policy is a relevant consideration in exercising discretion.

Policy should not be inflexibly applied and the merits of the case and particular circumstances should not be obstructed by a policy. Policies must be available to the public.

In exercising discretion, the decision-maker must consider and give appropriate weight to relevant matters or particular circumstances and exclude irrelevant matters. The decision-maker must make up their own mind after individual assessment, and should not be subjected to improper influence or direction.

### **Communication**

Good communication of decisions is essential to fairness, openness and accountability.

The QPS code does not specifically refer to communicating decisions. However, it requires that we provide accurate and impartial advice to all clients, whether members of the public, public service agencies, or other levels of government.

Decision-makers should provide meaningful and accurate reasons and rights of review or appeal for decisions affecting people.

Legislation or agency policy may require reasons for decisions and allow rights of review or appeal to be given. It is considered to be good administrative practice to do so, and the affected person is entitled to know so they can determine whether to seek a review and if so the grounds of review.

# Appendix A

## Principle 1 – Integrity and impartiality

### 1.1 Commit to the highest ethical standards

- Ensure all advice is objective, independent, apolitical and impartial.
- Ensure decision-making is ethical.
- Engage with the community in a consultative, respectful and fair manner.
- Report suspected wrongdoing, including conduct inconsistent with the code.

### 1.2 Manage conflicts of interest

- Always disclose a personal interest that could now or in the future be seen as influencing the performance of duties.
- Actively participate in developing and implementing resolution strategies for any conflict of interest.
- Ensure that any conflict of interest is resolved in the public interest.

### 1.3 Contribute to public discussion in an appropriate manner

- Unless authorised, do not comment to the media on government policy.
- When providing factual information to the public on government policy as part of official duties, ensure information is appropriately authorised and properly represents government policy and administration in its intended manner and spirit.
- Take reasonable steps to ensure any comment made on community and social issues will be understood as representing our personal views (in our private capacity) and not those of government.
- Maintain the confidentiality of any information not publicly available.
- Be aware that personal comments about a public issue may compromise the capacity to perform duties in an independent, unbiased manner.

### 1.4 Manage participation in external organisations

- Members of a political party should be aware that participating in activities in the public arena gives rise to a perception of conflict of interest. Where this situation arises, officers should declare and manage activities in accordance with their agency's policies.
- If speaking publicly in the capacity of an elected workplace representative or official of a trade union or professional organisation, make it clear that comments are made only on behalf of that organisation.
- Officers will comply with appropriate laws of privacy, confidentiality and information management.

### 1.5 Demonstrate a high standard of workplace behaviour and personal conduct

- Treat co-workers, clients and members of the public with courtesy and respect, be appropriate in relationships with them and recognise that others have the right to hold different views.
- Ensure conduct reflects our commitment to a workplace that is inclusive and free from harassment.
- Ensure fitness for duty, and the safety, health and welfare of ourselves and others in the workplace, whether co-workers or clients.
- Ensure private conduct maintains the integrity of the public service and the ability to perform duties.
- Comply with legislative and/or policy obligations to report employee criminal charges and convictions.

## Principle 2 – Promoting the public good

### 2.1 Commit to excellence in service delivery

- Deliver services fairly, courteously, effectively and ensure resources are used efficiently and economically.
- Help all members of the community, particularly people with disabilities, people who speak languages other than English and people who may find it difficult to access government services.
- Treat complaints from clients and the community seriously and respond to constructive feedback as an opportunity for improvement.

### 2.2 Ensure appropriate community engagement

- Listen and respond to issues and concerns raised by individuals or communities.
- Consult with the public to assist with the development of public policy.
- Assist in raising community awareness about public issues and policies.

### 2.3 Work as an integrated service

- Share information across Queensland public service agencies, where permitted by law to enhance the seamless delivery of services.
- Share common-use assets, accommodation and infrastructure within Queensland Public Service agencies to generate economies and efficiencies.
- Collectively plan and deliver related programs and services within Queensland public service agencies.
- Work cohesively at the local, regional, state and national levels to provide integrated services.

## Principle 3 – Commitment to the system of government

### 3.1 Commit to our roles in the public service

- Accept that the elected government has the right to determine policy and priorities.
- Be responsive to the government of the day and implement decisions and policies professionally and impartially.
- Comply with Australian, State and local government laws.
- Comply with all relevant awards, certified agreements, subsidiary agreements, directives, and whole of government policies and standards.
- Adhere to the agency's policies, organisational values and organisational documents.

### 3.2 Maintain appropriate relationships with ministerial staff

- If providing advice to ministers, ensure interactions are positive and productive when engaging with ministerial staff.
- If directed by ministerial staff, bring this to the attention of the agency's senior management.

### 3.3 Ensure proper communication with members of parliament

- In communicating with members of parliament as private citizens, maintain the confidentiality of information that is not publicly available.

## Principle 4 – Accountability and transparency

### 4.1 Ensure diligence in public administration

- Apply due care and provide accurate and impartial advice to all clients whether members of the public, public service agencies, or other levels of government.
- Treat all people equitably and consistently and demonstrate the principles of procedural fairness and natural justice when making decisions.
- Exercise lawful powers and authority with care and for the purpose for which these were granted.
- Comply with all reasonable and lawful instructions, despite personal opinion of a given policy direction.

### 4.2 Ensure transparency in business dealings

- Ensure business meetings with former ministers, parliamentary secretaries or senior government representatives are not on matters those persons had official dealings with in their recent previous employment in accordance with government policy.
- Ensure any engagement with lobbyists is properly recorded.
- Manage gifts, benefits or hospitality in accordance with agency policies.

### 4.3 Ensure appropriate use of official resources, public property and facilities

- Be economical and avoid waste and extravagance in the use of public resources for proper purposes.
- Use any public resource in accordance with official policies.

- Purchase, manage and care for public resources in accordance with official policies.
- Responsibly use human assets such as corporate knowledge and intellectual property, as public resources.

### 4.4 Ensure appropriate use and disclosure of official information

- Ensure the lawful collection and handling of personal information.
- Treat official information with care and use it only for the purpose for which it was collected or authorised.
- Store official information securely, and limit access to people who require it for legitimate purposes.
- Do not use confidential or privileged information to further personal interests.
- Continue to respect the confidentiality of official information after leaving public service employment.

### 4.5 Commit to innovation and continuous performance improvement

- Maintain and develop professional skills and knowledge.
- In consultation with managers, take reasonable steps to identify and apply for development opportunities relevant to our current roles and responsibilities.
- Actively participate in employee performance management processes, including induction, performance planning and development.
- Actively contribute to developing and improving business planning and processes, including innovative ways of delivering services.

## Public

This document is released to the public space. It is approved for public distribution and readership.

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We acknowledge the Traditional Owners of the land throughout Queensland and their continuing connection to land, culture and community. We pay our respects to Elders past and present.

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