



# Public Sector Ethics Act 1994

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Queensland

# Public Sector Ethics Act 1994

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# Public Sector Ethics Act 1994

## An Act about public sector ethics and conduct

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Public Sector Ethics Act 1994*.

#### 2 Definitions

The dictionary in the schedule defines particular words used in this Act.

#### 3 Act binds all persons

This Act binds all persons, including the State.

### Part 2 Ethics principles

#### 4 Declaration of ethics principles

(1) The ethics principles mentioned in subsection (2) are declared to be fundamental to good public administration.

(2) The *ethics principles* are—

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

## **Part 3 Ethics values**

### **Division 1 Nature, purpose and application of ethics values**

#### **5 Nature, purpose and application of values**

- (1) In recognition of the ethics principles, ethics values are to apply to public service agencies, public sector entities and public officials.
- (2) The values mentioned in division 2 are the *ethics values* for public service agencies, public sector entities and public officials.
- (3) The ethics values are intended to provide the basis for codes of conduct for public service agencies, public sector entities and public officials and are not of themselves legally enforceable.

### **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

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- (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.



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## **Part 4**                      **Codes of conduct for public officials**

### **Division 1**                **Codes of conduct generally**

#### **10**      **Nature and purpose of codes**

- (1) In recognition of the ethics principles and values for public service agencies, public sector entities and public officials, codes of conduct are to apply to those agencies, entities and officials in performing their official functions.
- (2) The purpose of a code is to provide standards of conduct for public service agencies, public sector entities and public officials consistent with the ethics principles and values.

### **Division 2**                **Public service agencies**

#### **Subdivision 1**          **Code of conduct for public service agencies**

#### **11**      **Application of code**

- (1) The code of conduct for public service agencies—
  - (a) must relate to all public service agencies; and
  - (b) applies to all public officials of a public service agency; and
  - (c) may apply to other persons who are not public officials of a public service agency who have a contract or other agreement with the public service agency.

*Examples for paragraph (c)—*

- contractors with the agency and their employees
- volunteers with the agency
- students on work experience with the agency

- (2) The code may make different provision, consistent with the ethics values, for different types of—
  - (a) public officials; or
  - (b) persons mentioned in subsection (1)(c).

## **12 Contents of code**

- (1) The code of conduct for public service agencies may contain anything the commission chief executive considers necessary or useful for achieving the purpose of a code of conduct.
- (2) In particular, the code may provide conduct obligations public officials must comply with.
- (3) The code also may contain—
  - (a) information explaining the purpose of—
    - (i) the ethics principles and values generally or a particular ethics principle or value; or
    - (ii) standards of conduct generally or a particular standard of conduct; and
  - (b) information explaining the object intended to be achieved by the application of—
    - (i) the ethics principles and values generally or a particular ethics principle or value; or
    - (ii) standards of conduct generally or a particular standard of conduct; and
  - (c) guidelines about the application of an ethics principle, value or standard of conduct; and
  - (d) examples of the operation of an ethics principle, value or standard of conduct; and
  - (e) explanatory notes about an ethics principle, value or standard of conduct; and
  - (f) references to Acts applying to public officials in performing their official functions.

## **12A Preparation of code**

- (1) The commission chief executive must ensure that a code of conduct is prepared for public service agencies.
- (2) The commission chief executive must ensure that reasonable steps are taken to consult about the code with—
  - (a) public service agencies; and
  - (b) public officials to whom the code is to apply; and
  - (c) industrial organisations representing the interests of a public official mentioned in paragraph (b); and
  - (d) other appropriate entities representing the interests of a public official mentioned in paragraph (b).

## **12B Approval of code**

- (1) The Premier may approve a code of conduct for public service agencies prepared under section 12A.
- (2) The Premier may approve the code only if it is accompanied by a written statement by the commission chief executive outlining—
  - (a) the nature and extent of the consultations that took place during the preparation of the code; and
  - (b) the outcome of the consultations.
- (3) In deciding whether to approve the code, the Premier must have regard to the statement mentioned in subsection (2).
- (4) The code can not apply to a public service agency or a public official of the agency until it is approved by the Premier.

## **12C Review of code**

- (1) The commission chief executive must review the code of conduct for public service agencies within 1 year after it is approved under section 12B.
- (2) The commission chief executive must subsequently review the code no later than 2 years after the previous review.

## **Subdivision 2      Standards of practice for public service agencies**

### **12D    Nature and application of a standard of practice**

- (1) A standard of practice applies additional standards of conduct and behaviour to public officials of a particular public service agency.
- (2) A standard of practice must—
  - (a) have regard to the ethics principles and values; and
  - (b) support the standards of conduct in the code of conduct for public service agencies.
- (3) A standard of practice—
  - (a) applies to all public officials of the public service agency; and
  - (b) may apply to other persons who are not public officials of the agency who have a contract or other agreement with the agency.

*Examples for paragraph (b)—*

- contractors with the agency and their employees
  - volunteers with the agency
  - students on work experience with the agency
- (4) A standard of practice for a public service agency may make different provision, consistent with the ethics values, for different types of—
    - (a) public officials of the agency; or
    - (b) persons mentioned in subsection (3)(b).

### **12E    Preparation of standard**

- (1) A public service agency may prepare its own standard of practice.

- (2) The commission chief executive may issue guidelines for the preparation of a standard of practice by a public service agency.
- (3) If a public service agency prepares a standard of practice, the chief executive officer of the agency must ensure that reasonable steps are taken to consult about the standard of practice with—
  - (a) public officials to whom the standard is to apply; and
  - (b) industrial organisations representing the interests of a public official mentioned in paragraph (a); and
  - (c) other appropriate entities representing the interests of a public official mentioned in paragraph (a).

## **12F Approval of standard**

- (1) The commission chief executive may approve a standard of practice for a public service agency.
- (2) The commission chief executive may approve the standard of practice only if it is accompanied by a written statement by the chief executive officer of the public service agency outlining—
  - (a) the nature and extent of the consultations that took place during the preparation of the standard of practice; and
  - (b) the outcome of the consultations.
- (3) In deciding whether to approve the standard of practice, the commission chief executive must have regard to the statement mentioned in subsection (2).
- (4) A standard of practice can not apply to a public service agency or to a public official of an agency until it is approved by the commission chief executive.

## **12G Review of standard**

- (1) The chief executive of the public service agency must review a standard of practice for an agency within 1 year after it is approved.
- (2) The chief executive of the public service agency must subsequently review the standard of practice no later than 2 years after the previous review.

## **Subdivision 3 Public officials to comply with code of conduct and standard of practice**

### **12H Compliance with code and standard of practice**

A public official of a public service agency must comply with the code of conduct for public service agencies and any standard of practice that applies to the official.

## **Subdivision 4 Additional responsibilities of chief executive officers**

### **12I Access to ethics principles and values, and code of conduct**

The chief executive officer of a public service agency must ensure that each public official of the agency and each person mentioned in section 11(1)(c) has reasonable access to a copy of the following—

- (a) the ethics principles and values;
- (b) the standards of conduct stated in the code of conduct for public service agencies that apply to the official or person;
- (c) any standard of practice that applies to the official or person.

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**12J Publication of code of conduct and standards of practice**

- (1) The chief executive officer of a public service agency must publish and keep available for inspection by any person copies of the approved code of conduct for public service agencies and any standard of practice applying to the agency.
- (2) To remove any doubt, it is declared that a reference in this section to a person includes a reference to a member of the public.

**12K Education and training**

- (1) The chief executive officer of a public service agency must ensure that public officials of the agency are given access to appropriate education and training about public sector ethics—
  - (a) as part of an induction program; and
  - (b) at regular intervals during the officials' employment.
- (2) The education and training must include education and training about the following—
  - (a) the operation of this Act;
  - (b) the application of ethics principles and obligations to the public officials;
  - (c) the contents of the approved code of conduct for public service agencies;
  - (d) the rights and obligations of the officials in relation to contravention of—
    - (i) the approved code of conduct for public service agencies; and
    - (ii) any approved standard of practice.

## **12L Procedures and practices of public service agencies**

The chief executive officer of a public service agency must ensure that the administrative procedures and management practices of the agency have proper regard to—

- (a) this Act and, in particular, the ethics principles and values; and
- (b) the approved code of conduct for public service agencies; and
- (c) any standard of practice applying to the agency.

## **12M Reporting**

- (1) The commission chief executive must ensure that each report of the commission under the *Public Service Act 2008*, section 46(1)(fa) includes a statement about the following—
  - (a) the implementation during the reporting period of the code of conduct for public service agencies;
  - (b) details of the action taken during the reporting period to comply with section 12A.
- (2) The chief executive officer of a public service agency must ensure that each annual report of the agency includes a statement about the following—
  - (a) the implementation during the reporting period of the code of conduct for public service agencies and any standard of practice applying to the agency;
  - (b) details of the action taken during the reporting period to comply with sections 12K and 12L.



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## **Division 3                      Public sector entities**

### **Subdivision 1                  Codes of conduct for public sector entities**

#### **13                      Application of codes**

- (1) A code of conduct for a public sector entity—
  - (a) must relate to the particular public sector entity; and
  - (b) applies to all public officials of the entity; and
  - (c) may apply to other persons who are not public officials of the entity who have a contract or other agreement with the entity.

*Examples for paragraph (c)—*

- contractors with the entity and their employees
  - volunteers with the entity
  - students on work experience with the entity
- (2) A code of conduct for a public sector entity may make different provision, consistent with the ethics values, for different types of—
    - (a) public officials; or
    - (b) persons mentioned in subsection (1)(c).

#### **14                      Contents of codes**

- (1) A code of conduct for a public sector entity may contain anything the responsible authority for the entity considers necessary or useful for achieving the purpose of a code of conduct.
- (2) In particular, a code may provide conduct obligations public officials must comply with.
- (3) A code also may contain—
  - (a) information explaining the purpose of—

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- (i) the ethics values generally or a particular ethics value; or
  - (ii) standards of conduct generally or a particular standard of conduct; and
- (b) information explaining the object intended to be achieved by the application of—
  - (i) the ethics values generally or a particular ethics value; or
  - (ii) standards of conduct generally or a particular standard of conduct; and
- (c) guidelines about the application of an ethics principle, value or standard of conduct; and
- (d) examples of the operation of an ethics principle, value or standard of conduct; and
- (e) explanatory notes about an ethics principle, value or standard of conduct; and
- (f) references to Acts applying to public officials in performing their official functions.

## **15 Preparation of codes of conduct**

The chief executive officer of a public sector entity must ensure that a code of conduct is prepared for the entity.

## **16 Consultations in preparation of codes**

- (1) This section applies to the preparation of a code of conduct for a public sector entity.
- (2) The public sector entity's chief executive officer must ensure that reasonable steps are taken to consult about the code with—
  - (a) the public officials to whom the code is to apply; and
  - (b) industrial organisations representing the interests of any of the officials; and

- (c) other appropriate entities representing the interests of any of the officials.

## **17 Approval of codes**

- (1) The responsible authority for a public sector entity may approve a code of conduct prepared under section 15.
- (2) The responsible authority may approve the code of conduct only if it is accompanied by a written statement by the chief executive officer outlining—
  - (a) the nature and extent of the consultations that took place during the preparation of the code; and
  - (b) the outcome of the consultations.
- (3) In deciding whether to approve the code of conduct, the responsible authority must have regard to the statement mentioned in subsection (2).
- (4) The code of conduct can not apply to the public sector entity or to a public official of the entity until it is approved by the responsible authority for the entity.

## **Subdivision 2 Public officials to comply with codes**

### **18 Compliance with codes**

A public official of a public sector entity must comply with the standards of conduct stated in the entity's code of conduct that apply to the official.

### **Subdivision 3      Additional responsibilities of chief executive officers**

#### **19      Access to ethics values and codes of conduct**

The chief executive officer of a public sector entity must ensure that each public official of the entity and each person mentioned in section 13(1)(c) has reasonable access to a copy of the following—

- (a) the ethics principles and values;
- (b) the standards of conduct stated in the entity's code of conduct that apply to the official or person.

#### **20      Publication of codes of conduct**

- (1) The chief executive officer of a public sector entity must publish and keep available for inspection by any person an appropriate number of copies of the entity's approved code of conduct.
- (2) To remove any doubt, it is declared that a reference in this section to a person includes a reference to a member of the public.

#### **21      Education and training**

- (1) The chief executive officer of a public sector entity must ensure that public officials of the entity are given access to appropriate education and training about public sector ethics.
- (2) In particular, the education and training must relate to—
  - (a) the operation of this Act; and
  - (b) the application of ethics principles and obligations to the public officials; and
  - (c) the contents of the entity's approved code of conduct; and

- (d) the rights and obligations of the officials in relation to contraventions of the approved code of conduct.

## **22 Procedures and practices of public sector entities**

The chief executive officer of a public sector entity must ensure that the administrative procedures and management practices of the entity have proper regard to—

- (a) this Act and, in particular, the ethics principles and values; and
- (b) the entity's approved code of conduct.

## **23 Reporting**

The chief executive officer of a public sector entity must ensure that each annual report of the entity includes an implementation statement giving details of the action taken during the reporting period to comply with the following sections—

- section 15 (Preparation of codes of conduct)
- section 21 (Education and training)
- section 22 (Procedures and practices of public sector entities).

# **Part 5 Disciplinary action**

## **23A Application of pt 5**

This part does not apply to a person mentioned in section 11(1)(c) or 13(1)(c).

## **24 Disciplinary action for contravention of code of conduct or standard of practice**

It is the intention of Parliament that any disciplinary action for a contravention of an approved code of conduct or an

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approved standard of practice by a public official should be dealt with under—

- (a) if the official is a public service officer—the *Public Service Act 2008*; or
- (b) if the official is a local government employee—the local government legislation applying to the local government; or
- (c) if the official is not a public service officer or a local government employee but there are disciplinary processes applying to the official—the disciplinary processes; or
- (d) if there are no disciplinary processes applying to the official—the regulations.

## **Part 6                      Miscellaneous**

### **25        Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Part 7                      Transitional provisions for Integrity Reform (Miscellaneous Amendments) Act 2010**

### **26        Codes of conduct for public sector entities**

- (1) This section applies to a code of conduct that, immediately before the commencement, was an approved code of conduct and in force for a continuing public sector entity.
- (2) The code continues in force and is taken to be the approved code of conduct for the continuing public sector entity during the transition period.

(3) In this section—

*commencement* means the commencement of this section.

*continuing public sector entity* means an entity, other than a public service agency, that was a public sector entity immediately before the commencement.

*transition period* means the period—

- (a) starting on the commencement; and
- (b) ending on 1 July 2011.

## **27 Codes of conduct for public service agencies**

(1) This section applies to a code of conduct that, immediately before the commencement, was an approved code of conduct and in force for an entity that is a public service agency on the commencement.

(2) The code continues in force and is taken to be the approved code of conduct for the public service agency during the transition period.

(3) In this section—

*commencement* means the commencement of this section.

*transition period* means the period—

- (a) starting on the commencement; and
- (b) ending on 1 January 2011.

## Schedule Dictionary

### section 2

*approved code of conduct* means—

- (a) for public service agencies—the code of conduct approved under section 12B; or
- (b) for a public sector entity—a code of conduct approved under section 17.

*approved standard of practice* means a standard of practice for a public sector agency approved under section 12F.

*chief executive officer*—

- 1 The *chief executive officer* of a public sector entity is—
  - (a) for the parliamentary service—the clerk of the Parliament; or
  - (b) for a local government—the local government’s chief executive officer; or
  - (c) for a university established under an Act—the vice-chancellor of the university; or
  - (d) for another public sector entity—the person prescribed under a regulation or, if no person is prescribed, the person responsible to the Minister for the management of the entity.
- 2 The *chief executive officer* of a public service agency is—
  - (a) for the administrative office of a court or tribunal—the chief executive of the department in which is administered the legislation under which the court or tribunal is established; or
  - (b) for a department—the chief executive of the department; or
  - (c) for another public service agency—the person prescribed under a regulation or, if no person is



prescribed, the person responsible to the Minister for the management of the agency.

**commission chief executive** means the chief executive of the Public Service Commission under the *Public Service Act 2008*.

**commission of inquiry** means a commission of inquiry under the *Commissions of Inquiry Act 1950*, and includes an inquiry under commission mentioned in section 4(2) of that Act.

**conduct obligation** means an obligation stated in an approved code of conduct.

**ethics principles** see section 4(2).

**ethics values** see section 5(2).

**judicial officer** includes a registrar or deputy registrar of a court or tribunal performing delegated judicial tasks.

**local government legislation** means—

- (a) the following Acts—
  - (i) the *City of Brisbane Act 2010*;
  - (ii) the *Local Government Act 2009*; or
- (b) an Act prescribed under a regulation.

**public official**—

- (a) for a public service agency, means—
  - (i) an officer or employee of the agency; or
  - (ii) a constituent member of the agency, whether holding office by election or selection;
 but does not include a judicial officer; or
- (b) for a public sector entity, means—
  - (i) an officer or employee of the entity; or
  - (ii) a constituent member of the entity, whether holding office by election or selection;

but does not include a local government councillor.

**public sector entity** means any of the following—

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- (a) the parliamentary service;
  - (b) a local government;
  - (c) a university established under an Act;
  - (d) an entity established under an Act or under State or local government authorisation for a public, State or local government purpose;
  - (e) an entity prescribed under a regulation;
- but does not include any of the following—
- (f) a GOC;
  - (g) a corporation owned by a local government, or a subsidiary of a corporation owned by a local government;
  - (h) the following entities under the *Education (General Provisions) Act 2006*—
    - (i) a parents and citizens association;
    - (ii) a non-State school;
    - (iii) an advisory committee;
  - (i) an entity prescribed under a regulation as a public service agency.

***public service agency*** means any of the following—

- (a) a department;
- (b) TAFE Queensland;
- (c) the administrative office of a court or tribunal;
- (d) an entity prescribed under a regulation that is not a public service agency.

***responsible authority***, for a public sector entity, means—

- (a) for the parliamentary service—the Speaker; or
- (b) for a university established under an Act—the council of the university; or
- (c) for a local government—the local government’s chief executive officer; or

- (d) for another public sector entity established under an Act—the Minister administering the Act; or
- (e) for another public sector entity—the Minister administering the entity.

***TAFE Queensland*** means TAFE Queensland established under the *TAFE Queensland Act 2013*, section 5(1).

***tribunal*** means—

- (a) QCAT or another tribunal that is constituted by a person acting judicially; or
- (b) a body or person performing a function under an Act to hear appeals by employees about dismissal from employment, disciplinary action or other unfair treatment; or
- (c) a commission of inquiry.