

# Queensland Competition Authority

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**Code of Conduct**

**For Staff Members**

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*May 2011*

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## **1. INTRODUCTION**

### **1.1 Preamble**

Authority staff members are considered public officials for the purposes of the *Public Sector Ethics Act 1994*. As public officials, staff members make judgements and decisions on a day-to-day basis which can affect regulated entities and their customers, the Members and work colleagues and in which a range of others, including Government and the media, have an interest.

Staff members are often required to exercise judgement and make decisions where there are competing interests, loyalties and priorities. The Authority's reputation is impacted by on the conduct of its staff members in carrying out their duties and on the balance which is struck between these competing interests, loyalties and priorities. Ethical considerations can provide an effective guide for decision making where strict legislative or procedural regulations may be unavailable or inappropriate. This Code of Conduct has therefore been developed to provide guidance in situations where there may be conflicting interests and to ensure consistent ethical standards are adopted.

*Note: Authority Members are also considered public officials for the purposes of the Public Sector Ethics Act 1994 and, as such, are subject to the broad principles outlined in this document. However, as their role differs significantly from those of staff members, a separate Code of Conduct will apply.*

### **1.2 What Are Ethics**

In essence, public sector ethics can be described as the values which staff expected to put into practice, to guide them in the decisions they make, and the behaviours they display in their work as employees in the public sector. Ethics are set principles by which each individuals actions are judged to be good, bad, right or wrong and provide guidance in cases where no specific rules are in place or where matters are genuinely unclear.

### **1.3 Ethics Principles**

The *Public Sector Ethics Act 1994* establishes four ethics principles which are fundamental to good public administration and which form the basis of the Authority's Code of Conduct:

- (a) Integrity and impartiality;
- (b) Promoting the public good;
- (c) Commitment to the system of government; and
- (d) Accountability and transparency.

These principles and the standards of conduct arising from them are separately considered in the following sectors.

## 1.4 Ethical Decision Making

Because it is not possible to have a rule for every situation, there will be occasions where the appropriate course of action is unclear or where rules may appear to conflict. In making ethical decisions in such cases, staff members should consider:

- (a) whether their action would be consistent with their personal standards of right and wrong;
- (b) whether their actions could be perceived as unethical by others in the community;
- (c) what obligations they may be placed under or what expectations may be raised by their actions;
- (d) what the consequences would be of everyone adopting similar ethical standards;
- (e) whether they would be happy to have their decision and action made public; and
- (f) how their actions would be viewed with full hindsight.

The “media test” may also be a useful tool for resolving ethical dilemmas; if a decision and action were reported on the front page of a newspaper, could the staff member easily and confidently explain their actions?

## 1.5 Using this Code

This code applies to all staff employed by the Authority, including staff employed on a short term or casual basis. The Code applies to staff when they are performing official duties including when representing the Authority at conferences, training events, on business trips and attending work-related social events.

### *All staff*

All Authority staff are to take personal responsibility for upholding this Code and demonstrating the principles and values of the *Public Sector Ethics Act 1994* in the performance of their duties.

This Code recognises that any member of staff can demonstrate ethical leadership in how they perform their role, and is a statement of our individual commitment to the people of Queensland, their elected representatives, the Authority and our colleagues.

### *Chief Executive*

The Chief Executive has a responsibility to visibly demonstrate and uphold the principles and values of the *Public Sector Ethics Act 1994*. The Chief Executive’s role is to promote an organisational culture that values high ethical standards and behaviour.

The Chief Executive openly demonstrates conscious commitment to ethics by communicating the importance of ethical decision-making in the workplace and promoting ethical behaviour in day-to-day actions.

The Chief Executive also ensures all staff have access to training in the operation of this Code and in ethical decision-making more broadly, making the Code meaningful for all Authority staff members.

#### *Directors, Team Leaders and Program Managers*

The behaviour of Directors, Team Leaders and Program Managers sets the tone for the conduct of all employees. They have a responsibility to model and promote this Code.

Directors, Team Leaders and Program Managers have the ability to influence others by fostering an ethical environment and demonstrate this awareness in performing their duties and in making decisions.

Directors, Team Leaders and Program Managers ensure Authority employees understand the Code, and any other relevant legislation, delegations, policies or other information required to satisfactorily perform our duties. They also ensure that appropriate development and training is provided to allow staff to perform their duties.

## 1.6 Glossary of Terms

A number of terms used in the Code of Conduct are explained below:

<b><i>Term</i></b>	<b><i>Meaning</i></b>
<b>Member</b>	means a person appointed as a Member or Associate Member of the Queensland Competition Authority
<b>Improper Use</b>	means any use by an official which is not compatible with the obligations of an official
<b>Maladministration</b>	refers to administrative action that is unlawful, arbitrary, unjust, oppressive, unlawfully discriminatory or taken for an improper purpose
<b>Official Information</b>	means information in the possession or under the control of the Authority and includes information to which the Authority is entitled to have access.
<b>Public Interest</b>	means in the interest of the general public
<b>Public Official</b>	means an officer or employee of a public sector entity whether or not that person is appointed on a full-time, part-time, casual or temporary basis

## **2. INTEGRITY AND IMPARTIALITY**

*Authority staff should seek to maintain and enhance public confidence in the integrity of the public sector and:*

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

### **2.1 Standards of Conduct**

Authority staff are in a position of trust and must ensure that their actions, conduct and relationships do not raise questions about their willingness and ability to:

- (a) commit to the highest ethical standards;
- (b) manage conflicts of interest;
- (c) contribute to public discussion in an appropriate manner; and
- (d) manage participation in external organisations.

### **2.2 Commit to the highest ethical standards**

Authority staff conduct must meet the highest ethical standards when fulfilling their responsibilities.

Staff will:

- (a) ensure any advice that is provided is objective, independent, apolitical and impartial;
- (b) ensure that decision making is ethical;
- (c) engage with the community in a manner that is consultative, respectful and fair; and
- (d) report suspected wrongdoing, including conduct not consistent with this Code.

### **2.3 Manage conflicts of interest**

A conflict of interest involves a conflict between a staff member's duty to serve the public interest and our personal interests. The conflict may arise from a range of factors including our personal relationships, our employment outside the Authority, our membership of special interest groups, or our ownership of shares, companies, or property.

Having a conflict of interest is not unusual and it is not wrongdoing in itself. However, failing to disclose and manage the conflict appropriately may be considered wrongdoing.

Authority staff should demonstrate impartiality and integrity in fulfilling their responsibilities and as such will:

- (a) always disclose a personal interest that could, now or in the future, be seen as influencing the performance of our duties. This will be done in accordance with this policy and its associated procedures;
- (b) actively participate with our agency in developing and implementing resolution strategies for any conflict of interest; and
- (c) ensure that any conflict of interest is resolved in the public interest.

#### *Declaration and Registration of Personal Interests*

Employment with the Authority should not impinge upon the private activities of a staff member. Therefore, generally speaking, personal behaviour that does not interfere with the performance of the staff member's duties or does not adversely reflect upon the integrity or standing of the Authority, is of no concern to the Authority.

However, the Authority has a legitimate interest in the private activities of a staff member where there is a possibility that the Authority or the Government may be brought into disrepute or the staff member's performance of his or her duties may be adversely affected.

In determining whether a legitimate interest arises, regard should be given to the nature and circumstances of the activity, the position, duties and responsibilities of the staff member, the consequences of the activity on the ability of the staff member to fulfil their duties and responsibilities and the effects of the activity or its consequences on the Authority's relationships with all stakeholders.

Real and apparent conflicts of interest are to be avoided. A disclosure of potential conflicts of interest will be required to by all staff on joining the Authority and kept updated by all staff members during their employment. The Chief Executive is responsible for determining the appropriate management response to disclosed conflicts of interest. This includes:

- (a) registration of relevant private interests (occurs in all cases);
- (b) restrict or remove the staff member from certain duties which relate to the conflict of interest for as long as the risk exists;
- (c) request the staff member to relinquish their private interest that is creating the conflict; and/or
- (d) request the resignation or initiate termination of employment procedures where the conflict of interest is of sufficiently high risk and the staff member is unwilling to relinquish their private interest.

Access to information provided in relation to conflicts of interest is controlled by the Chief Executive and is permitted for official purposes only.

#### *Shares and Related Financial Instruments*

Staff are required to not purchase or hold shares or related financial instruments in companies which are likely to be significantly impacted by the Authority decisions (Banned Share List).

This obligation includes shares and financial instruments held by the staff member, the staff member's partner, dependent children and companies/trusts controlled by or which benefit the staff member, the staff member's partner or any dependent children.

A list of banned shares is provided to staff on the intranet and updated as necessary (at least annually).

Staff should divest themselves of shares in companies on the banned shares list within 30 days of their appointment as a staff member or the inclusion of a new company on the banned shares list. This includes shares acquired outside of their control, e.g. inherited.

If divestment is likely to cause a financial problem for the staff member, the Chief Executive may approve a staggered or delayed divestment. Similarly, the Chairman may approve a staggered or delayed divestment for the Chief Executive.

Staff who hold shares or related financial instruments in companies on the banned shares list as a result of a delayed divestment must not work in the group responsible for the regulated entity in which they hold shares.

Staff need not disclose shares that are part of a publicly managed fund portfolio.

If there is any suspicion of insider trading, staff disciplinary procedures will be initiated and management may also contact the relevant authorities, e.g. ASIC, etc.

#### *Procurement Process*

Under the State Purchasing Policy, the Authority is required to ensure that conflict of interest issues are effectively managed.

Staff members are required to disclose any private interests that can bring either benefits or disadvantages to the staff member, or to others who the officer may wish to benefit or disadvantage, including those of relatives, friends, rivals or enemies.

Staff involved in the procurement of consultancy services must disclose any conflict of interest (actual, perceived or potential) prior to the review of tenders submitted or involvement in the decision to appoint a consultant or supplier.

In general, staff should avoid holding shares in suppliers who regularly provide services to the Authority. However, in the event that staff, or a close relative, do hold or acquire shares in organisations bidding to provide services to the Authority, staff should immediately remove themselves from the review process and notify their manager that they have a conflict of interest. The Chief Executive must also be advised and will determine the appropriate course of action to ensure the conflict is effectively managed.

To assist staff manage any potential conflicts of interest, the procurement process will generate a disclosure statement for staff to consider and sign.

#### *Intellectual Property*

Where intellectual property or copyright is developed during, or as a result of employment with the Authority, the ownership of all material and rights to the material shall vest with the Queensland Competition Authority and staff members transfer the rights and ownership of such intellectual property to the Authority for use at its discretion.



Staff members must obtain the prior permission of the Chief Executive before entering into any arrangement regarding the publication or disclosure of any articles or materials which they have produced as part of their official duties.

#### *Use of Influence to Secure Advantage*

Staff members are expected not to use the influence of any person to obtain improperly an appointment, promotion, advancement, transfer, or any other advantage, either personally or on behalf of another.

#### *Employment in the Private Sector*

Concurrent employment in both the public and private sector can give rise to real or apparent conflicts of interest. Depending on the circumstances, a staff member's ability to function effectively and the reputation of the Authority may be affected. Authority staff members are expected to devote the whole of their time at work to the performance of their duties. Staff members may engage in paid outside work only with the prior approval of the Chief Executive, which the Chief Executive may give unless he is of the view that a conflict of interest would occur or the work would be inconsistent with the Authority's objectives, functions or responsibilities.

If staff members leave the Authority to take up work in the private sector, they have an obligation to respect the confidentiality of the official information obtained whilst employed by the Authority.

#### *Monitoring*

Annually, staff will be required to confirm in writing that they are aware of the Authority's conflict of interest policy and that they do not hold shares in organisations on the 'banned' list.

## **2.4 Contribute to public discussion in an appropriate manner**

Unless prior authorisation has been given, Authority staff will not comment to the media on government policy relating to the Authority's areas of responsibility.

Where providing factual information to the public on government policy is a part of our official duties and responsibilities, Authority staff will ensure that information is appropriately authorised, and that it properly represents government policy and administration in its intended manner and spirit.

Like any other citizen, staff members have the right to contribute to public discussions on community and social issues in their private capacity. In doing so, staff will:

- (a) take reasonable steps to ensure that any comment a staff member makes will be understood as representing their personal views, not those of the Authority;
- (b) maintain the confidentiality of information they have access to due to their roles, that is not publicly available; and
- (c) be aware that personal comments about a public issue may compromise a staff member's capacity to perform the duties of their role in an independent, unbiased manner.

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### *Public Comment on Authority or Government Policy or Administration*

“Public Comment” covers a wide range of activities which involve providing information about, or evaluative comment on, Authority or Government policy or administration.

As stated above, staff members have the same rights as any member of the community to enter into discussion of community and social issues in a private capacity. However, staff members wishing to take part in public discussion of Authority or government policy or administration in a private capacity should recognise that they may be seen as speaking about the Authority or Government from a privileged position. It is important to consider the content and circumstances of the comment in determining whether the statement is appropriate.

Generally speaking, depending on the content, a letter to the editor of a newspaper, an article for a professional journal or a speech to an interest group is regarded as public comment. Comment, including criticism, made in a purely private context is outside the scope of the Code of Conduct.

Public comment is generally acceptable where it forms part of the staff member’s duties, is consistent with those duties or has been authorised by Chief Executive. It is generally acceptable where the staff member does not misrepresent the facts concerning policy.

All media relations will be handled by the Chief Executive or the Chairman.

## **2.5 Manage Participation in external organisations**

Authority employees have the right to be active privately in a political party, professional organisation or trade union.

As a member of a political party, however, staff are aware that participating in activities in the public arena, where they may be identified as an employee of the Authority, and this can give rise to a perception of conflict of interest (see section 2.3). Where this situation arises, staff will declare and manage their activities in accordance with the Authority’s policy.

If staff are elected as workplace representatives or officials of a trade union or professional association, they are not required to seek permission from the Authority before speaking publicly in that capacity. However, these staff members will make it clear that their comments are made only on behalf of that organisation.

In all instances, staff will comply with the appropriate laws of privacy, confidentiality and information management.

**2.6 Demonstrate a high standard of workplace behaviour and personal conduct**

Staff have a responsibility to always conduct and present themselves in a professional manner, and demonstrate respect for all persons, whether fellow employees, stakeholders or members of the public. Staff will:

- (a) treat co-workers, stakeholders and members of the public with courtesy and respect, be appropriate in their relationships with them, and recognise that others have the right to hold views which may differ from their own;
- (b) ensure their conduct reflects their commitment to a workplace that is inclusive and free from harassment;
- (c) ensure their fitness for duty, and the safety, health and welfare of themselves and others in the workplace, whether co-workers or stakeholders;
- (d) ensure their private conduct maintains the integrity of the Authority and their ability to perform their duties; and
- (e) comply with legislative and/or policy obligations to report employee criminal charges and convictions.

### **3. 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:*

- *Accept and value their duty to be responsive to both the requirements of government and to the public interest;*
- *Accept and value their duty to manage public resources effectively, efficiently and economically; and*
- *Value and seek to achieve excellence in service delivery.*

#### **3.1 Standards of Conduct**

This standard assumes a system of responsible parliamentary government, the convention of Ministerial responsibility and the rule of the law. Authority staff should:

- (a) commit to excellence in service delivery; and
- (b) ensure appropriate community consultation.

#### **3.2 Commit to excellence in service delivery**

The Authority is entrusted with public funds to develop and deliver services to stakeholders on behalf of government.

Staff have a responsibility to:

- (a) deliver services fairly, courteously, effectively, and ensure resources are used efficiently and economically;
- (b) assist all members of the community, particularly people with disabilities, those who speak languages other than English, and those who may find it difficult to access Authority services; and
- (c) treat complaints seriously and respond to constructive feedback as an opportunity for improvement.

#### **3.3 Ensure appropriate community consultation**

Community participation is crucial to the development of quality regulatory decision making processes.

Staff have a responsibility, where appropriate and in accordance with their official duties, to:

- (a) listen and respond to issues and concerns raised by stakeholders; and
- (b) assist in raising community awareness about issues involving the Authority.

#### **4. COMMITMENT TO THE SYSTEM OF GOVERNMENT**

*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:*

- *Accept and value their duty to uphold the system of government and the laws of the State, the Commonwealth and local government;*
- *Are committed to effecting official public sector priorities, policies and decisions professionally and impartially; and*
- *Accept and value their duty to operate within the framework of Ministerial responsibility to government, the Parliament and the community.*

*This does not limit the responsibility of a public service agency, public sector entity or public sector 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.*

##### **4.1 Standards of conduct**

This standard assumes a system of responsible parliamentary government and the convention of Ministerial responsibility. Authority staff are required to:

- (a) Commit to their roles as part of a broader public sector;
- (b) Maintain appropriate relationships with Ministerial staff; and
- (c) Ensure proper communications with Members of Parliament.

##### **4.2 Commit to our roles as part of a broader public sector**

Staff will undertake their duties and give effect to the policies of the elected government, regardless of its political complexion.

Authority staff will:

- (a) accept that the elected government has the right to determine policy and priorities;
- (b) be responsive to the government of the day and implement decisions and policies professionally and impartially;
- (c) comply with the laws of State, Australian and local governments;
- (d) comply with all relevant awards, certified agreements, subsidiary agreements, directives, whole-of-government policies and standards; and
- (e) adhere to the Authority's policies, values and other documents of the Authority.

##### **4.3 Maintain appropriate relationships with Ministerial staff**

Ministerial advisors and the Authority share a common commitment to serving the government of the day. Central to good government, and the ability to carry out the

designated role of the public service, are positive and productive interactions between the administrative and political arms of government.

Authority staff will ensure any interactions with Ministers are positive and productive.

Ministerial staff are not empowered to direct Authority staff.

#### **4.4 Ensure proper communication with Members of Parliament**

Authority staff have the right to communicate directly with a Member of Parliament on any issue affecting us as a private citizen. In communicating with Members of Parliament as private citizens, staff will maintain the confidentiality of information that is not publicly available, and they have access to due to their roles.

## 5. 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:*

- *Are committed to exercising proper diligence, care and attention;*
- *Are committed to using public resources in an effective and accountable way;*
- *Are committed to managing information as openly as practicable within the legal framework;*
- *Value and seek to achieve high standards of public administration;*
- *Value and seek to innovate and continuously improve performance; and*
- *Value and seek to operate within a framework of mutual obligation and shared responsibility with stakeholders.*

### 5.1 Standards of conduct

This standard seeks to achieve a high standard of public administration. Authority staff are required to:

- (a) ensure diligence in public administration;
- (b) ensure transparency in their business dealings;
- (c) ensure appropriate use of official resources, public property and facilities;
- (d) ensure appropriate use and disclosure of official information; and
- (e) commit to innovation and continuous performance improvement.

### 5.2 Ensure diligence in public administration

Staff have an obligation to seek to achieve high standards of public administration and perform their duties to the best of their abilities.

Staff will:

- (a) apply due care in their work, and provide accurate and impartial advice to stakeholders whether members of the public, public service agencies, or any level of government or regulatory organisations;
- (b) treat all people equitably and consistently, and demonstrate the principles of procedural fairness and natural justice when making decisions;
- (c) exercise their lawful powers and authority with care and for the purpose for which these were granted; and
- (d) comply with all reasonable and lawful instructions, whether or not we personally agree with a given policy direction.

### 5.3 Ensure transparency in our business dealings

In order to ensure all government dealings with private industry are conducted with the highest level of integrity, Authority staff will ensure:

- (a) business meetings with persons who were formerly 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;
- (b) any engagement with lobbyists is properly recorded; and
- (c) gifts, benefits or hospitality are managed in accordance with the Authority's policies.

#### *Gifts or Benefits*

Staff members may accept gifts of hospitality provided the level of hospitality is in accordance with normal industry or cultural practice and standard and is not excessive and provided that the acceptance of it would not create an apparent conflict of interest.

Staff members may also accept other gifts but only in accordance with the Authority's policies as outlined within the HR Manual.

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

Authority staff are accountable for all resources used in the course of their duties.

Staff will:

- (a) be economical, and avoid waste and extravagance in the use of Authority resources for proper purposes;
- (b) use any Authority resource in accordance with official policies;
- (c) purchase, manage and care for Authority resources in accordance with official policies; and
- (d) responsibly utilise human assets such as corporate knowledge and intellectual property as public resources.

#### *Public Interest Disclosures*

Under the *Public Interest Disclosure Act 2010*, all staff members have the right to disclose to a relevant authority knowledge of fraud, corrupt conduct, and maladministration by a public official.



## 5.5 Ensure appropriate use and disclosure of official information

The public has a right to know the information that is created and used by the Authority on their behalf. This right is balanced by necessary protections for certain information, including personal information.

Information privacy legislation protects against the misuse of personal information and all staff have an obligation to ensure the lawful collection and handling of personal information.

In addition, staff will:

- (a) treat official information with care and use it only for the purpose for which it was collected or authorised;
- (b) store official information securely, and limit access to those persons requiring it for legitimate purposes; and
- (c) not use confidential or privileged information to further personal interests.

Staff will continue to respect the confidentiality of official information gathered during their tenure with the Authority.

### *Disclosure of Official Information*

Staff members should ensure the confidentiality of matters of a personal nature relating to other staff members. In addition, they should not disclose official information to another person or agency unless the information was supplied to the Authority for a purpose which permits its disclosure or there is a lawful authority for its disclosure. For further information refer to the Information Handling Manual.

## 5.6 Commit to innovation and continuous performance improvement

The capacity of the Authority to deliver services depends on an innovative and creative workforce, and a commitment to continuously improve the performance of the Authority and ourselves.

Staff members each have a responsibility, having regard to their own roles, to:

- (a) maintain and develop their professional skills and knowledge;
- (b) in consultation with their managers, take reasonable steps to identify and apply for development opportunities relevant to their current roles and responsibilities;
- (c) actively participate in employee performance management processes, including induction, performance planning and development; and
- (d) actively contribute to developing and improving business planning and processes, including innovative ways of delivering services.