

Queensland Competition Authority

Policy

Code of conduct for Members

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VERSION CONTROL

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1 INTRODUCTION

1.1 Preamble

QCA Members are considered public officials for the purposes of the *Public Sector Ethics Act 1994*. As public officials, Members make judgements and decisions which can affect regulated entities and their customers, QCA staff and other Members and in which a range of others, including Government and the media, have an interest.

Members are often required to exercise judgement and make decisions where there are competing interests, loyalties and priorities. The QCA's reputation is impacted by the conduct of Members in carrying out their duties and by 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.

Members are also entitled to seek independent advice from the Integrity Commissioner on conflicts of interest.

1.2 What are ethics

In essence, public sector ethics can be described as the values which public sector officers are expected to put into practice, to guide the decisions they make, and the behaviours displayed in their work. They are a set of principles by which 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 QCA's Code of Conduct:

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

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

1.4 Resolving dilemmas

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, Members should consider:

- whether their action would be consistent with their personal standards of right and wrong
- whether their actions could be perceived as unethical by others in the community

- what obligations they may be placed under or what expectations may be raised by their actions
- what the consequences would be of everyone adopting similar ethical standards
- whether they would be happy to have their decision and action made public; and
- 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 Members easily and confidently explain their actions?

1.5 Integrity Commissioner

The Integrity Commissioner independently advises Queensland Government public officials on conflicts of interest. Members of the Queensland Competition Authority are entitled to seek his confidential advice on issues relating to conflict of interest.

If Members wish to make a request of the Integrity Commissioner, sufficient information should be provided in writing, to allow the Commissioner to decide whether there is a conflict of interest or not. Requests should be sent to:

The Integrity Commission
PO Box 15290
City East Qld 4002

1.6 Glossary of terms

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

<i>Term</i>	<i>Meaning</i>
Member	a person appointed as a Member or Associate Member of the Queensland Competition Authority
Improper use	any use by an official which is not compatible with the obligations of an official
Maladministration	administrative action that is unlawful, arbitrary, unjust, oppressive, unlawfully discriminatory or taken for an improper purpose
Official information	information in the possession or under the control of the Authority and includes information to which the Authority is entitled to have access
Public interest	in the interest of the general public
Public official	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

Members 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 and to make decisions which are objective, independent, apolitical and impartial
- show respect towards all persons, including employees, clients and the general public
- acknowledge the importance of the public interest and undertake that any conflict of interest will be resolved or appropriately managed; and
- are committed to honest, fair and respectful engagement with the community.

2.1 Standards of conduct

Members 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:

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

2.2 Commit to the highest ethical standards

Members' conduct must meet the highest ethical standards when fulfilling their responsibilities.

Members will:

- ensure any advice that is provided is objective, independent, apolitical and impartial
- ensure that decision making is ethical
- engage with the community in a manner that is consultative, respectful and fair; and
- 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 Member's duty to serve the public interest and the Member's personal interests. The conflict may arise from a range of factors including our personal relationships, our employment outside the QCA, our membership of special interest groups, or our ownership of shares, companies, or property.

Members may also experience conflicts of interest between public service ethics and professional codes of ethics (e.g. as lawyers) or with our personal beliefs or opinions.

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.

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

- 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;
- actively participate in developing and implementing resolution strategies for any conflict of interest; and
- ensure that any conflict of interest is resolved in the public interest.

Declaration and registration of personal interests

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

However, the QCA has a legitimate interest in the private activities of a Member where there is a possibility that the QCA may be brought into disrepute or the 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 responsibilities of the Member, the consequences of the activity on the ability of the Member to fulfil their responsibilities and the effects of the activity or its consequences on the QCA'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 by all Members on joining the QCA and kept updated by all Members during the term of their appointment. The Chair or the Integrity Commissioner (for matters referred) is responsible for determining the appropriate management response to disclosed conflicts of interest.

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

Shares and related financial instruments

Members are required to not purchase or hold shares or related financial instruments in companies which are likely to be significantly impacted by the QCA's decisions (Banned Shares List). This obligation includes shares and financial instruments held by the Member, the Member's partner, dependent children and companies/trusts controlled by or which benefit the Member, the Member's partner or any dependent children.

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

Members should divest themselves of shares in companies on the banned shares list within 30 days of their appointment as a 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 Member, the Chair may approve a staggered or delayed divestment, with other Members advised of the delayed divestment. Similarly, the Deputy Chair may approve a staggered or delayed divestment for the Chair. New Members will be advised of the Banned Share List as soon as practicable. Treasury has been advised of the Banned Share List so that they can advise potential Members.

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

If there is any suspicion of insider trading, the relevant authorities, (e.g. ASIC, Integrity Commissioner, etc.) will be contacted.

Intellectual property

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

Members must obtain the prior permission of the Chair 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

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.

Monitoring

Annually, Members will be required to confirm in writing that they are aware of the QCA'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 by the Chair, Members will not comment to the media on government policy related to the QCA's areas of responsibility.

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

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

Public comment on QCA or government policy or administration

"Public comment" covers a wide range of activities which involve providing information about, or evaluative comment on, QCA or government policy or administration.

As stated above, 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, Members wishing to take part in public discussion of QCA or government policy or administration in a private capacity should recognise that they may be seen as speaking about the QCA 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.

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

2.5 Manage participation in external organisations

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

2.6 Demonstrate a high standard of workplace behaviour and personal conduct

Members have a responsibility to always conduct and present themselves in a professional manner, and demonstrate respect for all persons. Members will:

- treat other Members, QCA staff, 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 theirs
- ensure their conduct reflects a commitment to a workplace that is inclusive and free from harassment
- ensure their fitness for duty, and the safety, health and welfare of themselves and others in the workplace; and
- 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 their duty to manage public resources effectively, efficiently and economically; 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. Members should:

- commit to excellence in service delivery; and
- ensure appropriate community consultation.

3.2 Commit to excellence in service delivery

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

Members have a responsibility to:

- deliver services fairly, courteously, effectively, and ensure resources are used efficiently and economically
- 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 QCA services; and
- 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.

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

- listen and respond to issues and concerns raised by stakeholders; and
- assist in raising community awareness about issues involving the QCA.

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 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 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. QCA Members are required to:

- commit to their roles as part of a broader public sector; and
- ensure proper communications with Members of Parliament.

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

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

QCA Members will:

- 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 the laws of State, Australian and local governments;
- comply with all relevant awards, certified agreements, subsidiary agreements, directives, whole-of-government policies and standards; and
- adhere to the policies, organisational values and organisational documents of the QCA.

4.3 Ensure proper communication with Members of Parliament

Members 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, Members will maintain the confidentiality of information that is not publicly available, and they have access to due to their role.

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
- seek to achieve high standards of public administration
- seek to innovate and continuously improve performance; and
- seek to operate within a framework of mutual obligation and shared responsibility with stakeholders.

5.1 Standards of conduct

Members have a requirement to:

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

5.2 Ensure diligence in public administration

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

Members will:

- 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
- treat all people equitably and consistently, and demonstrate the principles of procedural fairness and natural justice when making decisions
- exercise their lawful powers and authority with care and for the purpose for which these were granted; and
- comply with all reasonable and lawful direction, whether or not we personally agree with a given policy direction.

5.3 Ensure transparency in business dealings

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

- 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;
- any engagement with lobbyists is properly recorded; and
- manage gifts, benefits or hospitality in accordance with the QCA's policies.

Gifts or benefits

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.

Members may also accept other gifts but only in accordance with the QCA's policies as outlined in the Finance Manual.

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

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

Members will:

- be economical, and avoid waste and extravagance in the use of QCA resources for proper purposes;
- use any QCA resource in accordance with official policies;
- purchase, manage and care for QCA resources in accordance with official policies; and
- 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 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 QCA 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 Members have an obligation to ensure the lawful collection and handling of personal information.

In addition, Members will:

- 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 those persons requiring it for legitimate purposes; and
- not use confidential or privileged information to further personal interests.

Members will continue to respect the confidentiality of official information gathered during their appointment to the Authority.

Disclosure of official information

Members should ensure the confidentiality of matters of a personal nature relating to other Members and QCA staff. In addition, they should not disclose official information to another person or agency unless the information was supplied to the QCA 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 QCA to deliver services depends on an innovative and creative workforce, and a commitment to continuously improve the performance of the QCA and ourselves.

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

- maintain and develop their professional skills and knowledge
- in consultation with the Chair, take reasonable steps to identify development opportunities relevant to their current roles and responsibilities; and
- actively contribute to developing and improving business planning and processes, including innovative ways of delivering services.