



Code of Conduct

FOREWORD

Each year the Public Trust Office provides estate, trust and guardianship services for thousands of Queenslanders. In delivering these services we need to ensure that our decisions, actions and personal conduct are based on ethical principles.

The people of Queensland have a right to expect the business of the Office to be conducted with efficiency, fairness, impartiality and integrity. Our public employment carries with it a unique obligation in the public interest and this demands that people working in the Office exhibit standards of professional behaviour which will maintain public confidence and trust.

However, ethical behaviour goes much further than compliance with a rule. Laws, rules and directives hold us accountable, however they prescribe only the minimum standards for our conduct. In other words, our *Code of Conduct* describes how we seek to act, not merely how we are required to act. Our conduct will ultimately be judged against the ethical standards we set ourselves, rather than against requirements set for us. Our ethical stance is part of our unique identity as we pursue our aim of being leaders in estate, trust and guardianship services.

The Office's *Code of Conduct* is designed to provide guidance to staff about what is expected of them. It also informs our clients and the community about the standards of conduct they can expect when dealing with the Office.

It is based on the five broad principles set out in the *Public Sector Ethics Act 1994*, which are:

- ❖ Respect for the law and the system of government
- ❖ Respect for persons
- ❖ Integrity
- ❖ Diligence and
- ❖ Economy and efficiency

Every day many staff deal with difficult and complex issues. Your decisions can have a significant effect on the lives of individuals, their families and the community. We need to ensure that these decisions and interactions are in line with these principles of public sector ethics. The *Code of Conduct* provides specific examples and guidance for the way we work with these ethical principles.

In consultation with your colleagues, supervisors and managers, I am confident that the *Code of Conduct* will help in determining what we should all do in our every day working life.

Greg Klein
Public Trustee

1 February 2005

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INTRODUCTION

The Public Trust Office operates with public sector responsibilities to provide Queenslanders with professional and reliable trustee services. As a public official employed in the Public Trust Office, you are involved in managing the competing interests that may arise out of the dual roles of advocacy on behalf of those we serve and the Public Trust Office's role in implementing the policies and programs of the Government of the day.

As a public official you have powers and resources available to you which the public expects you to use in their interest. The way in which you carry out your duties can impact on how the public regards the Public Trust Office and how effectively the Office is working.

The *Public Sector Ethics Act 1994* provides part of the framework for your work as a public official. The Act outlines five fundamental ethics principles and obligations.

Our Code of Conduct is based on these principles and provides more detail on the way you work in the Office.

The Code of Conduct applies to all employees, from the Public Trustee to the newest recruit, regardless of the basis on which you are employed or engaged by the Office.

Application of this Code is supported by:

1. Public Trust Office guidelines in the form of Office Memoranda; Policy, Practice and Procedures; and Program-specific guidelines such as Procedures and Practice Manuals or protocols;
2. Strategies such as training and education to help you apply the five fundamental ethics principles and the Code of Conduct;

Along with some of the documents referred to in this document, this Code of Conduct is also available on the Office's Intranet.

OFFICE MISSION STATEMENT AND GOALS

The **vision** of the Public Trust Office is:

"to provide a constantly improving package of services that enhance people's quality of life, using the highest standards of accountability, consultation and ethics".

The **Mission** of the Public Trust Office is:

"to deliver a full range of professional, accessible and reliable trustee, financial and related services in a supportive, compassionate and ethical manner".

What is the role of ethics in the Public Sector?

Public sector ethics are the principles that guide you in the way you do your job including decisions, actions and personal conduct. These principles provide guidance in situations where no specific rule is in place or where several interests may be in conflict. They help determine what is right and proper in what you do, in your role as a public official.

What is the purpose of the Public Sector Ethics Act 1994 and Code of Conduct?

People's views of what is right and proper often depend upon their own individual background and experience. The individuals who make up the Public Trust Office come from a variety of backgrounds and hold a variety of views and expectations. You may have a loyalty to a particular section of the community because of your background. This loyalty may exert a powerful influence on your decisions and actions. You may also deal every day with difficult social issues on which there may be no common community view.

However, we need to be able to work together ethically to achieve the goals of the Public Trust Office. The *Public Sector Ethics Act 1994* defines five fundamental ethics principles which guides you in your role as a public official. These principles are based on the traditions and conventions of responsible Parliamentary government and public administration. The central idea is that public employment involves a position of trust.

This Code of Conduct outlines appropriate standards of official conduct and specific requirements for your work in our Office based on the principles set out in the *Public Sector Ethics Act 1994*. You should consult this Act to get a greater understanding of the Code.

PUBLIC SECTOR ETHICS ACT 1994

The *Public Sector Ethics Act 1994* sets out five principles as the basis of good public sector practice:

Principle 1: RESPECT FOR THE LAW AND SYSTEM OF GOVERNMENT

This means you should, for example:

- ☞ Exercise powers lawfully
- ☞ Carry out lawful and reasonable instructions
- ☞ Have regard to the role and responsibilities of the Minister
- ☞ Ensure your actions support legislation and government policy
- ☞ Counsel clients to seek advice about their obligations under the law

Principle 2: RESPECT FOR PERSONS

This means you should, for example:

- ☞ Avoid patronage and favouritism in employment matters
- ☞ Perform your functions fairly and equitably
- ☞ Ensure that your behaviour is not harassing or discriminatory
- ☞ Ensure that members of the public, clients and staff receive their proper entitlements and know their rights
- ☞ Respond to requests in a professional and timely manner

Principle 3: INTEGRITY

This means you should, for example:

- ☞ Avoid conduct that may cause public concern about the integrity of the Public Trust Office
- ☞ Use powers and resources for the purpose for which they were intended
- ☞ Respect your Declaration of Secrecy by not disclosing confidential information
- ☞ Resolve conflict between the Office's interests and clients' interests in favour of the clients' interests
- ☞ Resolve conflict between personal interests (including values/views) and public duties in favour of the public interest
- ☞ Act honestly and disclose fraud, corruption and maladministration of which you are aware

Principle 4:DILIGENCE

This means you should, for example:

- ☞ Perform "a fair day's work"
- ☞ Provide expert and comprehensive advice to Government and Ministers
- ☞ Provide high standards of service to clients
- ☞ Ensure that the Public Trust Office's "duty of care" obligations are met

Principle 5:ECONOMY AND EFFICIENCY

This means you should, for example:

- ☞ Manage all forms of public resources in accordance with the Office's Corporate Plan
- ☞ Use or manage clients' money and property in their best interests and in accordance with Government legislation
- ☞ Ensure terms of funding agreements are complied with
- ☞ Allocate resources consistent with Government policy

The Call for Judgement

It is not possible to have a rule for every situation. If you have difficulty in applying this Code of Conduct, or it is not immediately clear what to do in a situation, you can:

- Refer to the *Guide to Ethical Public Sector Practice* at the back of this Code
- Discuss the situation with your Manager or colleagues
- Contact the Human Resource Management Branch
- Contact the Crime and Misconduct Commission

The ethics principles and obligations defined in the *Public Sector Ethics Act 1994* are not prioritised by the Act. Each is fundamental to good public sector practice.

Judgement about the priority given to each principle will always depend on the facts and circumstances of a particular case.

You will also be required to make judgements in balancing competing interests or duties.

Breaches of the Code of Conduct and Disciplinary Action

If your decisions, actions or conduct do not meet Office standards including those outlined in the Code of Conduct you may be subject to disciplinary action. There are details about breaches of conduct, misconduct, maladministration or fraud contained in the following:

- *Public Service Act 1996*
- Criminal Code Act 1899 (incorporating the Criminal Code)
- Crime and Misconduct Act 2001
- Criminal Law (Rehabilitation of Offenders) Act 1986
- Financial Administration and Audit Act 1977
- Financial Management Standard 1997

You may be eligible to appeal a decision to the Public Service Commissioner via a Disciplinary Appeal.

Official Misconduct

Some situations may constitute official misconduct as defined in the *Crime and Misconduct Act 2001* and are distinct from misconduct referred to in the *Public Service Act 1996*.

Official misconduct is defined in the *Crime and Misconduct Act 2001*. It can generally be described as conduct by a public official that involves:

- carrying out the duties or exercising the powers of the public official in a manner that is dishonest or lacks impartiality, or
- a breach of the trust placed in the person by reason of their official position, or
- a breach of confidentiality

This could amount to a criminal offence or a disciplinary breach that provides reasonable grounds for terminating the person's employment.

Examples of official misconduct include:

- verbally, physically or sexually abusing a client
- stealing the property of the employer
- making a false claim eg. with the knowledge that you are not entitled to a meal allowance, you make a claim
- accepting a bribe or other benefit to award a tender to a particular person or company

The *Crime and Misconduct Act 2001* imposes a duty on the Public Trustee to report all instances of suspected official misconduct to the Crime and Misconduct Commission for investigation.

Maladministration

Maladministration is defined as unlawful, arbitrary, unjust, oppressive, or improperly discriminating acts, or actions taken for improper purposes, by public officials.

Some examples of maladministration are:

- failing to notify a reportable offence eg. you want to avoid unfavourable public comment about the Public Trust Office
- refusing to recognise ethnic or indigenous customs when organising rosters for staff
- refusing to supply requested information to a client eg. your personal view is that it is not in the client's best interests to know

The *Public Sector Ethics Act 1994* requires all staff to report instances of maladministration to an appropriate authority.

You should firstly contact your manager or another appropriate person or organisation eg. the manager of a person that you honestly and reasonably consider to be involved in maladministration.

Whistleblowers Protection Act 1994

The *Whistleblowers Protection Act 1994* safeguards public officials who disclose unlawful and improper conduct including breaches of this Code of Conduct. Disclosures might be about:

- official misconduct
- maladministration
- danger to a person with a disability
- negligent or improper management affecting the Office's or clients funds

Public interest disclosures can be made to the Public Trustee, your manager or an appropriate person. Disclosures to other appropriate entities such as the:

- Ombudsman
- Auditor-General
- Queensland Police
- Crime and Misconduct Commission
- Health Rights Commission

and others are also protected under this Act. You should refer to the Act and Public Trust Office procedures for more detail.

Grievance Procedures

The *Directive on Grievances (32/99)* describes the procedures for resolving complaints. These complaints can be about employment or non-industrial matters such as reporting maladministration or breaches of the Code of Conduct.

Principle 1: RESPECT FOR THE LAW AND SYSTEM OF GOVERNMENT

1 OBLIGATIONS

The obligations of this principle come from the following systems:

- responsible parliamentary Government
- the convention of Ministerial responsibility
- and the rule of law.

The obligations also recognise that in our society some classes of officials (eg. Royal Commissioners, the Ombudsman, many statutory office-holders including the Public Trustee, and university academics), are expected to act independently of Government policy in performing some or all of their official functions.

In practice, the obligations require that officials should, for example, exercise powers lawfully, carry out lawful and reasonable instructions, be responsive to the mandate of the Government of the day, and provide information and assistance to a Parliamentary Committee, where authorised to do so by a Minister.



STANDARDS OF CONDUCT

1.1 KNOWLEDGE OF LEGISLATION AND DELEGATIONS

- ☞ You should ensure you have a good working knowledge of the legislation and delegations relating to your role.

For example:

- *Public Trustee Act 1978, Trusts Act 1973, Succession Act 1981, Mental Health Act 2000, Powers of Attorney Act 1998, Guardianship and Administration Act 2000*
- *Finance Standards and Office's Financial Management Practice Manual and Delegations when approving expenditure*
- *Code of Conduct and Directives*
- *Anti-Discrimination, Equal Opportunity in Public Employment, Workplace Health and Safety legislation and policies*
- *Office's corporate purchasing policy when purchasing good or services*

Sometimes in dealing with clients' interests, complying with different laws may cause conflict. For example, where the total of an advancement of capital differs in the amount of money you can advance under the *Public Trustee Act* and the *Trusts Act*.

If you have any difficulties in these situations, consult with your area's office procedures or manuals, other suitable colleagues, or your manager.

1.2 Following Instructions

- ☞ You are expected to carry out all reasonable and lawful instructions related to your work.
- ☞ Where an instruction appears unreasonable you should communicate this to the person giving the instruction.
- ☞ Where the instruction is, or appears to be, unlawful you are entitled to express your refusal to comply and immediately report the matter to a senior officer or the Public Trustee.
- ☞ If you are still not convinced of the reasonableness or lawfulness of the direction, you may raise the issue at a higher level in the organisation, for example with a senior manager, or follow the Public Trust Office's Grievance Procedures. In the meantime, you are still expected to carry out the instruction.
- ☞ You are generally obliged to carry out the instruction unless there is a danger to a person's health and safety or a crime is in progress. In this case you should notify the appropriate authority, for example, the Public Trustee, the Police or Crime and Misconduct Commission immediately.

In general the protections available under the *Whistleblowers Protection Act 1994* apply to public interest disclosures made in the course of challenging an official instruction.

- ☞ Managers should be open to positive and constructive questions about their instructions, and prompt to respond.
- ☞ You should accept that you may not personally agree with all decisions made by your manager.
- ☞ You should comply with the requirements of this Code of Conduct and other guidelines about your conduct such as Office Memoranda and Procedures Manuals.

1.3 Conflicts with Professional Ethics Standards

- ☞ Where a conflict arises involving professional ethics standards and the requirements of the Code of Conduct, you should recognise the right of the employer to determine what is to be done in the provision of professional services to the clients of the Office. You should raise any concerns with your manager and your professional association. The justification of the profession's ethics standards is not your task.

1.4 Criminal Charges and Convictions

- ☞ You are required to notify the Public Trustee or Public Trustee's delegate if you have been charged or convicted of a criminal offence.

The Public Trustee may commence disciplinary action, which could lead to termination of employment if you have been charged or found guilty of a criminal offence.

For more information see:

– *Criminal Law (Rehabilitation of Offenders) Act 1986*

1.5 Employment Obligations

- ☞ You owe a duty of service to your employer.

You must, for example:

- *Carry out lawful and reasonable instructions*
- *Support the objectives of the Office's Strategic Plan by carrying out the duties of your position – for example, you are required to maintain security over the Office's and client's money and property by following the Office's practices and procedures*
- *Provide services and allocate resources consistent with the policies of the Government of the day*

1.6 Assisting Parliamentary Committees and Commissions of Inquiry

Parliamentary Committees are able to investigate aspects of Government administration. There are some types of questions which officials are not expected to answer, but may do so through the Minister. The "Queensland Parliamentary Procedures Handbook" provides some more detail.

- ☞ You should notify the Public Trustee or delegated officer if you are called to appear before a Parliamentary Committee or a Commission of Inquiry.

1.7 Counselling Clients

Often when dealing with clients, they may express an intention to break the law.

For Example:

- *Intention not to declare income to the Australian Taxation Office, Centrelink*
- *Intention to conceal assets in false names*

You should encourage clients to seek advice about their obligations under the law.

Principle 2: RESPECT FOR PERSONS

2 OBLIGATIONS

The obligations of this principle cover the conduct of staff in their dealings with members of the public, clients, colleagues and other public officials. You are expected to be responsive to the reasonable demands of the public and other officials.

You should be courteous and helpful, especially where a person is unaware of their rights and entitlements, uncertain of precisely what to ask for, or unaware of official procedures. The obligations also require that you should deal fairly and equitably with other officials and avoid patronage and favouritism in employment matters.



STANDARDS OF CONDUCT

2.1 Respect for the Rights, Dignity and Views of Others

- ☞ You should treat clients, members of the public, and colleagues with dignity and respect. This includes being tolerant of the views held by others which may differ from your own.
- ☞ You should be sensitive to the numerous cultural backgrounds of clients and others.
- ☞ You should ensure that your conduct is not discriminatory or harassing to clients, members of the public, colleagues and other officials.

For more information see:

- *Anti Discrimination Act 1991 and Equal Opportunity in Public Employment Act 1992*
- *Office's Disability Action Plan*
- *Powers of Attorney Act 1998, Guardianship and Administration Act 2000*
- *Policy Statement on Preventing and Resolving Sexual Harassment*
- *Equal Employment Opportunity Policy*
- *various Office Memoranda, policies and procedures*

For example:

- *Offensive, abusive, belittling or threatening behaviour directed at an individual or group because of some real or perceived attribute is unacceptable conduct*
- *It is not acceptable to restrict access to training or promotional opportunities on the basis of race, gender, disability or ethnicity*
- *When dealing directly with aggressive or agitated clients or colleagues you should deal with that person without aggression or bias*

- *You are not expected to take abuse from clients, members of the public or colleagues, nor give abuse*
- *Any behaviour of a sexual nature which is unwelcome is unacceptable conduct – for example, leers, suggestive notes, innuendo, comments about appearance, requests for sexual favours or touching*
- *You should make any reasonable adjustment to enable a person to perform a job, such as provision of equipment or job redesign*
- *When dealing with clients and their carers, you should take into account the general principles outlined in the Powers of Attorney and Guardianship legislation, the relevant Office Client Service Standards and the client's individual Client Service Plan*

2.2 Working with Clients

- ☞ You should ensure that your relationships with clients are professional and respectful of their rights and dignity.

For example:

- *any abuse of clients constitutes official misconduct*
- *close personal relationships with dependent or vulnerable clients is unacceptable conduct*

- ☞ You should ensure that all clients have fair, reasonable and equal access to services and information provided by the Public Trust Office.

For example:

- *you should make sure you have a general understanding of the Public Trust Office as well as your specific area of work*
- *you should avoid unnecessary delays in responding to requests from clients or officials for information or advice*

- ☞ You are expected to work towards an understanding of the legitimate needs and aspirations of clients and to take this into account when managing their financial and legal affairs

For example:

- *you should ensure that clients whose funds are managed have access to services that improve or enhance their quality of life*
- *you should actively assist service providers from other agencies to meet the needs of clients in accordance with Office procedures and agreed objectives under any Client Service Plan*

2.3 Workplace Health and Safety

- ☞ You should take all reasonable steps to ensure your own safety, health and welfare in the workplace, as well as that of others.

For example:

- *ensure that safe manual handling practices are adopted*
- *if you work with clients who may exhibit aggressive behaviour, ensure you are trained in and follow appropriate practices as outlined in the Office's Client Aggression Guidelines and Procedures*
- *follow the instructions of a fire or floor warden*
- *you are not expected to take abuse from clients or members of the public*

- ☞ You must report any workplace injury, illness, incident, or risk to employees, clients or members of the public, to your manager and your Workplace Health and Safety Representative or Officer.

For more information see:

- *Workplace Health and Safety Act 1995*
- *Office's Workplace Health and Safety Policy*
- *Client Aggression procedures and guidelines*

2.4 Working With Colleagues

- ☞ You are expected to provide managers, colleagues, the Public and the Minister with advice which is independent, based on accurate representation of the facts and is as comprehensive as possible. This includes setting out the advantages, disadvantages, costs and consequences of the available options and, where appropriate, recommending a course of action.
- ☞ You must observe merit and equity in recruitment and promotion. For more information see Directive 5/97 Recruitment and Selection.

When recruiting, you must, for example:

- *recruit through a process which is open, fair and equitable*
- *select staff based upon criteria which are objective and specific to the job and through a competitive process.*

- ☞ When providing references you should provide an honest assessment, which can be substantiated, of the applicant's ability to meet specific selection criteria for the job.

For example:

— *you should not exaggerate the substance or relevance of a person's competence, qualifications or experience nor make false or derogatory comments about an individual.*

- ☞ You should actively seek to ensure that staff receive their entitlements.
- ☞ You are expected to exercise honesty and sensitivity at all times when dealing with and referring to your colleagues.

2.5 Managerial Behaviour

As a Manager you have a responsibility to:

- ☞ set good examples for staff through your own behaviour, especially in relation to implementing the Code of Conduct
- ☞ maintain open, honest and thorough communication with all staff
- ☞ treat staff fairly, equitably and with consistency
- ☞ ensure staff understand performance standards expected of them and that you objectively assess their performance against these standards
- ☞ provide the optimum working conditions for staff within the resources available to you
- ☞ provide training and development opportunities wherever possible

For example you should:

— *ensure that staff are adequately trained in both client service skills and the specific requirements of the Office*
— *ensure that staff are not under any real or perceived pressure to work unreasonable hours*
— *provide legitimate comment and advice on work performance*
— *ensure staff have access to the Employee Assistance Service*

2.6 Confidentiality

- ☞ You should ensure that information about clients and staff is kept secure and not discussed with anyone who does not have a legitimate right to know, in accordance with your signed Declaration of Secrecy.

Only specifically delegated officers can provide access to information requested

under Freedom of Information legislation.

For more information refer to:

- *Public Trustee Act 1978*
- *Freedom of Information legislation*
- *the Office's Freedom of Information Officer*
- *Privacy legislation*

For example:

- *it is unacceptable conduct to gossip about clients*
- *you should not read confidential information about a staff member eg. a disciplinary report unless authorised or given permission by the person concerned*

2.7 Procedural Fairness ("natural justice")

- ☞ Procedural fairness should be applied when making a decision or taking action of a discretionary nature which is likely to adversely affect a person's rights, liberties, interests or legitimate expectations.

You should document all interactions, and be able to justify your decision and provide a written statement of reasons for your decision.

- ☞ When applying procedural fairness, consideration should be given to:
 - access to information - generally the person affected by the decision should be informed of all relevant factors and given the opportunity to put his or her case before the decision or action is taken.
 - fact finding - all reasonable steps should be taken to ascertain the facts which are material to the decision
 - assistance in representation - the person may be assisted or represented in the procedure except where it has been specifically prohibited by legislation
 - statement of reasons - the person concerned should be informed of the reasons for the decision within a reasonable time
 - indication of remedies - the notification of the decision or action should indicate any rights of appeal or normal remedies as well as the relevant time limits

- ☞ When exercising a discretionary power you should ensure that the power is being used properly, impartially, equitably, and consistent with relevant guidelines or delegations. Timeliness and a proper balance between adverse effects and the intended purpose of the power are also important considerations. You must

ensure that you have the authority to exercise the power or delegation.

For example:

- *when taking disciplinary action against a staff member*
- *when using discretionary powers, such as making financial advances to clients*
- *when refusing to approve an application for some purpose, or revoking an approval*

- ☞ Proper consideration of adverse effects does not include avoiding consequences because they might be unpleasant for you or a colleague.

2.8 Dress Standards

Personal presentation may take into account:

- work performed
- workplace health and safety
- Equal Employment Opportunity and anti-discrimination principles
- cultural diversity
- local community standards
- climatic conditions

All officers represent the Public Trust Office and should present a professional appearance, which is appropriate for their work. Dress and grooming are of particular importance if your work brings you into contact with the public.

Managers should monitor workplace standards. However, managers should take into account officers' entitlements of fairness, equity, and personal freedom of choice.

Principle 3: INTEGRITY

3 OBLIGATIONS

The obligations of this principle require officials to recognise that public service involves a position of trust. Confidence in the public sector is put at risk when the conduct of an officer appears to involve a conflict between their private interests and their public duties.

They also require all staff to disclose fraud, corruption and maladministration to the relevant authorities.

For further information see:

- *Directive 32/99 Grievance Procedures*
- *Whistleblowers Protection Act 1994*
- *Financial Administration and Audit Act 1977*
- *Financial Management Standard 1997*
- *Public Trust Office's Financial Management Practice Manual*
- *Public Trust Office's Delegation Authorities*
- *Office Memorandum 19/1993 Ethical Behaviour for Public Trust Office Employees*
- *Office Memorandum 10/2000 Pre-Auction Bids and Staff Bidding*
- *Office Memorandum 3/2001 Corporate Purchasing Procedures*



STANDARDS OF CONDUCT

3.1 Conflict Between Public Duty And Private Interests

- ☞ Where a conflict occurs between your private interests and public duties, you should resolve the conflict in favour of the public interest. To protect the integrity of the Office, procedures for registering and declaring conflicts of interest should be followed.
- ☞ Where a conflict occurs between the Office's interests and the client's interests, you should resolve the conflict in favour of the client's interests.
- ☞ The Public Trustee is required to declare relevant personal interests for inclusion in the Chief Executive Officers' Pecuniary Interest Register. Other employees may be required to disclose interests related to their work.

- ☞ Senior officers (eg. Senior Executive Officers and Senior Officers) and the Public Trustee can refer their questions of conflicts of interests to the Queensland Integrity Commissioner for more information and advice. See the Office of the Integrity Commissioner for more information.
- ☞ All staff who make decisions about contracting, tendering or regulatory functions are also required to declare any personal and immediate family interests.

For example:

— *staff who are involved in contracting for goods and services for client matters, by calling for expressions of interest eg. staff who have an interest in a lawn mowing business should declare their involvement before issuing any expressions of interests or tenders for lawn mowing services*

— *staff who are involved in contracting for consultants*

- ☞ You should declare all private interests, including those of your immediate family, which conflict, or might reasonably be perceived to conflict, with your public duties.

You should declare your interest in writing to your manager. Your manager will determine whether the matter requires a determination at a higher level or can be adequately dealt with by existing guidelines.

Examples of conflicts between personal interests and public duties that should be declared and in some cases avoided include:

— *staff or their families being landlords or tenants of a client with a disability*

— *relatives or friends of staff being employed to provide a service paid for by a client*

For further information see:

- *Public Trust Office's Financial Management Practice Manual*
- *Public Trust Office's Delegation Authorities*
- *Office Memorandum 19/1993 Ethical Behaviour for Public Trust Office Employees*
- *Office Memorandum 10/2000 Pre-Auction Bids and Staff Bidding*
- *Office Memorandum 3/2001 Corporate Purchasing Procedures*

3.2 Disclosure of Official Information

- ☞ You may have access to information that is not available to the general public eg. information of policy or program development; of commercial sensitivity; or of a personal nature about clients or employees. You should keep this information

and knowledge confidential and documentation in secure locations.

- ☞ You may disclose official information where it is lawful to disclose it to any member of the public, for example
 - under the Freedom of Information Act 1992 if you hold the specific statutory delegation
 - where the information is already publicly available, such as in Annual Reports
 - if the disclosure is required by a statute

If you are not sure about the disclosure of information, then consult with your manager or the Freedom of Information Coordinator.

For example:

if you have been invited to participate in a “without prejudice” discussion of a matter, you should consult with your manager about what information might be disclosed

- ☞ Information should not be disclosed without the consent of the supplier of the information unless:
 - the supplier was aware that the information was to be disclosed prior to providing it; and
 - there is a lawful authority for its disclosure

For example:

instead of checking beforehand the appropriateness of disclosing information, you provide copies of actual documents to illustrate your skills in preparing business documents for a job that you have applied for

For more information see

Freedom of Information and Privacy Officers and/or related documents

3.3 Public Comment on Government Policy and Administration

- ☞ You have the same rights as any member of your community to discuss community and social issues in a private capacity.
- ☞ You should recognise that taking part in a public discussion about Government policy or administration in a private capacity may be seen as speaking about the Government or the Office from a privileged position.

Depending upon the circumstances and content, public comment may include:

- *a letter to the editor*
- *an article for a professional journal*
- *a public demonstration*
- *a speech to an interest group*

- ☞ It is your responsibility to take all reasonable steps to ensure that any comment will be understood as representing your personal views as a private citizen.
- ☞ Making public comment in an official capacity is acceptable where:
 - providing information on Government policy or programs is part of your official role or has been authorised by the Public Trustee
 - you do not misrepresent the facts about the Government or the Public Trust Office
- ☞ When you are not sure about the integrity of a proposed action or comment you should consult with your manager.

For example:

- *you should seek the approval of the Public Trustee through your manager to use information gained at work when writing or delivering conference or seminar papers in your private capacity, on either the professional services provided by the Government or on your own professional findings*
- *recognise that there is no such thing as an 'off-the-record' chat with a member of the media*
- *contributing to an analysis of a political party in a private capacity eg. in an election campaign, is generally acceptable provided that:*
 - *the comment does not raise reasonable doubt about your capacity to implement the policies of any Government objectively; and*
 - *you do not misrepresent the facts, deliberately or otherwise*

3.4 Accepting and Giving Gifts, Benefits and Hospitality

In government employment there is a general principle that public service employees must at all times be mindful of their obligations to maintain and enhance public trust and confidence in the integrity of public administration.

Employees can decline offers of gifts or benefits courteously by explaining that acceptance would be against agency policy and consequently that they have no discretion in the matter. Any gift or benefits, regardless of monetary value, accepted or given to an individual or organization implies a relationship which is likely to interfere with objectivity and independence.

Details of all benefits, gifts, donations, free service, entertainment, or consideration, etc. either in kind or cash, received or given by an officer are to be reported to the officer's immediate supervisor and/or manager as soon as possible, regardless of whether it is accepted or not.

Where an officer is unsure of their position regarding the acceptance or giving of a gift or benefit, they should consult with their supervisor, manager, Deputy Director, Accounts Branch or the Office's Internal Audit unit for clarification.

A summary table follows about principles and procedures for gifts or benefits and hospitality and the relevant nominal or monetary limits.

Accepting Gifts, Benefits and Hospitality

- ☞ Officers should not take advantage of or disadvantage of their official functions in order to obtain a benefit, either for themselves or for another person or agency.
- ☞ You should not ask for, encourage or accept any form of personal gift, benefit or hospitality in connection with the performance of your work. Where the gift, benefit or hospitality is of token or nominal value only, this may be accepted provided that there is no possibility that the officer or the Office might be compromised in the process. It must be reported to your manager or supervisor as soon as possible.
- ☞ It is not acceptable to take a gift or money from a vulnerable client, such as a client who doesn't have capacity to make decisions for themselves. You should politely refuse any gifts or benefits from a vulnerable client, and report the offer to your supervisor and/or manager as soon as possible so it can be noted accordingly.
- ☞ Where a gift, benefit or hospitality is of more than a token or nominal value, it is a "significant" or "reportable" gift. A significant or reportable gift is any gift, benefit or hospitality that is greater than \$20 and inconsistent with industry or social norms. You should follow the procedures outlined in the Office's *Financial Management Practice Manual*. Significant and Reportable gifts must be reported to your manager or supervisor via the appropriate form within 14 days. The 'Register of Significant and Reportable Gifts and Special Payments' file is maintained for recording purposes.

Examples of nominal gift, benefit or hospitality (less than \$20) can include:

- food and drink received or given as part of a meeting, conference, trade display or other event attended as part of official duties
- cap, pen, pencil, notepad, a bottle of wine, bunch of flowers, box of chocolates
- a gift of nominal value at Christmas time to a Public Trust Officer from a client's family eg. card
- a bunch of flowers or pen as thanks for speaking at a seminar

Examples of significant (\$20-\$250) or reportable (more than \$250) gift, benefit or hospitality can include:

- food and drink received or given as part of a meeting, conference, trade display or other event attended as part of official duties
- discounted products for personal use, free use of facilities such as gyms and holiday homes or discounted travel
- corporate offers of transportation, accommodation, tickets, meals, and functions as part of a major event
- a book on a relevant topic
- prize/s won at conference or event
- awards or prizes
- property, entertainment, watches, clocks, art work, money, alcohol, winning Casket/Lotto tickets

- ☞ Even where officers are offered a gift, benefit or hospitality which is consistent with industry or social norms considerable caution must be taken when accepting such gift, benefit or hospitality. The acceptance of hospitality such as alcohol, meals and entertainment must be made only for the purpose of furthering the interests of the Public Trust Office and its acceptance is of benefit to the Queensland community. A gift, benefit or hospitality is not to be accepted at a time which could possibly compromise the officer or the Public Trust Office eg. during tendering processes.
- ☞ You should politely refuse a gift, benefit or hospitality that may bring you, or the Public Trust Office's integrity or impartiality into question.
- ☞ Any gift, benefit or hospitality given to a public service employee is the property of the agency. The gift, benefit or hospitality may be retained by the Public Trust Office or the Public Trustee may allow the employee to retain the gift, benefit or hospitality in accordance with relevant policy and procedures.
- ☞ If the aggregate value of multiple gifts or benefits received or given by a Public Trust Officer from or to the same person or organization in any financial year exceeds \$20, each individual gift or benefit becomes a significant gift or benefit and must be reported.

- ☞ At the discretion of the Public Trustee, the employee may purchase a gift or benefit by paying to the agency the difference between the fair value of the reportable gift or benefit and the reportable gift or benefit threshold (\$250). There is no requirement for an employee to reimburse the agency to the value in excess of \$250 if the gift or benefit is an intangible one (eg. hospitality).

Giving Gifts, Benefits or Hospitality

- ☞ Gifts, benefits or hospitality can be made by a Public Trust Officer or Officers to an external party as part of the officer or officers' duties. An example is where a person presents at a seminar or information session organised by the Public Trust Office and a token gift is given by a Public Trust Officer to the person in appreciation of their presentation.

In no way should a gift, benefit or hospitality be seen as being an inducement to another person or organisation to do or not do something to benefit an officer or officers of the Public Trust Office.

- ☞ The officer shall obtain **prior** approval before purchasing or making available any gifts, benefits or hospitality by applying in writing to their Deputy Director, Regional Manager or relevant Manager. The officer's Deputy Director, Regional Manager or relevant Manager shall then apply to their Director, and the Director shall then apply to the Public Trustee for approval. Any significant or reportable gifts, benefit or hospitality must be recorded in the 'Register of Significant and Reportable Gifts and Special Payments'.
- ☞ Any officer making a gift or benefit must declare the gift or benefit within 14 days if the market value of the gift or benefit exceeds \$20 or the aggregate market value of gifts or benefits provided to the same recipient during the current financial year exceeds \$20.
- ☞ The *Criminal Code* and the *Crime and Misconduct Act 2001* detail the requirements in relation to secret commissions and official misconduct.

Procedures	Gifts or Benefits			Intangible Gifts (Hospitality)		
	Nominal Less than \$20	Significant \$20 - \$250	Reportable More than \$250	Nominal Less than \$20	Significant \$20 - \$250	Reportable More than \$250
Principles apply	Yes	Yes	Yes	Yes	Yes	Yes
Decision and information recorded in Register	No	Yes	Yes	No	Yes	Yes
Requirement to purchase	No	No	Yes	No	No	No
Aggregates from same	No	Yes	Yes	No	Yes	Yes

donor noted						
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For more information refer to:

- *Office of Public Service Merit and Equity policy on Gifts and Benefits Policy*
- *Criminal Code*
- *Crime and Misconduct Act 2001*
- *Whistleblowers Protection Act 1994*
- *Financial Administration and Audit Act 1977*
- *Financial Management Standard 1997*
- *Public Trust Office's Financial Management Practice Manual*
- *Public Trust Office's Delegation Authorities*
- *Office Memorandum 19/1993 Ethical Behaviour for Public Trust Office Employees*
- *Office Memorandum 10/2000 Pre-Auction Bids and Staff Bidding*
- *Office Memorandum 3/2001 Corporate Purchasing Procedures*

3.5 Expenses

Expenses can include:

- ☛ Transfer and appointment expenses, travel and relieving advances or allowances, allowances or payments, on-call allowances, higher duties and overtime claims, SARAS (study) payments, payments for Goods/Services, petty cash or IOUs.

Where possible prior approval should be sought from the appropriate supervising officer eg. supervisor, manager, Deputy Director, Regional Manager, Director or Public Trustee, who has the financial delegation and the authority to approve the expenditure, along with a statement from the officer detailing what the expenses are for and that the claim is correct for the amount due for the goods or services mentioned.

Other expenses include official hospitality, official functions, working meals, air travel and any additional expenses. Officers will need to determine what the expense is for, such as official purposes or non-official purposes and whether the expense is a claimable expense or a non-claimable expense. Details are contained in the relevant Directive, the Office's *Financial Management Practice Manual* and these documents should be referred to in making sure that the correct procedures are followed.

The Office's *Financial Management Practice Manual* and the OPSME Guidelines also detail expenses applicable only to senior and executive management, such as hospitality and official functions, travel expenses, professional expenses and additional expenses.

For more information refer to:

- *Financial Administration and Act 1977*
- *Financial Management Standard 1997*
- *Public Trust Office's Financial Management Practice Manual*
- *Public Trust Office's Delegation Authorities*
- *Department of Industrial Relation's Directives*
- *Office of Public Service Merit and Equity's 'General Guidelines for Personal Expenses and Use of Credit Cards by Public Service Employees' 1997*

3.6 Communication with Ministers and Other Members of Parliament

- ☞ As a private citizen you have the right to communicate directly with a Member of Parliament on any issue affecting you as a private citizen.
- ☞ Communications with Member on matters that are relevant to your official duties or the affairs of the Public Trust Office should follow the procedures that operate in the Public Trust Office.

3.7 Use of Authority

- ☞ You should not use your official duties, status, powers or authority to improperly influence a public sector decision or action.

For example:

- *using your status or position to obtain a transfer, promotion, advancement or appointment for yourself or on behalf of another*
- *seeking to affect the proper outcome of a procedure established under legislation or Government policy eg. inter-departmental committees, for your own or others advantage*
- *falsifying, editing or destroying of official records*
- *seeking to obtain a more favoured status for an application, or for services to a particular client*
- *instructing a staff member to do any of the above*

- ☞ You should be honest and objective in reporting the skills and qualities of staff in testimonials, references and performance reports. Your comments should be able to be substantiated against objective standards such as relevant selection criteria and Staff Development Plan objectives (Refer to Section 2.4 – Working With Colleagues)
- ☞ You are expected to provide honest, impartial and comprehensive advice regardless of your personal views on the matter (Refer to Section 2.4 – Working With Colleagues)
- ☞ You should contact your manager and attempt to resolve the conflict where your personal views conflict with the performance of your official duties or you believe you cannot act impartially (Refer to Section 1.1 – Following Instructions)

Ways of resolving conflicts between your personal views and your official duties include:

- *not being involved in making a decision on a matter eg.*
 - *by stepping down from a selection panel; or*
 - *when purchasing an item for a client*
- *negotiating with your manager to exchange certain duties or tasks with another officer*
- *negotiating with your colleagues and manager to redistribute responsibilities for clients*

- ☞ You should make decisions, taken actions and distribute resources consistent with the Office's Strategic Plan and service delivery standards.

3.8 Party-political, Professional and Trade Union Activity

- ☞ You should be aware that party-political, professional and trade union activity, especially by officials who are senior enough to be identified by the public, can give rise to perceived conflicts of interest or loyalties. You should ensure that you do not make improper use of your position as a public official in any of these activities.

For example:

- *you should not attempt to influence the outcome of a selection process by divulging confidential information.*
- *you should not use your connections with any political party, trade union or professional association to influence individuals at work*

- ☞ If you are a workplace representative or official of a trade union or professional association, you are not required to seek official permission before expressing publicly the union's or association's view on a matter. You should however make it clear that any such comment is on behalf of the union or association that you represent.

3.9 Employment in Other Jobs

- ☞ Generally, you are able to undertake employment outside of your normal working hours under the following conditions:
 - There should not be or have the potential to be, a real or apparent conflict of interest in relation to your employment within the Public Trust Office; or
 - The other employment should not have the potential to impact adversely on your ability, health or well-being to safely and effectively carry out your official duties in the Public Trust Office; or
 - The other employment should not have the potential to compromise the integrity of the Public Trust Office or to reflect seriously and adversely on the

- public service; or
 - The other employment should not result in, or have the potential to result in, the misuse of information, intellectual property, physical or other public resources.
- ☞ For these reasons the Public Trust Office requires all employees to notify the Public Trustee when they intend to take on other employment or if they are already engaged in other employment, or if there are any new or actual changes in the nature of any other employment. To assist you to report other employment the Office has developed a Notification of Other Employment form. You will need to complete this and send it to the Manager, Human Resources for consideration by the Public Trustee or delegate.
 - ☞ If it is determined that your other employment has any actual or potential issue of concern, as described above, you are expected to resolve the concerns in favour of the Public Trust Office. Failure to do so may result in a breach of this Code of Conduct.
 - ☞ If it becomes known that a Public Trust Office employee is engaged in other employment and has failed to notify the Public Trustee in accordance with Office policy, then the Public Trustee may direct the employee to declare details of the other employment.
 - ☞ For further information refer to the Office's Public Service Employees Engaging in Other Employment Policy and Procedures.

For example:

- *you should seek approval before you undertake the concurrent private practice of any profession*
- *you should seek approval to ensure that there is no conflict of interest prior to undertaking any commercial business venture either as a principal or agent*
- *an officer who works in a particular area eg. conveyancing, valuation, auctioneering, genealogy, must not use the Office's resources to conduct their own private business*
- *you should seek approval before presenting at a commercially run conference, seminar or workshop*

- ☞ You should recognise that when you leave the Public Trust Office you must still respect the confidentiality of official information that was available to you in the course of your duties (see Section 3.2 Disclosure of Official Information and your Declaration of Secrecy)

3.10 Intellectual Property

- ☞ In general, ownership of intellectual property is determined by the consideration of the circumstances in which it was conceived, researched and developed. Where it is part of your work or you have used Public Trust Office resources in its production, then it belongs to the Public Trust Office.

For example:

- *a training course, research papers, resource kit or computer software application developed at work*
- *information produced under SARAS (study assistance)*

You should contact Legal Services and/or Information Services if you require further information.

For more information see:

- *Office's Corporate Purchasing Procedures*
- *Department of Innovation and Information Economy Information Standards*
- *Office's SARAS manual*

3.11 Copyright

- ☞ You should be aware of copyright restrictions on documents, publications, audiovisual materials (eg. videos, compact discs) and computer software in use in the Public Trust Office. You must seek permission to reproduce material from the responsible authority or copyright holder.

For example:

- *you should not make more than the permitted number of copies of articles from a journal held in a library*
- *you should not make copies of software on computers eg. MS Word, Excel, nor introduce copies of software that are not properly licenced or authentic.*

- ☞ You must seek permission from the Public Trustee before entering into any arrangements regarding the publication or disclosure of any articles or materials produced as part of your work. Research carried out within the public sector has copyright in the name of the Crown.

You should contact Legal Services and/or Information Services if you require further information.

For more information see:

- *relevant Office memoranda*
- *Department of Innovation and Information Economy Information Standards*

3.12 Public Information Service Networks, Internet, Intranet and Electronic Mail

- ☞ You should make sure that you do not deliberately access, store or forward

information that might reasonably be anticipated to be contrary to:

- the provisions of State or Commonwealth legislation
- stated Queensland Government policies, or
- this Code of Conduct

- ☞ Officers are to ensure that their lawful private activities on public information services networks are not identified with the Queensland Government, especially where those activities could be reasonably construed as damaging public confidence in the integrity of government administration.

For example:

- *using electronic mail to post messages which are discriminatory or offensive*
- *the use of computer access provided to assist you in carrying out your official duties for private commercial purposes eg. Internet, Reuters, titles searches, Australian Securities Commission, etc.*

- ☞ You should apply the requirements of *Section 3.8 Intellectual Property* to your use of any information storage system.

For more information see:

- *Office Memorandum 6/2002 Use of Internet and Electronic Mail policy*
- *Office Memorandum 10/1998 Use of IT and Telecommunications Equipment policy*
- *Office Memorandum 11/1998 Computer Security*

3.13 Officers on Leave

This Code of Conduct continues to apply generally to officers on leave, especially if the officer has the option of returning to work.

The relevant test of the appropriateness of an officer's conduct while on leave is whether or not it is likely to reflect on the integrity of the Public Trust Office, for example, through a conflict of interest.

The Declaration of Secrecy and the disclosure of information continue to cover officers on leave.

Principle 4:DILIGENCE

4 OBLIGATIONS

The obligations of this principle require officials to recognise the duty to perform ‘a fair day’s work’ and carry out their duties to the best of their ability.

In addition, officials have a duty to exercise due care, particularly where members of the public may rely on the information or advice provided by them, or where officials provide direct services to vulnerable clients.

The obligation also requires officials to strive for high standards in public administration.



STANDARDS OF CONDUCT

4.1 Diligence, Care and Attention

- ☞ You have a duty to apply yourself consistently to the objectives and tasks set by managers, the Office and by Government and to do the job to the best of your ability.
- ☞ You should be thoroughly familiar with any operational manuals, procedures, guidelines and practice frameworks that apply to your area of work, and to ensure that you follow these in carrying out your duties.

For example:

— *you are responsible for the health and safety of others eg. your colleagues, your clients, visitors to the workplace*
 — *if you are attending a residential workshop or training course*

- ☞ There is potential for conflict between the professional standards of the Public Trust Office and those of employed professionals. In such circumstances you should follow the procedures outlined in *Section 1.2 – Following Instructions, Section 3.1 Conflict Between Public Duty and Private Interests, and Section 3.7 Use of Authority.*
- ☞ You should ensure that your conduct does not distract, or otherwise prevent, other officials from performing their duties.

For example:

- *by disrupting the workplace after a lunch time social event*
- *by having lengthy private telephone conversations*
- *by having groups of people socially talking around other colleagues who are working*

4.2 Duty of Care

- ☞ You have a general legal duty to take reasonable care to avoid causing harm to another person or person's property. You are required to exercise the degree of care that could reasonably be expected from a competent and skilled person in your job.
- ☞ You should exercise a high level of care, diligence and professional competence.
- ☞ You should avoid negligent conduct by giving sufficient attention to your actions and decisions, and by obtaining the direction and advice of your manager if you are unsure how to proceed.
- ☞ You should take responsibility and give justifications for your decisions and actions, in writing if appropriate.
- ☞ You should follow the requirements of *Section 2.3 – Workplace Health and Safety*.
- ☞ Managers have a responsibility to use competent management strategies, including using disciplinary procedures where appropriate (see *Section 2.5 – Managerial Behaviour*).

For more information contact:

- *Legal Services*
- *Workplace Health and Safety Committee*
- *Risk Management Committee*
- *Department of Industrial Relations Directives*

4.3 Providing Advice and Making Decisions

- ☞ Procedural fairness should be applied whenever you exercise your official powers in situations where there may be an adverse impact on a person (*see Section 2.7 – Procedural Fairness*).
- ☞ Any advice you provide to managers, colleagues and clients should be an honest and accurate representation of known facts, and should identify the consequences of all options realistically available.

- ☞ You should ensure that you have all relevant material to make a decision and be reasonably satisfied that the material is factually correct. You should be able to provide a written statement of reasons for your decision.
- ☞ Managers should ensure all current policies are clearly stated, and available to staff and clients (*see the Judicial Review Act 1991 and Freedom of Information legislation*).

4.4 Use of Alcohol and Drugs

You should ensure that personal use of alcohol, tobacco products and other drugs do not result in unsatisfactory work performance and that these items are not consumed on work premises or during work hours eg. in office buildings or office vehicles.

For example:

- *if you are responsible for the health and wellbeing of others you are not impaired by the use of alcohol or drugs eg. your colleagues, your clients or visitors to the workplace*
- *you must be mindful of the appropriate use of alcohol or other drugs (eg. legal drugs such as prescription drugs) and the effects that they may have on you eg. if you are attending a residential conference, training course or providing a client service*
- *if you return to the Office intoxicated or under the influence of drugs after attending a function*
- *driving while under the influence of alcohol or drugs is not allowed under any circumstances*

For further information see:

- *Drugs Misuse Act 1986*
- *Liquor Act 1992*
- *the Criminal Code*

4.5 Self Development Obligations

- ☞ You should seek to improve both your own performance and that of the Public Trust Office in the delivery of services to our clients.
- ☞ You should ensure that you continue to develop the skills and knowledge necessary to perform your job by keeping up-to-date with advances and changes.
- ☞ You should seek feedback on the performance of your job.
- ☞ Managers should assist staff to meet these requirements by providing information and feedback through the Office's Staff Development Plan system and wherever

possible, by helping staff to access training and developmental opportunities.

Principle 5: ECONOMY AND EFFICIENCY

5 OBLIGATIONS

The obligations of this principle require officials to ensure that resources of all kinds are used economically and for the purposes for which they were provided, treated with appropriate care, and secured against theft or misuse.

The obligations also require that officials avoid waste and extravagance in the use of resources for the legitimate activities of the Public Trust Office.

“Resources” includes not only material and financial resources, but human skills and knowledge, intellectual property and official information. Further, intangible assets such as corporate knowledge and learning, public support and positive staff morale and commitment should be regarded as valuable resources.



STANDARDS OF CONDUCT

5.1 Use of Office Materials and Resources

☞ In general, resources should only be used for official purposes and for the purposes for which they were provided and intended.

For example:

- *you should not use office computer equipment in your role as a sporting club official or as a direct seller through the mail system*
- *you may use office computer equipment to type your resume or assignment in your own time*

For more information see:

- *Office Memorandum 6/2002 Use of Internet and Electronic Mail policy*
- *Office Memorandum 10/1998 Use of IT and Telecommunications Equipment policy*
- *Office Memorandum 11/1998 Computer Security*
- *Office Memorandum 19/1993 Ethical Behaviour for Public Trust Office Employees*

5.2 Human Resource Management

- ☞ The skills and time of officers are a significant part of the Public Trust Office's resources, and practices that promote their efficient and effective use should be encouraged.

For example:

- *use the Induction process to ensure that new employees understand the Public Trust Office's purpose and are aware of expected standards of conduct and performance*
- *apply the principles of equal employment opportunities to ensure a diverse and skilled workforce*
- *apply the principles of a safe and healthy workplace to ensure the wellbeing and safety of officers, clients and colleagues*

For more information see:

- *Public Service Act 1996*
- *Workplace Health and Safety Act 1995*
- *Department of Industrial Relations Directives*
- *relevant Office policies eg. Workplace Health and Safety, Equal Employment Opportunity, Induction, Part-time Work Arrangements*
- *Office's EEO Management Plan*

Contact the Human Resource Management Branch for more details.

HELP! WHAT SHOULD I DO?

A GUIDE TO ETHICAL PUBLIC SECTOR PRACTICE

This Guide helps you to use the ethical principles mentioned in the Code of Conduct to make decisions related to the work that you do in the Public Trust Office.

If there is no stated rule or direction, work your way through the following questions to help you come to a possible solution to your problem.

Work Out the Situation

- What is the problem?

Why is this troubling me? Are there procedures already in place to deal with the situation? Is an answer important? Is the Office or my relationship with the Office a part of the problem? Am I frightened to do what is right? Why?

- Why is this an ethical problem?

Are there questions of integrity and fairness? Are there other principles involved? Are rights of people involved? Is there a major impact on the lives of others? Are there legal consequences? Is it consistent with the Office's or Government policy?

Describing the Situation

- Where am I now?

What are the facts? Who are the people involved? Who will this affect? What do they want in this situation? What do I think is best? What do others think (if I can ask them)? What happened to get me to this point in time? What viewpoints and/or cultural issues need to be considered? What is Office policy or Government policy in situations like this?

Looking at it from a Public Officer Point of View

- What information is there in current procedures?

What help is there in any relevant legislation or the Code of Conduct? What help is there in the Office's mission statement and vision? What assistance is there in Office memoranda, manuals, procedures and policies?

- Are there conflicts of loyalty between my duty to the Office, the public interest, my personal ethics, or my professional ethics?

Can I identify the details of my personal values or professional loyalty in my approach? Are they consistent with the responsibilities of a Public Trust Officer? What is my duty to the Public Trust Office and the Government in general?

Finding Options

- What are the Options?

Have I got as many options or alternatives as possible without assessing them at this stage? Have I sought and received advice from appropriate people eg. experts, managers, other officers, other points of view?

Analysing Options

- What public sector principles are involved and do they conflict?

- Respect for the law and system of Government**

What does the law require? Will any proposed action improve the system of government? Does it accord with the will of Parliament? Is it consistent with government policy directions and administrative procedures? Does my role in this situation require genuine impartiality from government direction?

- Respect for Persons**

What actions demonstrate a professional respect for clients, colleagues and others? What represents reasonable and open action toward others? How can I avoid bias, preferential treatment or discrimination?

- Integrity**

Will my actions affect the public's view of government? Is any breach of code, official misconduct or conduct involving fraud and corruption involved in this case? Am I likely to receive a gift or benefit that I would not otherwise be entitled to? Is there any perceived, real or potential conflict of interest in this situation?

- Diligence**

Am I prepared to take complete responsibility for this decision or action? Does this circumstance compromise me? Will this future action include a 'duty of care' to clients?

Economy and Efficiency

Is there any waste of office resources? Is there any abuse of or damage to public resources in this proposal?

 What are each option's implications?

Does it address the facts and concerns? Does the decision need to be approved or applied by more senior officers? How will others be affected? What damage might result? What changes will be required? Does it set an example? Is it consistent with policies, values, etc? Is the timeframe important? How far ahead can the consequences be predicted? What will others think of this option?

4 Choosing an Option

 What is the most ethical avenue?

Is the choice consistent with social justice and procedural fairness (natural justice)? Does it address cultural issues? Have you followed the relevant laws, policy, and public sector values? Would you be happy with the decision faced with the same situation? Can I defend this option with my supervisor, manager, client, colleagues, Minister, Parliament or the public?

Definitions

Client	can mean any person or organisation that has contact or conducts business with the Office; includes internal officers who provide goods or services for other internal officers.
Colleague	another officer in the Office, or public sector; can also mean another worker or officer in the same or similar profession
Diligence	consistent, constant and persistent in an effort to accomplish something
Discretionary Powers	refers to the decisions that public officials make under legislation or delegations. For example, this includes the process of giving effect to the policy directions of a Minister; or in deciding whether or not a particular application for government assistance fits within the policy objectives of the relevant legislation; or in determining if a staff member should be subject to disciplinary action.
Duty of Care	bound to do by moral or legal obligation; action required by one's position or occupation, office, function.
Economy	thrifty management, management of resources, with a view to productiveness and avoidance of waste.
Efficiency	competent & capable.
Extravagance	using resources in excess of what is required to achieve the objective. An example of extravagance might be purchasing an expensive piece of office equipment when a cheaper one may meet organisational and safety needs, or sending three staff to a conference when one is enough.
Impartiality	refers to the common law duty of service owed by an employee to an employer. For example, this includes the responsibility to respect the legitimate interests of the employer and to carry out lawful directions.
Integrity	honesty, soundness of moral principle and character, uprightness, sound, unimpaired or perfect condition.
Intellectual Property	an original piece of work, the results of research, an invention or a product development that can be protected under specific Acts and by common law. Computer software, artwork and training programs are examples of intellectual property.

Maladministration	is administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose. For more information, see <i>Whistleblowers Protection Act 1994</i> .
Manager	someone who plans, controls, leads or organises work, resources and people in an organisation; someone that you report to or are accountable to in doing your work.
Official Misconduct	conduct that adversely affects: <ul style="list-style-type: none">• the honest and impartial discharge of functions, powers or authority• or involves a breach of trust• or misuse of information or materials of a public service/sector organisation or any person holding an appointment in such an organisation. For more information see <i>Crime and Misconduct Act 2001</i> .
Resources	Property, equipment, money and other assets that have been provided by the government. For example money that the Office receives to operate its services including that provided for salaries for staff and intellectual property.
Responsively	quality of service and processes used. It refers to applying the principles of fair, open and accountable government. For example, Freedom of Information, Judicial Review, procedural fairness and natural justice, anti-discrimination, equal employment opportunity, merit and so on.
Waste	Squandering or using public resources for no useful purpose. An example of waste of resources may be a manager ordering non-essential equipment before the end of the financial year in order to maintain budget allocations.