

Chapter 8 – Code of conduct

The topics covered in this chapter are:

- The role of a code of conduct
- The legislative framework
- Public Service agencies' code of conduct
- Public sector entities' codes of conduct
- Establishing and maintaining commitment to the code
- Best-practice target

The role of a code of conduct

Fraud and corruption is a departure from the expected standards of behaviour for public officers.

A code of conduct can help develop the expectations and standards of behaviour within an organisation, consistent with the public sector ethics principles and values. It reflects an organisation's values and philosophy, and provides the framework within which employees perform their duties. It also provides an "ethical roadmap" for employees by documenting and supplying guidance about minimum standards of expected behaviour. Effective codes provide employees with aspirational goals and boundaries to encourage ethical behaviour. They anticipate likely situations or questions that employees might face, and provide clear information as to how the organisation expects its employees to respond.

Just as importantly, an organisation's code of conduct provides benchmarks that clearly state the types of behaviours the organisation considers unacceptable. The code encapsulates the organisation's policies and procedures, the breach of which may be grounds for disciplinary action.

The legislative framework

The *Public Sector Ethics Act 1994* (PSE Act) sets the legislative basis for ethics principles and values, codes of conduct and disciplinary action in the public sector.

Having a code of conduct is mandatory for public service agencies and public sector entities as defined in the PSE Act. Codes are to provide standards for conduct that are consistent with the four public sector ethics principles set out in the PSE Act (section 4(2)):

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

The CEO must ensure that all officers have ready access to a copy of the code and is responsible for ensuring that the organisation's officials are aware of their rights and obligations in relation to any contravention of the code of conduct (PSE Act, section 12K and section 21).

It is a condition of employment for all public officials that they will comply with the standards of conduct stated in the code of conduct for their organisation (PSE Act sections 12H, 18), and the policies which underlie it.

It is important for both agencies and entities to make it clear that disciplinary action can be taken for a breach of the organisation's code of conduct or any official policy. Disciplinary action in relation to codes of conduct is to be dealt with under the relevant Act or regulation (PSE Act section 24):

- for the public service, under the *Public Service Act 2008* (PS Act)
- for local government, under the *Local Government Act 2009* (LG Act) or *City of Brisbane Act 2010*
- for all other public officers, under their organisation's disciplinary regulations or processes.

It is important that all public sector organisations have in place a clear and fair process for investigating, deciding and appropriately managing any allegations of corrupt conduct of which they become aware. It is equally important that all employees understand this process and recognise that it will be followed in every instance.

Action should be taken without delay once there is a reasonable suspicion that corrupt conduct has occurred. The value of a code as a deterrent to wrongdoing depends substantially on the perception that breaches of the code are taken seriously and acted on, and that there are demonstrable consequences for breaching the code commensurate with the nature of the breach.

A code of conduct alone will not guarantee an honest and corruption-free organisation. However, with proper education and leadership it can promote integrity and encourage ethical behaviour, which in turn strengthens the organisation's resistance to fraud and corruption.

Public Service agencies' code of conduct

Public Service agencies are defined in the schedule to the PSE Act as: a department, a TAFE institute, the administrative office of a court or tribunal, or any other entity that is prescribed under a regulation to be an agency.

These agencies are bound by the *Code of Conduct for the Queensland Public Service* (the Code). The Code applies to all Queensland public service agency employees whether permanent, temporary, full-time, part-time or casual, and all volunteers, students, contractors and consultants who work in any capacity for a Queensland public service agency (PSE Act section 11).

Who is responsible

The Public Service Commission has oversight responsibility for the Code. This oversight responsibility includes administering the Code and reviewing it regularly.

Training

The CEO of the agency is required to ensure that all employees are given access to appropriate education and training about public sector ethics at induction and at regular intervals during their employment (PSE Act section 12K). This is to include:

- the operation of the PSE Act
- the application of ethics principles and obligations to the public officers
- the contents of the code of conduct
- the rights and obligations of the officials in relation to contraventions of the code.

Reporting

The agency's annual report must include a statement about:

- the implementation of the code of conduct

- actions taken to ensure that employees were given access to training at induction and at regular intervals about public sector ethics and code of conduct, and actions taken to ensure that the administrative procedures and management practices have proper regard to the ethics principles and values, the code of conduct and any standard of practice applying to the agency (PSE Act section 12M).

Further information can be obtained from the PSC <www.psc.qld.gov.au>.

Public sector entities' codes of conduct

Public sector entities are defined in the schedule to the PSE Act as: the parliamentary service, local governments including Brisbane City Council, universities, colleges, entities established under an Act, or under State or local government authorisation for a public State or local government purpose, and entities established under a regulation.

Entities must have a code of conduct which can be either the *Code of Conduct for the Queensland Public Service* or one they develop themselves.

If the entity chooses to develop its own code of conduct, that code must be consistent with the four ethics principles in the PSE Act (PSE Act section 13), current legislation including the entity's own statute, the CC Act and the PID Act.

Who is responsible

Under the PSE Act, the CEO is responsible for ensuring that a code of conduct is developed and maintained for the entity. The CEO has several statutory obligations and must consult with all relevant parties, have the code approved by the responsible authority, and ensure that the code is accessible by all entity officers (PSE Act, sections 15–17, 19).

Developing a code of conduct

An entity should always look at developing and adopting a code of conduct as far more than merely completing a compliance activity, and should ensure extensive consultation with stakeholders (despite the time and patience this requires). To approach the matter as merely an administrative obligation misses an opportunity to communicate to staff the importance of their key role in working for and on behalf of their community (i.e. the people of Queensland). A failure to establish the principles of working with integrity and ethics and in the public interest carries the risk of potentially greater long-term losses through fraud and corruption, and the associated costs of investigations and possible disciplinary action.

A code of conduct must be practical. Managers and employees must be able to understand and communicate its requirements and be able to readily identify the relevant standards of conduct that apply to them.

In addition to the provisions covering the ethics principles outlined in the PSE Act, the code of conduct may contain broader guidelines and procedures that are relevant to fraud and corruption control.

The code of conduct should be reviewed regularly, at least every two years, to ensure it is still relevant.

Training

The CEO is required to ensure that all employees are given access to appropriate education and training about public sector ethics, including the contents of the entity's code of conduct (PSE Act section 21). This is to include:

- the operation of the PSE Act
- the application of ethics principles and obligations to the public officials

- the contents of the entity's approved code of conduct
- the rights and obligations of the officials in relation to contraventions of the approved code of conduct.

Reporting

Public sector entities that nominate to adopt the *Code of Conduct for the Queensland Public Service* by regulation are considered public service agencies for the purposes of the PSE Act and should follow the reporting requirements for public services agencies.

For all other public sector entities, the entity's annual report must include a statement about:

- the preparation of a code of conduct
- actions taken to ensure that employees were given access to training about public sector ethics and the organisation's code of conduct, and
- actions taken to ensure that the administrative procedures and management practices have proper regard to the ethics principles and values, and the code of conduct applying to the entity (PSE Act section 23).

Establishing and maintaining commitment to the code

Introducing a new or updated code of conduct involves setting the ethical compass and defining the corporate culture, and this may involve substantial change. Introducing change usually takes time for discussion and consultation, communication and understanding, assimilation, acceptance, and attitudinal change.

Maintaining employee and organisational commitment and promoting the values of the code can also present great challenges. Invest time in communicating and implementing the code.

The code should be supported by complementary policies, procedures and standards covering all reasonable operational and behavioural issues. This will provide further guidance regarding what is expected of employees.

Entities not covered by the PS Act or LG Act should have their own discipline policy and procedure that make it clear that disciplinary action can be taken for a breach of the organisation's code of conduct or any other official policy.

(See Chapter 9 for more information about organisational culture change and about education and training.)

Most importantly, successful assimilation and acceptance of the code is best brought about through the actions and words of the supervisors and managers. When staff see their supervisors and managers abiding by the code and regularly discussing how the code applies within each work area, they are more likely to willingly follow the code.

Best-practice target

- (1) The organisation must have a code of conduct dealing with ethical conduct.
- (2) The code should be supported by complementary policies, procedures and standards covering all reasonable operational and behavioural issues.
- (3) The code should be reviewed on a regular basis to ensure its continued relevance.
- (4) Employees should be encouraged to participate in the development and regular review of the code of conduct in order to foster a greater sense of ownership and commitment.

- (5) The code should clarify behavioural expectations and encourage the adoption of ethical behaviour that will assist with building a corruption-resistant culture.
- (6) Organisations not covered by the PS Act or LG Act should have their own discipline policy and procedure that make it clear that disciplinary action can be taken for a breach of the organisation's code of conduct or any other official policy.
- (7) To maintain employees and organisational commitment and to reinforce the principles embodied in the code, the organisation must provide staff at all levels with ethics training at induction and at regular intervals during their employment, and should implement a variety of extension and awareness programs, including periodic refresher and/or employees development programs.
- (8) To achieve assimilation and acceptance of the code and the willing compliance of staff, supervisors and managers need to abide by the code and regularly discuss how the code applies within each work area.

Additional readings

- *The Code of Conduct for the Queensland Public Service.*

Checklist: Code of conduct

The following questions are indicative only. Each organisation should develop its own checklist to reflect its specific needs and particular risk environment. The checklist should be re-examined and updated periodically, as part of the organisation's program of fraud and corruption control appraisal.

Legislative requirements

- For public sector entities not bound by the *Code of Conduct for the Queensland Public Service*:
 - Does the organisation have a formal code of conduct? (PSE Act section 15)
 - Is that code consistent with the principles of the PSE Act and other relevant legislation? (PSE Act section 10(2))
 - Was that code developed following a comprehensive process of consultation with professional bodies and/or industrial organisations? (PSE Act section 16(2))
 - Was that code approved by the appropriate authority? (PSE Act section 17)
 - Does the entity's annual report include a statement about the preparation of that code of conduct? (PSE Act section 23)
- Are all employees and external parties (for example, customers, contractors) able to access the organisation's code of conduct? (PSE Act sections 12I, 12J, 19 and 20)
- Does the organisation's annual report include details of actions taken to ensure that employees were given access to training about public sector ethics and the organisation's code of conduct, and actions taken to ensure that the administrative procedures and management practices have proper regard to the ethics principles and values, and the code of conduct applying to the entity? (PSE Act section 12M(2) and section 23)
- Are there wide-ranging training and awareness strategies covering the code of conduct? (PSE Act section 12K and section 21)

Recommended Best Practice

- Do the code of conduct and related policies clearly outline that the organisation expects the highest ethical standards and is committed to preventing fraud and corruption?
- Does the code of conduct provide clarity around appropriate behaviour in situations that may provide opportunities for fraud and corruption to occur?
- Does the code refer to other relevant policies and resources to assist with preventing fraud and corruption?
- Do contracts with external parties (e.g. contractors) clearly state that their employees are required to uphold the organisation's code of conduct?
- Do the disciplinary policies and standards within the code complement the organisation's fraud and corruption control program and associated policies and procedures?
- Have all organisational roles and responsibilities associated with the code of conduct been clearly defined?
- Are these responsibilities properly understood and accepted by those involved?
- Is the code, and any supporting resources, reviewed periodically?