



ACKNOWLEDGMENTS

This paper was prepared by CMC Misconduct Prevention Advisers Narelle George, Robyn Breadhauer and Ray Bange.

INSIDE

Introduction	1
Step 1: Research	2
Step 2: Develop	3
Step 3: Test	5
Step 4: Endorse	5
Step 5: Implement	5
Step 6: Evaluate	6
References	7

The papers in this series can also be accessed on the CMC website: <www.cmc.qld.gov.au>.

Information on this series and other CMC publications can be obtained from:

Crime and Misconduct Commission
140 Creek Street, Brisbane
GPO Box 3123, Brisbane Qld 4001

T: (07) 3360 6060
(toll-free outside Brisbane: 1800 061 611)
F: (07) 3360 6333
E: mailbox@cmc.qld.gov.au
W: www.cmc.qld.gov.au

© Crime and Misconduct Commission 2007

Apart from any fair dealing for the purpose of private study, research, criticism or review, as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without permission. Inquiries should be made to the publisher, the Crime and Misconduct Commission.

Keeping your code of conduct relevant

Guidelines for best practice

Since the implementation of the *Public Sector Ethics Act 1994*, every public sector agency has been required to develop its own code of conduct.¹ Although the code of conduct must be based on a set of five ethics principles outlined in the *Public Sector Ethics Act*, each agency can decide the level of detail and specific requirements of its own code.²

Circumstances can change over time, so every agency needs to review its code of conduct periodically to ensure that it remains relevant to its activities. This guide has been prepared to help each public sector agency:

- ▶ review its own code of conduct
- ▶ effectively implement the revised code following the review.

We have also produced a companion publication, *Keeping your code of conduct relevant: a best practice checklist*, which will assist a public sector agency to review its existing code of conduct, and to evaluate the revised code following the review.

Why would your code need a review?

Your code of conduct plays a key role in establishing your agency's organisational culture. What the code says and how it is applied can help your agency and its employees respond appropriately to corruption risks and ethical challenges posed by a continuously changing environment.

Furthermore, all employees covered by your agency's code of conduct are obliged to comply with its provisions or face a penalty for non-compliance.³ If contents of

the code do not properly reflect workplace requirements, or fail to provide adequate guidance, your agency and its employees are placed at risk.

What are the benefits of a review?

A code of conduct review provides your agency with the opportunity to assess its code in terms of current and emerging needs. Not every review will result in change, but without reviews your agency's code could soon become outdated.

There are other benefits too:

- ▶ **For employees**, contributing to a review can help build a spirit of cooperation and confidence in the agency's integrity.
- ▶ **For managers**, supporting a review demonstrates their commitment to maintaining an ethical workplace culture.
- ▶ **For clients**, contributing to a review can increase their trust in your agency's business practices and in government processes overall.

When should your code be reviewed?

Your code of conduct should be reviewed regularly to ensure that it continues to be relevant.

There is no hard and fast rule about frequency, but scheduled reviews at least every two years are commonly regarded as best practice, to ensure the code incorporates contemporary issues and operational practices.

Significant external events such as amendments to legislation, changes to government policy, or other matters can also create the need for a review.

¹ In the local government sector, codes of conduct for councillors are also mandated under the provisions of the *Local Government Act 1993*.

² *Public Sector Ethics Act*, s. 15.

³ *Public Sector Ethics Act*, ss. 18 and 24.

Equally, a crisis within your agency could trigger a review of the code before its scheduled date. Examples might include restructuring, relocation, staff turnover or outsourcing issues that have affected the workforce profile.

A review would also be indicated when employees are having difficulty in understanding or applying your current code.

Who should be involved in the review?

Under the Public Sector Ethics Act, your CEO is responsible for developing and maintaining the agency code of conduct.

However, there are many factors that determine who actually conducts the review, including the role, size and structure of your agency. The review process might be undertaken by a unit or an individual dealing with, for example, corporate governance, ethical standards, audit and compliance, or human resources.

What is important is that responsibility for the review is clear-cut, with a designated officer accountable for overseeing the process, and that adequate resources have been provided.

Your agency should also seek the involvement of internal and external stakeholders, because they play an important part in the practical application of your code. In particular, all senior management needs to be fully committed to the review process and its outcomes.

If your agency has a person or unit with communications expertise, they should be involved early in the review, to help develop a suitable format for the finished code. The code of conduct is an important communication tool for your agency, and should be treated as such.

How should your review be done?

Taking a systematic approach will ensure that the review is comprehensive, and captures any issues that may affect the practical application of the code. The review should incorporate the following key steps.

1. Research

- ▶ Examine internal or external factors that may affect the content, style or format of the code of conduct.
- ▶ Consult widely with internal and external stakeholders for feedback and ideas.

2. Develop

- ▶ Develop a suitable draft with modifications and changes that respond to identified needs and meet your agency's legislative obligations.

3. Test

- ▶ Review other corporate documents and policies to ensure they are consistent with the proposed code.
- ▶ Ask stakeholders for feedback on the proposed changes or modifications.

4. Endorse

- ▶ Obtain endorsement of the revised code from senior management.
- ▶ Obtain approval of the code from your agency's minister (state government) or from your council (local government).

5. Implement

- ▶ Conduct an awareness program among all parties affected by the changes.
- ▶ Continue to build awareness of ethical principles throughout your agency.

6. Evaluate

- ▶ Evaluate and monitor the code and its usefulness.
- ▶ Evaluate the implementation program.

Step 1: Research

Careful research is necessary to establish what is needed to keep your code of conduct relevant to the needs of your agency and its employees.

Examine internal and external factors

It is important to examine the current circumstances surrounding the review process to identify and assess any catalyst for change. For example, changes to

legislation or social standards may alter the acceptability of certain conduct or raise the profile of particular behaviour.

An analysis of complaints of misconduct received by your agency should also indicate emerging as well as current issues.

You should also consider when the existing code was first released, what reviews (if any) have been conducted since then, and what internal or external changes may have taken place during that time. For example, there could be new policies, procedures or business practices, or different activities undertaken by the agency, which need to be identified and incorporated into the code.

A review of the code also provides a good opportunity for a concurrent review of other corporate documents and policies to ensure their consistency with one another.

Consult widely

All stakeholders need to feel they can offer feedback on what your revised code should look like and how it should work. Wide-ranging input will also help capture all issues and ensure that any changes are relevant to your agency's daily activities.

Accordingly, the review should provide an opportunity for all employees and employee groups in your agency to contribute — particularly if they have identified areas of the code or issues that concern them. Through such involvement, they are more likely to understand, support and implement any changes.

You should also seek comment, where appropriate, from external stakeholders⁴ such as employee associations, boards and committees, clients, community organisations, suppliers and contractors, unions and partnership organisations.

Using a mix of strategies will help ensure that both internal and external stakeholders have an opportunity to contribute. For example, your review could involve a general call for feedback on the current code, an employee survey, workshops, focus groups, or teleconferences with a number of key work areas or regional centres.

⁴ Public Sector Ethics Act, s. 16.

Step 2: Develop

When reviewing and revising your code, it is helpful to keep in mind the elements that help make a good code of conduct.

What makes a good code?

A good code of conduct is easy to read and to understand. It is written in plain language, defines any unfamiliar terms, and uses a personal and inclusive tone (i.e. 'we' and 'you'). Importantly, its voice matches the particular composition, education and literacy levels of your agency's workforce.

Rather than being too rigid or prescriptive, a good code uses positive statements to encourage compliance, and provides frameworks to guide employees in their decision making.

Above all, a good code of conduct is practical. It gives clear guidance on:

- ▶ the five public sector ethics principles and related obligations from the Public Sector Ethics Act
- ▶ who must comply with the code
- ▶ when the code applies
- ▶ acceptable standards of behaviour
- ▶ where to go for confidential advice
- ▶ how to report improper conduct
- ▶ how to make a public interest disclosure
- ▶ penalties that might follow a breach of the code.

A good code will include practical examples of issues that can affect the agency and its activities, and demonstrate how such issues should be ethically managed.

There will be a good balance between the depth and breadth of issues covered. The code will be linked to related policies and procedures, and have suitable cross-references so that employees can easily locate further information.

A good code responds to the new needs or issues identified through your research as well as those that prompted a revision of the code. It also responds to any changed emphasis on existing workplace requirements or activity.

Failure to incorporate these can result in your agency having a revised code of conduct that still does not properly reflect

workplace requirements. This can generate employee loss of faith in its usefulness, and in the usefulness of the review.

Throughout, a good code of conduct demonstrates that the agency is committed to the highest standards of ethical practice, accountability and transparency.

What else should the code include?

Your code should include the following elements:

- ▶ an introduction
- ▶ a statement on the purpose of the code
- ▶ a statement of support from your CEO and minister (or mayor)
- ▶ reference to your agency's values and operating principles
- ▶ its scope and application
- ▶ reference to the Public Sector Ethics Act
- ▶ reference to the *Whistleblower's Protection Act 1994*
- ▶ reference to other legislation pertinent to your agency and its key activities (e.g. the *Public Service Act 1996*, *Local Government Act 1993*)
- ▶ a list of definitions
- ▶ the review date and the responsible unit/person.

Most importantly, a code of conduct should provide clear and practical guidance on the five public sector ethics principles contained in the Public Sector Ethics Act and related obligations:

- ▶ respect for the law and system of government
- ▶ respect for persons
- ▶ integrity
- ▶ diligence
- ▶ economy and efficiency.

What topics should the code cover?

To provide practical guidance on upholding the ethics principles, a code of conduct usually covers topics commonly associated with misconduct and corruption. A list is provided on page 4. However, this is not exhaustive, and you may wish to include others that relate to your agency's activities and responsibilities.

Should your code cover every contingency?

It would be impractical, if not impossible, to cover every ethical issue that might arise in the workplace. In their daily activities, public sector employees are required to make decisions on a wide range of issues — some of which may have a major impact on an individual or the community, as well as on the agency.

Some decisions are easy to make because they can be informed by legislation, policies or guidelines, including the code of conduct. Other decisions are more difficult because they require the exercise of judgement and discretion — often over competing 'rights'.

To cater for these latter circumstances, your code could include a model for making an ethical decision, which will provide a framework to help employees work through difficult issues. The model should be easy to follow, to allow employees to consider pertinent facts, outcomes and consequences, ethical principles and any related legal or policy issues.

Such a model provides a basis for making decisions that are honest, fair and objective, and in the public interest. It also reinforces employees' awareness of their ethical obligations and the need for transparency in decision making.

The following is an example of a simple model for ethical decision making.

A model for ethical decision making

Ask yourself these six questions:

1. Is the action legal and consistent with government policy?
2. Is it in line with my agency's goals and code of conduct?
3. Is it the 'right' thing to do?
4. What will the outcome be for:
 - ▶ my agency
 - ▶ my colleagues
 - ▶ others
 - ▶ me?
5. Can I justify my decision or action?
6. Would my decision or action stand up to public scrutiny?

Public sector ethics principles	Common associated topics
Respect for the law and system of government	<ul style="list-style-type: none"> ▶ Role of the public official ▶ Lawful and unlawful instructions ▶ Challenging an official instruction ▶ Political neutrality and advice
Respect for persons	<ul style="list-style-type: none"> ▶ Respect for the dignity, rights and views of others ▶ Concern for the safety, health and welfare of others ▶ Discrimination ▶ Harassment ▶ Workplace behaviour and personal conduct ▶ Managerial behaviour, responsibilities and vicarious liability ▶ Recruitment and selection ▶ Procedural fairness
Integrity	<ul style="list-style-type: none"> ▶ Fraud and corruption ▶ Conflicts of interest ▶ Use of authority and influence ▶ Gifts and benefits ▶ Outside employment ▶ Purchasing and tendering ▶ Party-political, professional and trade union activity ▶ Information security ▶ Public comment ▶ Intellectual property and copyright ▶ Testimonials, referee reports, selection reports and performance reports ▶ Communication with the minister and members of parliament or with the mayor and councillors ▶ Reporting unethical behaviour
Diligence	<ul style="list-style-type: none"> ▶ Diligence, care and attention ▶ Provision of advice, information and services ▶ Learning and self-development ▶ Keeping business records ▶ Destruction of documents ▶ Use of legal and illegal drugs ▶ Competence to perform functions and duties
Economy and efficiency	<ul style="list-style-type: none"> ▶ Use of official resources ▶ Internet and email use ▶ Equipment and consumables ▶ Use of public property and facilities ▶ Claims for reimbursement of expenses ▶ Credit cards ▶ Motor vehicles ▶ Frequent Flyer points

Why are examples useful?

An effective code provides practical examples, case studies and scenarios that reflect the real day-to-day issues that employees may encounter in the workplace. In this way, they can better understand:

- ▶ how an ethical issue can arise
- ▶ what happens if it is ignored or mishandled
- ▶ consequences for all concerned
- ▶ disciplinary action that may be taken
- ▶ strategies for dealing with the issue properly.

Other examples could demonstrate how a particular issue could arise, and how an employee could handle it properly by following proper processes and making an ethical decision that could withstand scrutiny.

Remember, people often enjoy ‘war stories’ and they can be used to reinforce the messages in your code.

What should your code look like?

A code of conduct can take many forms, ranging from a multi-coloured printed booklet, to a formal policy document, to a dedicated portal on the agency’s intranet. Ideally, a code of conduct is available in a variety of media to increase its accessibility and use across all areas of the agency. Your agency can opt to use any format or combination of formats that it considers suitable.

If your agency has a person or unit with communications expertise, they should be involved to help develop a suitable format for the finished code. If your agency does not have such expertise readily available, the following points should be observed:

- ▶ Keep it useful — think of who will be using the document, and what their needs are.
- ▶ Keep it simple — avoid turning the code into a bureaucratic or legalistic document.
- ▶ Keep it clear — the print and general format should be readable.
- ▶ Keep it clean — good use of white space is more effective than a lot of ‘clutter’.

Keep in mind that the reason your code is being reviewed is to ensure that all employees have the information they need to carry out your agency's business ethically and effectively. All employees should be able to comfortably read and understand your code, and easily find the information they want.

You do not need to have a 'fancy' publication for it to be effective.

Step 3: Test

Check for consistency

It is vital to check that your new draft code is consistent with its stated objectives and with Queensland public sector ethics legislation and other legislation relating to the agency's activities and responsibilities. It should also be consistent with other relevant corporate standards and policies.

All agency guidelines and procedures mentioned or cross-referenced in the code should be reviewed and, if necessary, updated to ensure they provide direction and guidance that is consistent with the requirements of the revised code.

Conduct stakeholder review

Conducting a stakeholder review of the draft code before it is finalised and approved is just as critical as seeking stakeholder input during the initial research phase. Again, you may need to use a mix of strategies to help ensure that both internal and external stakeholders have an opportunity to consider the implications of any proposed changes and to respond.

Apart from obtaining useful feedback, a stakeholder review helps to demonstrate to stakeholders that their views have been properly considered, and encourages employee ownership of the revised code.

If significant adjustments have to be made to the draft code as a result of stakeholder feedback, you will need to carry out at least one more stakeholder review after making the proposed adjustments.

Step 4: Endorse

Secure senior management commitment

Your CEO and senior management play a key role in finalising your review by endorsing the new code of conduct and its implementation. Supporting an ongoing ethics program also demonstrates their commitment and leadership.

Obtain ministerial/council approval

If your code has been significantly altered, it will need formal approval from your agency's responsible authority — that is, your minister or council.

The draft code submitted for approval must be accompanied by a written statement from your CEO, which outlines the nature and extent of consultations that took place during the preparation of the code, and their outcomes.⁵

Step 5: Implement

Once your revised code is approved and published, the real work begins — ensuring that it becomes a living document.

Communicate, communicate, communicate!

A code of conduct is a major policy document for your agency and deserves appropriate recognition. Your agency may consider mounting a special event to launch the code and a supporting ethics education program.

From the outset, all employees, including new employees, should be given their own personal copy of the revised code.

Alternatively, every employee might be given ready access to a copy of the full code, but still receive their own copy of an abridged version for quick reference.

The code should be available to all internal and external stakeholders⁶ including suppliers and contractors, and the general community. You could also incorporate code-related information in other communications and documentation for such groups.

As already mentioned, your code should be provided in a variety of media to

increase its accessibility and use. For example, your agency's intranet should play an integral role in the rollout of the agency's code. Electronic features for ease of use and maximum impact could include:

- ▶ search and index functions
- ▶ hyperlinks to relevant strategic/corporate documents, policies and procedures
- ▶ interactive activities
- ▶ email/feedback boxes
- ▶ frequently asked questions.

To give longer term impact to the release of the code and communicate the ethics principles effectively, other promotional activities might include:

- ▶ conducting localised releases and workshops
- ▶ attaching a copy of the code to appointment letters
- ▶ prominently displaying posters about code-related issues throughout the agency
- ▶ issuing a resource on ethical decision making to help with on-the-spot decisions
- ▶ providing a code-related brochure to agency suppliers and contractors
- ▶ conducting awareness programs for client groups to demonstrate your agency's commitment to ethical standards and services.

Your agency should look for innovative approaches and formats to generate ongoing awareness.

Education and training

Regardless of how well your code is written and promoted, employees will require training to ensure they understand the issues covered in the revised code and what they mean for the individual.

Every employee should be required to attend a training program⁷ including signing an attendance sheet. Mandatory training demonstrates the importance your agency places on workplace ethics as well as helping to ensure that employees understand their obligations.

⁵ Public Sector Ethics Act, s. 17.

⁶ Public Sector Ethics Act, ss. 19–20.

⁷ Public Sector Ethics Act, s. 21.

It is also vital to provide all new employees with mandatory code of conduct training as part of their induction.

Your senior management can demonstrate their commitment by setting the tone at the top — leading by example and participating in training sessions.

A well-structured training program should include how to apply the public sector ethics principles and obligations and the other content of your agency's code of conduct, including the obligations to report unethical conduct.

It may also incorporate discussion illustrated by case studies and other relevant resources such as videos. Interactive discussions on hypothetical scenarios can also provide immediacy and relevance for employees. Such approaches are often more effective than straight lectures.

However, don't stop at one-off training sessions. Periodic refresher training should be built into the overall training program — whether through a series of workshops or via a self-paced program on your agency's intranet.

A leader's active participation in an ethics program underscores both its importance to the organisation and the leader's personal interest in seeing it succeed.⁸

Management support

Involving managers at all levels is essential to the success of your code and ethics program. They can play a significant role in supporting the practical implementation of a code by:

- ▶ personally demonstrating the ethical behaviours expected of all employees
- ▶ acting congruently with both the spirit and intent of the code
- ▶ being able to interpret the code's requirements when advising staff
- ▶ ensuring that staff understand their responsibilities under the code
- ▶ supporting staff access to ethics information and training

- ▶ regularly raising ethical issues at team meetings
- ▶ engaging in 'ethics conversations' and 'hypotheticals' with staff
- ▶ applying ethical decision-making processes in work situations
- ▶ participating in education and awareness training sessions
- ▶ recognising and rewarding ethical behaviour.

Support services

Integrity and ethical standards unit

To complement the role of management, some agencies have properly trained staff or ethical standards units able to advise on applying the code and on related ethical issues.

Such officers or units may also manage protected disclosures as well as receive, record and investigate alleged breaches of the code, official misconduct or maladministration.

Helpline or hotline

Some agencies may elect to set up an in-house 'helpline' or, alternatively, outsource this function to a specialist professional group. This type of service provides an avenue for employees to communicate their concerns and seek confidential advice regarding ethical issues. It may also form part of a more general reporting procedure to facilitate the disclosure of wrongdoing.

Reporting systems

Whatever support services your agency may choose to use, it is vital to put in place highly visible and robust internal and external reporting systems. Such systems will support concerned and motivated employees who wish to disclose unethical conduct or official misconduct.

Moreover, effective internal reporting mechanisms have the potential to capture information on possible risk areas and potential system improvements, as well as allegations of misconduct.

Your agency will need clearly defined policies and procedures that place a responsibility on management to foster effective reporting and provide measures that protect the complainant or discloser — particularly those who make a public interest disclosure.

While an effective internal reporting system will encourage employees to take appropriate action when they recognise or suspect wrongdoing, in some cases employees may feel more comfortable reporting their suspicions to an external agency. Indeed, the statutory reporting obligations for certain categories of misconduct⁹ should be adequately covered in ethics awareness training for all employees.

Step 6: Evaluate

As part of your code of conduct review, you should establish a process for ensuring that your revised code and accompanying implementation strategies continue to reflect your agency's priorities.

Critiquing the process

Throughout the implementation process you might seek regular feedback from employees on how well they think the code is working. Feedback from an honest evaluation can be an invaluable basis for continuous improvement.

Key areas for evaluation might include whether:

- ▶ the review of the code has addressed the real issues that warranted the review
- ▶ ethics training and awareness programs for employees have been effective
- ▶ employees can confidently apply ethical practices and decision-making principles in their daily work activities
- ▶ senior management have been willing to be responsible and accountable in regard to ethical practices
- ▶ employee behaviour reflects the spirit and intent of the code, not just basic compliance
- ▶ the revised code and implementation have made any impact on the agency's corporate or ethical culture
- ▶ the experiences of employees who have reported misconduct have been positive rather than negative
- ▶ the code of conduct is being properly used as a reference document when unethical conduct is reported
- ▶ disciplinary processes for breaches of the code are being enforced fairly and objectively.

⁸ Joseph, J 2001. *Integrating ethics and compliance programs: next steps for successful implementation and change*, Ethics Resource Centre, Washington.

⁹ *Crime and Misconduct Act 2001*, s. 38; *Financial Management Standard 1997*, s. 42(2).

Benchmarking the revised code

You may also decide to use the revised code as a benchmark for future review processes. Key areas to consider are its relevance to the role and activities of your agency, and its usefulness to your agency's employees. You may also consider how your agency's code compares with those of other agencies.

As flagged earlier, the CMC has produced a code of conduct checklist to complement this advisory publication. This checklist provides a basis for your evaluation and benchmarking, as well as being an invaluable step-by-step guide for reviewing your code of conduct.

You can also submit your code to an external body, such as the CMC, for review and feedback.

Keeping it up to date

To play a prominent role in your agency's culture, your code of conduct must be 'live'. This means that you need to implement a process to regularly review and update your code, preferably at least every two years. This will assist you when new issues emerge or practices and priorities change.

As the business and operating environment changes, your code of conduct will also evolve — to ensure that it reflects the shared values of your agency and that all employees can confidently apply the ethical practices and decision-making principles in their daily work activities.

References

- Crime and Misconduct Act 2001.*
- Local Government Act 1993.*
- Public Sector Ethics Act 1994.*
- Financial Management Standard 1997.
- Joseph, J 2001. *Integrating ethics and compliance programs: next steps for successful implementation and change*, Ethics Resource Centre, Washington.

Other titles in the Building Capacity series

- 1 *Answering the charges: guidelines for using corporate cards* (July 2003)
- 2 *Regulation in Queensland: misconduct risks and prevention strategies* (August 2003)
- 3 *Cyber traps: an overview of crime, misconduct and security risks in the cyber environment* (February 2004)
- 4 *In your interest: managing material personal interests* (May 2004)
- 5 *Fraud and corruption control: an integrated approach to controlling fraud and corruption within the workplace* (July 2004; reprinted March 2006)
- 6 *Speaking up: creating positive reporting climates in the Queensland public sector* (December 2004)
- 7 *Information security: keeping sensitive information confidential* (February 2005)
- 8 *Receiving gifts and benefits: managing the risks* (June 2006)
- 9 *Sponsorship management: achieving mutually beneficial outcomes* (September 2006)
- 10 *Public-private partnerships: identifying governance risks* (March 2007)
- 11 *Outside employment: risks and remedies* (June 2007)

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND