

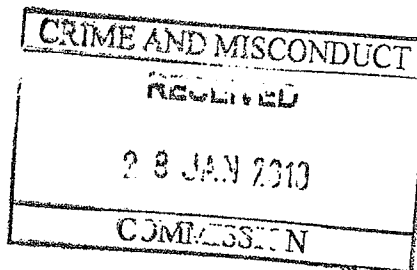


For reply please quote: LJP/SG-TF/09/34619-DOC/10/7542

22 JAN 2010

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Dear Ms Gummow

*Ann*

I refer to the former Chairperson's letter of 3 December 2009 to the Director-General of the Department of the Premier and Cabinet calling for public submissions on the issue of interactions between Ministers, Ministerial staff and public servants.

The Queensland Government appreciates the opportunity to provide input in this process and encloses its submission to the Crime and Misconduct Commission (CMC) regarding this matter.

I understand that the CMC will consider the results of its current investigation into allegations of official misconduct involving a former ministerial adviser, as well as public submissions, in order to prepare a public report in order to help raise standards of integrity and accountability in units of public administration.

The Queensland Government welcomes this public report and remains committed to ensuring Queensland continues to lead the nation in delivering an open and accountable government through its current program of integrity and accountability reforms.

The Government looks forward to the opportunity to consider any draft report or recommendations from the CMC to ensure any changes are effective and practical.

If you wish to discuss this Government submission please don't hesitate to contact, Ken Smith, Director-General of the Department of Premier and the Cabinet, on (07) 3224 4729.

Yours sincerely

*Andrew Fraser*

ANDREW FRASER MP  
ACTING PREMIER OF QUEENSLAND  
Encl.



Queensland  
Government



## **Queensland Government Submission to the CMC Inquiry into the issue of interaction between Ministers, Ministerial staff and public servants**

The Queensland Government is committed to integrity in public administration and welcomes the opportunity to make a submission to the Crime and Misconduct Commission's inquiry into the issue of interaction between Ministers, Ministerial staff and public servants. This submission provides an overview of the existing governance and accountability framework that applies to Ministers, Ministerial staff and public servants in Queensland, as well as information regarding current and proposed integrity reforms which will further enhance this framework.

This submission will address the specific questions raised by the CMC in its call for submission, namely:

1. What protocols, procedures or constraints should be in place to guide ethical and mutually respectful interactions between the Minister's office and public servants?
2. How may public servants be empowered to challenge or question a request or direction from the Minister's office that they consider to be inappropriate?
3. What needs to be done to ensure that public servants at all levels understand their obligation to provide independent, apolitical and impartial advice, and to maintain their freedom to do so?

The Government will carefully consider any recommendations made by the CMC on this important governance and accountability matter with a view to consolidating, enhancing and improving the current framework where appropriate.

### **OVERVIEW**

The Government acknowledges that the process of ensuring integrity and accountability in Government is in a constant state of development and improvement and this includes achieving greater clarity in arrangements for interactions between Ministerial staff and public service officers. That is why the Queensland Government is committed to implementing a number of reforms which clarify the circumstances in which Ministerial staff can give directions to public service officers and the process for public service officers to challenge or question directions or requests from Ministers' offices which are considered to be inappropriate.

The Government is currently implementing a program of integrity and accountability reforms in response to public consultation on the discussion paper *Integrity and Accountability in Queensland*, released in August 2009.

The discussion paper and the Government's *Response to Integrity and Accountability in Queensland* clearly set out the Government's commitment to the challenge of improving and strengthening the current regime by ensuring expectations are clear and driving a culture of high ethical standards. As evidenced by the integrity and accountability reform process, the Government is committed to ensuring that Queensland stays at the forefront of open and accountable government. The integrity and accountability reforms announced as part of this process provide a firm and complementary basis upon which requirements for interactions between Ministerial staff and the public service can be clarified.

Alongside reforms announced as part of the *Integrity and Accountability in Queensland* process the Queensland Government has decided to implement further reforms specifically dealing with interaction between Ministers, Ministerial staff and public service officers.

Relevant measures being implemented or proposed for implementation by the Government include:

- Amend standard contracts for the appointment of Ministerial staff to include a clause that clearly acknowledges that Ministerial staff do not have the power or authority to direct public service officers unless the direction is made on behalf of the Minister.
- Introduce new legislation (modelled on the Commonwealth *Members of Parliament (Staff) Act 1984*) to govern the employment arrangements for Ministerial staff (as previously announced in the Government's *Response to Integrity and Accountability in Queensland*).
- Introduce a single code of conduct for the public service and establish a new Ethical Standards Branch within the Public Service Commission responsible for advising public service employees on ethical issues (as previously announced in the Government's *Response to Integrity and Accountability in Queensland*).
- Review relevant codes of conduct, guidelines, policies and directives to ensure that there is clarity for Ministers, Ministerial staff and public servants about the parameters surrounding the interactions between Ministerial staff and the public service.
- Provide clear direction from the Premier to all Ministers and Directors-General regarding the interactions with Ministerial staff, to ensure there is a consistent understanding across the sector about the conduct expected of public servants and Ministerial advisers.

- Promote cultural change across the public sector through education and awareness raising initiatives about the roles and responsibilities of Ministerial advisers and the public service, including dissemination of information about appropriate standards for interaction.

The Government intends to implement the measures outlined above by mid 2010 subject to the consideration of any relevant recommendations arising from the CMC's inquiry.

## BACKGROUND – The Role of Ministerial Staff

Ministerial staff directly appointed by the party in government were introduced to the Australian political landscape in 1972 when the newly elected Whitlam government began appointing a small group of personal staff to provide support and political advice to Cabinet Ministers. Prior to this period support staff were provided by way of secondment from the bureaucracy. This practice was continued under the Fraser government before undergoing a significant expansion during the Hawke and Keating governments of the 1980s and 1990s.

In the Commonwealth sphere, the development of both the numbers and influence of Ministerial staff during this period was accompanied by an increased formalisation of positions. In 1983, a Ministerial Staff Advisory Panel was introduced to screen appointments, bringing a degree of procedure to a process which had previously had no basis other than the personal preference of the Minister.

The following year, the *Members of Parliament Staff Act 1984* (Cth) was passed by Parliament, providing a legislative basis for the employment of Ministerial staff and a framework for the movement of public servants between departments and Ministerial offices. These provisions reflected the early norm whereby Ministerial offices were largely staffed by public servants seconded from departments and acting as departmental liaison officers. As the demands placed on Ministerial staff developed, becoming both broader and more intense, there developed an increasing tendency to appoint individuals with specific expertise from outside the public service.

By the close of the Keating era, Ministerial staff were established as a permanent, central feature of Australian executive government, acting as 'power-point that makes the day to day connection between the Minister's interests and the work of departments'<sup>1</sup>. While this growth has occurred in an

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<sup>1</sup> Sandy Hollyway "Departments and Ministerial Offices: An Essential Partnership" in Disney, J and Nethercote, JR (eds.) (1996) *The House on Capital Hill: Parliament, Politics and Power in the National Capital*, Canberra: Federation Press, p. 133.

ad hoc and largely unplanned manner<sup>2</sup>, the experience has been reflected in the state and territory governments of Australia and Westminster democracies across the world.

It has long been recognised that the scope of a Minister's responsibilities are very broad and it is impossible for them to act alone without the support of a team<sup>3</sup>. The role of Ministers requires that they receive support to bolster their capacity to deal with the volume of their workload, assert control over policy and negotiate a political arena that is increasingly professionalised.<sup>4</sup> Modernisation and technological development have also had a significant impact on the practice of government and politics in Western democracies. The defining characteristics of the information age such as real time across-the-globe communication and the twenty-four hour media cycle have heightened the complexity of the demands placed on Ministers while shortening the timeframes within which they must respond. This state of affairs has led Ministers to take on an increasingly leading role in the development of policy, integrating the political agenda of the government of the day with the crucial decision-making and communication roles.

In these circumstances, the long standing Westminster tradition of a sharp distinction between a government department, as the sole generator of policy, analysis and advice, and the Minister, as a decision maker and point of communication on behalf of elected government, has been superseded. While the need for apolitical advice and policy development by the bureaucracy has remained, these circumstances have created a further need for a conduit between the work performed by the public service and the valid interests and demands made on Ministers. Ministerial staff fill this role, performing a span of work that key commentators have identified as covering five broad areas<sup>5</sup>:

1. Personal support – administrative tasks such as scheduling, managing the Minister's time, informing the Minister of developments on key issues, chasing up personal requests and acting as a sounding board for the development of ideas.
2. Political support – preparing Ministers for question time; consultation and negotiation on legislative issues; liaising with political parties on policy initiatives and local and regional issues; and, developing strategies and tactics to win political support, capitalise on success and negotiate problems.

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<sup>2</sup> James Walter "Ministerial staff and the 'lattice of leadership'", *Democratic Audit of Australia*, Discussion Paper 13/06, April 2006, p.3

<sup>3</sup> Anne Tiernan (2007) *Power Without Responsibility*, Sydney: University of New South Wales, p. 4

<sup>4</sup> Ibid.

<sup>5</sup> Maria Maley 'Conceptualising Advisers' Policy Work: The Distinctive Policy Roles of Ministerial Advisers in the Keating Government 1991-96', *Australian Journal of Political Science*, 35 ( 3 ), pp. 449-70. and Anne Tiernan (2007) *Power Without Responsibility*, Sydney: University of New South Wales.

3. Communications – preparation of public statements, speechwriting, the management of members of the press, media presentations and the promotion of policy initiatives.
4. Steering policy – generating policy ideas and initiatives within the Ministerial office and also, liaising with departments to supervise, mobilise and keep abreast of the development and implementation of policy.
5. Coordination – coordinating the activities and interests of various departments and Ministerial offices to ensure cohesion between departments and Ministerial offices across government.

The tasks performed by Ministerial staff such as attending meetings on behalf of Ministers, liaising with political parties and brokering and negotiating policy issues with stakeholders can thus be seen to be necessary to the smooth running of modern day government. Such tasks are not necessarily suitable to be performed by public servants. Further, it is important to acknowledge that such tasks are also performed by staff employed by the Leader of the Opposition in support of the Shadow Ministry.

By providing a timely stream of advice that takes into account the party and political interests of their Minister, Ministerial staff allow Ministers to properly perform the dual roles of politician and government decision maker. Many of these tasks are of a type which it would be inappropriate for a non-partisan public servant to perform.

The existence of a separate, dedicated source of political advice provided by Ministerial staff frees the public service from the potential pressure of having to consider the political interests of their Minister when performing their duties<sup>6</sup>. Together, the work performed by Ministerial staff and the public service contribute to a robust system that allows Ministers to receive information and analysis that considers all factors relevant to their position, and from that point, make informed decisions. As Dr Anne Tiernan writes “the staffing system is thus on the assumption that staff and public servants provide distinct but complementary advice and support to Ministers, based on their respective skills and expertise.”<sup>7</sup> This position is now broadly accepted by major parties in the Australian political system.

## CONTEXT

Queensland's Westminster system of government establishes the context within

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<sup>6</sup> Michael Forshaw, 'Ministerial Advisers: Their Role and Accountability,' *Canberra Bulletin of Public Administration*, 2003, pp. 5-7

<sup>7</sup> Anne Tiernan (2007) *Power Without Responsibility*, Sydney: University of New South Wales, p. 24

which Ministers, Ministerial staff and public servants interact. Under this framework, distinct accountability relationships define the respective roles, responsibilities and obligations of Ministers, Ministerial staff and public servants.

Queensland has an extensive system of legislation, policies and codes of conduct in place to regulate the actions of Ministers, Ministerial staff and public service officers. This framework promotes the high standards of behaviour expected of those who play a role in the good governance of Queensland.

At a systemic level, the Queensland Government considers that interactions between Ministerial staff and public service officers are appropriate and indeed play an important role in the effective administration of government in Queensland.

These interactions are a day-to-day part of the operation of government and it is important that there is enough flexibility in the system to ensure Ministerial staff and public service officers are able to fulfil their respective roles efficiently and effectively.

#### *Ministerial accountability*

As elected representatives, Ministers are individually accountable to Parliament for the administration of their portfolios, while governments are collectively held to account by the electorate through regular elections. This line of accountability to the Parliament, and ultimately the people of Queensland, requires Ministers to act in the public interest and with due regard to accountability, fairness and integrity.

While these responsibilities are established, but not exhaustively defined through Westminster tradition and convention, the concepts and specific expected standards of behaviour, are elaborated on through Government directions such as the *Ministers' Code of Ethics* contained in the *Queensland Ministerial Handbook* (available at: [www.premiers.qld.gov.au/publications/handbooks.aspx](http://www.premiers.qld.gov.au/publications/handbooks.aspx)). The *Ministerial Handbook* reiterates that Ministers and their staff operate in an environment of rigorous accountability and that, in order to meet public expectations, they must act in accordance with the highest standards of ethical behaviour and propriety in the execution of their public duties.

#### *Ministerial staff accountability*

To enable Ministers to fulfil their portfolio responsibilities fully and effectively, Ministerial staff are employed to provide support to Ministers in the discharge of their duties. Ministerial staff provide important links between Ministers and the public service, in recognition of the fact that Ministers are not able to deal personally with departmental staff on the wide range of issues that arise in the administration of a portfolio. Ministerial staff also provide advice directly to Ministers which may be based on political considerations, to complement the



independent and impartial advice of the apolitical public service.

Ministerial staff do not have any executive power or other legal authority to direct public service officers, unless they are communicating a direction on behalf of the Minister. Due to the sheer volume of correspondence and issues that are directed at Ministers a significant proportion of the communication between Ministers and the public service takes place through the Minister's staff. For example, in 2008-09, the Premier received approximately 45,500 items of Ministerial correspondence, which equates to 875 per week, and on average attended 45 meetings per week. In addition, the Premier's office receives approximately 700-800 telephone calls per week.

As public employees, Ministerial staff and public servants have an obligation to act in the public interest, a principle reflected in the *Code of Conduct – Ministerial Staff* (refer **Appendix 1**) and public service codes of conduct. The ethics principles set out in the *Public Sector Ethics Act 1994*, as well as other accountability and governance policies and legislation (refer to summary below), impose legal and ethical requirements on Ministerial staff and public servants to act in the public interest.

#### *Public service accountability*

The public service must give effect to the policies of the elected Government, regardless of its political complexion, and provide objective and impartial advice to assist the Government. Within departments, public service officers are accountable to individual Directors-General or chief executive officers (CEOs), who enter into contracts with and are accountable to the Premier but report directly to the responsible Minister on a day-to-day basis.

Public servants exercise delegated authority on behalf of the Minister or under specific statutory regimes, reported through departmental or agency management structures. Under the *Financial Accountability Act 2009*, Directors-General are the accountable officers responsible for the expenditure of public funds.

Obviously, all public servants, Ministerial staff and Ministers must always act lawfully in the performance of their duties.

#### *Interactions between Ministerial staff and public servants*

Positive and productive interaction between the administrative and political arms of government is central to good government. Good working relationships between the public service and Ministerial offices contribute to effective governance by ensuring efficient and effective delivery of the Government's priorities. These relationships are comprised of a mix of formal and informal interactions on a day-to-day basis, depending on the issues at hand.

The Government acknowledges that it is vital that interactions between

Ministerial staff and public service officers are managed in an appropriate manner. The boundaries of the relationships must be clearly understood so that officers employed in these positions are apprised of their respective roles and obligations.

If the interaction between Ministerial offices and the public service is not managed appropriately, it may result in a perception of failure in the provision of frank, impartial and accurate advice to Ministers and, ultimately, erode public confidence in the governance of the state.

However, it is important that the dynamic relationship between Ministerial staff and the public service should not be hampered by overly prescriptive guidelines or policies. The primary purpose for employment of Ministerial staff is to provide support to Ministers to assist them in meeting their broad responsibilities. Importantly, Ministerial staff assist in ensuring Ministers respond in a timely way to the Parliament, the public and the media. For example, Ministers are frequently required to provide complex and detailed responses to Parliamentary Questions on Notice and media enquiries within specific timeframes (some examples of the range and complexity of matters to which Ministers must respond are attached (refer **Appendix 2**)). Any guidelines or policies should therefore recognise the practicalities of, and complement, a fast-paced work environment that is responsive to the needs of the community.

Government guidelines and policies must reflect that the fundamental principle underpinning these interactions is that all parties must have a clear understanding of their roles, responsibilities and obligations, the extent of their authority to take particular action and the chain of accountability within which they operate.

Specifically, it must be recognised that while public service officers should work towards maintaining good working relationships with Ministerial staff (and vice-versa), all parties must understand that Ministerial staff are not empowered to direct public servants in their own right. Where a public service officer considers that a direction is considered to be unreasonable (or unlawful) senior executives must raise the issue with the responsible Director-General, who must be openly available to senior executives and other staff who have questions or are seeking advice about instructions. Where concerns have been raised, the Director-General should raise the matter with the appropriate Minister for resolution.

Additionally, while the public service provides advice and recommendations to Ministers, the Minister is not obliged to accept recommendations put to them by public servants. The role of the public service is to provide advice that is objective and impartial as well as responsive, accurate and comprehensive, and to give effect to the policies of the elected Government, regardless of its political complexion, including implementing its policies and decisions.

Productive relationships between Ministerial staff and the public service should be seen as enablers to maximise the Government's effectiveness and ensure the public service operates in an accountable, responsive and apolitical manner.

## RESPONSES TO QUESTIONS

***What protocols, procedures or constraints should be in place to guide ethical and mutually respectful interactions between the minister's office and public servants?***

Ministers, Ministerial staff and public service officers are subject to a comprehensive framework of laws, policies and regulations which establish legal obligations, administrative requirements and expected standards of behaviour. The key elements of this framework as relevant to the CMC's current inquiry are outlined below.

The primary legislation providing for the administration of the Queensland Public Service and the management and employment of public service employees is the *Public Service Act 2008* (PSA). The PSA clearly states that public service management is to be directed towards:

- providing responsive, effective and efficient services to the community and the Government; and
- maintaining impartiality and integrity in informing, advising and assisting the Government.

The ethics regime for the public service is contained in the *Public Sector Ethics Act 1994* (PSEA). The PSEA sets out five ethics principles as the basis of good public administration in the Queensland public sector: respect for the law and the system of government; respect for persons; integrity; diligence and economy and efficiency. The PSEA also identifies ethics obligations (which build on the ethics principles) as the framework for departmental codes of conduct.

The PSEA requires that CEOs prepare and make available codes of conduct, provide adequate training to staff and ensure that the procedures and practices of the organisation have regard to the agency's code of conduct and the PSEA.

As part of the integrity and accountability reform process, the Government has announced that the current system whereby each department has its own code of conduct will be replaced with a single code of conduct for the public service. The single code of conduct will ensure that consistent standards of behaviour are established and promoted across the public service. The ethics principles in the PSEA are also being reviewed and modernised to ensure that they appropriately reflect the ethical standards expected by the community today.

Ministers and Ministerial staff are subject to the requirements of the *Ministerial*

*Handbook* which contains provisions dealing with the appointment and management of staff. The handbook sets out the common policies, practices and procedures to be adopted in Ministerial offices with respect to financial management, human resource management and other policies relating to the functioning of Ministerial offices.

Annexed to the handbook is the *Ministers' Code of Ethics*. The code provides guiding principles in relation to the broad issues of accountability, fairness, integrity, conflicts of interest, responsibility, transparency, directorships, shareholdings and post-Ministerial employment, to ensure that the highest standard of ethics are applied by Ministers.

As with departmental officers, the standards of behaviour expected of Ministerial staff are contained in a specific code of conduct. The *Code of Conduct – Ministerial Staff*, which adopts the five ethics principles contained in the PSEA, contains provisions dealing with integrity (such as safeguarding official information and proper use or disclosure of information) and conflicts of interest (such as bribery, improper use of official information and possible criminal offences).

The Integrity Commissioner is also a source of independent and confidential advice for officers, including Ministers, Ministerial staff, chief executives and senior executives on specific ethics or integrity issues.

In addition to the codes of conduct, the Government also has in place a number of policies and guidelines which govern specific issues – these may be applicable to either certain areas of government or set high standards for the entire sector. Two such relevant policies applicable across the public sector are the *State Procurement Policy*, a mandatory policy which establishes probity and accountability requirements for procurement activities, and the *Guidelines for Grant Administration* which deal with the handling, appraisal and approval of grant applications.

The *Guidelines for Grant Administration*, which form part of the Government's Financial Management Strategy, are currently under review by Queensland Treasury in line with contemporary practices. The revised guidelines will be designed to assist both grant providers and grant recipients to better understand funding processes and cycles and will form part of the handbook that supports the *Financial Accountability Act 2009*. The guidelines, which are expected to be finalised in early 2010, are expected to cover a number of specific matters such as delegations and approvals.

In addition to policies and guidelines, the Government ensures that regular training is provided to public officials to assist them in compliance with the relevant ethics framework.

Ministerial Services, Department of the Premier and Cabinet facilitates the

provision of workplace awareness training annually for new Ministerial employees and refresher training to Ministerial employees every two years. The training content covers the Code of Conduct and the responsibilities of managers and employees to achieve a workplace free of any form of discrimination and harassment and to take prompt, effective and fair action to resolve any complaints.

In addition to a first day HR induction which covers employment entitlements, the *Ministerial Handbook* and ethical issues generally, a half day corporate induction is offered to Ministerial staff covering topics in more detailed discussion ranging from the legislative and cabinet processes to the *Ministerial Handbook*. Other training made available to Ministerial staff on an as-needs basis includes the Queensland Contact with Lobbyists Code; the *Right to Information Act 2009* and *Information Privacy Act 2009*; changes to the *Ministerial Handbook*; accountability; and restrictions on post-separation employment.

To support and assist interactions between Ministers and departments, the Government has in place specific Departmental Liaison Officer positions within Ministerial offices. These positions are the key liaison points between the department and the Minister's office. They are the primary points of contact for queries by Ministerial and departmental staff relating to Ministerial requests for information, briefing notes and correspondence. Ministerial staff seeking information from a department can utilise these officers in order to ensure accurate, high quality and timely advice.

#### Unacceptable Behaviour

The governing framework for both Ministerial staff and the public sector also clearly deal with unacceptable behaviour.

In relation to Ministerial staff, the *Ministerial Handbook* contains provisions dealing with human resource management and workplace behaviour, including bullying and harassment generally. Additionally, workplace bullying is a clear breach of the *Code of Conduct – Ministerial Staff* under Ethics Obligation 2: "Respect for Persons". Any reports of workplace bullying are treated seriously and are investigated promptly, confidentially and impartially. Breaches of the Code may be dealt with through measures such as informal or formal employee counselling and / or the application of procedures for the management of diminished performance.

Departmental codes of conduct also set out expected standards of behaviour for public service officers and the consequences of breaches of these standards of behaviour. Failure by public service officers to comply with the requirements of codes of conduct may be dealt with under the disciplinary provisions of the PSA. The disciplinary provisions of the PSA were amended in November 2009 to

enable disciplinary action to be taken against former public service officers following serious breaches of discipline or misconduct even if their employment in the public service has ceased.

The behaviour and conduct of Queensland Government employees is also regulated by criminal law; the Queensland Criminal Code contains a range of offences that relate to official corruption which may apply to any person employed in the public sector. In addition, serious breaches of codes of conduct and ethical standards within the Queensland Government may amount to criminal behaviour (such as fraud, stealing or corruption). Any behaviour that amounts to criminal behaviour is referred to the Police and the CMC.

***How may public servants be empowered to challenge or question a request or direction from the minister's officer that they consider to be inappropriate?***

As noted above, within Queensland's system of government, Ministers have ultimate decision-making authority and are accountable to Parliament for those decisions. The role of the public service is to provide advice that is objective, impartial, responsive, accurate and comprehensive and to implement the elected Government's policies and decisions. The relationship between the Queensland public service and Ministerial staff must always recognise this fundamental principle.

A Minister must make a decision in the public interest and if that requires a decision contrary to the advice provided by the department then the Minister must be prepared to make such a decision. Ministerial staff should not procure different advice for the sole purposes of altering any recommendation, and the public service should not abide any such request for advice. It is reasonable to seek alternate advice based on for example, changes in circumstances or the different views of stake-holders affected by a particular decision. Advice will not always be infallible nor absolutely comprehensive in the first instance. This should not deter decision-making nor, given the Minister's responsibility to Parliament, should it require another further step in the decision-making process. This reflects the distinction between the provider of the advice and the role of the decision-maker.

It is not uncommon for a Minister, or an adviser on behalf of a Minister, to have an expectation that any advice provided by the public service will be logical, justifiable and capable of due scrutiny and should be accompanied by all materials necessary to support conclusions

Briefings provided to Ministerial offices that contains advice which is not supported by evidence needs to be questioned by the Minister's office or even rejected. This is no different to questions being raised by the media, the Opposition or the general public about the merits of issues raised and discussed

by Government.

Although Ministerial staff do not have the power to direct public service officers in their own right, they often have an in-depth appreciation of a Minister's requirements and views which can be conveyed to the public service. If there is any doubt about the authority of a direction conveyed by a Ministerial adviser, public service officers are expected to confirm that the direction has Ministerial authority. The process for such confirmation of directions should occur through the relevant departmental reporting framework and, if necessary, through the Director-General to the Minister directly.

The public sector's legislative framework and codes of conduct provide a basis under which this should occur. The codes, which are broadly similar across departments, generally provide for situations where employees may challenge or question instructions given to them. For example, the Department of the Premier and Cabinet's Code of Conduct specifically deals with the process for challenging instructions, as well as the requirements for public sector employees to act in the public interest. Relevant guidance included within the Code includes that employees:

- are expected to act 'in the public interest' which generally means – in accordance with the law and that policy objectives of the elected government, under the direction of the responsible Minister (section 1 – Introduction).
- have a right and duty to test what appears to be an unreasonable or unconscionable instruction against the standards of the community (section 2.4 – How does the Code Impact on my Personal Ethics?)
- may challenge an instruction given to them, if it is considered unreasonable or is unlawful or improper (section 3.1 – When should I Question an Instruction?).

The Code further details the procedure for challenging an instruction where:

- the employee has a reasonable objection to the instruction (for example, the direction would involve aspects of 'maladministration' as defined in the *Ombudsman Act 2001*, or would be unconscionable); or
- an instruction is unreasonable because it goes beyond what is appropriate in all the circumstances; or
- an instruction involves actions which are reasonably considered to be unlawful or improper.

Although departmental codes generally provide similar guidance on the process for challenging instructions, this is not consistent across Government. This anomaly will be rectified through the introduction of a single code of conduct for the public sector, to be implemented by mid-2010 as part of the Government's

integrity and accountability reform process.

There may also be a benefit in increased training and awareness to ensure that all public servants are aware of the legislation, policies and protocols that govern the relationship with Ministerial offices. To this end, a structured training and awareness program will be implemented in 2010 for Ministerial staff (to be provided by Ministerial Services within the Department of the Premier and Cabinet) and public service employees (to be developed by the new Ethical Standards Branch being established within the Public Service Commission in conjunction with agencies for delivery across the public service).

The development of a structured program will assist to clarify the roles and accountabilities of Ministerial staff and provide strategies for building appropriate and effective relationships with public servants.

***What needs to be done to ensure that public servants at all levels understand their obligation to provide independent, apolitical and impartial advice, and to maintain their freedom to do so?***

The Government has demonstrated its commitment to continuous evaluation and improvement of the state's integrity and accountability framework through the recent integrity reforms.

This reform process emphasises the importance of educating public sector employees, including Ministerial staff, on their ethical obligations and roles within the broader system of government. Relevantly, the program of reform includes initiatives that will provide greater clarity around the terms and conditions of employment for Ministerial advisers, including introduction of stand alone legislation to govern the employment of Ministerial staff.

The single public service code of conduct will be supported by a training and awareness program on appropriate conduct and public sector values, to be developed by the new Ethical Standards Branch of the Public Service Commission.

The Integrity Commissioner's role of providing advice to Ministers, Ministerial staff and public service chief executives, senior executives and senior officers was expanded from 1 January 2010 to cover all ethics or integrity issues, rather than only conflict of interest issues.

While these measures will enhance the existing integrity and accountability framework, the Government considers that arrangements with regard to interactions between Ministerial staff and public service officers can be further strengthened to ensure they are guided by clear ethical standards that withstand scrutiny. To this end, the Government intends to the following specific enhancements to the current framework to better provide for the interaction



between Ministerial staff and the public service:

### **1. Amend contracts of employment for Ministerial staff**

As noted above, Ministerial advisers are generally engaged as 'general employees' under the PSA. The majority of the terms and conditions of employment is governed by a specific employment contract between the adviser and the Director-General of the Department of the Premier and Cabinet.

These contracts of employment will be amended in the context of the proposed new legislation for the employment of Ministerial staff. At a minimum, contracts for the appointment of Ministerial staff will be amended to clearly stipulate that Ministerial staff do not have the power or authority to direct public service officers unless the direction is made on behalf of the Minister.

### **2. Clarify the terms of appointment of Ministerial staff**

As part of Queensland's *Response to Integrity and Accountability in Queensland*, the Government has already committed to introducing legislation by mid-2010 to govern Ministerial staff employment and disciplinary processes.

The Government considers it important that rules applicable to Ministerial staff be clear and easily accessible. For this reason, the Government will be introducing legislation similar to the Commonwealth *Members of Parliament (Staff) Act 1984*. This will ensure that there is a discrete framework for the employment of Ministerial staff distinct from the public service, thus reflecting the way in which the roles of Ministerial staff differ from the public service and providing clear direction on their roles, rights and responsibilities.

The proposed new legislation is the appropriate vehicle to address any gaps in the current employment framework for Ministerial advisers.

Currently, the majority of Ministerial staff are employed under a contract of employment pursuant to section 147 of the *Public Service Act 2008* as 'general employees'. The standard contracts for Ministerial staff are attached (refer **Appendix 3**). While 'general employees' are part of the Queensland Public Service, the PSA mainly applies to public service officers, a category of employees which does not include general employees such as Ministerial staff. Ministerial staff are therefore excluded from various provisions of the PSA, including the disciplinary provisions in Chapter 6.

The common law currently provides guidance in relation to disciplining Ministerial staff. However, as stated above, it is considered that the employment regime, including disciplinary mechanisms, applying to Ministerial staff should be transparent and accessible. Clarity regarding disciplinary processes will be considered during development of the new legislation.

### **3. Introduce a single code of conduct for the public service and establish a new Ethical Standards Branch within the Public Service Commission**

The single code of conduct for the public service will emphasise a positive public sector values in addition to articulating prohibited behaviours. The single code of conduct will ensure clarity and consistency in standards, enhance accessibility and, consequently, improve awareness of the values underpinning the operation of the public service.

This code will clearly articulate the role of the public service within the Westminster system of government and reiterate that Ministerial staff do not have executive power or legal authority to direct public service officers unless the direction is made on behalf of the Minister.

The code (as well as any necessary whole of government or agency-specific guidelines) will also provide for the circumstances and process under which public service officers can challenge directions or instructions provided to them. While it is envisaged that directions and instructions should, in general, only be provided to CEOs and senior executives, the code will also provide clear guidelines about the process for public service officers to question requests, instructions or directions given to them by Ministerial staff where it is considered the instruction may be unreasonable, unlawful or improper.

Additionally, to strengthen and maintain Queensland's ethical culture, the new Ethical Standards Branch being established within the Public Service Commission will assist all Queensland Public Service employees, including senior executive staff and agency heads, by providing independent advice on public sector ethics issues.

#### **4. Review and amend codes of conduct for Ministers and Ministerial staff and other relevant guidelines, policies and directives**

The Government will also ensure that codes of conduct for Ministers and Ministerial staff, and other relevant guidelines, policies and directives provide sufficient clarity for Ministers, Ministerial staff and the public service in relation to the interactions between Ministerial staff and the public service.

For example, the *Ministerial Handbook* and the *Ministers' Code of Ethics* will be amended to clearly articulate the role of Ministers, Ministerial staff and the public service. It will state that the authority and power to direct the public service lie with the Minister and reiterate that Ministerial staff do not have executive power or legal authority to direct public service officers unless the direction is made on behalf of the Minister.

Both documents will include clear provision that Ministers are responsible for the conduct of their staff in relation to interactions with the department, and to ensure that advisers do not engage in behaviour that exceeds their authority.

The *Code of Conduct – Ministerial Staff* will be reviewed to align with the proposed new Ministerial staff legislation to clearly articulate the ambit of Ministerial staff functions and delegations. The Code will include additional

information about the nature of the Westminster system of government and the role of Ministerial staff within that system. The Code will also clarify that the power to make decisions rests with the Minister and explicitly provide that they do not have the power or authority to direct public service officers unless the direction is made on behalf of the Minister.

Good practice guides are considered to be a useful tool to provide practical guidance on basic concepts in order to provide better support to both the public service and Ministerial offices. For example, it is envisaged that a good practice guide could specify processes for authorisation of advice to Ministerial staff or the use of less formal communications as measures to promote quality of service to the Minister and the Minister's office.

#### **5. Provide clear direction to all Ministers and Directors-General about expectations regarding interaction with Ministerial offices**

The PSA establishes the chief executive service to promote the public service's effectiveness and efficiency and the delivery of services by the public service in accordance with Government priorities.

Directors-General have specific obligations under the PSA, including to ensure that the public service provides sound and impartial advice to the Government and carries out its duties impartially and observing all laws relevant to the employment. Under the *Financial Accountability Act 2009*, Directors-General are the accountable officers responsible for the expenditure of public funds.

Directors-General are employed under contract directly with the Premier and report to the responsible Minister on a day-to-day basis. As the person to whom these officers are ultimately accountable, the Premier will issue a communiqué to all Ministers and Directors-General outlining her expectations in relation to the management of departments. This communiqué will provide Ministers and Directors-General with a statement about their roles and responsibilities in the context of interactions between public servants and Ministerial staff.

The communiqué will reinforce the obligations on Directors-General under the PSA to lead the public service in providing impartial, frank and fearless advice to the Government and reiterate that nothing should interfere with this responsibility.

Appropriate working relationships between Ministerial offices and the public service should be managed and maintained by Ministers, chief executives and senior executives within the public service. Directors-General have a responsibility for ensuring that the interactions between departmental and Ministerial officers are conducted in accordance with appropriate standards; where a Director-General considers that a Ministerial adviser has breached the required standards of conduct, they should take appropriate action.

The Premier will make it clear that Directors-General must:

- clarify their expectations of the conduct required of staff interacting with Ministerial offices – this will provide that directions from Ministerial staff should be provided directly to the Director-General or senior executives;
- provide ongoing support to staff (and remind senior executives of their responsibility to provide support to staff) in managing their relations with Ministers and their staff;
- where a direction is considered to be unreasonable (or unlawful) senior executives must raise the issue with the responsible Director-General, who must be openly available to senior executives and other staff who have questions or are seeking advice about instructions. Where concerns have been raised, the Director-General should raise the matter with the appropriate Minister for resolution. Where a matter can not be adequately resolved, it should be referred to the Director-General of the Department of the Premier and Cabinet for resolution with the Chief of Staff of the Premier's office or the Premier; and
- where a direction could potentially be unlawful then the matter should be referred to the Director-General to determine whether to notify the CMC or the police.

#### **6. Provide training and support to both Ministerial staff and the public service**

The Government will seek to promote appropriate cultural and ethical values across the public sector through education, information and awareness raising initiatives about the roles and responsibilities of Ministerial advisers and the public service.

Accordingly, a structured training and awareness program will be developed and delivered in 2010 to clarify the accountability relationships and levels of authority of Ministers, Ministerial staff and public service officers within the broader context of Queensland's Westminster system of government. This training will be provided to Ministerial staff by Ministerial Services within the Department of the Premier and Cabinet.

The implementation of a structured program for Ministerial staff will assist in the development of their skills and performance by focusing on knowledge, decision making ability and personal awareness and increase their professionalism in dealings with public officials.

The new Ethical Standards Branch of the Public Service Commission will also develop a training program on the single code of conduct and ethical decision-making in consultation with agencies. The Ethical Standards Branch will deliver training to all chief and senior executives and provide training resources for departments and public service offices for mandated delivery to all public service employees.

## CONCLUSION

The Government considers that Queensland currently has a robust framework in place to ensure that appropriate relationships between different officers within the public service are established and maintained.

The majority of interactions between Ministerial staff and the public service are entirely appropriate and are an important part of ensuring Ministers meet their responsibilities.

However, the Government acknowledges there is always more to be done to ensure that there is clarity and broad understanding within the public sector regarding the relative levels of authority of Ministers, Ministerial advisers and public service employees, and that appropriate relationships are established and maintained. To this end, the Government has already committed to implementing a number of measures to address issues identified through both the Commission's inquiry, and the integrity and accountability reform process initiated separately by the Government in 2009.

The Government thanks the Commission for this opportunity to provide a submission and will carefully consider any Commission recommendations on this important governance and accountability matter with a view to consolidating, enhancing and improving the current framework.



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## 1.0 Introduction

As an officer employed within a ministerial office, you occupy a unique position within the Queensland public sector. The key role that you play in providing advice and administrative support to the Minister places you in a position of significant trust. Given this community trust, your conduct, which will also reflect directly upon your Minister, is a matter of legitimate concern by government, other public sector employees and the community.

As a budget-funded public sector employee, you receive your salary and the resources which enable you to perform your work, from taxes paid by the community. In performing official duties, you are expected to act "in the public interest" - which generally means - in accordance with the law, and the policy objectives of the elected government, under the direction of the responsible Minister - to exercise a duty of care in respect of present and foreseeable interests of the whole community. This clearly implies taking into account and judiciously balancing a multiplicity of considerations when providing advice.

Public sector employees at all levels, under whatever statutory or administrative arrangements, who make decisions, exercise powers, or who provide policy advice which may affect the welfare, rights or entitlements of the community and individuals, are subject to an ethical obligation to ensure that their powers and influence are used lawfully and fairly. All state power derives, ultimately, from the people and individual members of the community have legitimate expectations that they will not be subjected to arbitrary or prejudiced action by employees acting on the community's behalf.

Serious concern would arise if officers employed within ministerial offices become involved in, for example, questionable use of official information, inappropriate personal conduct in the workplace, conflicts between their personal interests and their duty as officials, or inappropriate use of public funds. To address these areas of concern, specific attention is to be paid to conflicts of interest, and in particular the requirement that you register your personal interests on an annual basis and declare other interests as they arise. These requirements are set out in section 5.3 of this code.

How officers employed within ministerial offices use their official positions, their powers and the resources available to them, are central concerns of this Code of Conduct.

It is therefore essential that you have a clear understanding of your role as a public sector employee and of the professional ethical standards which may be expected. This Code provides a general indication of expected standards of official conduct, relationships and behaviour, based on the principles set out in the *Public Sector Ethics Act 1994*.

### 1.1 Application and Coverage of this Code of Conduct

This Code of Conduct has been developed for all people employed within ministerial offices (excluding the Minister), and applies to all officers, including voluntary workers. The Code also covers consultants in so far as they use public resources or have access to official information.

The Code of Conduct also applies to you whilst on leave in so far as it relates to your conduct on leave that may negatively impact on your integrity or your ability to resume duties at the completion of your leave.

### 1.2 Structure of the Code

This Code consists of seven sections. Section One is an introductory section, providing an overview of the general requirements of the Code and the Act.

Section Two deals with the application of public sector ethics within the workplace, how they are to be interpreted and applied.

The remaining five sections deal with each of the five ethics principles in turn, specifying the requirements and responsibilities associated with those principles.



Hypothetical examples are used throughout the Code to explain the ethics obligations and associated concepts as they relate to officers employed within ministerial offices.

### 1.3 The Public Sector Ethics Act 1994

The *Public Sector Ethics Act* ("the Act") came into effect on 1 December 1994. The Act had its genesis in a long period of community discussion and consultation beginning with the Fitzgerald Report and including reports by the Electoral and Administrative Review Commission and the Parliamentary Committee for Electoral and Administrative Review. The Act provides the legislative basis for the development of agency-specific Codes of Conduct.

The objectives of the Act are:

- to declare specific ethics principles as the basis of good public administration in the Queensland public sector generally, and to define the framework for the Code of Conduct to be developed by each agency ("Public sector entity");
- to require each agency to develop a Code of Conduct consistent with the ethics obligations set out in the Act;
- to require Chief Executives to implement the agency's Code effectively by means of consultation, consistent administrative practices and procedures and adequate ethics training and education; and
- to provide a statutory basis for standards of exemplary conduct and for disciplinary action for a breach of an agency's Code of Conduct.

### 1.4 Public Sector Ethics Obligations

The Act sets out five ethics principles and related obligations. The principles and obligations have been reproduced here in a form consistent with the way in which they appear in the Act. Further explanations in relation to their application within the workplace are provided throughout this Code. It is hoped that reproducing the principles and obligations here will assist you when situations arise that are not explicitly covered. Although almost every work situation has an ethical dimension, exceptional rather than routine circumstances may present special difficulties in determining an appropriate ethical course.

#### Ethics Principle 1: Respect for the Law and the System of Government

Section 7 of the Act defines Respect for the Law and System of Government as an obligation in the following terms:

*A public official should uphold the laws of the State and the Commonwealth, and carry out official public sector decisions and policies faithfully and impartially.*

This obligation does not detract from the duty of an appointed public official to act independently of government if the official's independence is required by legislation or government policy, or is a customary feature of the official's work.

#### Ethics Principle 2: Respect for Persons

Section 8 of the Act defines Respect for Persons as an obligation in the following terms:

*A public official should treat members of the public and other public officials, honestly and fairly, and with proper regard for their rights and obligations. A public official shall act responsively in performing official duties.*

Ethics Principle 3: Integrity

Section 9 of the Act defines Integrity as an obligation in the following terms:

*In recognition that public office involves a public trust, a public official should seek:*

- *to maintain and enhance public confidence in the integrity of public administration; and*
- *to advance the common good of the community the official serves.*

Having regard to [that obligation], a public official:

- *should not improperly use his or her official powers or position or allow them to be improperly used;*
- *should ensure that any conflict that may arise between the official's personal interests and official duties is resolved in favour of the public interest; and*
- *should disclose fraud, corruption, and maladministration of which the official becomes aware.*

Ethics Principle 4: Diligence

Section 10 of the Act defines Diligence as an obligation in the following terms:

*In performing his or her official duties, a public official should exercise proper diligence, care and attention, and should seek to achieve high standards of public administration.*

Ethics Principle 5: Economy and Efficiency

Section 11 of the Act defines Economy and Efficiency as an obligation in the following terms:

*In performing his or her official duties, a public official should ensure that public resources are not wasted, abused, or used improperly or extravagantly.*

**1.5 Responsibility for Ensuring Compliance with the Code**

We all have a responsibility to ensure that the provisions of this Code are complied with. You in particular are responsible for your own actions. Section 18 of the Act states that:-

*"a public official of a public sector entity must comply with the conduct obligations stated in the entity's code of conduct that apply to the official".*

The Act also imposes additional responsibilities on the Chief Executive Officer to ensure that:-

- a Code of Conduct is prepared;
- adequate consultation occurs in the development of the Code;
- the Code is made available to all officers;
- the Code is available for inspection by any person;
- appropriate education and training of officers in relation to public sector ethics occurs; and;
- the procedures and practices of the organisation have proper regard to the Code and the Act.

The Chief Executive Officer is required to report on these issues in each annual report.

Staff employed within ministerial offices are employees of the Department of the Premier and Cabinet and accordingly all of the Chief Executive Officer's responsibilities under the Act, rest with the Director-General, Department of the Premier and Cabinet.

Given that in effect, officers employed within ministerial offices report directly to their Minister, the relevant Minister shall be responsible for ensuring officers working within their office comply with the provisions of this Code.

## 2.0 Application of Public Sector Ethics

### 2.1 Ethics and Decision Making

Ethics form part of the values and beliefs that are brought into play when making decisions and are not just about distinguishing right from wrong. Often these values or beliefs are not consciously held, but they influence all the choices and decisions we make on a daily basis nonetheless.

Officers employed within Ministerial offices are called upon to make decisions and provide advice in relation to a wide range of matters that can have a significant impact on the lives of people in the community. Situations may also arise when it becomes necessary to recommend a course of action in a matter involving conflicting interests or competing views about what "the public interest" requires.

Making these decisions may involve conflicts between our personal values and beliefs or individual interests and government policy. The ethics principles and obligations contained in the Act and further expanded in this Code are to be applied in the resolution of these conflicts. Accordingly every decision made may involve an ethical dimension.

It is not possible to detail in the Code all possible ethical situations or possible dilemmas that you may find yourself facing. Possible ethical dilemmas vary according to individual circumstances and should be examined on their merits on a case by case basis.

Judgement in balancing competing values will often be required in a similar manner to the judgement you exercise when making other decisions. Furthermore, the provisions of this Code can not be viewed in isolation and reference should be made to any policy, documents, such as the Ministerial Handbook, and relevant legislation where necessary.

If you are unsure of the ethical issues surrounding a proposed course of action, you are encouraged to discuss the matter with your colleagues, a senior member of staff or with the Minister. An open discussion of ethics in the workplace is likely to assist the resolution of any potential problems. Remember that ethical questions are often not straightforward and resolution will involve reflection, judgement and dialogue.

The model below provides a simple five step process that you may find useful in practical, ethical decision-making.

#### A 5-step model for ethical decision-making:

1. **Assess the situation.** The first stage in any well founded decision-making process, is to gather as much relevant information as possible.
2. **Use the Code and any other guidelines or policy documents for direction.** If you find the answer to the problem here then there is no need to go any further. However if the situation is still unclear then proceed to the next stage.
3. **Re-consult the Principles contained in the Act. Apply them in turn to the situation.** Do this, however, in light of any general guidance for resolving the situation you have already obtained from step two.
4. **Make a comprehensive assessment.** Having applied each of the principles individually to the situation, decide which are the most appropriate for the case. Though the ethics principles are deliberately not hierarchically ordered, a decision may warrant priorities to be made depending on the situation. For example, is the public interest better served in this instance by affording a higher priority to Integrity or to Economy and Efficiency?

5. **Document your decision.** All decisions and the supporting reasons and justifications should be documented, particularly in light of the requirements of the *Judicial Review Act 1992*. This requires that each decision which may be subject to review should be backed by documented findings of fact, reference to evidence or other material on which those findings were based, and the reasons for the decision.

## 2.2 Competing Values and Conflicting Obligations

You should note that the ethics principles and obligations are not prioritised, either by the Act or this Code. Each is equally fundamental to good public administration.

The Act recognises that there will be circumstances in which, for example, compliance with the "Integrity" principle may be more in the public interest than observance of the "Respect for Person" obligation and vice versa. The weight accorded to an ethics obligation under the Act will always depend on the facts and the circumstances of the particular case.

## 2.3 Code of Conduct and Personal Ethics

The Act and this Code are concerned with your ethics as they relate to and impact on the performance of your official duties. The Code is not concerned with your personal ethics or moral standards outside the workplace, except of course where particular conduct may be directly related to the workplace.

Possible conflicts may arise between different standards of conduct. Such conflicts usually focus on:

- job-related standards arising from the duties of your position;
- "professional ethics" as defined by traditional professional bodies such as "legal ethics" or "journalists ethics" (especially in the case of those staff who are employed to act in a professional capacity); and
- your personal ethics.

Your personal standards, to the extent that they are broadly consistent with the values of the community, can provide a relevant basis for critical evaluation of the standards of conduct expected of you as a public sector employee.

As a public sector employee you have a right and a duty to test what appears to be an unreasonable or unconscionable instruction, against the standards of the community, for example, in relation to moral or human rights matters.

## 2.4 Ethics Advice

Ethical problems often involve conflict between the various ethical obligations outlined in this Code, or between the obligations and your personal ethical beliefs. In making a determination which obligation or principle should receive the highest priority in any given situation, it may help you to talk the matter over and so clarify what matters need to be taken into account and what matters may be peripheral to the central issues.

If your work area faces ethical problems on a recurring basis, it may also be helpful to establish an informal ethics focus group where common problems can be discussed and satisfactory solutions determined.

## 2.5 Breaches of the Code

Obviously, situations may arise from time to time where your conduct may appear to be inconsistent with the provisions of the Code. Often possible breaches of the Code relate to genuine mistakes. If you are concerned that your actions may have been contrary either to a specific provision or the spirit of the Code, you are encouraged to discuss the matter with your Minister or senior member of staff as soon as possible to enable the circumstances that gave rise to the situation to be examined and the matter

rectified (if necessary). This will assist in either establishing that no breach of the Code has occurred or minimising any adverse consequences arising from the breach for yourself, your Minister and the Government.

The Act does not create any new offences for wrongdoing by public sector employees. Where warranted however, failure to comply with the Code may be dealt with under existing disciplinary provisions. Other options also exist for dealing with breaches of the Code and these may include informal or formal employee counselling, and/or the application of procedures for the management of diminished performance.

Serious breaches of the Code which amount to fraud, stealing or corruption are criminal matters and are to be referred to the Police and the Crime and Misconduct Commission (CMC).

All allegations of official misconduct are to be referred to the CMC for investigation, consistent with the provisions of the *Crime and Misconduct Act 2001*.

Protection may be available under the *Whistleblowers Protection Act 1994* if you make a disclosure regarding another person's breach of the Code. Further details in relation to "Whistleblowing" are contained in section 5.12.

### 3.0 Ethics Obligation 1: Respect for the Law and the System of Government

This obligation is based on Queensland's system of responsible parliamentary government, its conventions such as ministerial responsibility, and the rule of law.

This obligation requires you to exercise duties lawfully, obey lawful instructions, be responsive to the mandate of the government of the day, and provide information and assistance as required to your Minister.

In exceptional circumstances, the public interest may be served by not complying with the requirements of a law, which is in conflict with another law, or where compliance would result in consequences adverse to the public interest. If you contemplate such an action, you should approach your Minister or senior member of staff for advice and support.

In summary, this obligation means that you are required to:

- comply with all reasonable, lawful instructions relating to your work;
- exercise your role lawfully;
- act in the public interest;
- accept that the elected government has the right to determine policy and priorities;
- observe the conventions of Cabinet government and Queensland's Westminster system;
- be responsive to the government of the day; and
- implement decisions and policies faithfully and impartially.

#### 3.1 When Should I Question an Instruction?

You are entitled to object to an instruction, which you consider to be either unlawful or unreasonable. However, you are still required to comply with that instruction until your objection is determined, except where the instruction is manifestly unlawful or unreasonable, or the implementation of the instruction could have immediate or irreversible serious adverse consequences, eg. if the instruction could endanger life or safety.

You may challenge an instruction if you believe:

- that you have a reasonable objection to the instruction (eg. if the direction would involve aspects of "maladministration" as defined in the Act; or would be unconscionable); or
- that an instruction is unreasonable because it goes beyond what is appropriate in all the circumstances (eg. you do not have the resources or competence to comply); or
- that an instruction involves actions which you reasonably consider to be unlawful or improper.

If an instruction is challenged under this Code and the matter cannot be resolved, the person issuing the instruction should refer the matter to the Minister for further advice.

#### 3.2 How do I Challenge an Official Instruction?

If you believe that a direction or instruction is either unreasonable or unlawful, you are to discuss the matter with the person giving the direction or instruction.

If, after the person giving the direction has had an opportunity to respond to your concern, you are still not convinced of the reasonableness or lawfulness of the direction, the issue may be raised with your Minister.

In the interim, you are generally obliged to carry out the instruction unless it is manifestly unlawful or unreasonable, or the implementation of the instruction could have immediate, irreversible, serious adverse consequences.

If you consider that there is a case of official misconduct or a crime is being committed, you are to notify an appropriate authority. In most cases, this will be your Minister, the police or the CMC.

Protection for employees under the *Whistleblowers Protection Act 1994* would apply to public interest disclosures made in the course of the processes mentioned above. Further details in relation to "Whistleblowing" are contained in section 5.12.

### 3.3 Personal Objections

Occasions may arise when you feel the need to object to a lawful and reasonable instruction on an issue of conscience, especially where there is significant division in the community in relation to that issue.

#### Hypothetical Example

**You may be asked to prepare policy advice for your Minister supporting legalised euthanasia, however you might strongly object to euthanasia as a matter of conscience. You have a right to object to working on that policy and an obligation not to advise on matters about which you are unable to provide objective advice.**

All reasonable steps are to be taken to ensure that employees are not forced to perform duties to which they have a genuine objection.

Should you be faced with a situation where you are instructed to do something which you object to strongly as a matter of conscience, you are required to raise your concern with the person issuing the instruction with a view to negotiating an acceptable solution. In the case of our hypothetical example mentioned above, a suitable solution would be to assign the task to another officer.

If the matter cannot be resolved on a basis you are able to accept, you must either comply with the instruction or give consideration to raising the matter with your Minister.

## 4.0 Ethics Obligation 2: Respect for Persons

This obligation is concerned with your conduct in your dealings with others, including members of the public, other employees and public officials in any jurisdiction.

You are expected to be responsive to the reasonable demands of the public and other officials. For example, you are expected to be courteous and helpful, especially where a person is unaware of their rights and entitlements, is uncertain of precisely what to ask for, or is ignorant of official procedures.

This obligation also relates to dealings among public sector employees.

In summary, this means that you are required to:

- treat the public and other staff in a reasonable, courteous, equitable and fair manner;
- observe merit in recruitment and promotion;
- avoid bias, favouritism and discrimination in policy formulation and implementation;
- follow principles of natural justice;
- ensure clients and staff receive all their entitlements;
- not harass or abuse clients or other staff;
- not distract officers from carrying out their duties;
- adhere to management principles and practices which foster the rights, dignity and well-being of employees;
- acknowledge and encourage the contributions and aspirations of co-workers;
- recognise the importance to employees of personal and family commitments and obligations outside the workplace; and
- be timely in responding to clients and staff.

### 4.1 Treat Others with Respect

You are to treat both your co-workers and clients with dignity and respect and you should be tolerant of the views held by others, which may differ from your own. You should not allow personal feelings to influence your judgement or decisions on work-related issues.

You are required to ensure that your conduct in the workplace recognises cross-cultural issues and how a lack of tolerance or understanding can have significant unintended consequences.

You are to comply with the equal employment opportunity policy and policies and procedures for preventing and resolving sexual harassment in the workplace and for the elimination of discrimination and harassment in the workplace.

### 4.2 Workplace Safety

You have a duty to take all reasonable steps to ensure your own safety, health and welfare in the workplace, as well as that of others whether co-workers or clients.

### 4.3 Managerial Obligations

If you manage or supervise other staff you have a special responsibility to:

- set good examples for staff through your own behaviour, especially in relation to the implementation of this Code;
- maintain open, honest and thorough communication with all staff;
- treat staff fairly; equitably and consistently;
- ensure staff understand performance standards expected of them and that their performance is objectively assessed against these standards;
- be aware of the competency and abilities of staff;
- provide development opportunities;



- not demand or set unrealistic performance standards and;
- monitor your own behaviour as a manager or supervisor to ensure that it complies with the requirements, of this Code and any other performance standards which may currently apply to you.

#### 4.4 Procedural Fairness in Decision Making

Procedural fairness or "Natural Justice" is an integral part of good administrative decision-making.

Generally speaking, in any decision involving use of discretionary powers (even those where discretion is highly circumscribed) which is likely to adversely affect an individual's rights, liberties, interests or legitimate expectations, the person concerned should be afforded the opportunity to put forward facts and arguments to support their case.

When exercising a discretionary power you shall:

- not pursue a purpose other than that for which the power has been conferred;
- observe objectivity and impartiality, taking into account only the factors relevant to a particular case;
- observe the principle of equality before the law by avoiding unfair discrimination;
- maintain a proper balance between any adverse effects which the decision may have on the rights, liberties or interests of persons, and the purpose which it pursues;
- make the decision within a time which is reasonable having regard to the matter at stake; and
- apply any general administrative guidelines in a consistent manner while at the same time taking account of the particular circumstances of each case.

Generally speaking, all decisions of substance and your reasons for those decisions, are to be documented and justified. The documentation of decisions and reasons for those decisions will be particularly relevant if your decision is challenged or is subject to Judicial Review.

#### 4.5 Personal Appearance

What you choose to wear is a matter of personal discretion. It must be acknowledged however, that work attire will have an impact upon the organisation's image as well as your colleagues with whom you work in close proximity.

Accordingly, you are required to dress in a clean, tidy and inoffensive manner consistent with your position, job requirements, client needs and occupational health and safety requirements. The reasonable expectations of your Minister are to be complied with.

Personal hygiene in the workplace is also important, not just out of respect for your work colleagues and clients, but also from an occupational health and safety perspective. You should also keep in mind that some people are allergic to substances such as perfume or aftershave and their excessive application may cause others discomfort or even give rise to allergic reactions.

## 5.0 Ethics Obligation 3: Integrity

This obligation focuses on the position of trust that you have been placed in. This position of trust is unique in that public confidence in the entire public sector may be put at risk should a conflict between your private interests and your duty be inappropriately dealt with or concealed.

In summary this means that you are expected to:

- serve the government of the day, through your Minister;
- provide comprehensive and rigorous advice;
- base your decisions and other actions on thorough and dispassionate analyses;
- ensure that personal, religious or professional interests do not improperly affect your official capacity;
- be truthful in reporting the skills and qualities of staff in testimonials, references and performance reports;
- safeguard official information and not disclose or use it improperly;
- uphold public respect for your Minister, the Minister's Department and its mission;
- declare private interests where they might present a conflict of interests with your public duties;
- refrain from seeking gifts and benefits for personal or private gain in connection with the performance of official duties;
- avoid concurrent outside employment or post-separation employment if it involves, or is perceived to involve, conflicts of interest;
- respect the rights of the owners of intellectual property and copyright;
- refrain from becoming involved in public comment or debate unless instructed by your Minister;
- disclose fraud, corruption and maladministration to the relevant authority;
- realise that when the matter of integrity is involved, conduct outside of the workplace can have a bearing on a person's suitability for certain official roles; and
- resolve all conflicts of interest in favour of the public interest.

### 5.1 Conflicts of Interest

Conflict of interest is the most significant issue of integrity facing most public sector employees. This section will deal with conflicts of interest in general. Following sections will deal with specific conflicts of interest such as gifts and benefits, and declaring and registering personal interests.

For the purpose of this Code, a conflict of interest arises in situations where you have a private or personal interest sufficient to influence or appear to influence the independent exercise of your official duties.

It is important to note that conflicts of interest can cover the full spectrum of interests and are not restricted to pecuniary (financial) interests. Many conflicts of interests are criminal offences and will be dealt with appropriately.

Conflicts of Interests which are criminal offences, include:

- **bribery** - the acceptance of money by an official for special favours;
- **influence peddling** - attempts by an official to influence decisions in favour of a third party in order to secure personal gain;
- **improper use of official information** - provision of inside information for personal advantage; and
- **insider trading with official financial transactions** - where officials may stand to make personal gain if they make certain decisions.

Conflicts of interest which may not constitute criminal offences but which must be handled with care according to the principles and procedures outlined in this Code, include:

- **gifts and entertainment** - seeking or accepting gifts which may influence impartiality;
- **outside employment** - part-time employment or consulting outside of official duties which may have an adverse impact on the performance of those duties;
- **future employment** - the giving of favourable treatment to private organisations which may be future sources of employment; and
- **relatives and friends** - using an official position to do favours for relatives and friends.

The potential exists for many of us to be involved in a conflict of interest situation in the normal course of carrying out our duties. In most cases however, the conflict is only an apparent or potential conflict of interest rather than an actual conflict. For an actual conflict to occur, there must be a private interest that is known to you, and that interest must have sufficient influence over you to be likely to influence decisions you make or advice you give.

An apparent conflict of interests exists when it appears that your private interests have the potential to interfere with the proper performance of your official duties. Remember that it is important not just to behave ethically, but to be seen by the community to be behaving ethically, if community confidence in the organisation's impartiality and professionalism is to be maintained

### ● Hypothetical Example

**An officer is required to provide advice recommending the awarding of a contract to a firm which employs one of the officer's close relatives. This may appear to involve a conflict of interest even though there may be no wrongdoing.**

A potential conflict of interests is one which may develop into an actual conflict of interest. The potential for a conflict of interest arises whenever an employee has a private interest that may be seen to be sufficient to influence his or her decision making.

### Hypothetical Example

**A senior officer within the Office is in a position to influence the Minister's decision in the granting of an approval to a major developer in whose company the officer holds shares.**

This situation involves a conflict of interest even though the officer may not have attempted to exercise his or her influence over the decision. For a conflict of interest to arise, it is not necessary for any dishonest or compromising action to be taken by the officer concerned. The important issue is how to resolve the conflict of interests in favour of the public interest.

Unless addressed promptly, apparent and potential conflicts of interest can be as damaging as an actual conflict of interest or turn into an actual conflict of interest.

In the course of your duties, you should not give preference to any person, organisation, or interest as a result of any private association with that person, organisation or interest.

You are to ensure that your actions, conduct and relationships do not raise questions about your willingness and ability to:

- serve the government of the day, through your Minister;
- use the powers, influence, resources and information available to your official position properly;
- maintain proper confidentiality of official information; and
- refuse to use, or avoid using, the powers or influence of public office, official resources, or official information, for personal or other improper advantage.

## 5.2 How to Deal With Conflicts of Interest

It is recognised that from time to time conflicts of interest will arise which are unavoidable. The important issue is not so much the existence of the conflict, but how to resolve it or manage it appropriately to ensure that public confidence in the impartiality and integrity of the public sector is maintained.

Immediately on becoming aware that a conflict between private interest and official duty, whether real or apparent, has arisen or is likely to arise, you are required to approach a senior member of staff or your Minister, and explain the potential conflict and the reasons for that conflict. If at any time you are unsure whether a conflict of interest exists you are to discuss the issue with a senior member of staff or the Minister. That person is to determine the extent of any conflict of interest and direct the action to be taken to resolve the conflict.

### Hypothetical Example

**You are in charge of a ministerial office and you are approached by a staff member. She advises you that her father is the Director of the company that is seeking government assistance in relation to a major development proposal on which she has been assigned to work, providing advice and analysis. Given the officer's personal interest, a conflict of interest exists if this officer continues to work on this particular project.**

A suitable resolution of this situation would be to assign responsibility for this project to another officer.

Situations may also arise on rare occasions where the conflict of interest is on-going and of such a nature that it can not be managed on a temporary or one-off basis such as that referred to in the hypothetical example above. In these situations, consideration may have to be given to transferring the officer concerned to other duties on a permanent basis. This option should be considered as a last resort and be undertaken in consultation with the officer concerned. Great care should be taken to ensure that any such action in no way disadvantages or discriminates, against the officer, since such action could discourage officers coming forward with information about conflicts of interest.

Ministerial Services, Department of the Premier and Cabinet, is able to provide assistance and should be contacted to assist in facilitating the placement of the officer into a suitable position either on a temporary or permanent basis.

## 5.3 Declaration and Registration of Personal Interests

The routine annual registration of personal interests by all staff employed within ministerial offices, together with an ad hoc declaration of emergent conflicts of interest as they arise, provides an effective means of protecting the integrity of the Minister, the government and individual officers from criticism.

### Registration of Personal Interests

The Ministerial Handbook requires all staff employed within ministerial offices to lodge a statement of their pecuniary interests with their relevant Minister on an annual basis. Further details in relation to this statement are contained in the Handbook.

### Declaration of Interests

A Declaration of Interests is an ad hoc declaration (either written or oral), by an employee that, in relation to a particular task or set of tasks, or a particular policy issue, the employee has or may have an actual, potential or apparent conflict of interest that might preclude them from undertaking the task or advising on the issue.

You are required immediately to declare any actual, potential or apparent conflicts of interest arising between your private interest and official duty.

## 5.4 Lobbyists

Lobbyists can enhance the strength of the democratic process by assisting individuals and organisations to communicate their views on matters of public interest to the Government, and so improve outcomes for the individual and the community as a whole.

The public has a clear expectation that lobbying activities will be carried out ethically and transparently, and that Government Representatives who are approached by lobbyists are able to establish whose interests the lobbyists represent so that informed judgements can be made about the outcome they are seeking to achieve.

Any interaction between a government representative and a lobbyist must be conducted in accordance with the Queensland Contact with Lobbyists Code. This Code may be accessed at [www.premiers.qld.gov.au/lobbyistsregister](http://www.premiers.qld.gov.au/lobbyistsregister)

### Post Separation Employment

Persons who have been employed as a Ministerial staff member will undertake that, for a period of 18 months after ceasing their public sector employment, they will not have business meetings with Queensland Government representatives or undertake lobbying activities in relation to their official dealings within their last eighteen months in public sector employment.

### Business meetings

In accordance with the Queensland Contact with Lobbyists Code and government policy on post separation employment, staff are not to hold business meetings with the following former public officials:

- Persons who have ceased to hold office as a Minister (within the last two years) on matters that they dealt with in their last two years in office;
- Persons who have ceased to hold office as a Parliamentary Secretary (within the last 18 months) on matters they dealt with in their last two years in office;
- Persons who have ceased employment as Senior Departmental Staff or Ministerial Staff (within the last 18 months) on matters they dealt with in their last 18 months of public sector employment.

## 5.5 Gifts and Benefits

Ministerial staff shall not ask for or encourage the offer of any gift or benefit in connection with the performance of their official duties. Nor should they accept any form of benefit or gift in connection with the performance of their official duties, except where:

- the gift or benefit is of token or nominal value only; or
- the gift is offered when the employee retires or leaves the workplace, or on similar social occasions where a personal gift is customary; or
- the gift or benefit is to be treated as a reportable gift and retained by the department.

Further details in relation to the giving and receiving of gifts are contained in the Ministerial Handbook.

Prior to accepting or retaining any gift or benefit, careful consideration needs to be given to the circumstances surrounding the giving of the gift or benefit. If any gift or benefit is given in circumstances which may lead the donor, or a reasonable observer, to understand you may be under some form of obligation to him or her, then it should not be accepted. It should also be borne in mind that while an individual gift may not create an obligation, a pattern of gift acceptance over time may create some form of implicit obligation.

All officers should also note the provisions of the *Criminal Code* and the *Crime and Misconduct Act 2001* in relation to secret commissions ("kickbacks" and "gifts") and official misconduct. Asking for and/or accepting money, gifts or other benefits may amount to criminal conduct where the public sector employee compromises his or her official position.

## 5.6 Accepting Hospitality

Hospitality includes any ephemeral benefit offered to an officer, by any outside individual or organisation in connection with the officer's official position (e.g. a cup of tea and a biscuit through to travel and accommodation or seats in a corporate box at a sporting fixture). It may be offered by clients, contractors, lobbyists, professional groups or other government agencies. It may be part of the course of normal business or constitute a unique event.

It may be entirely appropriate and in the public interest to accept certain offers of hospitality, in order to establish effective business relationships, exchange information, or gain operational intelligence to enhance the administration and effectiveness of your Minister's Department.

In determining the appropriate course under this Code, consideration must be given (as with gifts) to the circumstances in which the hospitality is offered.

The span of availability of the hospitality will be useful in making such an assessment. The larger the group of recipients, the less you are singled out for "special" attention, the less likely there can be any impression given that you may be compromised. Caution should particularly be exercised where an offer of hospitality is made to only one employee, as there can be no subsequent corroboration of events.

### Hypothetical Examples

**A buffet lunch is offered to a large group of employees of public and private organisations in connection with a product launch. It is your duty to gain knowledge about products of this sort. There will not normally be a reasonable suspicion that you may be compromised by accepting the meal.**

**A tenderer invites you and you alone to an expensive restaurant for a meal and it is your duty to provide advice to your Minister, following receipt of recommendations from the Minister's department. A reasonable observer could well conclude that you may be compromised by accepting the invitation.**

It may also be useful to consider the timing of the offer - is there any conceivable future action you may be required to take where the acceptance of the hospitality may give rise to suspicion that you have been compromised? The value and scale of the hospitality will also be an issue. Lavish hospitality will be much more likely to present a problem than will a sandwich and a glass of orange juice. The social context should also be considered. A working lunch is generally appropriate, whereas a dinner on the weekend may give greater cause for concern.

Offers of travel or accommodation are to be assessed using similar criteria. Where such offers will save public funds and are appropriate in context, acceptance will be in the public interest and in line with this Code. Where such offers have the potential to compromise, they should be rejected and reported.

### Hypothetical Examples

**You have been invited to give a presentation on directions in government policy at a commercial conference 200km outside Brisbane. You have received approval from your Minister to give the paper. Your presentation is scheduled for the last session of the day, immediately before dinner. The conference organisers offer to pay for your travel, to accommodate you in the conference venue overnight and have invited you to attend the conference dinner. In the circumstances, it is appropriate for the conference organisers to meet the cost of your travel, accommodation and meals, thereby saving public funds. There is no prospect of your being compromised by acceptance of the offer.**

**A proponent of a major resort development is having difficulty meeting government approval criteria. He has repeatedly asked you to put a "favourable gloss" in your advice to the Minister**

on the proposal. He asks you to spend the weekend on his luxury yacht anchored off the proposed resort site so he can "explain the details" of his proposal. It would be most inappropriate to accept such an offer. It should be reported and may result in a prosecution.

Where any doubt exists, you should err on the side of caution - seek advice from your Minister, a senior member of staff and colleagues; make a record of your assessment; pay for the hospitality yourself or at ministerial office expense as appropriate.

### **5.7 Use of Political and Other Influence to Secure Advantage**

As a public sector employee you are not to use your influence with any person, to improperly obtain appointment, promotion, advancement, transfer, or any other advantage, either personally or on behalf of another, or to affect the proper outcome of any procedure established under legislation or government policy.

If you are required to make a decision, or a recommendation for the purpose of making such a decision, you are not to take account of any attempt to influence the making of that decision, unless the involvement of the person concerned is required by or consistent with relevant legislation or government policy.

### **5.8 Testimonials, Referee, Selection and Performance**

Testimonial and referee reports should be provided on official stationery by an officer acting in an official capacity only where they relate to the work performance and perceived character of a current or former officer with whose work you are familiar. Testimonial and referee reports concerning personal friends or family members are provided in a private capacity only.

False or deliberately misleading assessments of an individual's performance or merits, are not only dishonest, but may also amount to abuse of office and may constitute official misconduct.

When providing testimonials and references, you are to take care not to make false or derogatory statements about an individual, or to make assessments which cannot be substantiated. Similarly, you should also take care not to exaggerate the substance or relevance of a person's competence, qualifications or experience.

### **5.9 Disclosure of Official Information**

You are to be sensitive to the needs of the public, the news media, and elected representatives, in relation to access to information on government policy and other publicly available information. Requests for information which is already in the public domain are to be dealt with and provided promptly.

The law requires that information be released in certain circumstances. For example, all documents captured by a request under the *Freedom of Information Act 1992* which do not contain exempt material (as defined in that Act) must be released to the applicant. Requests for access to documents under these provisions should be referred to officers holding delegations under the *Freedom of Information Act 1992* within the relevant government department.

### **5.10 Private Use of Official Information**

The use of confidential or privileged information which comes into your possession through your employment in a ministerial office, to further your personal interests, either pecuniary or otherwise, involves a conflict of interest and possibly a criminal offence and is prohibited.

### **Hypothetical Example**

**You become aware of a proposal to build a dam, which is not yet public knowledge. The land**

surrounding the proposed dam is currently of little value however, with the building of the dam, the land will appreciate in value considerably. With this knowledge you purchase the land.

This is clearly inappropriate behaviour and would lead at the very least, to serious disciplinary action being taken.

### 5.11 Intellectual Property and Copyright

Intellectual property is an invention, original work, results of scientific research or product development, which can be protected. Protection of intellectual property in Australia is governed by specific legislation (State and Commonwealth) and by common law, depending on the type of intellectual property involved.

The concept of ownership of intellectual property is coupled with the entitlement to apply for statutory protection of that property and its use. The question of who is entitled to use the intellectual property and who may benefit from any commercial exploitation of it, is determined by resolving the issue of ownership.

Ownership is determined by consideration of the circumstances in which the intellectual property was conceived, researched and developed.

All material in which copyright subsists and which was created by you in your official capacity or during work time, is owned by the Crown. Accordingly you must obtain prior permission from your Minister before entering into any arrangements regarding the publication or disclosure of any articles or materials which you have produced as part of your official duties.

### 5.12 Public Information Services Networks

Employees are not deliberately to access, store or forward information where that action might reasonably be anticipated to:

- be contrary to provisions of State and Commonwealth legislation;
- be contrary to stated Queensland Government policies.
- prejudice relations between the Queensland Government and another jurisdiction; or
- contain offensive or libellous material

unless access to, storage of, or transmission of that information is part of the employee's official duties.

You are to ensure that your lawful, private activities on public information services networks (eg. the internet) are not identified with the government where those activities could be reasonably construed as contrary to government interests, policies and activities.

### 5.13 "Whistleblowing"

Whistleblowing (disclosing wrong-doing, public danger or maladministration) by public sector employees and others, is the subject of specific legislation.

The *Whistleblowers Protection Act 1994* is designed to protect whistleblowers making public interest disclosures as defined by that Act. The disclosure must be of a matter which, in the honest belief of the whistleblower, is a substantial matter and would be contrary to the public interest to remain hidden. If you are aware of such a matter, it is your duty to disclose it to an appropriate authority, and the *Whistleblowers Protection Act 1994* will protect you by imposing severe penalties upon any person taking any action to your detriment resulting from your disclosure.

Public interest disclosures are defined in the *Whistleblowers Protection Act 1994* as disclosures about the following matters:

- official misconduct;



- maladministration;
- negligent or improper management affecting public funds;
- danger to public health, safety or the environment;
- danger to a person with a disability;
- offences against environmental legislation listed in Schedule 2 to the Act; or
- a reprisal against any person in connection with a whistleblower's disclosure or presumed disclosure.

If you are concerned about whether a disclosure you may be considering making would be a public interest disclosure under the Act, you should contact the Office of the Public Service Commissioner or the CMC Whistleblower Support Unit (in relation to disclosures to the CMC), to discuss the matter. All such contacts will be treated in the strictest confidence, including the substance of any disclosures which have not yet been determined to be public interest disclosures as defined.

## 6.0 Ethics Obligation 4: Diligence

Staff employed within ministerial offices are required to exercise due diligence, care and attention and shall at all times, seek to achieve high standards of public administration in relation to the duties and responsibilities of their official position.

In summary this means that you are required to:

- possess the competence and skills for the job in hand;
- strive for high standards in public administration;
- foster competent management strategies;
- not overwork other staff;
- avoid negligence by, for example, giving sufficient attention to detail;
- exercise duty of care in relation to clients and other staff;
- ensure that health and safety conditions in the workplace are appropriate;
- be able to take responsibility and give justifications for decisions and actions;
- engage in appropriate performance management practices;
- be capable of enforcing effective management, including disciplinary procedures; and
- be willing to update and expand concepts, skills and abilities.

### 6.1 Diligence, Care and Attention

As a public sector employee paid from the public purse, you have an obligation to work diligently and perform your duties to the best of your ability.

In addition, you also have a duty to exercise due care in your work, particularly where members of the public may rely on the information or advice you provide to them, or where your decisions may affect the rights, property or entitlements of others.

### 6.2 Provision of Accurate and Complete Information

You are expected to provide your Minister with advice which is frank, is based on an accurate representation of the facts and which is as comprehensive as possible. This includes setting out the advantages, disadvantages, costs and consequences of the available options and, where appropriate, recommending a particular course of action.

### 6.3 Self Development

The development and improvement of your professional skills and knowledge is essential to your contribution to good public management. There is an obligation upon you to ensure that you continue to develop your skills and knowledge and keep up-to-date with advances and changes within your area of expertise.

### 6.4 Use of Alcohol and Drugs

You should not, at any time, allow the consumption of alcohol or other drugs to adversely affect your work performance or official conduct or consume alcohol while on duty except where related to official duties and subject to your Minister's approval and conditions.

## 7.0 Ethics Obligation 5: Economy and Efficiency

This obligation requires all public sector employees to ensure that taxpayer-provided resources of all kinds, are used economically, for the purposes for which they were provided, treated with appropriate care, and secured against theft or misuse.

It is also implicit in this obligation, that public sector employees will refrain from indulgent, ostentatious or luxurious treatment of themselves at public expense, even though such expenditure may be within lawful discretion.

All officers are required to:

- use or manage both human and material resources efficiently and effectively;
- seek to optimise program outcomes;
- conserve and safeguard public assets;
- implement corruption prevention strategies;
- budget honestly;
- not misuse agency equipment or vehicles; and
- respect the environment.

Detailed advice concerning financial related matters associated with the Office of the Minister is located in the Ministerial Handbook.

### 7.1 Use of Public Property and Facilities

Public property and facilities are, in general, only to be used for approved activities. Government property and facilities should not be used for non-government or private use without appropriate prior permission, preferably given in writing.

In addition, employees are to be economical and avoid waste and extravagance in the use of resources for the legitimate activities of public sector agencies. "Public resources" include not only material and financial resources, but human skills and knowledge, intellectual property and official information. Intangible assets such as corporate learning, public support and positive staff morale and commitment, should also be regarded as valuable resources.

Part II and Part IIA of the *Financial Administration and Audit Act 1977* sets out relevant requirements in relation to the avoidance of waste and extravagance in the expenditure of public resources.

#### Hypothetical Example

**You organise a study tour of public transport infrastructure for a group of unelected political party members. A public transport vehicle is chartered for the tour. The Ministerial office is invoiced for the cost of the charter.**

This is clearly inappropriate use of public property and facilities. It would be deemed to be a political party cost and would lead at the very least, to serious disciplinary action being taken.

### 7.2 Use of Government Issued Credit Cards

Credit Cards are issued on the basis that the card is both a necessary and convenient facility for meeting commitments incurred in the course of official business.

Holders of credit cards have a responsibility to utilise the card in a proper and appropriate manner and to fully account for all transactions.

Credit cards are only available to Ministerial staff for use overseas.

### 7.3 Authority to Approve Expenditure

Expenditure must be validated and authorised by an independent person with a delegated authority to approve expenditure.

The guiding principle for a delegate to consider when approving expenditure is that the expenditure must:

- be for official purposes;
- be properly documented;
- be available for scrutiny by Ministerial Services, Department of the Premier and Cabinet and external audit; and
- appear reasonable.

In all instances the expenditure must be publicly defensible with the maintenance and retention of adequate declarations and documentation.

### 7.4 Hospitality and Official Functions

Expenditure on hospitality and official functions may be incurred where it is considered appropriate to facilitate the conduct of public business. However, such hospitality should not be a substitute for business meetings.

### 7.5 Home and Community Use Assets

The home use of information technology assets, office equipment, and other assets may be approved by the officer responsible for the management of the ministerial office.

The home use of assets shall only be approved in cases where the asset is required to be used for official purposes. Assets are not to be made available for private non-official purposes and are to be used with due care and diligence and returned to the workplace in good order upon the expiration of the approval.

### 7.6 Limited and Reasonable Personal Use

Public sector employees are allowed "limited" and "reasonable" personal use of Government email, internet and telecommunications systems (which can include mobile phones). Limited and reasonable use refers to activities conducted for purposes other than accomplishing official business, professional duties and/or professional development.

Where limited and reasonable personal use is permitted the following conditions apply:

- it incurs minimal additional expense to the Government;
- it is infrequent and brief;
- it is not used to support a personal private business;
- it does not interfere with the operation of the Government;
- It generally takes place during the employee's non-work time;
- it does not compromise the security of Ministerial Office or Departmental systems; and
- it is able to survive public scrutiny and is consistent with all legislation and accepted Government policies.

The privilege of using Government devices for limited personal use may be revoked or limited at any time.

Examples of limited and reasonable personal use include:

- sending an email or making a phone call to home to advise you will be late;
- brief call home when traveling;
- responding to an email from or making a brief phone call to a friend; or
- submitting an assignment to an educational institution.

**Question on Notice  
No. 1060  
Asked on 1 September 2009**

MR KNUTH asked the Deputy Premier and Minister for Health (MR LUCAS)-

**QUESTION:**

With reference to the lack of a CT scanner at Atherton Hospital promised by his predecessor in parliament a year ago—

What steps has he taken to ensure that this much needed equipment is provided to the hospital before hard working medical staff walk away from the job in protest?

**ANSWER:**

I thank the Honourable Member for Dalrymple for his question.

It is expected a District-wide contract for medical imaging services will soon be advertised with the new contract to be in place by April 2010.

The provision of a CT scanner at Atherton Hospital will be an integral part of the tender.

Timeframes for the installation for a CT scanner at Atherton will form part of contract negotiations.

In the meantime, the District Chief Executive Officer and senior management have met with medical staff at Atherton Hospital to discuss local services in the rural facilities, and discussed the timeframe for the provision of the CT scanner at the Atherton Hospital.

**Question on Notice**  
**No. 1467**  
**Asked on 8 October 2009**

MR MESSENGER asked the Deputy Premier and Minister for Health (MR LUCAS)-

**QUESTION:**

With reference to drinking water quality at the Bororen and Miriam Vale townships—

- (1) Was any incident that will, or is likely to, adversely affect drinking water quality at these townships discovered and reported to the government as per the Public Health Regulation 2005 and/or the Water Supply Safety and Reliability Act 2008?
- (2) Will the Minister provide all monitoring results reported to the government on the drinking water quality for the townships (reported separately) for the last ten years?

**ANSWER:**

I thank the Honourable Member for Burnett for his question.

As the Honourable Member is aware, the water supply to which he refers is operated and regulated by the local Council.

With respect to the substantive issue raised by the Honourable Member, regrettably it would appear, that the new Gladstone Regional Council is saddled with the legacy of decisions of the former Miriam Vale Council (The amalgamation of a Council which he opposed). For example, the former Council clearly approved residential expansion without heed to water supply limitations resulting in the need for them to build a desalination plant.

It is worth noting that the Honourable Member decries a desalination plant at Agnes Waters as environmentally irresponsible yet is part of the LNP Opposition that advocates a desalination plant in lieu of the Traveston Dam.

The Honourable Member's position with respect to the bore water at Bororen, is completely contradictory to his position that bore water should be used in Agnes Waters in lieu of its desalination plant (see ABC online web news item "Agnes Water Desalination Plant Unnecessary: Oppn", 14 May 2009). Further, he provides no explanation as to how he expects the bores at Agnes Waters to work differently from those at Bororen.

I understand the Member for Burnett has now referred the actions of the certain Council officers to the Queensland Ombudsman and the Crime and Misconduct Commission (CMC) in relation to this matter.

In these circumstances, I do not propose to comment on the matter while it is subject of those investigations.

**Question on Notice**  
**No. 1488**  
**Asked on 8 October 2009**

MR LANGBROEK asked the Premier and Minister for the Arts (MS BLIGH) -

**QUESTION:**

Will the Premier quantify the total payments made to date (broken down by recipient) under SOA DPC-1754-08?

**ANSWER:**

Standing Offer Arrangement DPC-1754-08 is an arrangement for the provision of market research services to the Department of the Premier and Cabinet. The arrangement was established in 2008 with seven supplier companies, following a public tender process. The arrangement is for two years from 10 November 2008, with an optional extension of a further one year.

From 10 November 2008 to 8 October 2009, the Department of the Premier and Cabinet expended a total of \$170,610 (including GST) on market research services.

This amount comprises the following payments (including GST):

- |  |          |
|--|----------|
| • The Nielsen Company                    | \$90,750 |
| • Market & Communications Research (MCR) | \$46,860 |
| • Taylor Nelson Sofres Australia (TNS)   | \$33,000 |

Market research is undertaken by my department to ensure the effectiveness of advertising such as that undertaken for the statewide celebrations of Queensland's sesquicentenary, and the introduction of the Government's plan for tomorrow's Queensland, Q2, and these costs are included in the campaign budgets for these programs.

**Question on Notice**  
**No. 1500**  
**Asked on Thursday 8 October 2009**

MR RICKUSS asked the Minister for Public Works and Information and Communication Technology (MR SCHWARTEN)-

**QUESTION:**

Will the Minister provide a whole-of-government response as to the total fuel costs for departmental vehicles for August 2009 and 2008?

**ANSWER:**

The total cost of fuel purchased on a fuel card for departmental vehicles in August 2009 was \$4,936,435. This compared with \$6,283,734 in August 2008.

This is the total cost of fuel purchased from the Queensland Government contractors, Caltex Australia and from BP Australia, based on data provided by both companies.



## Question on Notice

No. 1591

Asked on Wednesday 28 October 2009

**MR DOWLING** asked the Minister for Infrastructure and Planning (MR HINCHLIFFE)-

### QUESTION:

Is the Minister aware there are councils that require a material change of use application and assessment before farming activities can commence on land zoned rural and if so, what does the Minister propose to do about it?

### ANSWER:

I thank the Honourable Member for Redlands for his question.

Farming activities are considered a 'rural' land use under local government planning schemes in Queensland. They generally include 'agriculture' and 'animal husbandry', but may also extend to activities such as 'forestry' and 'wine making'.

A material change of use of premises refers to the nature of development being proposed, not the level of assessment. All new farming activities constitute a material change of use.

Under the *Integrated Planning Act 1997*, the levels of assessment include 'exempt', 'self assessable' or 'assessable' development. It is the responsibility of the local government to nominate the level of assessment for each land use.

General farming activities in Queensland represent either 'exempt' or 'self-assessable' development on rural land, which means that a Development Permit from the council is not required before the activity can commence. This allows most farming activities to commence immediately.

More intensive farming activities (e.g. poultry farms, feedlots, piggeries, horticulture and aquaculture) are made 'assessable' development because there is greater potential for impacts on surrounding land uses.

Some councils choose to categorise their rural zones into sub-areas such as agriculture, pastoral and rural residential to enable a more targeted approach of activities on rural land reducing potential land conflicts (e.g. placing restrictions on residential uses within good quality agricultural lands).

The State of Queensland already has protective measures in place to support and protect the agricultural capability of good quality agricultural land through *State Planning Policy 1/92—Development and the Conservation of Agricultural Land*, by prohibiting fragmentation, alienation and inappropriate use of these lands.

More specifically for South East Queensland, the *South East Queensland Regional Plan 2009-2031* includes 85% of land within the Regional Landscape and Rural Production Area, ensuring that farming areas and activities are not compromised by urban development.



## **Editorial: Coffee edict should be a watershed.**

THE sclerotic efforts of Queensland Health to solve the dangers of doctor fatigue are matched only by its inability to see the issue as fundamental to the safe operation of the state's hospital system. That the department would seriously advise affected doctors to take extra caffeine to get through their shifts confirms that the bureaucrats in charge of the issue see it as a problem to be managed rather than solved.

The only surprise about this approach - a tried and true one within the ranks of the state's bureaucracy - is that in this instance the stakes are so high. Doctors have reported that their tiredness has contributed to patient deaths. How can that situation be tolerable for five minutes, let alone the years that have gone by since it was first identified as a worrying part of the medical culture in Queensland?

Health Minister Paul Lucas, adept at finding ways not to be associated with the latest crisis within his portfolio, needs to put as much effort into fixing this problem as he has in trying to deflect blame for it. He can claim all he likes that there is an "avalanche" of doctors on the way but someone forgot to tell him his own department does not believe that will do much to change the situation.

Queensland Health's now infamous Fatigue Risk Management System states: "Solutions such as 'we need more staff' might not be achievable or effective in managing a fatigue risk." If that is what the department has concluded, why is the minister braying on about how a "tsunami" of new doctors is going to fix things? (Lucas apparently likes to mix his catastrophe metaphors.)

To the extent that promising more staff is being seen as a magical cure-all, perhaps Queensland Health has a point.

The problem is one of workplace culture as much as it is of numbers. Many of the young doctors who years ago were trained to accept punishingly long hours as a rite of passage into the profession are the senior practitioners of today. Work practices are unlikely to change quickly despite the existence of extra rules and mechanisms that seek to turn things around.

The Government confesses it cannot say how many new doctors are required to ensure 12-hour shifts are a permanent part of reformed work practices yet seems confident that all will be well if the problem is handled as an industrial relations issue rather than one that points to a deeper systemic malaise within the hospital system.

And if industrial issues are solved by pitting one side against the other rather than through co-operation - as doctor fatigue continues to be - they tend to resurface down the track.

There can be no more telling a case of management failure than Queensland Health's resort to telling doctors to drink a potentially addictive amount of coffee in order to combat fatigue. No

good minister should have any tolerance for that type of attitude being brought to policy challenges.

**While his predecessors succumbed to the temptation, Paul Lucas should stop spending the remainder of his time in the health portfolio trying to avoid responsibility for his department's failings and start insisting on better policy outcomes.**

**Queenslanders can only benefit.**

Responsibility for election comment is taken by David Fagan, 41 Campbell St, Bowen Hills, Qld 4006. Printed and published by Queensland Newspapers Pty.

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A full list of our editors, with contact details, is available at [news.com.au/couriermail/ourstaff](http://news.com.au/couriermail/ourstaff).

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## **Editorial: Power crisis.**

If the experience with electricity is any guide, Queenslanders are justified in their strong opposition to Premier Anna Bligh's plans to privatise government assets.

In 2007, her predecessor Peter Beattie gave a very clear promise when he introduced competition to the power industry that no Queensland consumers would be worse off.

Since then, the average household bill has risen 40 per cent and thousands of Queenslanders are being disconnected or forced on to payment plans to get through.

**People are getting hot under the collar and Energy Minister Stephen Robertson's glib response that they should turn off the airconditioning and big-screen TVs - while sound advice on one level - ignores a pattern of government mismanagement of this vital area over years.**

**The minister has the power to intervene in price-setting. He should consider using it.**

Printed and published by Queensland Newspapers Pty Ltd (ACN 009 661 778) 41 Campbell Street, Bowen Hills, Q., 4006. The Editor of The Sunday Mail, Liz Deegan, accepts responsibility for election comment.

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## **So much money, so few beds.**

DES HOUGHTON

HERE we go again. Fresh figures from Queensland Health show with startling clarity that the new Queensland Children's Hospital won't have enough beds to cater for the state's soaring population.

The so-called world-class hospital will have only nine overnight beds more than the number available now at the Royal and Mater children's hospitals. Just nine beds. Write it in blood.

The new hospital will have 196 overnight beds compared with 187 overnight beds available at the Royal and the Mater children's hospitals.

In reporting the hospital's shortcomings, I must deny I am a "one-eyed hate campaigner" against the new hospital - as I was described recently by health department spin doctors.

I am merely reflecting the concerns of senior doctors, nurses and hospital planners who flood my mailbox with disturbing stories on how Queensland children are being let down by the lack of proper planning.

My only wish in pointing out inadequacies in the new hospital is to promote the best possible health outcomes for Queensland children. Children who are ill should not be made to suffer any more than necessary.

I thank the courageous whistleblowers who keep highlighting the consequences of the fundamentally flawed process on which the hospital was launched.

One leading whistleblower said doctors had an ethical obligation to point out failings, be they medical or administrative.

And I have been told that doctors and nurses who raise genuine concerns "are being bullied into submission and advised their advocacy is futile".

But doctors and nurses must not allow bean-counters to defeat them in battle for beds, because fully serviced overnight beds are the engine room of the hospital.

It will be difficult for Health Minister Paul Lucas to argue that the QCH has the right number of beds when the Auditor-General recently chastised it for having no agreed methodology for determining bed requirements.

Planners independent of Queensland Health suggest the new hospital should have up to 300

overnight beds.

Health department spin doctors try to blur the figures by counting day beds, trolleys, recliners and even bean bags.

A minimum of 250 overnight beds seems like a reasonable short-term compromise - but only until 2016.

This is because the number of children aged up to 14 in Queensland will increase by more than 14 per cent between 2006 and 2016.

The 2006 Census found there were 806,542 children aged up to 14 in Queensland, 358,748 in the Brisbane statistical division.

National hospitals number-cruncher Greg Hardes has already told the State Government the QCH will require 303 general overnight beds to cater for future demand. So from the day it opens, the new hospital will be seriously short of beds.

Worse still, the admission cut-off age will be extended from 14 to 16, further taxing resources.

Queensland Health also will have to deal with the "magnet effect" of parents driving past regional hospitals to take their children to the best. When Sydney's new Westmead children's hospital opened, there was an unexplained 10 per cent jump in activity in the first year as families drove past up to four hospitals to take their children to the new one.

**Queensland's new hospital will be in the electorate of the Premier, Anna Bligh. Notice how she has refrained from commenting on its progress.**

**Likewise Lucas.**

**Both have an obligation to tell parents how they are going to solve this crisis.**

**The first step might be to commission a review of all bed numbers by an independent team of, say, two health planners and a clinician.**

If Queensland Health is confident in its own planning, it will have nothing to fear.

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**Flawed assessment**

**No record of  
shot man at  
psych ward**

**By by Andrew MacDonald police reporter**

THE Benowa man shot in the leg by a police sergeant after allegedly running at officers with a knife was not a Queensland Health mental patient, it has been revealed.

Nevertheless, the fact 38-year-old Trent Taylor was released from Gold Coast Hospital the day before Monday's shooting has raised questions about assessment procedures within the organisation, says the State Opposition Leader.

LNP leader and Member for Surfers Paradise John-Paul **Langbroek** yesterday backed the Queensland Police Union's calls

for a review of the treatment and assessment of mental patients.

``I would be interested to know if the person in the hospital was properly assessed and that should all be properly investigated," he said.

``I understand that this person had been admitted to the . . . hospital and then released.

``There should be some information from the Health Minister Paul Lucas that should be released so the community can be assured that the proper procedures are being followed and our police and other members of the community aren't being endangered by poor resourcing, causing mental health patients to be released due to the pressures on the staff members at Gold Coast Hospital."

A spokeswoman for Deputy Premier and Health Minister Paul Lucas said it was up to clinicians to assess the mental state of patients.

Mr Lucas attacked Mr **Langbroek**'s health care credentials.

``John-Paul **Langbroek** and the LNP went to the last election with a mental health policy that relied on volunteers to staff and run mental health facilities," he said.

A Queensland Health spokesman would not comment on Mr Taylor's treatment but said the Gold Coast Health District had no contact with him before he was admitted to the emergency department on Boxing Day.

Meanwhile, the police Ethical Standards Command is continuing to investigate the circumstances surrounding the shooting.

The first officers on the scene were not equipped with Tasers and a police spokeswoman yesterday would not comment on whether that was because of a reported lack of holsters for the stun guns.

``The availability and potential use of a Taser will be part of the Ethical Standards Command investigation into this matter," she said.

``Tasers are issued with holsters and . . . there should not be any barrier to their being available for use where they have been supplied and officers trained in their use."

The spokeswoman would not say whether the officer who shot Mr Taylor was trained to use a Taser.

A statewide roll-out of Tasers was suspended mid-year following a joint police and Crime and Misconduct Commission review after a death in north Queensland.

## **Langbroek joins the 'betrayal' attack of Transport Minister.**

Mark Bousen

State Opposition Leader John-Paul Langbroek is the latest to join the cacophony of voices saying State Transport Minister Rachael Nolan has betrayed the people of the Torres Strait and Cape York.

"By the minister signing off on these changes to the original contract - which details remain secret she has betrayed the people of the Torres Strait.

"The government needs to ensure the services are provided to meet those needs.

"The Federal and State governments provide the majority of the people who make the flights, so (Federal Member for Leichhardt) Jim Turnour should get a commitment from the Federal Government."

Mr Langbroek, who was speaking during a visit to the Torres Strait, said: "Realistically, upgrading the Horn Island is the only answer.

"Qantas is obligated to its shareholder, but the Government and the Minister, no matter where it is, are there to support the people, and should be making sure the airline adheres to the contract.

"The service is about getting in and out and about how much upgrading the airport will cost."

State Transport Minister Nolan shouldn't wash her hands of her responsibility to help these communities which have very poor government support with no real public transport, Opposition Transport spokeswoman Fiona Simpson says.

"The cost of flights to and from the Cape and Torres Strait islands as well as the frequency is an issue which needs her assistance rather than her absence.

"This requires the Minister's intervention to help improve the flights and also look at the whole issue of access in the communities, including ferry services between the islands.

"This region really is being treated as the poor cousin of Queensland and it's time for the State Government to step up."



CONTRACT OF EMPLOYMENT – General staff

THIS AGREEMENT made

BETWEEN THE CROWN IN RIGHT OF THE STATE OF QUEENSLAND

AND \_\_\_\_\_ of \_\_\_\_\_  
( name ) ( address )

("the Appointee")

in the State of Queensland

WHEREAS

- A. The Chief Executive desires to engage the services of the Appointee as <Title> in the Office of the Minister specified in Item 6 of the Schedule;
- B. The Appointee has agreed to accept the engagement in accordance with the terms and conditions hereinafter set forth;
- C. In accepting the engagement, the appointee acknowledges that it is one undertaken within a political environment and which therefore:
  - i) has as an inherent requirement of the engagement, the necessity for the appointee to maintain the confidence of the Minister;
  - ii) is without any form of real or implied tenure;
  - iii) may, subject to the terms and conditions herein, be readily terminated.
- D. The Appointee is to perform work of a type not ordinarily performed by an officer of the Public Service;
- E. Pursuant to section 147(3) of the *Public Service Act 2008*, the Appointee shall not become a public service officer.

---

NOW IN CONSIDERATION OF THE PREMISES IT IS HEREBY AGREED as follows:-

**1. INTERPRETATION**

(a) In this Agreement unless the contrary intention appears-

"the Act" means the *Public Service Act 2008*;

"Chief Executive" means the person who from time to time occupies the position of Director-General, Department of the Premier and Cabinet;

"commencing date" means the date specified in Item 2 of the Schedule;

"Department" means the Department of the Premier and Cabinet;

"Enterprise Bargaining Agreement" means the State Government Departments Certified Agreement 2006 entered into between the Queensland Government and various Unions of Employees;

"the Minister" means the Minister described in Item 6 of the Schedule;

"the directives" means the Directives issued by the Minister for Industrial Relations;

"prescribed remuneration" means the remuneration prescribed under a Directive that applies to public service officers.

(b) Headings appearing at the beginning of a clause shall not be deemed to be a part thereof and are inserted for reference only.

---

## **2. APPOINTMENT**

Pursuant to section 147 of the Act, the Appointee is hereby engaged on the terms and conditions set out herein.

## **3. LOCATION**

The Appointee shall be located at the location stated in Item 1 of the Schedule and the Appointee acknowledges that he/she may be required to travel throughout Queensland, other States and Territories of Australia and overseas in the performance of the duties and the discharge of the responsibilities of the Appointee's employment.

## **4. DURATION**

The Appointee shall commence duty as <Title> on the commencing date. This engagement is on a temporary basis and is without any real or implied tenure.

## **5. REMUNERATION**

- (a) The Appointee shall be paid a salary per annum of the amount specified in Item 3 of the Schedule during the continuation of this Agreement, payable fortnightly in arrears.
- (b) The amount specified in Item 3 of the Schedule may, from time to time, be increased by the Chief Executive in accordance with advice from the Office of the Premier regarding the Appointee's assessed level of performance.
- (c) The Appointee shall not be entitled to any remuneration or other benefit in respect of the Appointee's employment other than the remuneration and other benefits expressly provided for in this Agreement.

## **6. PERFORMANCE OF DUTIES**

During the term of this Agreement the Appointee shall have the responsibilities and undertake such duties-

- (i) as stated in Item 4 of the Schedule; and
- (ii) as instructed from time to time by the person specified in Item 5 of the Schedule.

## **7. HOURS OF DUTY**

The Appointee shall work a minimum of seventy-two and one-half (72.5) hours per fortnight.

---

## **8. BENEFITS**

- (a) The employment of the Appointee shall be subject to the terms and conditions as prescribed in the Directives for Attendance, Hours of Duty, Credit for Service, Leave, Court Attendance, Expenses and Allowances, and any relevant applicable industrial award or agreement as if the Appointee were a public service officer
- (b) Notwithstanding any other provision in this agreement, the employment conditions (including salary) of the Appointee shall be varied in accordance with the Enterprise Bargaining Agreement applicable to the Department of the Premier and Cabinet.

## **9. TERMINATION BY CHIEF EXECUTIVE**

- (a) The Chief Executive, by advice in writing, may terminate this Agreement -
  - (i) in the event of a breach of this Agreement by the Appointee;
  - (ii) upon receipt of a notice in writing from the Minister that the services of the Appointee are to be terminated;
  - (iii) upon receipt of a notice in writing from the Premier that the services of the Appointee are to be terminated;
  - (iv) based on the operational requirements of the Office of the Minister.
- (b) The Chief Executive shall, before giving advice of termination under paragraph 9(a)(i) or 9(a)(iv) above, inform the Minister of his/her intention to give that notice, unless it is not practicable to do so.

## **10. TERMINATION BY APPOINTEE**

The Appointee may terminate this Agreement by two (2) weeks' notice in writing: PROVIDED THAT the Chief Executive may consent to a lesser period of notice. Where the Appointee fails to give the required period of notice, and the Chief Executive has not consented to a lesser period of notice, the Appointee shall forfeit two (2) weeks' salary in lieu of notice or such lesser sum as the Chief Executive considers to be fair and reasonable in the circumstances.

## 11. TERMINATION BENEFITS

- (a) i) Where the employment is terminated pursuant to clause 9, if the appointee is entitled to a period of notice, the period of notice or payment in lieu of notice shall be as follows:

- (1) where the Appointee has not more than 3 years continuous service — 2 weeks;
- (2) where the Appointee has more than 3 years service but not more than 5 years service — 3 weeks;
- (3) where the Appointee has more than 5 years service — 4 weeks.

These amounts will be increased by 1 week if the employee is 45 years old or over and has completed at least 2 years of continuous service.

- ii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), the Appointee shall be paid, subject to subclause (b), an additional benefit calculated in accordance with the table hereto:

TABLE

Column 1	Column 2
Where the Appointee has less than one (1) year of service at the date of termination.	Four (4) weeks salary
Where the Appointee has one (1) year or more but less than two (2) years of service at the date of termination.	Six (6) weeks salary
Where the Appointee has two (2) years or more but less than three (3) years of service at the date of termination.	Eight (8) weeks salary
Where the Appointee has three (3) years or more but less than four (4) years of service at the date of termination.	Ten (10) weeks salary
Where the Appointee has four (4) years or more but less than five (5) years of service at the date of termination.	Eleven (11) weeks salary
Where the Appointee has five (5) years or more but less than seven (7) years of service at the date of termination.	Twelve (12) weeks salary
Where the Appointee has seven (7) years or more of service at the date of termination.	Twelve (12) weeks salary plus an additional two (2) weeks salary for every completed year of service in excess of six years, up to a maximum of fifty-two weeks salary.

- iii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), and the appointee has at least one year of continuous service, the Appointee shall be entitled to the payment of accrued long service leave, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service.

(b) On employment as a member of the

(i) Ministerial staff of any Minister; or

(ii) Staff of the Leader of the Opposition; or

(iii) Staff of the Leader of any political party recognised as such by the Premier; or

(iv) Staff of an independent member,

on a permanent full-time or permanent part-time capacity or on a casual or consultancy or any other basis the Appointee who has received a termination benefit under this Agreement shall be entitled to retain that portion of the termination benefit applicable to the period of time for which the Appointee was not so employed.

As a condition of re-employment the Appointee who has been paid a termination benefit is required to refund to the Crown that portion of the termination benefit to which the Appointee is not entitled.

(c) **Payments to be final**

Where in accordance with this agreement the employment of the Appointee is terminated, the provisions contained in this agreement as to the payments made to the Appointee in such event shall constitute the whole of the entitlement of the Appointee in terms of this agreement: PROVIDED THAT nothing in this clause shall be deemed or construed as a release in respect of any action, in respect of personal injuries or death of the Appointee, that the Appointee or anyone claiming by, through or under him/her may have.

## 12. **SUSPENSION OF EMPLOYMENT**

(a) The Chief Executive may suspend an appointee from duty if the Chief Executive reasonably believes:

(i) the appointee is liable to termination of employment; and

(ii) the proper and efficient management of the office of the Minister might be prejudiced if the appointee were not suspended.

(b) The Chief Executive may cancel an appointee's suspension from duty at any time.

(c) An appointee suspended from duty is entitled to full remuneration for the period for which the appointee is suspended, unless the Chief Executive otherwise decides.

(d) If the appointee is suspended without full remuneration and the Chief Executive cancels the appointee's suspension, then, unless the Chief Executive otherwise decides, the appointee is entitled to be paid the prescribed remuneration to which the appointee would have been entitled apart from the suspension, less any amount earned by the appointee from additional employment undertaken during the suspension period.

---

### 13. EXPENSES NECESSARILY INCURRED

The Appointee shall be entitled to receive reimbursement for any expenses properly incurred in the execution of the Appointee's duties under this Agreement.

### 14. CONFIDENTIAL INFORMATION

- (1) The appointee must not, without the prior written consent of the Minister, use or disclose to any person any confidential information, other than for purposes connected with proper performance of the appointee's duties under this contract.
- (2) On demand by the Minister, and in any event upon the termination of this contract or resignation, the appointee must deliver to the Minister all confidential information in the appointee's power, possession or control.
- (3) The obligations under this clause do not apply to the extent that:
  - (a) the appointee is required by law to disclose any of the confidential information;
  - (b) any of the confidential information is publicly available, other than as a result of the appointee's breach of this contract.
- (4) The obligations of the appointee under this clause will survive the termination or expiration of this contract.
- (5) In this clause:

"**information**" includes all oral, written or electronic information, comments, conversations, observations, documents, notes, letters, emails, reports, specifications, policies, data, research or any other type of information;

"**confidential information**" includes all information which is acquired by the appointee in the course of the appointee's employment with the Office of the Minister, which is not available in the public domain.

### 15. CODE OF CONDUCT

The appointee shall observe and comply with the provisions of any Code of Conduct for Ministerial staff made under the Act or under the *Public Sector Ethics Act 1994*.

### 16. OTHER AGREEMENTS SUPERSEDED

This Agreement supersedes and replaces all other agreements, understandings or arrangements prior to the execution hereof.

### 17. SERVICE OF NOTICES

Any notice required to be given under this Agreement shall be effectively given if made in writing and signed by the party giving such notice and -

- 
- (i) in the case of a notice to be given to the Appointee, handed to the Appointee personally or sent to the Appointee's address as appearing at the commencement of this Agreement or such other address as the Appointee may notify to the Chief Executive from time to time;
- (ii) in the case of a notice to be given to the Crown, sent to the Chief Executive and addressed as follows:-

The Director-General  
Department of the Premier and Cabinet  
PO Box 15185  
CITY EAST QLD 4002

or such other address as the Chief Executive may notify to the Appointee from time to time.



---

## SCHEDULE

1. Brisbane (CI 3)
2. <EFFECTIVE DATE> (CI 1)
3. \$< > per annum (CI 5(a))
4. Duties (CI 6)
5. The Principal Advisor (CI 6)
6. The Minister for <Portfolio> (CI 1)

Or the minister to whom the appointee is assigned from time to time.

**SIGNED by** \_\_\_\_\_

behalf of the Crown in right of

this \_\_\_\_\_ day of \_\_\_\_\_ 2009

in the presence of:

(Signature)

**Name of Witness:**

this \_\_\_\_\_ day of \_\_\_\_\_ 2009

in the presence of:

(Signature)

**Name of Witness:**

THE CROWN IN RIGHT OF  
THE STATE OF QUEENSLAND

AND

(NAME)

**CONTRACT OF EMPLOYMENT**

s.147 of the *Public Service Act 2008*

G Cooper,  
Crown Solicitor,  
State Law Building,  
Cnr. George & Ann Sts.,  
BRISBANE Q 4000

Telephone: 3239 6106  
(Ms K Watson)

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## CONTRACT OF EMPLOYMENT – Principal Advisor

THIS AGREEMENT made

BETWEEN THE CROWN IN RIGHT OF THE STATE OF QUEENSLAND

AND \_\_\_\_\_ of \_\_\_\_\_

( name )

( address )

( "the Appointee" )

in the State of Queensland

### WHEREAS

- A. The Chief Executive desires to engage the services of the Appointee as <Title> in the Office of the Minister specified in Item 6 of the Schedule;
- B. The Appointee has agreed to accept the engagement in accordance with the terms and conditions hereinafter set forth;
- C. In accepting the engagement, the appointee acknowledges that it is one undertaken within a political environment and which therefore:
  - i) has as an inherent requirement of the engagement, the necessity for the appointee to maintain the confidence of the Minister;
  - ii) is without any form of real or implied tenure;
  - iii) may, subject to the terms and conditions herein, be readily terminated.
- D. The Appointee is to perform work of a type not ordinarily performed by an officer of the Public Service;
- E. Pursuant to section 147(3) of the *Public Service Act 2008*, the Appointee shall not become a public service officer.

---

NOW IN CONSIDERATION OF THE PREMISES IT IS HEREBY AGREED as follows:-

**1. INTERPRETATION**

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"the Act" means the *Public Service Act 2008*;

"Chief Executive" means the person who from time to time occupies the position of Director-General, Department of the Premier and Cabinet;

"commencing date" means the date specified in Item 2 of the Schedule;

"Department" means the Department of the Premier and Cabinet;

"Enterprise Bargaining Agreement" means the State Government Departments Certified Agreement 2006 entered into between the Queensland Government and various Unions of Employees;

"the Minister" means the Minister described in Item 6 of the Schedule;

"the directives" means the Directives issued by the Minister for Industrial Relations;

"prescribed remuneration" means the remuneration prescribed under a Directive that applies to public service officers.

(b) Headings appearing at the beginning of a clause shall not be deemed to be a part thereof and are inserted for reference only.

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## **2. APPOINTMENT**

Pursuant to section 147 of the Act, the Appointee is hereby engaged on the terms and conditions set out herein.

## **3. LOCATION**

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## **4. DURATION**

The Appointee shall commence duty as <Title> on the commencing date. This engagement is on a temporary basis and is without any real or implied tenure.

## **5. REMUNERATION**

- (a) The Appointee shall be paid a salary per annum of the amount specified in Item 3 of the Schedule during the continuation of this Agreement, payable fortnightly in arrears.
- (b) The amount specified in Item 3 of the Schedule may, from time to time, be increased by the Chief Executive in accordance with advice from the Office of the Premier regarding the Appointee's assessed level of performance.
- (c) The Appointee shall not be entitled to any remuneration or other benefit in respect of the Appointee's employment other than the remuneration and other benefits expressly provided for in this Agreement.

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- (ii) as instructed from time to time by the person specified in Item 5 of the Schedule.

## **7. HOURS OF DUTY**

The Appointee shall work a minimum of seventy-two and one-half (72.5) hours per fortnight: PROVIDED THAT the Appointee shall not be entitled to compensation for work performed in excess of such minimum hours.

---

## **8. BENEFITS**

- (a) The employment of the Appointee shall be subject to the terms and conditions as prescribed in the Directives for Attendance, Hours of Duty, Credit for Service, Leave, Court Attendance, Expenses and Allowances, and any relevant applicable industrial award or agreement as if the Appointee were a public service officer.
- (b) Notwithstanding any other provision in this agreement, the employment conditions (including salary) of the Appointee shall be varied in accordance with the Enterprise Bargaining Agreement applicable to the Department of the Premier and Cabinet.

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  - (i) in the event of a breach of this Agreement by the Appointee;
  - (iii) upon receipt of a notice in writing from the Minister that the services of the Appointee are to be terminated;
  - (iii) upon receipt of a notice in writing from the Premier that the services of the Appointee are to be terminated;
  - (iv) based on the operational requirements of the Office of the Minister.
- (b) The Chief Executive shall, before giving advice of termination under paragraph 9(a)(i) or 9(a)(iv) above, inform the Minister of his/her intention to give that notice, unless it is not practicable to do so.

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  - (6) where the Appointee has more than 5 years service — 4 weeks.

These amounts will be increased by 1 week if the employee is 45 years old or over and has completed at least 2 years of continuous service.

- ii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), the Appointee shall be paid, subject to subclause (b), an additional benefit calculated in accordance with the table hereto:

TABLE

Column 1	Column 2
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Where the Appointee has one (1) year or more but less than two (2) years of service at the date of termination.	Six (6) weeks salary
Where the Appointee has two (2) years or more but less than three (3) years of service at the date of termination.	Eight (8) weeks salary
Where the Appointee has three (3) years or more but less than four (4) years of service at the date of termination.	Ten (10) weeks salary
Where the Appointee has four (4) years or more but less than five (5) years of service at the date of termination.	Eleven (11) weeks salary
Where the Appointee has five (5) years or more but less than seven (7) years of service at the date of termination.	Twelve (12) weeks salary
Where the Appointee has seven (7) years or more of service at the date of termination.	Twelve (12) weeks salary plus an additional two (2) weeks salary for every completed year of service in excess of six years, up to a maximum of fifty-two weeks salary.

- iii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), and the appointee has at least one year of continuous service, the Appointee shall be entitled to the payment of accrued long service leave, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service.



(b) On employment as a member of the

(i) Ministerial staff of any Minister; or

(ii) Staff of the Leader of the Opposition; or

(iii) Staff of the Leader of any political party recognised as such by the Premier;  
or

(iv) Staff of an independent member,

on a permanent full-time or permanent part-time capacity or on a casual or consultancy or any other basis the Appointee who has received a termination benefit under this clause shall be entitled to retain that portion of the termination benefit applicable to the period of time for which the Appointee was not so employed.

As a condition of re-employment the Appointee who has been paid a termination benefit is required to refund to the Crown that portion of the termination benefit to which the Appointee is not entitled.

(c) **Payments to be final**

Where in accordance with this agreement the employment of the Appointee is terminated, the provisions contained in this agreement as to the payments made to the Appointee in such event shall constitute the whole of the entitlement of the Appointee in terms of this agreement: PROVIDED THAT nothing in this clause shall be deemed or construed as a release in respect of any action, in respect of personal injuries or death of the Appointee, that the Appointee or anyone claiming by, through or under him/her may have.

## **12. SUSPENSION OF EMPLOYMENT**

(e) The Chief Executive may suspend an appointee from duty if the Chief Executive reasonably believes:

(iii) the appointee is liable to termination of employment; and

(iv) the proper and efficient management of the office of the Minister might be prejudiced if the appointee were not suspended.

(f) The Chief Executive may cancel an appointee's suspension from duty at any time.

(g) An appointee suspended from duty is entitled to full remuneration for the period for which the appointee is suspended, unless the Chief Executive otherwise decides.

(h) If the appointee is suspended without full remuneration and the Chief Executive cancels the appointee's suspension, then, unless the Chief Executive otherwise decides, the appointee is entitled to be paid the prescribed remuneration to which the appointee would have been entitled apart from the suspension, less any amount earned by the appointee from additional employment undertaken during the suspension period.

---

### **13. TELEPHONE**

The Crown shall pay the full rental cost of a telephone installed in the residence of the Appointee as well as a percentage of calls as agreed between the Minister and the Appointee, reflecting the business component of such calls.

### **14. EXPENSES NECESSARILY INCURRED**

The Appointee shall be entitled to receive reimbursement for any expenses properly incurred in the execution of the Appointee's duties under this Agreement.

### **15. CONFIDENTIAL INFORMATION**

- (2) The appointee must not, without the prior written consent of the Minister, use or disclose to any person any confidential information, other than for purposes connected with proper performance of the appointee's duties under this contract.
- (2) On demand by the Minister, and in any event upon the termination of this contract or resignation, the appointee must deliver to the Minister all confidential information in the appointee's power, possession or control.
- (3) The obligations under this clause do not apply to the extent that:
  - (c) the appointee is required by law to disclose any of the confidential information;
  - (d) any of the confidential information is publicly available, other than as a result of the appointee's breach of this contract.
- (4) The obligations of the appointee under this clause will survive the termination or expiration of this contract.
- (5) In this clause:

**"information"** includes all oral, written or electronic information, comments, conversations, observations, documents, notes, letters, emails, reports, specifications, policies, data, research or any other type of information;

**"confidential information"** includes all information which is acquired by the appointee in the course of the appointee's employment with the Office of the Minister, which is not available in the public domain.

### **16. CODE OF CONDUCT**

The appointee shall observe and comply with the provisions of any Code of Conduct for Ministerial staff made under the Act or under the *Public Sector Ethics Act 1994*.

### **17. OTHER AGREEMENTS SUPERSEDED**

This Agreement supersedes and replaces all other agreements, understandings or arrangements prior to the execution hereof.

---

## 18. SERVICE OF NOTICES

Any notice required to be given under this Agreement shall be effectively given if made in writing and signed by the party giving such notice and -

- (i) in the case of a notice to be given to the Appointee, handed to the Appointee personally or sent to the Appointee's address as appearing at the commencement of this Agreement or such other address as the Appointee may notify to the Chief Executive from time to time;
- (ii) in the case of a notice to be given to the Crown, sent to the Chief Executive and addressed as follows:-

The Director-General  
Department of the Premier and Cabinet  
PO Box 15185  
CITY EAST QLD 4002

or such other address as the Chief Executive may notify to the Appointee from time to time.

---

## SCHEDULE

1. Brisbane (CI 3)
2. <EFFECTIVE DATE> (CI 1)
3. \$<Amount> per annum (CI 5(a))
4. Duties (CI 6)
5. The Minister (CI 6)
6. The Minister for <Portfolio> (CI 1)

Or the minister to whom the appointee is assigned from time to time.

IN WITNESS WHEREOF the parties hereto have executed these presents on the day and year first hereinafter written.

SIGNED by \_\_\_\_\_ )

the Chief Executive for and on )

behalf of the Crown in right of )

THE STATE OF QUEENSLAND )

this \_\_\_\_\_ day of \_\_\_\_\_ 2009 )

in the presence of: )

\_\_\_\_\_  
( Signature )

Witness

Name of Witness:

SIGNED by the said )

\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 2009 )

in the presence of: )

\_\_\_\_\_  
( Signature )

Witness

Name of Witness:

THE CROWN IN RIGHT OF  
THE STATE OF QUEENSLAND

AND

(NAME)

**CONTRACT OF EMPLOYMENT**

s.147 of the *Public Service Act 2008*

G Cooper,  
Crown Solicitor,  
State Law Building,  
Cnr. George & Ann Sts.,  
BRISBANE Q 4000

Telephone: 3239 6106  
(Ms K Watson)

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**CONTRACT OF EMPLOYMENT – Senior Policy Advisor / Senior Media Advisor**

**THIS AGREEMENT** made

**BETWEEN** THE CROWN IN RIGHT OF THE STATE OF QUEENSLAND

**AND** \_\_\_\_\_ of \_\_\_\_\_

( name )

( address )

( "the Appointee" )

in the State of Queensland

**WHEREAS**

- A. The Chief Executive desires to engage the services of the Appointee as **<Title>** in the Office of the Minister specified in Item 6 of the Schedule;
- B. The Appointee has agreed to accept the engagement in accordance with the terms and conditions hereinafter set forth;
- C. In accepting the engagement, the appointee acknowledges that it is one undertaken within a political environment and which therefore:
  - i) has as an inherent requirement of the engagement, the necessity for the appointee to maintain the confidence of the Minister;
  - ii) is without any form of real or implied tenure;
  - iii) may, subject to the terms and conditions herein, be readily terminated.
- D. The Appointee is to perform work of a type not ordinarily performed by an officer of the Public Service;
- F. Pursuant to section 147(3) of the *Public Service Act 2008*, the Appointee shall not become a public service officer.

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NOW IN CONSIDERATION OF THE PREMISES IT IS HEREBY AGREED as follows:-

1. INTERPRETATION

(a) In this Agreement unless the contrary intention appears-

"the Act" means the *Public Service Act 2008*;

"Chief Executive" means the person who from time to time occupies the position of Director-General, Department of the Premier and Cabinet;

"commencing date" means the date specified in Item 2 of the Schedule;

"Department" means the Department of the Premier and Cabinet;

"Enterprise Bargaining Agreement" means the State Government Departments Certified Agreement 2006 entered into between the Queensland Government and various Unions of Employees;

"the Minister" means the Minister described in Item 6 of the Schedule;

"the directives" means the Directives issued by the Minister for Industrial Relations;

"prescribed remuneration" means the remuneration prescribed under a Directive that applies to public service officers.

(b) Headings appearing at the beginning of a clause shall not be deemed to be a part thereof and are inserted for reference only.



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## **2. APPOINTMENT**

Pursuant to section 147 of the Act, the Appointee is hereby engaged on the terms and conditions set out herein.

## **3. LOCATION**

The Appointee shall be located at the location stated in Item 1 of the Schedule and the Appointee acknowledges that he/she may be required to travel throughout Queensland, other States and Territories of Australia and overseas in the performance of the duties and the discharge of the responsibilities of the Appointee's employment.

## **4. DURATION**

The Appointee shall commence duty as <Title> on the commencing date. This engagement is on a temporary basis and is without any real or implied tenure.

## **5. REMUNERATION**

- (a) The Appointee shall be paid a salary per annum of the amount specified in Item 3 of the Schedule during the continuation of this Agreement, payable fortnightly in arrears.
- (c) The amount specified in Item 3 of the Schedule may, from time to time, be increased by the Chief Executive in accordance with advice from the Office of the Premier regarding the Appointee's assessed level of performance.
- (c) The Appointee shall not be entitled to any remuneration or other benefit in respect of the Appointee's employment other than the remuneration and other benefits expressly provided for in this Agreement.

## **6. PERFORMANCE OF DUTIES**

During the term of this Agreement the Appointee shall have the responsibilities and undertake such duties-

- (i) as stated in Item 4 of the Schedule; and
- (ii) as instructed from time to time by the person specified in Item 5 of the Schedule.

## **7. HOURS OF DUTY**

The Appointee shall work a minimum of seventy-two and one-half (72.5) hours per fortnight: PROVIDED THAT the Appointee shall not be entitled to compensation for work performed in excess of such minimum hours.

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## **8. BENEFITS**

- (a) The employment of the Appointee shall be subject to the terms and conditions as prescribed in the Directives for Attendance, Hours of Duty, Credit for Service, Leave, Court Attendance, Expenses and Allowances, and any relevant applicable industrial award or agreement as if the Appointee were a public service officer.
- (b) Notwithstanding any other provision in this agreement, the employment conditions (including salary) of the Appointee shall be varied in accordance with the Enterprise Bargaining Agreement applicable to the Department of the Premier and Cabinet.

## **9. TERMINATION BY CHIEF EXECUTIVE**

- (a) The Chief Executive, by advice in writing, may terminate this Agreement -
  - (i) in the event of a breach of this Agreement by the Appointee;
  - (iv) upon receipt of a notice in writing from the Minister that the services of the Appointee are to be terminated;
  - (iii) upon receipt of a notice in writing from the Premier that the services of the Appointee are to be terminated;
  - (iv) based on the operational requirements of the Office of the Minister.
- (b) The Chief Executive shall, before giving advice of termination under paragraph 9(a)(i) or 9(a)(iv) above, inform the Minister of his/her intention to give that notice, unless it is not practicable to do so.

## **10. TERMINATION BY APPOINTEE**

The Appointee may terminate this Agreement by two (2) weeks' notice in writing: PROVIDED THAT the Chief Executive may consent to a lesser period of notice. Where the Appointee fails to give the required period of notice, and the Chief Executive has not consented to a lesser period of notice, the Appointee shall forfeit two (2) weeks' salary in lieu of notice or such lesser sum as the Chief Executive considers to be fair and reasonable in the circumstances.

## 11. TERMINATION BENEFITS

- (a) i) Where the employment is terminated pursuant to clause 9, if the appointee is entitled to a period of notice, the period of notice or payment in lieu of notice shall be as follows:
- (7) where the Appointee has not more than 3 years continuous service — 2 weeks;
  - (8) where the Appointee has more than 3 years service but not more than 5 years service — 3 weeks;
  - (9) where the Appointee has more than 5 years service — 4 weeks.

These amounts will be increased by 1 week if the employee is 45 years old or over and has completed at least 2 years of continuous service.

- ii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), the Appointee shall be paid, subject to subclause (b), an additional benefit calculated in accordance with the table hereto:

TABLE

Column 1	Column 2
Where the Appointee has less than one (1) year of service at the date of termination.	Four (4) weeks salary
Where the Appointee has one (1) year or more but less than two (2) years of service at the date of termination.	Six (6) weeks salary
Where the Appointee has two (2) years or more but less than three (3) years of service at the date of termination.	Eight (8) weeks salary
Where the Appointee has three (3) years or more but less than four (4) years of service at the date of termination.	Ten (10) weeks salary
Where the Appointee has four (4) years or more but less than five (5) years of service at the date of termination.	Eleven (11) weeks salary
Where the Appointee has five (5) years or more but less than seven (7) years of service at the date of termination.	Twelve (12) weeks salary
Where the Appointee has seven (7) years or more of service at the date of termination.	Twelve (12) weeks salary plus an additional two (2) weeks salary for every completed year of service in excess of six years, up to a maximum of fifty-two weeks salary.

- iii) If the employment of the Appointee is terminated pursuant to clause 9(a)(ii), 9(a)(iii) or 9(a)(iv), and the appointee has at least one year of continuous service, the Appointee shall be entitled to the payment of accrued long service leave, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service.

(b) On employment as a member of the

(i) Ministerial staff of any Minister; or

(ii) Staff of the Leader of the Opposition; or

(iii) Staff of the Leader of any political party recognised as such by the Premier;  
or

(iv) Staff of an independent member,

on a permanent full-time or permanent part-time capacity or on a casual or consultancy or any other basis the Appointee who has received a termination benefit under this clause shall be entitled to retain that portion of the termination benefit applicable to the period of time for which the Appointee was not so employed.

As a condition of re-employment the Appointee who has been paid a termination benefit is required to refund to the Crown that portion of the termination benefit to which the Appointee is not entitled.

(c) **Payments to be final**

Where in accordance with this agreement the employment of the Appointee is terminated, the provisions contained in this agreement as to the payments made to the Appointee in such event shall constitute the whole of the entitlement of the Appointee in terms of this agreement: PROVIDED THAT nothing in this clause shall be deemed or construed as a release in respect of any action, in respect of personal injuries or death of the Appointee, that the Appointee or anyone claiming by, through or under him/her may have.

## **12. SUSPENSION OF EMPLOYMENT**

(i) The Chief Executive may suspend an appointee from duty if the Chief Executive reasonably believes:

(v) the appointee is liable to termination of employment; and

(vi) the proper and efficient management of the office of the Minister might be prejudiced if the appointee were not suspended.

(j) The Chief Executive may cancel an appointee's suspension from duty at any time.

(k) An appointee suspended from duty is entitled to full remuneration for the period for which the appointee is suspended, unless the Chief Executive otherwise decides.

(l) If the appointee is suspended without full remuneration and the Chief Executive cancels the appointee's suspension, then, unless the Chief Executive otherwise decides, the appointee is entitled to be paid the prescribed remuneration to which the appointee would have been entitled apart from the suspension, less any amount earned by the appointee from additional employment undertaken during the suspension period.

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### 13. TELEPHONE

The Crown shall pay the full rental cost of a telephone installed in the residence of the Appointee as well as a percentage of calls as agreed between the Minister and the Appointee, reflecting the business component of such calls.

### 14. EXPENSES NECESSARILY INCURRED

The Appointee shall be entitled to receive reimbursement for any expenses properly incurred in the execution of the Appointee's duties under this Agreement.

### 15. CONFIDENTIAL INFORMATION

- (3) The appointee must not, without the prior written consent of the Minister, use or disclose to any person any confidential information, other than for purposes connected with proper performance of the appointee's duties under this contract.
- (2) On demand by the Minister, and in any event upon the termination of this contract or resignation, the appointee must deliver to the Minister all confidential information in the appointee's power, possession or control.
- (3) The obligations under this clause do not apply to the extent that:
  - (e) the appointee is required by law to disclose any of the confidential information;
  - (f) any of the confidential information is publicly available, other than as a result of the appointee's breach of this contract.
- (4) The obligations of the appointee under this clause will survive the termination or expiration of this contract.
- (5) In this clause:

**"information"** includes all oral, written or electronic information, comments, conversations, observations, documents, notes, letters, emails, reports, specifications, policies, data, research or any other type of information;

**"confidential information"** includes all information which is acquired by the appointee in the course of the appointee's employment with the Office of the Minister, which is not available in the public domain.

### 16. CODE OF CONDUCT

The appointee shall observe and comply with the provisions of any Code of Conduct for Ministerial staff made under the Act or under the *Public Sector Ethics Act 1994*.

### 17. OTHER AGREEMENTS SUPERSEDED

This Agreement supersedes and replaces all other agreements, understandings or arrangements prior to the execution hereof.

---

## 18. SERVICE OF NOTICES

Any notice required to be given under this Agreement shall be effectively given if made in writing and signed by the party giving such notice and -

- (i) in the case of a notice to be given to the Appointee, handed to the Appointee personally or sent to the Appointee's address as appearing at the commencement of this Agreement or such other address as the Appointee may notify to the Chief Executive from time to time;
- (ii) in the case of a notice to be given to the Crown, sent to the Chief Executive and addressed as follows:-

The Director-General  
Department of the Premier and Cabinet  
PO Box 15185  
CITY EAST QLD 4002

or such other address as the Chief Executive may notify to the Appointee from time to time.

---

## SCHEDULE

1. Brisbane (CI 3)
2. <EFFECTIVE DATE> (CI 1)
3. \$<Amount> per annum (CI 5(a))
4. Duties (CI 6)
5. The Principal Advisor (CI 6)
6. The Minister for <Portfolio> (CI 1)

Or the minister to whom the appointee is assigned from time to time.

**IN WITNESS WHEREOF** the parties hereto have executed these presents on the day and year first hereinafter written.

**SIGNED** by \_\_\_\_\_ )

the Chief Executive for and on )

behalf of the Crown in right of )

**THE STATE OF QUEENSLAND** )

this \_\_\_\_\_ day of \_\_\_\_\_ 2009 )

in the presence of: )

\_\_\_\_\_  
( Signature )

Witness

Name of Witness:

**SIGNED** by the said )

\_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 2009 )

in the presence of: )

\_\_\_\_\_  
( Signature )

Witness

Name of Witness:



THE CROWN IN RIGHT OF  
THE STATE OF QUEENSLAND

AND

(NAME)

CONTRACT OF EMPLOYMENT

s.147 of the *Public Service Act 2008*

G Cooper,  
Crown Solicitor,  
State Law Building,  
Cnr. George & Ann Sts.,  
BRISBANE Q 4000

Telephone: 3239 6106  
(Ms K Watson)