



# Ethics, integrity and elected officials – state government

## Legal and ethical obligations of MLAs and election candidates

This advisory details the major legal and ethical obligations of Members of the Legislative Assembly (MLAs) and candidates in state government elections. Fulfilling these obligations is essential to maintaining public confidence and acting in the public interest, and failure to do so may constitute misconduct, official misconduct or a criminal offence.

### 1 During an election

#### Funding your campaign

DO:

- record and declare all gifts, donations or loans given to you for electoral purposes. (Consult the *Electoral Act 1992* for clarification of timeframes and other requirements)
- ensure that all political donations and other financial contributions are paid into a separate financial account.

DO NOT:

- accept a gift of foreign property or an anonymous gift valued at or above \$200
- exceed any legally prescribed caps on expenditure or donations for your electoral campaign (see the *Electoral Act 1992* for details)
- accept a loan valued at \$1000 or more, which does not meet the conditions prescribed in the *Electoral Act 1992*.

#### Conducting your campaign

DO:

- include proper attribution and authorisation on all published election materials whether printed, broadcast or electronic
- remind anyone who donates or incurs electoral expenditure of \$1000 or more on behalf of you or your party that they must submit returns to the Electoral Commission after each election.

DO NOT:

- threaten, use any force or deception or offer a bribe or inducement to:
  - a candidate or potential candidate – to influence their decision to stand or the way they conduct their campaign
  - a voter – to influence the exercising of their vote
  - an ineligible person – to encourage them vote at an election

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- encourage or incite any person to, or yourself:
  - vandalise, destroy, steal or otherwise interfere with any election material or ballot paper in use
  - knowingly make any false or misleading statements about another candidate
  - make any false or misleading statements or imply (e.g. by the use of logos, symbols or images) that a candidate has the support of a person or organisation
  - print, publish, distribute or broadcast anything intended or likely to mislead an elector about how to vote at an election
  - breach any Act or Regulation in relation to the conduct of elections or voting in an election.
- accept any inducement from any other candidate, or interested party to encourage you to stand or not to stand as a candidate, or to use less than your best endeavours in promoting your election
- attempt to harm an opponent's reputation by making a false or frivolous allegation of misconduct to the CMC. If you do so, you may face investigation as such allegations can compromise the election process, unfairly damage reputations and waste public money. We urge you to inform us confidentially if you have a genuine concern, and we will treat your complaint seriously and with discretion.

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## While in office

As a Member of the Legislative Assembly, you must abide by the *Code of Ethical Standards* which sets out the following principles:

- integrity of the parliament
- primacy of the public interest
- independence of action
- appropriate use of information
- transparency and scrutiny
- appropriate use of entitlements.

These principles have priority over any election platform or policy, and you have been elected to enact and realise them to the best of your ability. You are to represent the current and future interests of the residents of the state of Queensland. Your primary function is to serve the best interests of the community as a whole, rather than those of any particular section or interest group.

Your membership of the Assembly will automatically cease if you are convicted of any of the following:

- an offence against the law of any state or the Commonwealth for which you are sentenced to more than one year's imprisonment
- an offence against ss. 59 or 60 of the *Criminal Code*
- a disqualifying electoral offence
- treason, sedition or sabotage under the law of any state or the Commonwealth.

All former members convicted on indictment of a criminal offence (during or after their term in office) automatically forfeit all entitlements due to them.

## Swearing in

You cannot vote or sit in Parliament until you have been formally sworn in.

## Your obligations

### Conflicts of interest

DO:

- provide statements of your financial and personal interests and those of your closest relatives and associates within one month of making the oath or affirmation. You can seek advice from the Registrar of Members' Interests or the Members' Ethics and Parliamentary Privilege Committee if required
- provide statements of any changes to your interests that arise during the course of your duties
- verbally declare any pecuniary interest or any conflict of interest you have on a question in the House or a committee.

DO NOT:

- vote on a question in which you have a direct pecuniary interest, as defined in the Code.

### Gifts and benefits

DO:

- report any gifts you have received valued at or over \$500 – this includes a number of gifts from the same source if the total value equals \$500 or more. It excludes gifts received from a related person or personal friend, which are given purely in a personal capacity. Ministers are required to report receipt of any gifts from one source valued at \$150 or more. If you are in doubt about the value of a gift, you should disclose it to Ministerial Services
- ensure there can be no perception of a conflict of interest, financial or otherwise, relating to your accepting a gift or benefit.

DO NOT:

- request, receive, obtain, agree or attempt to receive or obtain any property or benefit of any kind for yourself or any other person, in order to influence your conduct in the House or on any committees.

### Records management

DO:

- adequately make, record, store and keep all public records, including any emails, letters, audio recordings, photos or other forms of records that relate to the government's executive activities.

### DO NOT:

- destroy, damage, abandon, transfer, donate, give away or sell any public record without authority to do so.

### Appropriate use of information

#### DO:

- exercise due care when handling or using confidential information and records, and ensure they are not left where they can be accessed by anyone not involved in the matter
- respect the confidentiality of information available to you as a Member.

#### DO NOT:

- inappropriately convey information available to you as a Member to any person or body, or use it for your personal advantage or that of any other person.

### Dealing with government agencies

To ensure that MLAs are independent of the Executive, there are restrictions on their dealings (including financial dealings) with government agencies and public servants.

#### DO:

- coordinate any communication with a senior public servant by arrangement with the Minister or CEO of the relevant entity
- put in writing any request for information or details of an appropriate contact officer from a government department
- claim only reasonable expenses for costs incurred by or for you (e.g. for accommodation, meals, domestic air travel, taxi fares, public transport charges and motor vehicle hire) in the course of performing duties or services for government bodies (e.g. boards, committees or councils).

#### DO NOT:

- accept any fee or reward that exceeds what is deemed reasonable – if you do so, you may forfeit your seat in parliament
- obtain, or seek to obtain, unreasonable reward for a service to a government agency. If you become aware of an entitlement to an unreasonable reward, you must:
  - irrevocably waive any entitlement to it (beyond reasonable expenses) for all legal purposes
  - make the waiver in writing
  - present the waiver to the relevant paying authority for the government entity concerned
  - provide a copy of the waiver to the Speaker
- transact business, directly or indirectly with an entity of the state (see *Parliament of Queensland Act 2001*, Ch 4, pt 3 for information on exemptions to this requirement)
- have any unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder with the government – if you do so, you may forfeit your seat in parliament.

### Allowances

Dishonest use of an allowance or other entitlement or a dishonest claim or acquittal is a criminal offence.

### Dealing with lobbyists

#### DO:

- ensure that any contact you have with lobbyists complies with the requirements of the *Lobbyists Code of Conduct* and the *Integrity Act 2009*
- ensure that representations made to you by any former public official (i.e. premier, minister, parliamentary secretary, chief executive, senior executive, ministerial staff member or senior public servant) do not relate to their previous official dealings in the last two years
- report to the Integrity Commissioner any contact from unregistered third party lobbyists.

#### DO NOT:

- permit any lobbying by an unregistered lobbyist.

## On leaving office

### Your obligations

#### Records

##### DO:

- ensure that all records are returned to parliament (or the relevant government organisation if you are a minister).

##### DO NOT:

- shred, delete, destroy or amend any parliamentary records or public records
- make or take any copies of parliamentary records before leaving office with the intention of using them for personal gain.

The above actions are offences under the *Public Records Act 2002*.

#### Returning public property

##### DO:

- return all gold passes, travel passes, booklets and warrants that you and your spouse were formerly entitled to when you were a Member
- account for all items of Legislative Assembly property (in the Electorate Office and at Parliament House)
- return all parliament property to the parliament.

##### DO NOT:

- keep, unlawfully destroy or damage any property deemed to belong to parliament and/or the state government – you are liable for the cost of the replacement of any of these items that cannot be accounted for.

## Subsequent employment

DO:

- maintain confidentiality of information you gained while in office, which is not available to the public.

DO NOT

- take personal advantage of information not generally available to the public to which you have access as a MLA to gain or engage in future employment
- carry out a lobbying activity relating to official dealings you had in the two years before leaving office, for two years after you leave

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## Resource list

For further information and advice, see:

- *Crime and Misconduct Act 2001*
- *Electoral Act 1992*
- Electoral Commission Queensland <[www.ecq.qld.gov.au](http://www.ecq.qld.gov.au)>
- Electoral Commission Queensland 2005, *Handbook (Guide for Candidates)*, ECQ, Brisbane, viewed 9 February 2012 <[www.ecq.qld.gov.au/WorkArea/DownloadAsset.aspx?id=195](http://www.ecq.qld.gov.au/WorkArea/DownloadAsset.aspx?id=195)>.
- *Integrity Act 2009*
- Members' Ethics and Parliamentary Privileges Committee 2004, *Code of Ethical Standards, Legislative Assembly of Queensland*, MEPPC, Brisbane, viewed 9 February 2012 <[www.parliament.qld.gov.au/documents/committees/CLA/2009/CES2009.pdf](http://www.parliament.qld.gov.au/documents/committees/CLA/2009/CES2009.pdf)>
- *Parliament of Queensland Act 2001*
- *Public Records Act 2002*
- *Public Service Act 2008*
- *Right to Information Act 2009*
- Queensland Integrity Commissioner <[www.integrity.qld.gov.au](http://www.integrity.qld.gov.au)>
- Queensland Parliament <[www.parliament.qld.gov.au](http://www.parliament.qld.gov.au)>

All Queensland legislation is available at <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)>.

### CRIME AND MISCONDUCT COMMISSION



QUEENSLAND

For further information about misconduct prevention please email <[mailbox@cmc.qld.gov.au](mailto:mailbox@cmc.qld.gov.au)> or contact a misconduct prevention adviser on 3360 6060.

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Level 2, North Tower Green Square  
515 St Pauls Terrace, Fortitude Valley, Australia 4006

GPO Box 3123  
Brisbane Qld 4001

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