



Ethics, integrity and elected officials

State government election candidates and Members of Parliament

In this advisory:

This advisory details the major ethical and legal obligations of:

- candidates for state government elections, and
- Members of Parliament.

It covers:

- ethical and legal obligations, whilst standing for election, and in office
- strategies to manage risks
- further information and resources.

Introduction

This advisory details the major ethical and legal obligations of state government election candidates and Members of Parliament to assist them to better understand the nature and requirements of public office.

Election candidates and Members of Parliament are subject to specific obligations and legislation at each stage of the electoral process. This advisory provides advice for:

- All candidates standing for election
- Members of Parliament:
 - while in office
 - during an election period
 - transitioning out of office, and
 - after leaving office.

Guidance is provided to manage the risks associated with each of the above stages in the form of strategies to avoid allegations of unethical or corrupt conduct.

Standing for election can be complicated because there are many rules governing the process and breaching these rules may constitute 'corruption'. The information in this advisory is principally sourced from the [Electoral Act 1992](#), the Ministerial Code of Conduct, and the Ministerial Handbook.¹

'Corruption' has a broad definition that can be applied to a number of deliberate acts. However, it can also be applied where there has been an intentional or an unintentional omission, or as a result of events over which you have no control. The information in this advisory will assist you to understand these issues so that you can meet your obligations and thereby avoid actions or inactions that may result in penalties.

¹ A full list of sources can be found at the end of this publication under "Further information and resources".

Standing for election

Ethical and legal obligations

Being elected into public office is an honour that is a reflection of the trust placed in the candidate by voters. Therefore, elected officials are obligated to act in ways that meet the public trust by exercising judgement and making decisions that will put the interests of the public ahead of their own personal interest. This requires exercising the highest integrity to ensure that their conduct is beyond reproach. The way a candidate conducts their election campaign is a strong indicator of how they will conduct themselves if elected.

During an election campaign, integrity is demonstrated in two key ways:

- upholding the principles and practices of democracy in all electoral and voting processes; and
- ensuring transparency around the acceptance of campaign funding, gifts and benefits so the public has confidence that no-one will be favoured as a result of the funding or gifts.

Specific obligations and processes for candidates are detailed in the *Electoral Act 1992*. Failure to adhere to the requirements in the *Electoral Act 1992* may result in fines, or in more serious cases could be a criminal offence under the *Criminal Code Act 1899*. Additionally, if wrongdoing is committed by a Member of Parliament during the election this may constitute corrupt conduct which may also amount to a criminal offence.

Upholding the democratic process

The following legal obligations apply to all candidates seeking election. The penalties associated with these obligations vary, and it is recommended that candidates familiarise themselves with these obligations and the associated penalties (see the 'Footnotes' below for the relevant references).

- It is illegal to ask for, agree to or accept any inducement from any other candidate or interested party to encourage a person to stand or not to stand as a candidate, or for a candidate to use less than their best endeavours in promoting their election.²
- All published election materials whether printed, broadcast or electronic must include proper attribution and authorisation.³
- Attempting to harm an opponent's reputation by making a false or frivolous allegation of corrupt conduct to the Crime and Corruption Commission (CCC) is a breach of the [Crime and Corruption Act 2001](#) (CC Act). Even allegations which are later found to be false or frivolous may initially be investigated, which is a waste of public money. The allegations and the investigation can both create questions about the integrity of the subject of the allegations that can compromise the election process, and unfairly damage reputations. Should it later come to the attention of the public that the allegations were false or frivolous, this can negatively affect their perceptions of the person who made the allegations. Anyone with genuine concerns should inform the CCC confidentially, and the complaint will be treated seriously and handled with discretion.⁴
- It is illegal to encourage or incite any other person to, or to personally:
 - knowingly make any false or misleading statements about another candidate⁵
 - make any false or misleading statements or implications (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 election⁶

2 *Criminal Code 1899*, ss. 98-114

3 *Electoral Act 1992*, s. 181

4 *Crime and Corruption Act 2001*, s. 216

5 *Criminal Code 1899*, ss. 98B and 102

6 *Electoral Act 1992*, s. 185

- vandalise, destroy, steal or otherwise interfere with election material or ballot papers in use
- breach any Act or Regulation in relation to the conduct of elections or voting in an election.
- It is illegal to threaten, use any force or deception, or offer a bribe or inducement⁷ 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 vote⁸
 - an ineligible person — to encourage them vote to at an election.⁹

Further guidance is provided in the Code of Ethical Standards for the *Legislative Assembly of Queensland: Code of Conduct for Election Candidates* (Annex 5). This is a voluntary Code of Conduct except for the legislative requirements set out in section (e) of that Code, which deals with:

- race, religion, sexuality or gender identity vilification offences under the [Anti-Discrimination Act 1991](#)¹⁰
- corrupt conduct under the *Crime and Corruption Act 2001*
- *Criminal Code Act 1899* offences
- *Electoral Act 2009* offences.

Ensuring transparency of campaign funding

Specific laws have been enacted about publicising the details of gifts and donations received by each candidate during a campaign and also about how these are recorded and managed. These laws provide transparency about where individual candidates obtain their support so that voters have opportunities to review these support arrangements to assist them to make their voting decision. The following list covers the main areas where candidates have specific record-keeping and reporting responsibilities; however, candidates are responsible to review the relevant legislation to confirm their obligations.

- Specific caps apply to both expenditure and donations for electoral campaigns. (Consult the *Electoral Act 1992* for details.)
- All gifts, donations and loans given to a candidate for electoral purposes must be recorded. (Consult the *Electoral Act 1992* for details of timeframes and other requirements).¹¹
- Gifts of foreign property cannot be made to a candidate during an election, or to a registered political party at any time.¹²
- Gifts valued at or above \$200 cannot be received by a candidate during the candidacy period.¹³
- Anonymous gifts valued at or above \$200 are not permitted.¹⁴
- Anyone who donates or incurs electoral expenditure of more than \$1,000 on behalf of a candidate or their party must submit returns to the Electoral Commission after each election.¹⁵
- Loans valued at \$1,000 or more which do not meet the conditions prescribed in the *Electoral Act 1992*, other than loans for a range of usual personal matters, are not permitted.¹⁶
- All political donations and other financial contributions must be processed through a dedicated bank account.¹⁷

7 *Electoral Act 1992*, s. 179; *Criminal Code 1899*, s. 98C

8 *Electoral Act 1992*, s. 179; *Criminal Code 1899*, s. 98E

9 *Electoral Act 1992*, s. 179; *Criminal Code 1899*, s. 98G

10 *Anti-Discrimination Act 1991*, s. 124A

11 *Electoral Act 1992*, Part 11 Div 7, 8, 10, 11. (ss. 260-287)

12 *Ibid.*, s. 270

13 *Ibid.*, s. 271(2)

14 *Ibid.*, s. 271

15 *Ibid.*, s. 285(4)

16 *Ibid.*, s. 201A

17 *Ibid.*, s. 409

How to manage risks while standing for election

Standing for election can be complicated because there are many rules governing the process. Each candidate is obligated to know the rules that will affect them, their campaign, and the activities of everyone associated with running that campaign.

Election candidates seek to represent interest groups and individual voters who share common views with the candidate. Interest groups and voters often express their support through contributions to their candidate's campaign in the form of active support or funds. Whilst attracting active support and campaign funds is common in the electoral process it is important to remember that acceptance of a 'contribution' above or outside the permitted limits may:

- create a perception that you are taking a bribe or secret commission
- create a perception of undue influence
- provoke a sense of obligation in the donor or you as the recipient
- consciously or unconsciously influence decisions you make in the future
- compromise your independence, impartiality or reputation
- benefit some individuals or organisations through influenced or unjust decisions, while unfairly disadvantaging others.

Similarly, attempting to influence the electoral process through electoral manipulation or vote rigging to affect vote counts to bring about an election result is a violation of the principles of democracy, and revelation of these types of fraud may reduce voters' confidence in the candidate's integrity and in the election itself.

While it is common for candidates to gain assistance from others during their campaign, ultimately the candidate is responsible for ensuring their campaign is conducted in accordance with the requirements of the *Electoral Act 1992*, and failure to do so may attract significant fines or penalties.

In order to minimise the risk of breaching the *Electoral Act 1992* it is important that candidates are clear about conducting their campaign with integrity and to adhere to the rules.

The following recommendations are provided to assist candidates meet their obligations.

- Ensure that bank accounts, recording, monitoring and reporting mechanisms are in place before you commence your campaign.
- Know the limits and thresholds that apply to expenditure, gifts and donations as well as the mandatory disclosure and returns requirements for the electoral campaign. Candidates are responsible for ensuring that those who work on them also know and comply with these rules. (Consult the *Electoral Act 1992* for details.)
- Carefully consider the source and the potential implications of accepting donations being offered, even when a donation is within the prescribed limits.
- Ensure that due-diligence checks are carried out on those people and organisations who support the campaign and that you are satisfied to represent their views and interests and the views and interests of those they represent.
- Ensure that there are independent checks to confirm that all donations are appropriate, have been recorded, and that the required returns are submitted within the legislated time limits.
- Set clear expectations and boundaries through early discussions with those people or organisations seeking to financially support the campaign and ensure they understand the legal restrictions that apply.

- Ensure that all campaign statements are scrutinised before release to provide absolute confidence that all details are factually correct, and that the statement is a true and honest account which can be defended if challenged.

Further advice about any of these matters is available from the Electoral Commission of Queensland. <www.ecq.qld.gov.au>

While in office

Ethical and legal obligations

Members of Parliament are elected to represent the current and future interests of the residents of the state of Queensland. Their primary function is to serve the best interests of the community as a whole, rather than those of any particular section or interest group.

They are to strive at all times to conduct themselves in a manner which will maintain and strengthen the public's trust and confidence in the integrity of Parliament. They are to fulfil their ethical obligations and act with integrity, and to avoid any action which may diminish the reputation of Parliament.

Obligations to the Parliament

The obligations of Members of Parliament are detailed in the *Parliament of Queensland Act 2001*. Adherence to the *Code of Ethical Standards for the Legislative Assembly of Queensland*, and, for Ministers, the *Ministerial Code of Conduct*, is also required.

The codes establish six principles:¹⁸

1. integrity of the parliament
2. primacy of the public interest
3. independence of action
4. appropriate use of information
5. transparency and scrutiny
6. appropriate use of entitlements.

These principles have priority over any election platform or policy, and elected officials are required to enact them to the best of their ability.

Obligations to the public

The life of an elected official is subject to constant public scrutiny. As such, the expected standards of behaviour are high and failure to adhere to the standards may constitute corrupt conduct or a criminal offence with associated consequences including forfeiture of their seat in parliament, loss of entitlements, fines and criminal charges.

Elected officials are required to perform their duties in a fair and unbiased way, and the decisions they make are to be unaffected by self-interest, private affiliations, or the likelihood of personal gain or loss for themselves or their associates.

18 Ministerial Code of Conduct; Code of Ethical Standards for Legislative Assembly Qld

How to manage risks while in office

Members of Parliament generally, and Ministers in particular, need to strive to act in ways so that there can be no perception of bias, influence or lack of integrity. This requires ethical conduct that exceeds the legal requirements.

The following headings deal with important topics where integrity and transparency are critical to ensuring that Members of Parliament act, and are seen to act, impartially and in the public interest.

Conflicts of interest

While there is specific legislation and guidance for Ministers that detail minimum standards of propriety, the high level of media and public scrutiny means Members of Parliament can be perceived to have a conflict of interest even where there is no actual conflict. However, simply the perception of a conflict of interest may create public concerns that decisions and actions are biased in favour of or against a specific person or segment of the electorate or community. These perceptions can lead to:

- a lack of confidence in the Member of Parliament's integrity
- bias by the Party itself
- a call for an investigation into corrupt conduct.

There are things that must be done in order to provide transparency to the activities of members and to the decision-making processes within the Parliament. Members of Parliament are required to:

- provide statements of their financial and personal interests and those of their closest relatives and associates within one month of making the oath or affirmation¹⁹
- provide statements of any changes to their interests that arise during the course of their duties
- verbally declare any pecuniary interest or any conflict of interest they have on a question in the House or a committee²⁰
- abstain from voting on a question in which they have a direct pecuniary interest.

Additional requirements apply to Ministers. They must divest themselves of any shareholding in any company which would give rise to actual or perceived conflicts of interest. Such shareholdings cannot be divested to the Minister's related persons, or to close associates.²¹

In order to avoid actual and perceived conflicts of interest it is recommended that Members of Parliament:

- comply with the requirements to provide their financial and personal interest statement by taking an inclusive approach and "over-declare" rather than an exclusive approach and "under-declare" their interests
- apply a low threshold to instances of perceived or actual conflicts of interest by erring on the side of caution and making declarations even where the causal link may be tenuous
- ensure they have clear declaration and transparent management processes which demonstrate effective compliance with the mandatory requirements
- use the confidential services provided by the Integrity Commissioner and seek independent advice in order to determine whether a conflict of interest (real or perceived) exists.

For further information see the CCC publication *Managing conflicts of interest in the public sector*, and the *Conflicts of interest* page on the Integrity Commissioner's website.

<http://www.integrity.qld.gov.au/conflicts-of-interest/seeking-advice.aspx>

19 Code of Ethical Standards for Legislative Assembly Qld, 3.1.2

20 Code of Ethical Standards for Legislative Assembly Qld, 3.1.2; Standing Orders 259, 260, 261, 262

21 Ministerial Code of Conduct

Gifts and benefits

Members of Parliament are required to behave with the highest integrity and to ensure that their conduct is beyond reproach. Accepting gifts or benefits could create a conflict of interest between their official duties and their personal interests. Additionally, the intention behind the giving of a gift — and what the community may perceive as the intention — should always be considered in determining whether accepting the gift is appropriate. Whilst the giving and receiving of gifts is part of our culture there are circumstances where receiving a gift can create a sense of expectation by the giver that the recipient will be under some future obligation. Reporting requirements exclude gifts received from a related person or personal friend, which are given purely in a personal capacity.

Members of Parliament must:

- report any gifts received that are valued at or over \$500 — this could be a single gift, or several gifts from one source that together amount to \$500 or more²²
- not request, receive, obtain, agree or attempt to receive or obtain any property or benefit of any kind for themselves or any other person in return for influencing their conduct in the House or on any committees.²³

For Ministers the limit is lower — they must report the receipt of any gifts from one source valued at \$150 or more.²⁴

Dealing with lobbyists

Lobbying is an important part of our democratic process and one which the government uses to source information in support of inclusive and sound decisions. Third party lobbying is defined and controlled by the *Integrity Act 2009* and the *Lobbyists Code of Conduct*, which are overseen by the Integrity Commissioner.

Members of Parliament:

- must not permit any lobbying by an unregistered lobbyist²⁵
- must report any contact from unregistered third party lobbyists to the Integrity Commissioner.²⁶

Also, former senior government and opposition representatives (i.e. premier, minister, assistant minister, parliamentary secretary, chief executive, senior executive, ministerial staff member or senior public servant) are not permitted to conduct lobbying related to their official dealings in the last two years.²⁷

Records management

Members of Parliament will, from time to time, be called upon to account for their involvement in a particular matter, and to support this they should make sufficient records to evidence that involvement. Ministers are obligated to make records of their involvement in matters²⁸ and publish their Ministerial Diaries on the Queensland Government website²⁹ to allow public scrutiny. The quality of these records is key to transparently demonstrating the effective discharge of their obligations and will show that they have acted with integrity during meetings and decision-making and that their actions were without bias and in the public interest.

22 Code of Ethical Standards for Legislative Assembly Qld 3.1.2

23 Ministerial Handbook, 3.7

24 Ministerial Handbook, 3.7

25 Ibid, s. 71(2)

26 Ibid, s. 71(3)

27 *Integrity Act 2009* s. 70

28 *Public Records Act 2002* s. 7

29 Ministerial Handbook s. 3.12

The requirements regarding managing public records, which include electronic records, are covered by the *Public Records Act 2002*. In order to comply with the requirements of the *Public Records Act 2002* it is recommended that Members of Parliament:

- ensure that they 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.

For more information about corruption risks and risk management options see the CCC Advisory, *Management of public records*. More information about the definition of a public record and records management can be found in the *Public Records Act 2002* and the Queensland State Archives website at: www.qld.gov.au/dsiti/qa.

Appropriate use of information

In the course of their duties members often receive confidential information. In order to maintain the trust of the public and parliamentary colleagues it is important that Members of Parliament:

- create and store all public records, including any emails, letters, audio recordings, photos or other forms of records relating to the government's executive activities in approved record management systems³⁰
- do not damage, destroy, abandon, transfer, donate, give away or sell any public record without authority to do so³¹
- respect the confidentiality of information and exercise due care when handling or using confidential information and records
- maintain careful security of information and ensure there can be no unauthorised access by anyone not involved in the matter.

Members are not to misuse any confidential or prized information for personal gain or in ways that would advantage themselves or others.³²

Interacting with government agencies

Members of Parliament have specific obligations arising from their election. However, it is acknowledged that they are also members of the community and some may have business dealings directly, or indirectly through family members, business associates or friends, with government agencies. In some instances their direct involvement with government must cease whilst other associations may be permissible.

The following information summarises the legislative and other obligations for Members of Parliament to ensure they do not improperly benefit from their position.

- Members of Parliament may only accept, or seek, reasonable reward for a service to a government agency. For example: A member with particular professional expertise may, because of that expertise, be invited to speak at a government-agency sponsored event. In accepting the invitation the member is not entitled to an appearance fee or to invoice the event sponsors for their time, however, would be entitled to reasonable expenses for accommodation, meals, domestic air travel, taxi fares or public transport charges and motor vehicle hire.³³

30 *Public Records Act 2002*

31 *Ibid.*

32 Code of Ethical Standards for Legislative Assembly Qld
Principle 4

33 Code of Ethical Standards, Legislative Assembly of
Queensland, para 3.3.2 *Transacting business with an entity of
the State*, p. 15

- If the member becomes aware of an entitlement to an unreasonable reward, they must:³⁴
 - 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.
- Members of Parliament may not:
 - transact business, directly or indirectly with an entity of the state (see *Parliament of Queensland Act 2001*, ss. 70-71 for information on exemptions to this requirement).³⁵
A member transacts business with an entity of the State if the member (a) has a direct or indirect interest in a contract with an entity of the State for the supply of goods to the entity to be used in the service of the public; or (b) performs a duty or service for reward for an entity of the State.
 - engage in unauthorised financial dealings, either as a contractor, defaulter, consultant or office holder with the government — if they do so, they may forfeit their seat in parliament.³⁶
- A Minister’s power to give direction to a Director-General does not include the power to compel the Director-General to give particular advice or to change departmental advice.³⁷ To facilitate proper and transparent communication between ministerial officers and the public service, Ministers must observe the restrictions on their dealings with government agencies and public servants as detailed in the “Protocols for communication between ministerial staff members and public service employees.”³⁸

Allowances

The opportunity to claim an allowance arises as a result of carrying out some activity that is connected to serving the needs of the member’s constituency, or related to the activities of government; and that would otherwise confer an unreasonable expense on the individual Member.

In formulating the schedule of allowances available to Members of Parliament considerable care is taken to ensure the claimable allowance accords with the actual costs that would be incurred and also reflects the community’s expectations of a “fair and reasonable” reimbursement.

The community has little tolerance towards those who claim an allowance where no expense was incurred, or where the amount of the actual expense was disproportionately small compared to the amount claimed: many people would consider this theft or fraud.

In order to avoid allegations of theft or fraud it is recommended that Members of Parliament only claim reasonable expenses for those costs incurred (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).

Remember, dishonest use of an allowance or other entitlement or a dishonest claim or acquittal is a criminal offence.³⁹

34 Code of Ethical Standards for Legislative Assembly Qld 3.4.1
Criminal Code 1899 s. 59

35 *Parliament of Queensland Act 2001*, ss. 70-71; Code of Ethical Standards for Legislative Assembly Qld, 3.3.2

36 Code of Ethical Standards for Legislative Assembly Qld, 3.3

37 Protocols for communication between ministerial staff members and public service employees

38 Protocols for communication between ministerial staff members and public service employees

www.premiers.qld.gov.au/right-to-info/published-info/assets/protocols-communication-min-staff-public-service-employees.docx

39 *Criminal Code 1899*, s. 408C; Code of Ethics, 3.5.4

Convictions and offences

Parliament is where laws are made to provide for the good governance and civil order in the State. In order to demonstrate a continuing entitlement to be a Member of Parliament members need to adhere to the same laws they have participated in making and upholding. Therefore, membership in Parliament will automatically cease if a Member is convicted of:

- an offence against the law of any state or the Commonwealth for which they are sentenced to more than one year's imprisonment
- a bribery related 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.⁴⁰

Being elected as a Member of Parliament is an honour which reflects the trust placed in them by voters. This trust includes the expectation that the Member will abide by all laws that govern society. Accordingly, a Member's compliance with laws, including which laws they will abide by and which laws they might see as irrelevant to themselves, will be used to judge their integrity.

Infringements such as:

- habitually speeding or incurring parking fines
- drink-driving, or
- failure to lodge tax returns on time,

are unlikely to result in expulsion from Parliament. However, these behaviours indicate an attitude that some laws can arbitrarily be broken because they are inconvenient. Behaviours such as this may reduce voters' confidence in the Member's integrity.

Ongoing probity

While there is specific legislation and guidance for Ministers that detail minimum standards of propriety, the high level of media and public scrutiny over the activities and associations of Members of Parliament can often result in perceptions that the member has a conflict of interest, even where there is no actual conflict. However, simply the perception that a conflict exists (or may exist) creates a public concern that decisions and actions are biased in favour of a specific person or segment of the electorate or community. These perceptions themselves can lead to:

- a lack of confidence in the Member of Parliament's integrity and in the Party itself
- a call for an investigation into corrupt conduct.

Members of Parliament generally, and Ministers in particular, need to strive to behave in such a way that there can be no perception of bias, influence or lack of integrity. This requires ethical conduct that exceeds the legal requirements.

By following the guidance provided under each of the above topics you will minimise the likelihood of being subject to allegations of corrupt conduct or other penalties.

⁴⁰ *Parliament of Queensland Act 2001*, s. 72(1)(i); Code of Ethical Standards for Legislative Assembly Queensland, 3.8.1

Caretaker periods

Special arrangements apply in the period immediately before an election, in recognition of the consideration that every general election brings with it the possibility of a change of government.

By convention, the government assumes a caretaker role from the time that the Legislative Assembly is dissolved by Proclamation or at the moment the term of the Legislative Assembly expires, whichever happens first. The period concludes when the election result is clear or, in the event of a change of government, when the new government is appointed.

Ethical and legal obligations

There are no statutory or legal obligations on Members of Parliament that relate to the caretaker period. However, caretaker conventions exist to ensure that decisions are not taken which would bind an incoming government and limit its freedom of action, and the following documents provide relevant guidance:

- Cabinet Handbook ([Ch. 9 Caretaker Conventions](#))
- *Public Records Act 2002*.

These conventions require the caretaker government to avoid implementing major policy initiatives, making appointments of significance or entering into major contracts or undertakings during the caretaker period.

Parties may make announcements regarding new policy promises as part of their election campaign but these do not form government policy until the new Ministry is sworn in and specific direction is provided to each government agency.

There are other established practices which govern activities during the election period. These are mainly directed at ensuring continuity of service by departments and avoiding any partisanship during an election campaign. They also address matters such as the nature of requests that Ministers may make of their departments, procedures for consultation by the Opposition with departmental officers, travel by Ministers and their Opposition counterparts and the continuation of government services advertising campaigns.

Adherence to the conventions and practices is ultimately the responsibility of the Premier. Where Ministers are in doubt about a particular matter, they should raise it with the Premier.

How to manage risks during caretaker periods

During an election campaign, government needs to continue to function to ensure that the public is not disadvantaged and (if required) to manage the transition from one government to the next.

The following headings cover areas where decisions which would bind an incoming government and limit its freedom of action should not be taken.

Appointments

- Wherever possible, avoid making appointments of significance (such as Directors-General and equivalent) in the caretaker period. If absolutely necessary and where available, consider an acting appointment to avoid the need for a substantive appointment. Another option is a short term appointment, of up to three months' duration.
- Factors in deciding whether or not a particular appointment is significant include the degree to which it may be a matter of disagreement between the major parties contesting the election, as well as the position's inherent importance.

Policies and contracts

- Avoid entering into major contracts or undertakings that could bind an incoming government.
- Major contracts or undertakings should be considered not only in terms of monetary commitment but should also take into account other relevant factors such as the nature of the undertaking and the level of bipartisan support. If the contract is for maintaining essential services or if there could be significant costs to the Government or the Contractor if the signing is delayed, look for bipartisan support.
- Do not request the development of new policy initiatives (but you may request factual material from departments). You should not place departmental officers in a position of needing to use their official position to act in a partisan manner.

Pre-planned events

The normal business and provision of government should continue without disruption during the election period. While the decision to perform an action or not rests with each Director-General, the actual responsibility rests on the Premier.

- Discontinue marketing campaigns that highlight the role of particular Ministers or that address issues which are controversial between the major political parties.⁴¹
- Sign only necessary or routine correspondence.
- When making more contentious decisions, consider whether the opposition should be briefed and/or invited to participate. If you brief one party, you should brief all parties.

There are many and varied complications and nuances to the conventions, and there are no hard and fast rules. Avoid scandal and embarrassment by ensuring that there is proper consultation whenever there is any doubt.

For further information about Caretaker conventions see Chapter 9 of the Department of Premier and Cabinet *Ministerial Handbook*.

<<http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/cabinet-handbook/caretaker-conventions.aspx>>

For further reading about this subject see *The Tugun Bypass Investigation* on the CCC's website.

<<http://www.ccc.qld.gov.au/research-and-publications/publications/misconduct/the-tugun-bypass-investigation.pdf>>

During and after leaving office

Ethical and legal obligations

After leaving office you are still bound by the *Public Records Act 2002* and the *Integrity Act 2009*. This means that you have ongoing obligations to maintain security and confidentiality over information you have and you may be constrained in certain other activities. The following headings cover the main areas of concern.

41 DPC Ministerial Handbook - Chapter 9 Caretaker conventions, <http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/cabinet-handbook/caretaker-conventions.aspx>

[cies-and-codes/handbooks/cabinet-handbook/caretaker-conventions.aspx](http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/cabinet-handbook/caretaker-conventions.aspx)

Records

The following actions are offences under the *Public Records Act 2002*:

- failing to return all records to parliament (or to the relevant government agency if you are a minister)
- shredding, deleting, destroying or amending any parliamentary records or public records
- making or taking copies of parliamentary records before leaving office with the intention of using them for personal gain.⁴²

Lobbying

The *Integrity Act 2009* states that former senior government and opposition representatives (i.e. premier, minister, assistant minister, parliamentary secretary, chief executive, senior executive, ministerial staff member or senior public servant) are not permitted to conduct lobbying related to their official dealings in the last two years.⁴³

How to manage risks after leaving office

It is important for Members to comply with all laws that apply to them. Deliberately or inadvertently breaking a law may have significant repercussions. For example, members convicted on indictment of a criminal offence will automatically forfeit all entitlements due to them. This provision also applies to anyone claiming by, through or under the member, and also applies regardless of whether the offence or the conviction occurred before, during, or after the member's time in office.⁴⁴ The following headings provide examples where a serious breach may result in a criminal conviction.

When leaving office

It is important to comply with all obligations to return property which does not belong to you. Deliberately keeping anything that isn't yours may constitute theft. It is advisable to:

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

Improperly dealing with information obtained whilst a Member of Parliament in order to benefit someone not entitled to its use is a demonstration of poor judgement and lacks integrity. Depending on the sensitivity of the information and the circumstances of its release it may also be a criminal offence. The following information lists the main obligations on Members of Parliament.

- Maintain the confidentiality of information you gained while in office, and which is not available to the public.⁴⁵
- Do not take personal advantage of information not generally available to the public to which you have access as a Member of Parliament to gain or engage in future employment.⁴⁶
- Do not carry out a lobbying activity relating to official dealings you had in the two years before leaving office, for two years after you leave.⁴⁷

42 *Public Records Act 2002*

43 *Integrity Act 2009*, s. 70

44 Legislative Assembly of Queensland Members' Remuneration Handbook, 3.1.1.1 p. 51

45 *Corporations Act 2001*; Code of Ethics 3.6

46 *Ibid.*

47 *Integrity Act 2009*, s. 70

Further information and resources

Legislation

- [Crime and Corruption Act 2001](#)
- [Criminal Code 1899](#)
- [Drugs Misuse Act 1986](#)
- [Electoral Act 1992](#)
- [Integrity Act 2009](#)
- [Parliament of Queensland Act 2001](#)
- [Public Records Act 2002](#)
- [Public Service Act 2008](#)
- [Right to Information Act 2009](#)

Documents

- [Code of Ethical Standards, Legislative Assembly of Queensland 2004, amended 11 May 2009](#)
- Crime and Corruption Commission; [Advisory: Lobbying](#)
- Electoral Commission Queensland;
 - [Funding and Disclosure Handbook for state and local government elections and by-elections](#), ECQ, Brisbane, March 2017
<http://www.ecq.qld.gov.au/_data/assets/pdf_file/0020/66530/Handbook-Funding-and-Disclosure-Manual-v3-3.pdf>
 - [Guide for Candidates, Handbook for state general elections and by-elections](#), ECQ, Brisbane; viewed 31 March 2017 <http://www.ecq.qld.gov.au/_data/assets/pdf_file/0006/36699/State-Election-Candidate-Guide.pdf>
- Department of Premier and Cabinet
 - [Ministerial Code of Conduct](#), DPC
<<http://www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook/appendices/appendix-1.aspx>>
 - [Queensland Ministerial Handbook](#), DPC
<www.premiers.qld.gov.au/publications/categories/policies-and-codes/handbooks/ministerial-handbook.aspx>
 - [Protocols for communication between ministerial staff members and public service employees](#), DPC <www.premiers.qld.gov.au/right-to-info/published-info/assets/protocols-communication-min-staff-public-service-employees.docx>

Websites

- [Electoral Commission of Queensland](#) <www.ecq.qld.gov.au>
- [Queensland Integrity Commissioner](#) <www.integrity.qld.gov.au>
- [Queensland Parliament](#) <www.parliament.qld.gov.au>



Please contact us if you would like further detailed guidance and information on any aspect of this advisory.

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