



# Code of Conduct

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# Professional Conduct Statement of Commitment

## Introduction

As employees of the Department of Mines and Energy (DME), we make judgements and decisions on a day to day basis which can affect our clients, managers, work colleagues and subordinates, and in which a range of others, including the Parliament, media and the public have an interest.

We have powers, resources and access to information which the public trusts we use in their interests. We exercise judgement and make decisions that may have competing interests, objectives and priorities. DME's reputation depends to a large extent on the way employees conduct, carry out, and balance their duties between competing interests, objectives and priorities. People's views about what is right and proper can be subjective as they vary from individual to individual. The individuals who make up DME come from a variety of backgrounds and hold a broad range of views and expectations.

The purpose of this Code of Conduct is to assist us in upholding the most basic values of employment within the public sector, to provide guidance in situations where there may be conflicting interests, and to ensure we adopt consistent ethical standards and practices. This Code applies to all DME employees, whether at work, on leave (including leave without pay), on Study and Research Assistance Scheme (SARAS) leave or representing DME. The Code also applies to off-duty conduct that could adversely reflect upon the integrity of the public service.

The DME Code of Conduct has been developed in accordance with the *Public Sector Ethics Act 1994* to:

- outline, in a clear and unambiguous manner, ethical principles and obligations which apply to all public sector employees and against which all employees are held accountable; and
- provide employees with guidance and support in applying ethical principles in undertaking their daily duties.

DME acknowledges that on occasion a conflict may arise between this Code and employees' personal or professional codes of conduct. You should discuss any apparent conflicts with your supervisor and colleagues or you can apply the ethical decision-making model below (Section 2). In addition, DME employees serving within other organisations are expected to respect the standards of conduct established in that organisation's Code of Conduct or other relevant policy.

The Director-General is the responsible authority under the *Public Sector Ethics Act 1994* and has formally approved this Code of Conduct. All DME employees are required to exercise judgement and to follow the "spirit" and the "intent" of the Code. While the "consider this" examples included in the Code are designed to assist employees in the interpretation of the Code, they are illustrative only. Any allegation of an employee breaching the Code shall be judged in all the relevant circumstances at the time.

Notwithstanding the above, an employee who breaches the Code may be subject to disciplinary action under section 87 of the *Public Service Act 1996*.

## **Application**

This policy applies to all Mines and Energy employees covered by the Code of Conduct. The Code also relates to any social functions (e.g. Christmas parties, farewells, business lunches) and official overnight stays (e.g. business trips, retreats, planning sessions, conferences). Even when an office function is held after normal office hours or off departmental premises, inappropriate behaviour by an employee may result in disciplinary action.

## **Responsibilities**

### **The department is responsible for:**

- protecting the health, safety and wellbeing of all employees, clients, contractors and visitors to the workplace
- promoting acceptable conduct for employees
- implementing effective strategies for the resolution of conflict and grievances in the workplace
- preventing and eliminating harassment and discrimination
- investigating any complaints received

### **Management is responsible for:**

- ensuring that employees have accessed and understood this policy and other relevant legislation
- showing respect to employees
- exemplifying appropriate standards of behaviour
- assessing and reducing the risks of inappropriate behaviour during overnight stays or official functions
- taking reasonable steps to prevent harassment and discrimination, not only in relation to employees but also external parties
- taking action on all complaints in accordance with grievance, discipline or harassment requirements

### **Employees are responsible for:**

- ensuring that they understand the provisions of this policy, and seek advice or clarification if necessary
- adhering to appropriate behaviour standards, consistent with the principles of departmental policies on sexual harassment and unlawful discrimination,
- the Code of Conduct and Workplace Health and Safety
- conducting themselves in a manner that would be expected in the workplace
- being mindful of clients at official functions and behaving in a manner that will enhance business relationships
- avoiding excessive consumption of alcohol—this is both a safety and social responsibility
- showing respect to managers
- reporting any misconduct to management

## Consequences of inappropriate behaviour

Inappropriate behaviour DME employees may result in disciplinary action, including dismissal.

Managers who fail to take reasonable action to prevent misconduct will be held accountable for any inappropriate behaviour of employees.

## Glossary of Terms

A number of terms used in the Code of Conduct are explained below.

**Agency** means a department, local authority or public sector entity or authority, and includes a reference to a body that forms part of the agency, or exists mainly for the purpose of enabling the agency to perform its functions. This includes statutory authorities and statutory bodies that are not exempt.

**Conflict of Interests** An actual conflict of interests exists when a reasonable bystander, in possession of the relevant facts, would conclude that the employee's private interests are likely to interfere with the proper performance of their work duties. An apparent conflict of interest exists when it appears that an employee's private interests have the potential to interfere with the proper performance of their work duties.

**DME** refers to the Department of Mines and Energy.

**Employee** means all permanent, part time, temporary, contracted and casual employees of the Department.

**Improper Use** means any use that is not compatible with the obligations or is inconsistent with the purpose of the agency.

**Intellectual Property** includes documents, publications, manuscripts, audio-visual presentations, inventions, original research, products, and any other materials recorded in any form that are developed in the course of one's work duties for Departmental or government use.

**Maladministration** refers to administrative action that is unlawful, arbitrary, unjust, oppressive, improperly discriminatory or taken for an improper purpose.

**Non-pecuniary Interest** involves some form of advantage other than financial, and may include the advancing of a particular political, religious or ideological position.

**Official Information** means information in the possession or under the control of the agency, and includes information that the agency is entitled to access but which is not public information.

**Official misconduct** has the meaning given to it by section 15 of the *Crime and Misconduct Act 2001*.

**Pecuniary Interest** means an interest involving some money consideration or financial advantage. This may include gifts, rewards, sponsored travel, directorships, shareholdings, real estate, financial benefit or monetary gain, and beneficial interest in a trust.

**Public Official** means an officer or employee of a public sector entity, as in the *Public Sector Ethics Act 1994*. For the purposes of this document "public official" is to be read as DME employees.

**Sexual harassment** has the meaning given to it by section 119 of the *Anti-Discrimination Act 1991*.

**Unlawful discrimination** has the meaning given to by section 7 of the *Anti-Discrimination Act 1991*.

**Workplace harassment** has the meaning given to it by section 5.4 of Grievance Resolution Directive 04/03.

## 2. Department of Mines and Energy's Code of Conduct

### Ethics Principles

The *Public Sector Ethics Act 1994* establishes five ethics principles, which are fundamental to good public administration:

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

Based on these ethics principles, the Act defines the ethical obligations of employees. The Code outlines the ethical principles and obligations, and the standards of conduct that will fulfil the ethical obligations of employees. These principles, obligations and standards of conduct will be separately considered in the following chapters.

### Resolving Ethical Dilemmas

An ethical dilemma is a situation in which you:

- do not know the right course of action;
- are having difficulty in doing what you consider is right; or
- find the wrong choice very tempting.

Resolving issues that have competing obligations or where the appropriate course of action is unclear can often be a real ethical dilemma, particularly as it is not possible to have a rule for every situation. In such circumstances, it is helpful to have a process to follow that takes all the relevant factors into account and is more likely to lead to a responsible decision, such as the model below.

#### Ethical Decision-Making Model

##### 1. Assess the situation and define the problem

The first stage of any well-founded decision-making process is to gather as much relevant information as possible. Ask yourself:

- What, when, who and where?
- Why is this an ethical dilemma?
- Why is this a problem?
- What is my part in resolving it?

##### 2. Use instructions in existence and consult with others

Use the Code and any other guidelines or policy documents for direction. In particular, it is recommended that you consult and take into account the following:

- DME Code of Conduct;
- *Public Sector Ethics Act 1994*;

- *Public Service Act 1996*;
- other relevant laws;
- policies and procedures;
- precedents; own/others position, personal and professional ethics;
- other opinions and expertise;
- industrial and legal rights of individuals; and
- the Public Interest and Public Perception.

You may also find it beneficial to raise the issues(s) with your colleagues, supervisor, manager or director in your work area or raise the issue at branch meetings or other forums, ensuring no breaches of confidentiality.

### **3. Weigh up the obligations and consequences and make a comprehensive assessment**

Having applied each of the instruction documents and the opinions of colleagues to the situation, decide which are the most appropriate and make your decision.

Before acting ask yourself:

- Is the act legal and consistent with Departmental policies?
- Is it consistent with Departmental goals and this Code of Conduct?
- Is it the proper thing to do?
- What will be the outcomes for:
  - the Department;
  - my colleagues;
  - others; and
  - me?
- Can the action be reasonably justified by objective standards?
- Would the act stand up to public scrutiny?

Once you are satisfied you have decided on a course of action, act to implement the decision.

### **4. Document your decision**

All decisions and the supporting reasons and justifications should be documented. Include relevant findings of fact, reference to evidence or other material upon which those findings were based and the reasons for the decision.

If you still have any doubts about the correct thing to do, you should refer the matter to your supervisor or manager for decision. You can also contact the –

- Executive Director (Corporate and Executive Services) on telephone 3237 1530; or
- Principal Policy Officer (Human Resources) on telephone 3247 5137.

### 3. Principle 1 - Respect for the Law and the System of Government

*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 an appointed public official's duty 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.*

#### The Obligation

This obligation assumes a system of responsible parliamentary government, the convention of ministerial responsibility, and the rule of law. In practice, this obligation requires DME employees to uphold the laws of the State and the Commonwealth and to exercise powers lawfully, obey lawful instructions, be responsive to the Minister and government of the day, and provide information and assistance to Parliamentary Committees where authorised to do so.

#### Standards of Conduct

DME employees must comply with all reasonable, lawful instructions related to their duties. They may, however, object to an instruction if they believe:

- compliance with the instruction will result in a serious or significant matter including, but not limited to, an immediate risk of injury or illness, or damage to property;
- they are unable to carry out the instruction as a matter of conscience (eg. a person is instructed to work on a traditional religious holiday);
- the instruction is unreasonable because it goes beyond what is appropriate in all the circumstances; or
- the instruction involves actions which the employee reasonably considers are unlawful.

Where an employee objects to a direction on any of the abovementioned grounds, they should communicate this to the person giving the direction, if that is reasonable.

If, after the person giving the direction has had a reasonable opportunity to respond, the employee continues to object, the issue may be raised at a higher level in the organisation. In the interim, the employee is generally obliged to carry out the instruction unless it is manifestly unlawful or unreasonable, or the implementation of the instruction could have immediate, irreversible, adverse consequences.

If the employee suspects that a complaint, or information or matter, involves, or may involve official misconduct or criminal activity, the employee must notify an appropriate authority. In most cases this will be the Director-General, the police or the Crime and Misconduct Commission. Under the *Crime and Misconduct Act 2001*, "official misconduct" is conduct that could, if proved, be -

- a) a criminal offence; or

- b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.

In such instances, the protection available under the *Whistleblowers Protection Act 1994* would apply to public interest disclosures made in the course of such a process.

**1. CONSIDER THIS ...**

A supervising officer instructs another officer to conceal the permanent removal of a laptop computer from the office to the supervisor's home. Although the officer to whom the instruction is given is aware or reasonably suspects that the instruction is unlawful or unauthorised, he/she does as instructed. In this situation both officers have breached their obligations.

## 4. Principle 2 - Respect for Persons

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

### The Obligation

Generally, this principle deals with the conduct of employees in their dealings with members of the public, other public sector officials and public officials in any jurisdiction.

In practice, this obligation requires that DME employees should:

- avoid patronage and favouritism in employment matters;
- act fairly and equitably;
- seek to ensure that members of the public receive their proper entitlements and know their rights;
- avoid all forms of workplace harassment and unlawful discrimination;
- recognise that other officials are also bound by obligations in their capacity as public officials; and
- respond to requests in a timely way.

### Standards of Conduct

DME employees must:

- act in a fair and equitable manner, especially in circumstances where employees exercise a particular responsibility for the care or supervision of other employees, clients and other persons.
- act in a conscientious way and provide a courteous service to all those with whom they have official dealings.
- ensure that, in reaching decisions affecting the rights and interests of others, the principles of natural justice are met (i.e. all relevant arguments are considered, a person is not to be the judge in their own cause, persons involved are to be informed of allegations and proposed actions that may be against their interests and there is no actual or perceived bias on the part of the decision-maker).
- treat other DME employees and Government officials with respect and dignity, ensuring others are not mistreated or distracted from carrying out their duties. All forms of workplace harassment (including workplace bullying), sexual harassment and unlawful discrimination are to be avoided.

Under Grievance Resolution Directive 04/03, an employee is subject to “workplace harassment” if the employee is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by the chief executive or a co-employee or group of co-employees of the person that –

- a) is unwelcome and unsolicited; and
- b) the person considers it to be offensive, intimidating, humiliating or threatening; and
- c) a reasonable person would consider it to be offensive, intimidating, humiliating or threatening.

DME employees who believe they are being subjected to, or who witness, workplace harassment should contact an Equity Referral Officer, a member of the HR unit, or their manager.

- ensure that there is compliance with the government privacy policy (Information Standard 42 (IS42)) which applies to all departmental employees, contractors and consultants to the department.
- take all reasonable measures to ensure the safety, health and welfare in the workplace of themselves, their co-workers and clients. Specific details in relation to employees’ obligations under the provisions of the *Workplace Health and Safety Act 1995* and the procedures for reporting workplace injuries are contained within the following documents:
  - DME’s Workplace Health and Safety Policy; and
  - Work Injury/Incident Report Form
- act honestly (as required under section 8(1) of the *Public Sector Ethics Act 1994*).
- dress in a clean, tidy and inoffensive manner consistent with their position, job requirements, reasonable community expectations and occupational health and safety requirements. Any reasonable directions from employees’ supervisors are to be complied with.

Those who manage employees have a particular responsibility to ensure that a good example is set for other employees, treat employees fairly and equitably, provide development opportunities for employees and ensure that they comply with the Code.

**1. CONSIDER THIS . . .**

To avoid excess paper work, a DME employee avoids informing a member of the public about that person’s right to appeal a decision. This is a breach of the employee’s obligation to ensure that members of the public receive their proper entitlements and know their rights.

**2. CONSIDER THIS . . .**

A manager deliberately favours one employee over another when approving attendance at training courses. This is a breach of the manager’s obligation to act in a fair and equitable manner.

**3. CONSIDER THIS . . .**

A supervisor is constantly critical in a negative and personal way of an employee’s work performance but fails to initiate arrangements to establish a supportive performance improvement plan in co-operation with the employee. The supervisor proceeds to isolate the employee and allocate menial duties to them and seeks to have the employee transferred from the section without consulting the employee. This is a breach of the

manager's obligation to avoid patronage and favouritism in employment matters, to act fairly and equitably and to avoid workplace harassment.

**4. CONSIDER THIS . . .**

A manager possesses knowledge of an employee's medical condition and discusses or discloses this information to a person who has no official interest in receiving this information.

This is a breach of the manager's obligation to ensure that there is compliance with the government privacy policy.

**5. CONSIDER THIS . . .**

An employee and their manager attend a mediation session. During the session, both the employee and the manager start yelling at each other. Both the employee and the manager have failed to act with respect and dignity towards each other and have breached this Code.

**6. CONSIDER THIS . . .**

A manager is present in a meeting, when a subordinate employee starts to play a practical joke on a fellow employee. The manager has previously observed this employee play practical jokes on the fellow employee and, on other occasions, has observed the fellow employee's discomfort/distress. The manager does not intervene and allows the practical joke to continue.

The manager and the employee have an obligation, as employees, to prevent and/or avoid workplace harassment and should have stopped the joke from proceeding. The manager also has a separate management responsibility to provide a safe working environment for all employees. By failing to take appropriate action to prevent and/or avoid workplace harassment, the manager and the employee playing the practical joke have both breached this Code of Conduct and other Queensland legislation, such as the *Workplace Health and Safety Act 1995*.

## 5. Principle 3 - Integrity

***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 that the official serves.***

***A public official also should:***

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

### The Obligation

This principle obliges DME employees to recognise that public office involves a position of trust and to ensure that their actions, conduct and relationships do not raise questions about their willingness and ability to:

- serve the government of the day, through the responsible Minister, in a politically and ideologically impartial manner;
- properly use the powers, influence, resources and information available to them through their official position;
- maintain proper confidentiality of official and personal 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.

### Standards of Conduct

#### Information Security

DME's information security policies and procedures apply to all employees, consultants and contractors to the department and are a condition of their employment or contractual engagement (as the case may be) with the department. All personnel must take reasonable steps to protect information from misuse and loss and from unauthorised access or modification in accordance with the government information security policy (Information Standard 18 (IS18)).

#### Disclosure of Official Information

DME employees must not disclose official Government or departmental information to another person or agency unless the information was supplied to the official's agency for a purpose, which permits its disclosure or there is a lawful authority for its disclosure.

## **Privacy**

DME employees must ensure that there is compliance with the government privacy policy (Information Standard 42 (IS42)), which applies to all departmental employees, contractors and consultants to the department, particularly when handling employee matters of a personal nature.

## **Public Comment on Government Policy or Administration**

"Public comment" covers a wide range of activities which involve providing information about, or an evaluative comment on, government policy or administration. Generally speaking, depending on the content, a letter to the editor of a newspaper, an article for a professional journal, or a speech to an interest group is regarded as public comment.

Employees of DME have the same rights as any member of their community to enter into discussion of community and social issues in a private capacity. Public comment is generally acceptable where it forms part of the employee's duties, is consistent with those duties or has been authorised by senior employees of the Department and does not misrepresent the facts concerning government policy.

However, employees wishing to take part in public discussion of government policy or administration in a private capacity should recognise that they may be seen as speaking about the Government or their agency from a privileged position. It is important to consider the content and circumstances of the comment in determining whether the statement is appropriate. It is the responsibility of DME employees to take all reasonable steps that are open to them to ensure any comment they make is understood as being representative of their personal views as a private citizen.

Where an employee is required to provide comment to members of the Legislative Assembly, other than members of the current Government, DME employees should refer to the Queensland Cabinet Handbook.

## **Communication with Ministers and Other Members of Parliament**

As private citizens, all DME officers have the right to communicate directly with a Member of Parliament on any issue affecting them as a private citizen. However, officers must be aware that communications with Members on matters which are relevant to their official duties or the affairs of DME should be restricted to the proper channels that operate within the department.

## **Conflicts of interest**

As a public official, you must ensure that your use of official powers or position does not give rise to a real or apparent conflict of interest.

A conflict of interest between your personal interests and your official duties may arise through issues such as:

- holding shares in a mining company while you have responsibilities associated with that company's operations the purchase or sale of real estate by the department
- engaging in leasehold land dealings with the department
- belonging to a Traditional Owner group or participating in Native Title or Cultural Heritage issues as a member of an indigenous community
- holding shares in a company tendering to supply goods or services to the department
- participating as a director or partner in a company which has dealings with the department and which may be offered preferential treatment

- income earned in a private capacity for services you currently provide in your official capacity
- gifts, sponsored travel and hospitality
- involvement as an office-bearer or active member in a community organisation whose purposes are relevant to the functions of the department.

You have an obligation to avoid any conduct which would undermine public confidence.

This obligation requires that you ensure that your actions, conduct and relationships do not raise questions about your willingness and ability to:

- serve the Government of the day, through the responsible Minister, regardless of your personal political or ideological preferences;
- use official powers, influence, resources and information properly;
- maintain proper confidentiality of official information; and
- avoid using the powers or influence of public office, official resources, or official information for personal or other improper advantage.

### **Identifying conflicts of interest**

To identify whether or not a situation involves a real or apparent conflict between your public duty and a private interest, ask yourself:

- Could I or my family or friend/s benefit or appear to benefit directly or indirectly from this situation?
- Is my action, decision or recommendation one that a fair and reasonable person in a similar situation might make?
- Have all options been considered on an equal basis?
- Would my actions withstand public scrutiny, in particular, would a reasonable person consider that I was in a position to use my knowledge, access to resources, or influence to gain a benefit?
- What is my duty as a public official?

If you are uncertain about whether the situation represents a conflict of interest, you are to approach your manager for assistance. If that person may be involved, approach the next level of management in the Department who is independent of the situation.

### **Declaring your personal interests**

Senior Executive Service Officers, Senior Officers, any employee nominated by the Director-General as being required to declare personal interests, and any other employee who believes they have personal interests to declare, are to do so in accordance with the *Public Service Act* and any relevant directive. Declarations can be made by completing the Personal Interest Declaration Form accessible from the Intranet.

Information about the employees' personal interests is to be treated as confidential and be held in a secure manner by the Director-General or delegate responsible for determining conflicts of interest. Access to the information may only be obtained on an official need-to-know basis with the Director-General's or delegate's written authorisation.

The Queensland Cabinet Handbook sets out the requirements for significant full-time and part-time appointees to declare their personal interests upon appointment. Significant appointees include persons appointed to regulatory and licencing bodies, industry tribunals and boards, and principal advisory bodies to the Government or to the Minister. Information

about significant appointees' personal interests is to be treated with the same level of confidentiality as for information about employees' interests.

### **Declaring conflicts of interest**

If you have a private interest, which could influence or appear to influence a decision, recommendation or action in carrying out your public duty, you have an obligation to:

- disclose the relevant information in writing by completing the Conflict of Interest Declaration Form accessible from the Intranet; and
- take no further action that may be affected by the conflict, unless authorised by the Director-General or delegate or, in the case of the Director-General, by the Minister.

#### **1. CONSIDER THIS . . .**

Ownership of Department of Mines and Energy equipment which could be used at a mine at the direction of a mines inspector. For example, an inert gas generator is generally used when there is a potential problem with fire and sometimes the use of such a device will be required by the inspector. It is therefore a conflict of interest for the inspector to own such equipment.

#### **2. CONSIDER THIS . . .**

An explosives inspector having a shot-firing licence and using that licence privately on weekends and out of hours for his own benefit.

### **Managing conflicts of interest**

The Director-General or delegate is responsible for resolving conflicts of interest (i.e. real or apparent) in a manner which protects the Department's integrity and is consistent with the Code, the *Public Service Act* or relevant legislation.

When considering suitable courses of action to avoid or minimise the conflict, either real or apparent, the Director-General or delegate may decide to:

- re-arrange the public official's duties;
- request the public official to discontinue the private association or interest; or
- authorise the public official to continue with normal duties subject to certain conditions.

Once the matter is resolved, your written declaration will be kept confidential and held in the office of the Director-General or delegate.

### **Gifts and Benefits**

Employees of DME are prohibited from encouraging the offer of, or accepting any form of benefit or gift in connection with the performance of their official duties. An exception is when the gift or benefit is of token or nominal value only, or the gift is offered when the employee is exiting the workplace, or on similar social occasions where a personal gift of nominal value is customary.

Where the gift is of more than nominal value, it is considered to be a reportable gift and you should refer to the *Financial Management Standard* and DME's *Gift Policy* for guidance on how to deal with these gifts.

### **Whistleblowing Activity**

All employees, as part of their duties, must disclose to a relevant authority, knowledge of fraud, corrupt conduct and maladministration or other official misconduct by a public official. Under the *Whistleblowers Protection Act 1994*, such disclosures may be made as a "public

interest disclosure” and, if so, would attract the protection of the Act. Disclosures may be made to the Director-General, Deputy Directors-General, Executive Director (Corporate and Executive) or any supervisor of the whistleblower.

A person is not liable for disclosing an action under the *Whistleblowers Protection Act 1994*. Further, a person must not cause or attempt to cause detriment to persons who have made a public interest disclosure, or have investigated or assisted in the investigation of a disclosure. An attempt to cause detriment is considered as reprisal, which may be both a disciplinary offence and a criminal offence.

With respect to reprisals, Managers at all levels are obliged to take reasonable steps and procedures to protect its employees from such action by an entity or other employees of an entity.

### **Use of Influence to Secure Advantage**

DME employees are not to use the influence of any person to improperly obtain an appointment, promotion, advancement, transfer, or any other advantage, either personally or on behalf of another.

### **Party-Political Activity**

As private citizens, employees have the right to belong to a party-political, professional, or trade union body. However, employees should ensure that any party-political activities undertaken do not cause the Department or individual to come under question due to perceived conflicts of interest.

In addition, in accordance with the *Public Service Act 1996*, employees must, in the exercise of their duties, be apolitical and responsive to Government needs, and provide services in a professional and impartial way.

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

Under the *Recruitment and Selection Directive 01/04*, referees are obliged to disclose all information known to them that is relevant to the responsibilities and duties of the advertised vacancy. False or deliberately misleading assessments of an individual’s performance or merits (whether positive or negative) are dishonest, and may amount to abuse of office and could possibly constitute official misconduct.

When providing testimonials or references, DME officers must take care not to make false or derogatory statements about an individual, or assessments which cannot be substantiated. Similarly, referees should take care not to exaggerate the substance or relevance of a person’s competence, qualifications or experience.

### **Copyright**

Ownership of intellectual property is determined by the circumstances in which the property was conceived and developed. Generally, intellectual property developed by an employee is owned by the State and is defined as:

- all rights in copyright, trademarks, registered designs and patents as defined in the legislation creating these rights;
- all rights in goodwill or commercial reputation attaching to a mark or name;
- trade secrets and confidential information;
- related information

Employees must obtain prior permission from the department before entering into any arrangement regarding the publication or disclosure of any articles, processes or materials which have been produced as part of their official duties.

In addition, DME employees should be aware of the impact of copyright regulations on their ability to publish material that may be the property of another person or organisation. For further information in relation to these activities, refer to the Queensland Public Sector Intellectual Property Guidelines (IP Guidelines).

In addition, intellectual property produced in the course of research studies undertaken with Study and Research Assistance Scheme (SARAS) support is owned fully or in part by the State, unless otherwise specified in alternative contractual arrangements.

### **Employment in the Private Sector**

Whilst employed with DME, employees should not take up a position in the private sector that may give rise to a conflict of interest. This is more likely if an employee's private work is in an area related to their public sector work. Depending on the circumstances, a position in the private sector may adversely affect both an employee's ability to function efficiently and DME's credibility. In particular, care should be taken by employees when they consider accepting a position as a director of a company or a position on a board of directors.

If there is a possibility of a perception of a conflict of interest, employees have an obligation to declare this in writing to their manager before accepting any offer of employment. The manager will decide if the matter should be referred to the Director-General or the Executive Director (Corporate and Executive) for a decision.

The requirement to resolve a conflict of interest in favour of the public interest continues to exist as long as employees remain employed by DME.

If DME employees engage in outside work they must also comply with the following:

1. intellectual property of DME must not be used for personal gain or without authorisation;
2. confidential information that employees have access to at work must stay confidential and must not be used to further outside work;
3. outside work is to be performed wholly in employees' private time, not during normal working hours when employees are paid as a public official, and employees must not use Government resources or facilities; and
4. there must be a clear separation between employees' public sector and outside work.

There must be no indication or perception that the Department endorses the employee's outside work activities.

When employees move from the public sector to the private sector, they are obligated to continue to keep confidential the information obtained whilst employed in the public sector and information that is not publicly available.

#### **1. CONSIDER THIS . . .**

As a purchasing officer, you use a supplying company owned by your brother. Would this be a conflict of interest? Yes.

#### **2. CONSIDER THIS . . .**

If, whilst on leave without pay, a conflict of interest situation arises, must you still follow the Code of Conduct and report the conflict between your public duties and private interest to the Department? Yes.

#### **3. CONSIDER THIS . . .**

Two DME employees attend a workshop interstate, and on their return to duty lodge travel

claims for their expenses to be reimbursed. One employee learns that items and expenses claimed by the other were not incurred as reported, and therefore has reason to suspect that a knowingly false claim has been made. The employee must report their knowledge to their supervisor as evidence of possible official misconduct. The employee will be protected by the *Whistleblowers Protection Act 1994*.

**4. CONSIDER THIS . . .**

You are a member of a selection panel for an AO4 position and you are approached by a senior officer who indicates to you that a friend of his, an applicant for the position, would be highly suitable for the position and that giving the position to his friend would be 'a very wise decision'. As far as you are aware the senior officer has no direct experience of the work of the applicant. You should not let yourself be influenced by the senior officer. In addition, consideration may also need to be given to reporting the senior officer for inappropriately attempting to influence the outcome of a merit selection process.

**5. CONSIDER THIS . . .**

Government information that is available to the public for a fee is given to a member of the public by an employee of DME for free or for a personal benefit. Is this an improper disclosure of official DME information? Yes.

**7. CONSIDER THIS . . .**

An employee who personally disagrees with a proposal contained in a confidential briefing note to the Minister discloses this information to a member of the media. This is a breach of the obligation not to disclose official information without authorisation. It is also a breach of the obligation to undertake official duties in an apolitical and impartial manner.

## 6. Principle 4 - Diligence

***A public official should exercise proper diligence, care and attention when performing official duties and should seek to achieve high standards of public administration.***

### The Obligation

DME employees should at all times exercise due diligence, care and attention, and seek to achieve “best practice” standards. In doing this, employees should adhere and contribute to the corporate mission by ensuring the performance of their duties and responsibilities are consistent with the organisational goals, values and objectives.

### Standards of Conduct

DME employees must:

- Recognise that they have a duty to return "a fair day's work for a fair day's pay" and that they are expected to perform their duties to the best of their ability, with care, competence and efficiency.
- Exercise due care when providing advice to other members of the Queensland Government and in particular the public.
- At all times, ensure that their work performance and the safety of others are not affected by the consumption of alcohol and drugs.
- Undertake all necessary and reasonable actions to ensure the improvement of skills related to good public management.
- Serve the current Government regardless of their personal political preferences or beliefs.

#### **1. CONSIDER THIS . . .**

An employee knowingly provides incorrect information to an individual making a request for information. This is a breach of the employee's obligation to exercise due care when providing advice to the public.

#### **2. CONSIDER THIS . . .**

An employee returns from lunch with the smell of alcohol on their breath (although not visibly intoxicated). This is a breach of the employee's obligation to ensure that their work performance and the safety of others are not affected by the consumption of alcohol. It may give rise to a perception that the employee is, in fact, drunk. In addition, the employee has failed to present themselves in a professional manner consistent with DME's values.

#### **3. CONSIDER THIS . . .**

If you are taking sinus tablets or cough mixture that can cause drowsiness and affect your ability to operate machinery or drive a vehicle, should your manager be advised? Yes, this is in the interest of your safety and of those around you.

## 7. Principle 5 - Economy and Efficiency

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

### The Obligation

This obligation requires 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.

### Standards of Conduct

DME employees must:

- Be economical and avoid waste and extravagance in the use of resources for the legitimate activities of the Department.
- Not use government property and facilities for non-government use without appropriate authorisation.
- Undertake their duties in the most efficient and effective manner, maintaining honesty and high standards of practice and integrity consistent with the corporate goals and objectives.

### Internet and E-mail Usage

Internet and email facilities must only be used for official DME business subject to the following exception.

Employees may make limited personal use of the Internet and E-Mail facilities only if this use:

- i) incurs minimal additional expense to the Queensland Government;
- ii) is infrequent and brief;
- iii) does not interfere with the operation of the Queensland Government; and
- iv) does not violate any Queensland Government or DME policy, or State or Federal law.

Employees must not knowingly engage in, or be associated with, use of the Internet or E-Mail facilities, which is criminal, unlawful, illegal or inappropriate, such as:

- a) accessing, downloading, sending or knowingly receiving offensive material, potentially offensive material or material that is defamatory or discriminatory;
- b) computer hacking;
- c) software piracy;
- d) copyright infringement including making copyrighted work available on the Internet and sending copyrighted work to the public (within or outside Australia);
- e) removing, altering or circumventing any device or information that protects copyright in a work; or
- f) disguising the user's identity.

As stated above, employees must not send or knowingly access or receive material that is offensive, potentially offensive or in violation of any DME policy, standard or guideline or the Queensland Government Internet and Electronic Mail Policy.

If an employee receives such material, they must:

- a) notify the sender to immediately stop sending the material;
- b) notify their Manager; and
- c) notify the Executive Director (Corporate and Executive Services).

Internet blocking software will block employees from accessing Internet sites where it is believed inappropriate content may exist. In addition, E-Mail blocking software will block E-Mails from being sent and received where it is believed inappropriate content may exist. Further guidance is contained within DME's Information Management Policies (specifically *Use of ICT Facilities and Devices by Departmental Employees*). The use of such software does not relieve an employee from the obligations stated above.

#### **1. CONSIDER THIS . . .**

Is it acceptable to drive a Government vehicle without the appropriate licence, or drive it to the shop on weekends? No. You must only drive a Government vehicle if you have the correct licence to drive that vehicle, and only for official purposes. It must not be used for private use unless specifically authorised.

#### **2. CONSIDER THIS . . .**

An officer frequently and unreasonably makes and receives private telephone calls from their work telephone. This is a breach of the employee's obligation to be economical and avoid waste and extravagance in the use of resources for the legitimate activities of the Department.

#### **3. CONSIDER THIS . . .**

An employee uses DME furniture and equipment for personal use without appropriate authorisation. This is a breach of the employee's obligation to only use government property and facilities for non-government use with appropriate authorisation.

#### **4. CONSIDER THIS . . .**

Is it considered reasonable if an employee . . .

- does their personal banking over the Internet during a lunch break (provided that this does not require downloading software in breach of DME's Internet and E-Mail policies)? Yes.
- uses the Internet after work to conduct research for the purpose of expanding career-related knowledge? Yes.
- occasionally sends e-mails to confirm child-care arrangements or keep in touch with friends? Yes.
- gambles on the internet? No.
- uses the internet for personal purposes enough to detract from that person's work performance? No.

## 8. Further Information

Should you require further assistance on any matter contained in the Department of Mines and Energy Code of Conduct, please contact the Executive Director (Corporate and Executive Services) on 3237 1530 or the Principal Policy Officer (Human Resources) on 3247 5137.

### Related Legislative, Policy and Information Sources

*Public Service Act 1996*

*Public Sector Ethics Act 1994*

*Whistleblowers Protection Act 1994*

*Anti-Discrimination Act 1991*

*Workplace Health and Safety Act 1995*

*Crime and Misconduct Act 2001*

Grievance Resolution Directive 04/03

Recruitment and Selection Directive 01/04

Financial Management Standard

Information Standard 18 (IS18)

Information Standard 25 (IS25)

Information Standard 42 (IS42)

Queensland Cabinet Handbook

Queensland Public Sector Intellectual Property Principles (IP Principles)

Queensland Public Sector Intellectual Property Guidelines (IP Guidelines)

DME Policies –

- Gifts Policy
- Health and Safety Policy
- Privacy Plan
- Study and Research Assistance Scheme (SARAS)
- Work Injury/Incident Report
- Workplace Harassment
- Use of ICT Facilities and Devices by Departmental Employees