

# And in Conclusion

An address to the Queensland Public Sector Ethics Network (QPSEN)  
Brisbane on 4 May 2004 by the  
Honourable Alan Demack AO, Queensland Integrity Commissioner.

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When I became a student at the University of Queensland in 1953, we were still enjoying the freedoms that the ex-service men and women had won in University life. There was one major Graduation Ceremony in May each year. It was held in the City Hall and the Queensland University Musical Society provided the choir for the occasion. It was arranged on the stage behind the official party. The Chancellor was Dr Otto Hirschfeld. As he delivered his address in measured tones, members of the choir would on occasion, chant, “And in conclusion”. Unmoved by this, the Chancellor pursued his carefully crafted speech until he was ready to say, “And in conclusion”, an announcement greeted with hearty applause.

I believe that I can now appropriately address QPSEN under the heading, “And in conclusion”. I had thought that my remarks in November 2003 would be my last words to you, but even in the ethics network, hiccups occur.

## **Recycling Ideas**

One of the nations in Old Europe gave us an aphorism which is conveniently translated: “The more things change, the more they remain the same”. As I have engaged in public sector ethics over the past three years and eight months, I have often found that maxim coming to the forefront of my mind. We are so slow realising that the principles which guide community life have been known for many centuries. All that has changed today is that we are far more numerous than our forebearers were, and we are quite bedazzled by the brilliance of our technology. In respect of the ordering of community life we simply recycle the ideas discussed long ago.

For example, the Greek historian, Herodotus tells of an occasion when seven Persians discussed the kind of government their country should have. He assures us that three speeches were made.<sup>1</sup> Otanes spoke up for democracy. He posed the question which you may need to debate if we are to have a fresh look at a republic – “How can one fit monarch into a sound system of ethics?” Megabyzus recommended an oligarchy, asserting: “It is only natural to suppose that the best people will produce the best policy”. Darius argued in favour of a monarchy, reminding the other six Persians: “We were set free by one man”. This was a reference to Cyrus who earlier had ended the domination of the Persians by the Medes. Darius won the debate and became Emperor.

It is interesting that, at present, we are encouraging people who live in the lands the Persians once dominated to adopt the argument of Otanes which failed to win support two and a half thousand years ago.

### **Decisions, Decisions, Decisions**

Being what is called a teetotaller (why it is spelt T E E and not T E A, I cannot explain) I often find quiet amusement in the careful decisions which friends make about the wine they will drink at a meal. If the same care was given to the words used in conversation during the meal there would be fewer social embarrassments. Yet, sober or otherwise, word selection often enough has us saying things which leave listeners puzzled, hurt, angry or revengeful. The big news story on Monday evening 26 April 2004 was the change of mind of the Government of Nauru in respect of the entry of Julian Burnside QC into their country. Mr Burnside, responding to a television reporter’s microphone, described the Government of Nauru as “transparently corrupt”. This gives that popular word – transparency – a new dimension.

The decisions which public officials make every day range over an enormous number of issues. Choice of words is one of the very significant areas of decision making.

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<sup>1</sup> The Histories of Herodotus, Penguin, Classics, p.209

We have in Queensland a carefully drafted *Public Service Act 1996*. It defines the principles of public service management (s.23), the principles of public service employment (s.24) and the principles of work performance and personal conduct (s.25). The words chosen in each section are clear and appropriate. They can be understood by both members of the public and by public officials.

If the ethics obligations in the *Public Sector Ethics Act 1994* are read with the *Public Service Act 1996*. ss.23, 24 and 25, a comprehensive public service charter can be composed very readily. I was surprised by the effort that went into the composition of the Queensland Public Service Charter. It is a handsome document, but it does not express all that is said more succinctly in the two *Acts* I have mentioned.

It seems to me that, in making decisions about the words we use in the public sector, it is important that we maintain the consistency that encourages mutual understanding. If this is correct, it represents one of the biggest challenges the public service faces.

### **Transparent and Translucent**

Mr Burnside used the word transparency in an unusual way, but that simply emphasises its important place in our contemporary ethics lexicon. In Queensland we have an elaborate system which is designed to provide transparency. It consists of:

- ? legislation which identifies the duties and responsibilities of public officials;
- ? agencies which establish policies and procedures to implement the legislation;
- ? agencies which can investigate complaints about:
  - o administrative decisions;
  - o maladministration;
- ? remedies which allow people to challenge administrative decisions;
- ? agencies which advocate or recommend systemic change;

? agencies which offer advice to public officials to enhance public confidence in government.

There are more than a dozen public sector entities which are involved in this regime in addition to the courts and tribunals which provide citizens with the opportunity to review decisions.

In spite of this there are still occasions when citizens complain of cover-ups or whitewashes, words that indicate a lack of transparency.

One of the difficulties that is created by a complex integrity system is that it tends to become a closed circuit which generates its own illumination. An integrity system needs to be both transparent and translucent. It needs to be translucent in the sense that it allows community values and concerns to illuminate its decisions. This idea is caught up in the word responsive which is used in the *Public Sector Ethics Act 1994*, s.8(2).

It is also one aspect of the concept of 'a public trust', a phrase used in both the *Public Sector Ethics Act 1994*, s.9 and the *Public Service Act 1996*, s.25. If citizens are to discharge their duties towards the government, they need to have confidence in the decisions that are made by the public sector in the name of government. If those decisions do not reflect community values, they will generate community concerns and a loss of trust. These in turn, will reduce compliance by the public.

So the integrity system needs to be both transparent and translucent.

### **Climbing the Ethics Mountain**

One of the concepts that has fascinated me is expressed in these words in the Canadian Conflict of Interest Code:

“Public office holders have an obligation to preform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law”

I have often enough tried to think of examples of conduct which a public official may be expected to perform which go beyond compliance with the law. In Queensland, we have very detailed laws about the duties and responsibilities which fall on public officials. If a public official complies with the details of these laws it is unconceivable that anyone would ask for anything further.

Nonetheless, there seems to be an attitude abroad which looks for more than compliance with the law. It seems to me that the only explanation for this attitude is that it is based on an ignorance of what the law requires of public officials. In an attempt to provide an overview of law and ethics in the Queensland public sector, I have prepared a handbook which will be published shortly. It will be entitled, “Building Integrity in the Queensland Public Sector”.

It is important that all public officials are not only aware of their duties and obligations but are confident that their decisions express those duties and obligations. I hope that the handbook will assist in creating that confidence.

### **Re-locating the Office**

For more than three years, the Office of the Queensland Integrity Commissioner has been located at 95 William Street. When the Office of Public Service Merit and Equity (OPSME) was within the Executive Annex, it was easy enough to maintain the necessary contact between the two offices. When OPSME moved to 61 Mary Street, maintaining such contact took more time and was less convenient. It was therefore both economical and efficient to move the Office of the Queensland Integrity Commissioner to the same floor in 61 Mary Street as the OPSME.

There will always be a close relationship between the OPSME and the Office of the Queensland Integrity Commissioner. Under the Administrative Arrangements, the Public Service Commissioner is the responsible head administering the Public Sector Ethics Act 1994. This creates an administrative relationship between the two offices which is enhanced by their “physical proximity”.

I have no idea who will be my successor, but I think it is highly likely that the person will work from the Brisbane office, rather than be a monthly visitor. This should allow the fruitful relationship between the two offices to continue.

### **Challenges for QPSEN**

1. QPSEN is supported by a number of dedicated and competent officers and its meetings produce useful material. However there are a number of departments and public service offices which do not participate. It is important that these departments and public service offices catch the vision of QPSEN, because a broader representation will give a larger vision of ethics in the public sector.
2. Intellectual property is an area which will require increasing attention. Innovation spawns intellectual property and it is important that everyone involved is aware of the rights, obligations and opportunities which intellectual property creates.
3. The interface between government business and private business will continue to raise issues that will need careful analysis. This is so whenever:
  - Departments interact with business
  - Government owned corporations operate
  - Companies are used for a State purpose
  - Public, private partnerships are entered into

In all these cases the statutory responsibilities and duties of public officials should not be compromised, or the proper control of Government business sacrificed.

**And in conclusion**

Attending meetings of QPSEN has been one of the many pleasant aspects of my term as Integrity Commissioner. Thank you all for including me in your meetings. May you, in your work, continue to build integrity in the Queensland Public Sector.