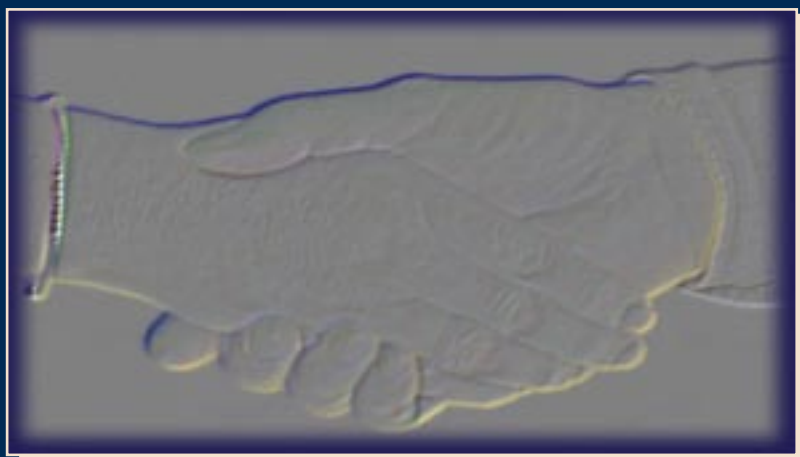


Queensland Integrity Commissioner

Annual Report

04
2005



“The Integrity Commissioner is an independent person who advises Queensland Government public officials on conflicts of interest”.

**“The Integrity Commissioner is
an independent person who advises
Queensland Government public officials
on conflicts of interest”.**

Location

Level 3
Queensland Mines and Energy Centre
61 Mary Street
Brisbane Queensland Australia

Enquiries

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Office of the Queensland Integrity Commissioner
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Copies of this Annual Report can be obtained
by telephoning + 61 (0) 7 3224 2351
by faxing a request to +61 (0) 7 3224 2326
or by written request to the address provided.
Copies can also be downloaded from the website.



Integrity Commissioner

The Honourable Peter Beattie MP
Premier and Treasurer
Executive Building
100 George Street
BRISBANE QLD 4000

My dear Premier

It gives me pleasure to submit to you my first annual report - the fifth Annual Report of the Integrity Commissioner.

This report is for the 12 months to 30 June 2005 and has been prepared in accordance with section 43 of the *Public Sector Ethics Act 1994*.

It is a written report about the performance of the Commissioner's functions for the financial year.

The report is in general terms and does not contain information likely to identify individuals who sought my advice about conflict of interest issues.

Yours sincerely

A handwritten signature in black ink, appearing to read "Gary Crooke".

Gary Crooke QC
Queensland Integrity Commissioner

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Report to the Premier

Section 43 of the *Public Sector Ethics Act 1994* provides that -

1. The Integrity Commissioner must, as soon as practicable after the end of each financial year, give the Premier a written report about the performance of the commissioner's functions for the financial year.
2. The report must be in general terms and must not contain information likely to identify individuals who sought the commissioner's advice about a conflict of interest issue.



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Who is the Integrity Commissioner?



Mr Gary Crooke QC

Mr Gary Crooke QC was appointed by the Governor in Council on 1 July 2004 as Queensland's second Integrity Commissioner.

The role was established in 1999 under the *Public Sector Ethics Act 1994* and is detailed in the Statement of Affairs attached to this report.

Mr Crooke succeeded the Honourable Alan Demack AO, former Supreme Court Judge, who retired on 30 June 2004 after almost four years of service in the role. Mr Demack became Queensland's and Australia's first Integrity Commissioner in August 2000.

Mr Crooke is married with three adult sons and four grandchildren. His interests include cricket, fishing and farming beef cattle.

He began his education at Pulteney Grammar School Adelaide, and went on to graduate from a Bachelor of Arts in 1963 and a Bachelor of Law in 1966 at the University of Queensland. He began practising as a barrister in 1966 and was appointed Queen's Counsel (QC) in 1982.

During his career he has worked on a number of high profile matters including:

- Senior Counsel Assisting the Queensland Fitzgerald Inquiry 1987-89
- Senior Counsel Assisting New South Wales Royal Commission into Police Corruption 1994-97.

He has also held the following appointments:

- Chairman National Crime Authority 1999-2002.
- Co-Chair Asia Pacific Group on Money Laundering 1999-2002.

Mr Crooke was also the President of the Queensland Bar Association 1989-90, the President of the Australian Bar Association 1990-91 and has been a Life Member of the Queensland Bar Association since 1993.

Commissioner's overview

This is my first report as a newcomer who assumed office on 1 July 2004. I came to an entity whose infancy and growth had been presided over by my predecessor, the Honourable Alan Demack AO, who was the first Integrity Commissioner. His sterling efforts established a firm and respected place for the office in the comprehensive ethics and integrity regime recently established by the Queensland Government.

This report tells the story of building on this sound foundation. It is a tale of responding to requests for advice. It is silent as to any proactive investigation, for this is simply not the role of the Integrity Commissioner. My own view is that it should be so restricted. There are entities in Queensland public administration skilled, well-resourced and adequately tasked, to carry out any appropriate investigation into not only criminal conduct, but also official misconduct. I speak of course of the Crime and Misconduct Commission (CMC) and the Ombudsman.

As a newcomer I have taken the opportunity to observe and examine the environment in which the Integrity Commissioner exists. I have reinforced my first impressions of the imperative for complete independence and impartiality in discharging the duties of the office. I am also convinced that the present statutory secrecy on the part of the Commissioner is a necessary underpinning of the role.

In 1994 with the introduction of the *Public Sector Ethics Act* (PSEA), there was introduced into Queensland a requirement that public officials adhere to a set of fundamental ethical principles. Politicians, like others, were included. In November 1999, amendments were made which focused upon the establishment of the Office of the Integrity Commissioner. The Office has now been in operation for more than five years and its continuing activities are explained in this report. It is for others and not the incumbent to pronounce upon its present effectiveness.

What was instructive in revisiting the time when the Parliament introduced the Office was to see a bipartisan acknowledgement that a major role to be played by the Integrity Commissioner was to create a facility for advice whereby public confidence in politicians and other public officials, could be enhanced. It was acknowledged by both sides that there was a public perception that ethical behaviour in politicians was sadly wanting (Hansard 11th November 1999 p 4975 et. seq).

The statutory mandate of the Integrity Commissioner also called for the Commissioner “to contribute to public understanding of public integrity standards by contributing to public discussion of policy and practice relevant to the integrity commissioner’s functions” (s.28(c) PSEA).

In the short time I have been in office, I have had contact with many of the “designated persons” who, under the Act, are entitled to seek my advice. These include Ministers and Parliamentary Secretaries. Overall I have found an acute awareness of the need to uphold ethical standards and a clear understanding of the requirements to recognise and manage appropriately a conflict of interest. Yet opinion polls continue to show widespread scepticism by the community of the integrity of politicians. It seems that any improvement in perception will necessarily be a gradual one. It must be fostered by continued adherence to ethical principles and behaviour.

The introduction, attainment and maintenance of an ethical regime is a most worthy goal but its achievement does not come easily.

There are many factors that are necessary to enable success to be achieved. The example set by leadership is vital. To the extent that persons in positions of public trust or authority demonstrate unethical behaviour, the cause is very much damaged.

Another important factor is public perception or public attitudes. These need to be receptive of an ethical regime, including preparedness to encourage and recognise adherence to ethical standards. It is opportune to reflect upon a recent example provided by public discussion following the death of former Premier, the late Sir Joh Bjelke-Petersen. Included was the proposition that if there was any unethical behaviour on his part, any wrongdoing could be dissolved by the fact that he conducted some impressive public works. Public works are, of course, conducted in the course of discharging a public trust, using public money. They are not some act of personal beneficence by the person who facilitated their construction. I raise this because if such attitudes towards the need or otherwise for ethical behaviour are prevalent in the community, this too will constitute a significant obstacle to achieving the goal.

Another factor worthy of mention in this area is the crucial importance of the media in keeping the public informed of the behaviour of its leaders. It has a most important role to play if any effective ethical regime is to be established. It also has a vital responsibility to be accurate and objective in its reporting. In recent years, including up to the present, opinion polls show that community respect for the reliability of journalists is at a very low ebb. This perception does not assist with the media playing its part in the achievement of the goal. Again, the way forward is continued adherence to ethical behaviour.

The goal is aspirational. To achieve it involves a long journey with many hurdles to overcome. So to recognise is not to be dissuaded from continuing endeavours to move toward its end. It behoves all of us in the community to recognise the contribution we can make towards progress and to recognise the importance of behaviour and attitudes towards cultivating a climate where ethical behaviour can be expected, recognised, appreciated and thus flourish.

Impressions after a year in office

Obviously much has been written in the field of ethics and how public administration can and should interact with this field. This report does not seek to find a place amongst scholarly treatises in this area. It is but a distillation of the practical impressions gained by a newcomer to a task, entering a new field with his eyes open.

That said, my short experience in the discharge of my duties has left me with the following impressions:

- Ethical codes are only a stepping-stone towards an ethical culture and ethical behaviour.
- Attempts to impose ethical behaviour solely or principally by a regulatory/sanctions based approach are likely to fail.
- Embracing and practising ethical behaviour extends into an area outside the confines of legal and regulatory requirements.
- The concept of acting as a trustee of a responsibility reposed by the public, best encapsulates the key to ethical behaviour - the epithet of selflessness provides a valuable guiding light.
- It would not be an effective discharge of the role of the Integrity Commissioner to claim a mortgage on wisdom in this area and gratuitously to preach or pontificate in absolute terms. An ethical culture, examples set by leadership and a resort to personal conscience, must be the fundamental approach to promoting ethical behaviour.
- I have found that almost inevitably in the core business of the Integrity Commissioner, namely advising on conflicts of interest, advice is given in circumstances where there is a potential conflict of interest, not where events have unfolded to the extent that the conflict is an actual one. Perception is all important. The test must be what is the perception of a reasonable member of the community correctly informed of all the facts. It is important to observe that this is not necessarily the test applied by the media when reporting an issue.
- So far as an individual is concerned, there is a danger that a person's perception that he or she always acts with the highest ethical considerations will overtake any impartial consideration. In other aspects of human endeavour, wisdom dictates caution in making decisions where one's own interest is integrally involved. It is all too easy to persuade oneself that because one has the highest ethical standards, a particular course can be followed when, absent this factor, the course of action might be questionable. The moral is that in areas where an individual is closely involved, it is wise to seek impartial advice.
- There is no opprobrium attached to becoming involved in a potential conflict of interest. All persons have private interests and public officials have public duties. There will often be potential for conflict. The issue is whether the potential for conflict is recognised, and how properly to manage it. It would be unfortunate if there was any perception that calling upon the Integrity Commissioner for advice constituted some want of integrity. In fact, the true situation is the opposite.

Advice given

Requests Received

1 July 2004 to 30 June 2005

Received from	No
Premier	4
Ministers or Parliamentary Secretaries	9
Directors-General	4
Other designated persons	8
Preliminary discussions (no written request necessary)	6
TOTAL	31

Advice sought included:

- a request from a corporation seeking congratulatory comments upon it reaching a milestone, and
- by a beneficiary of a trust which carries on a business in a field within the public responsibility of the inquirer
- endorsement of a video to be offered for sale, produced by a non-profit organisation of which the designated person is patron
- rental of property owned by a designated person to a community housing group to which subordinates of the designated person refer persons in need of urgent housing
- whether a person with a potential conflict was a suitable appointment to a public inquiry
- the appointment of a Ministerial staff member to a new position created within the department
- a nomination of the designated person to join the board of a voluntary organisation
- a suggestion that a designated person accept a claimed necessity for an untruth to be told under oath
- an approach made to a designated person by his general practitioner who was dissatisfied with a decision concerning him which had been made by a tribunal within an area of business involving the designated person
- potential conflict of interest in participating in discussion etc relating to amendments to legislation involving an area of business in which shares are held in a company conducting business in that area

- principles relating to the private use of mobile phones
- a requirement that a public servant resign from his community position upon taking up a position with a government department
- a spouse applying for a license in an area where the designated person had a responsibility for administration
- the appropriate course of action to be taken in dealing with allegations when the person the subject of the allegations was well known to the designated person
- the giving of support to two separate worthy not-for-profit organisations in the electorate of the designated person
- an invitation received to be a patron of a group
- purchase of property with a colleague, a relative and an official who has been a long-term friend
- purchase of property with a colleague and two others, and
- whether members of a particular panel established under an Act administered by the designated person are “designated persons” entitled to seek advice from the Integrity Commissioner.

Preliminary Enquiries

There were six such enquiries, none of which proceeded to a request for formal advice, but most of which led to a discussion of general principles.

These included issues such as the giving of a reference to a person appearing before a court for sentence, the role of a board member nominated as the appointee of a special interest group, the endorsement of documents for support of a public body and the importance of the moral obligation to engage in jury service if summoned and there are competing claims.

Other - General

Beyond this, other enquiries were made which were clearly outside the jurisdiction of the Integrity Commissioner.

These were usually founded on the misapprehension that the Integrity Commissioner has an investigative role. Assistance was given to refer the matter to the appropriate authority.

Contribution to broader discussion of public ethics

One of the functions of the Integrity Commissioner is to contribute to public understanding of integrity standards by contributing to public discussion of policy and practice relevant to the Integrity Commissioner's functions.

To this end, the Integrity Commissioner presents papers and lectures as requested by public organisations, internal public service networks, corporate and public administration conferences.

Within the public service, the Integrity Commissioner regularly contributes to the discussion of ethics at the Queensland Public Service Ethics Network (QPSEN). Over the past twelve months, he has addressed meetings on issues of current concern and explained his role and functions.

In October 2004, the Integrity Commissioner made a submission to the Members' Ethics and Parliamentary Privileges Committee in relation to the Review of the Register of Members' Interests.

In October, he also met with a delegation of the New South Wales Parliamentary Privileges Committee to advise them of the Queensland Integrity Commissioner's role in the Queensland integrity regime.

In November 2004, the Integrity Commissioner addressed an audience of around 150 about ethics, at the Interdepartmental Accounting Group Conference on the Gold Coast.

In March 2005, the Integrity Commissioner spoke to the Appeals Delegates of the Office of Public Service Merit and Equity about the issues involved in acting justly in the hearing of appeals.

In March, he also conducted a workshop on "Ethics and Advocacy" at the Queensland Bar Association Conference held on the Sunshine Coast.

During the past financial year, the Integrity Commissioner has been invited to discuss his role, the *Public Sector Ethics Act 1994*, and the functions of the Office of the Integrity Commissioner at meetings of the:

- Legal Services Commission
- Justice Statutory Authority Group
- Senior Executives Group of the Department of Communities.

In April 2005, the Integrity Commissioner attended the Australasian and South Pacific Public Service Commissioner's Conference where he conducted an informal session principally relating to the role of the Integrity Commissioner and then later took part in a discussion forum.

Relevant presentations have been posted on the website, www.integrity.qld.gov.au as well as material presented to the new Members of the Legislative Assembly in February 2005.

Staffing of the Office of the Integrity Commissioner

The conditions of employment of the Integrity Commissioner are engagement on a part-time basis, being the equivalent of two days per week. The Integrity Commissioner usually resides outside of Brisbane. Like his predecessor, he spends at least two days per week in Brisbane and for the balance works from elsewhere. The Commissioner claims no travel or official expenses associated with his location outside of Brisbane.

While the premises of the Integrity Commissioner are located on the same floor as the Office of the Public Service Commissioner, the Integrity Commissioner is separate from, and independent of, any other office. For reasons of economy and efficiency, funding for the Office of the Integrity Commissioner comes from within the appropriation for the Office of the Public Service Commissioner.

Funding includes the provision of a dedicated Executive Coordinator accountable to the Integrity Commissioner as well as the provision of incidental administrative support on an ad hoc basis, again for reasons of economy and efficiency.

Recognition should be given to the skill and dedication of Mrs Mattea Slinger who has admirably discharged this role for much of the reporting period.

Amendment of the *Public Sector Ethics Act 1994*

The *Public Sector Ethics Act 1994* was amended by the *Freedom of Information and Other Legislation Amendment Act 2005*. The amendments were assented to and commenced on 31 May 2005.

Essentially, the amendments:

- clarified that any formal request by the Premier for ethical advice, if it relates to a person, must relate to a “designated person”, and
- excluded documents received or brought into existence in relation to the giving of an advice, from the provisions of the *Freedom of Information Act 1992*.

Website, information sheets and handbook

One of the functions of the Integrity Commissioner is to contribute to public understanding of public integrity standards by contributing to public discussion of policy and practice relevant to the Integrity Commissioner's functions.

To make this possible a website, www.integrity.qld.gov.au was launched on 6 April 2001. The site includes information about the Integrity Commissioner, the *Public Sector Ethics Act 1994*, and various articles and papers prepared and presented by both the former and current Commissioners. During this reporting period, there was an average of over 5,300 visits per month to the website - an increase of approximately 12 percent.

The availability of the website to international and national governments, the Queensland community and the public sector, assists to increase awareness of ethics matters in the public arena, and contributes to broader understanding of ethical practices across the sector.

Publications available on the website are:

Information Sheet No. 1 *Who is the Integrity Commissioner?*

Published in November 2000 and updated in 2005, describes the role of the Integrity Commissioner.

Information Sheet No. 2 *Conflicts of Interest in the Public Sector*

Published in March 2002, addresses conflict of interest issues for public servants.

Information Sheet No. 3 *Statutory office holders and conflicts of interest*

Published in June 2003, helps a specialist group of people in the public sector determine whether they are able to seek advice from the Integrity Commissioner.

Handbook *Building Integrity in the Queensland Public Sector*

This handbook, prepared and published by the former Integrity Commissioner, discusses the relationship between ethics and law.

Annual Reports Also on the website are the annual reports for the previous four financial years, making them available for public discussion.

Compliance disclosures

The Office of the Queensland Integrity Commissioner uses the Code of Conduct for the Department of the Premier and Cabinet.

In September 2004, my Executive Coordinator attended a training session conducted by the Anti-Discrimination Commissioner of Queensland on behalf of the Department of the Premier and Cabinet.

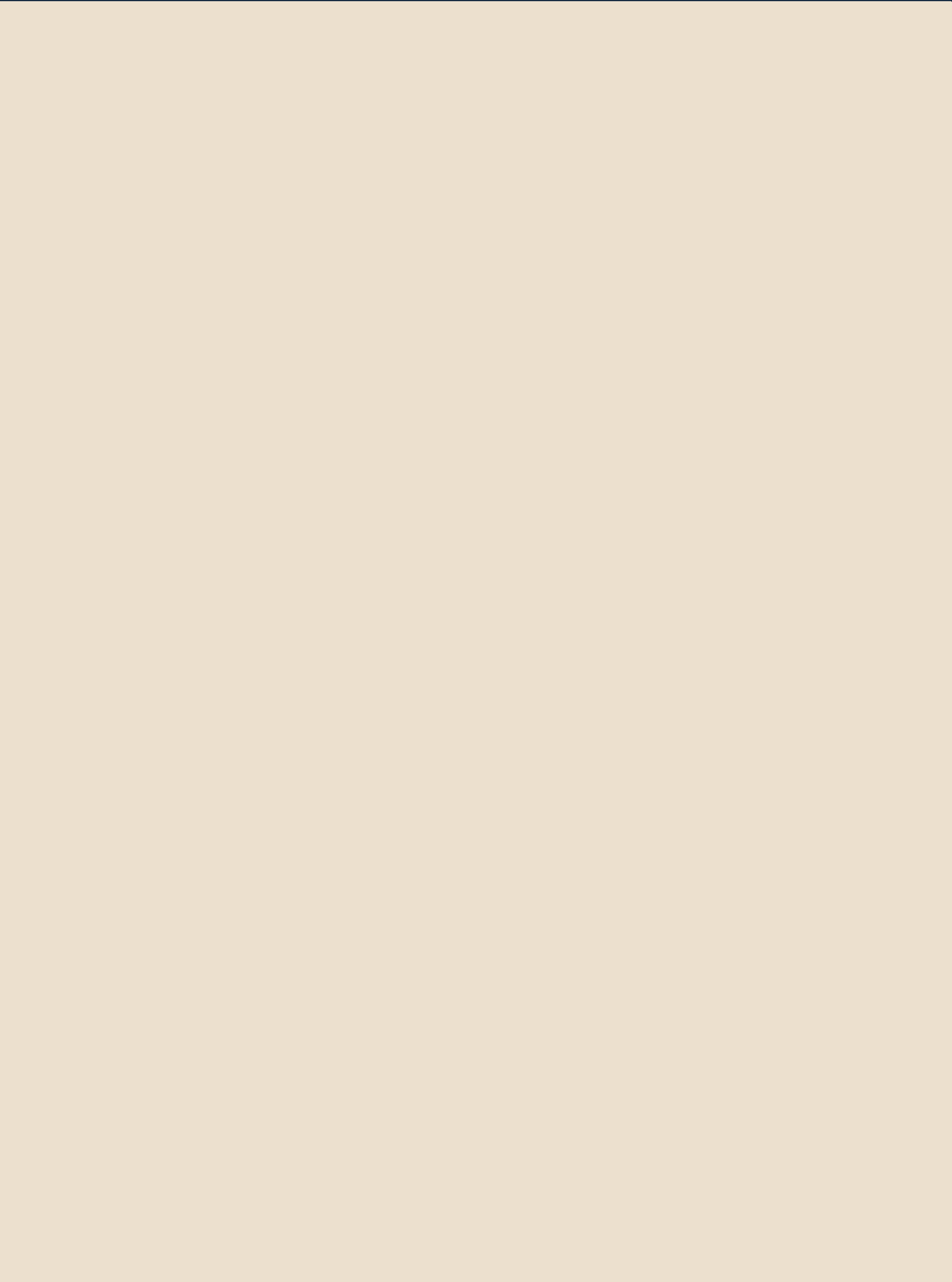
No consultants were used and no overseas travel was taken.

No public interest disclosures under the *Whistleblowers Protection Act 1994* were received by the office.

This Annual Report and the Privacy Plan for the Office of the Integrity Commissioner are available on the website, www.integrity.qld.gov.au.

Included in this report are:

- the *Financial Statement of the Office of the Integrity Commissioner*, and
- the *Statement of Affairs* (required by the *Freedom of Information Act 1992*).



Financial Statement

The Office of the Queensland Integrity Commissioner
Expenditure for Financial Year 2004/2005

	2004 - 05	2003 - 04
Total budget	\$ 149 134	\$ 158 600
Employee related expenses		
Salaries, wages and related costs	112 912	107 943
Salary related taxes	8 318	5 742
Other employee expenses	709	-
Superannuation	12 832	13 271
Sub total	134 772	126 956
Supplies and services expenses		
Office expenses (consumables)	2 479	35
Domestic travel*	740	5 679
Telecommunications	2 324	2 495
Marketing and public relations	3 546	10 300
Hospitality and functions	55	82
Other administrative expenses	245	1 957
Repairs and maintenance	268	4
Minor plant and equipment	605	4 440
Minor works	63	475
Sub total	10 325	25 467
Depreciation and amortisation	2 726	3 519
Total expenditure for 2004-05	\$ 147 823	\$ 155 941

The Office of the Integrity Commissioner is an independent entity created by Statute.

*The 2004 / 05 travel costs (domestic) were expenses incurred by the former Integrity Commissioner.

For reasons of economy and efficiency, funding and administrative support is received through the Office of the Public Service Commissioner.

Provision of Corporate and Building Service expenses has been provided through the Office of the Public Service Commissioner.

Please note that this financial statement has not been subject to audit.

Statement of Affairs of the Agency

The following is published in accordance with s.18 of the *Freedom of Information Act 1992*:

- A) The Office of the Queensland Integrity Commissioner was established by the enactment of part 7 of the *Public Sector Ethics Act 1994*.
- The Queensland Integrity Commissioner has the following functions:
- to give advice to designated persons about conflict of interest issues as provided under division 5 of part 7 of the Act;
 - to give advice to the Premier, if the Premier asks, on issues concerning ethics and integrity including standard-setting for issues concerning ethics and integrity;
 - to contribute to public understanding of public integrity standards by contributing to public discussion of policy and practice relevant to the Queensland Integrity Commissioner's functions.
- These functions are discharged by the Queensland Integrity Commissioner on a part-time basis equivalent to two days per week. The Queensland Integrity Commissioner's staff consists of an Executive Coordinator.
- B) The Queensland Integrity Commissioner's functions directly affect the following members of the community who are "designated persons" within the meaning of s.27 of the *Public Sector Ethics Act 1994*:
- the Premier;
 - a Minister;
 - a Parliamentary Secretary;
 - a government member;
 - a statutory office holder;
 - a chief executive officer of a department of government or a public service office;
 - a senior executive officer or senior officer employed in a department of government or public service office;
 - a chief executive officer of a government entity or a senior executive equivalent employed in a government entity who is nominated by the Minister responsible for administering the entity;
 - a person employed in the office of a Minister, or engaged, to give advice to the Minister;
 - a person employed in the office of a Parliamentary Secretary, or engaged, to give advice to the Parliamentary Secretary;
 - without limiting paragraph i) or j), a person, or a person within a class of person, nominated by a Minister or Parliamentary Secretary.
- C) The Queensland Integrity Commissioner accepts invitations to speak at public meetings, conferences and seminars to enable members of the community to participate in the formulation of policy. Papers and speeches are found on the website, www.integrity.qld.gov.au. The functions of the Queensland Integrity Commissioner are exercised in accordance with the *Public Sector Ethics Act 1994*.
- D) The documents usually held by the Queensland Integrity Commissioner are relevant Acts of Parliament, Codes of Conduct, correspondence, financial records, lectures, papers and confidential advice. A limited number of fact sheets about the role of the Queensland Integrity Commissioner are available free of charge, as is the handbook for Queensland public sector employees, *Building Integrity in the Queensland Public Sector*. Lectures and papers are accessible on the website, www.integrity.qld.gov.au.
- E) The Queensland Integrity Commissioner does not provide subscription services or free mailing lists. Material is available on the website.
- F) No boards, councils, committees or other bodies constituted by two or more persons have been established for the purpose of advising the Queensland Integrity Commissioner.
- G) The Queensland Integrity Commissioner does not keep documents concerning the personal affairs of members of the community, except when such matters are disclosed as a basis for seeking confidential advice. The person whose affairs are so disclosed has the opportunity to ensure that they are accurately disclosed before advice is given.
- H) Requests for confidential advice on conflicts of interest are made in writing. If a "designated person" wishes to amend the personal affairs disclosed in such application, that should be done in writing addressed to:

The Queensland Integrity Commissioner
PO Box 15290
City East Queensland 4002

These people can seek confidential advice about conflicts of interest which arise because their personal interests conflict with their official duty.

integrity



Queensland Integrity Commissioner

Annual Report

2004 - 2005