

Queensland Integrity
Commissioner
annual report 2008–09



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

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Location

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or by written request to the address provided.
A copy can also be downloaded from the website.

Statement to the Minister

The Honourable Anna Bligh MP
Premier and Minister for the Arts
Executive Building
100 George Street
BRISBANE QLD 4000

Dear Premier

It gives me pleasure to submit to you my fifth, and final, annual report – the ninth Annual Report of the Integrity Commissioner.

This report is for the 12 months to 30 June 2009 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 a conflict of interest issue.

A handwritten signature in black ink, appearing to read 'G Crooke', is positioned above the name of the signatory.

Gary Crooke QC
Queensland Integrity Commissioner

Who is the Integrity Commissioner?



Mr Gary Crooke QC was appointed by the Governor in Council on 1 July 2004 as Queensland's second Integrity Commissioner. His term expired on 30 June 2009, after serving five years in the role.

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, a 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.

On 25 June 2009, it was announced that Dr David Solomon AM had been appointed to succeed Mr Crooke as from 1 July 2009.

The role and function of the Integrity Commissioner

The *Public Sector Ethics Act 1994* was amended in 1999 to add Part 7 for that Act. This Part creates the office of Integrity Commissioner and designates the role and function of that office.

The purpose of Part 7 is to help Ministers and others avoid conflicts of interest, and in so doing, to encourage confidence in public institutions (section 25). The functions of the Integrity Commissioner are:

- (a) to give advice to designated persons about conflict of interest issues as provided under division 5;
- (b) 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;
- (c) 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.

The Queensland Integrity Commissioner can give advice only to designated persons (section 29).

In previous years, "designated persons" included only Members of other Parties or Independent Members who were themselves members of a Parliamentary Committee on the nomination of a Government Member. However, in June 2009, an amendment was introduced to the *Public Sector Ethics Act 1994* which when passed, will include all Members of Parliament, which includes Members of the Opposition and Independent Members, to be persons who could seek the advice of the Integrity Commissioner.

The term also includes statutory office holders, departmental heads and senior officers employed in their departments, together with staff employed to give advice in the office of Ministers and Parliamentary Secretaries. It is possible for a Minister to nominate a person or class of persons to be included within the definition.

Other persons who have previously been nominated include:

- marine pilots; and
- those employed in Queensland Health under the provisions of the *Health Services Act 1991*, to an equivalent level of senior officer or senior executive under the *Public Service Act*

In this reporting year, the following persons were also nominated:

- Queensland Government Trade Commissioners;
- Queensland Government Special Representatives for Trade; and
- the Papua New Guinea and Pacific Islands Adviser to the Queensland Government.

A complete list of all nominated "designated persons" appears on the Integrity Commissioner's website.

All told, there are more than 5000 "designated persons" in Queensland.

A conflict of interest issue involving a person means an issue about a conflict between the person's personal interest and the person's official duties (this is defined in the Schedule to the Act).

Overview of the reporting year

This report marks the expiry of my five years as Integrity Commissioner and the conclusion of my term of office.

I adhere to my previously expressed belief that the independent statutory office of Integrity Commissioner has a useful role to play in the Queensland system of public administration. Having regard to the presence of the CMC and the Ombudsman to investigate or deal with complaints, my view is that the Integrity Commissioner is a valuable resource for senior figures in public administration to have available, so that they may confidentially seek advice concerning potential conflict of interest matters.

Parliamentary debates which led to the creation of the Integrity Commissioner focussed upon the need to improve the then abysmal image of politicians, with the hope that possible ethical blunders might be avoided by the timely seeking of advice.

Opinion polls continue to paint a gloomy image of the public regard and respect for politicians.

When I first assumed office, I noted the observations in the seminal report to the UK Parliament by the Committee on Standards in Public Life, then headed by Lord Nolan. The Report stated, after numerous interviews with politicians, that, on an individual basis, there was a firm desire to carry out the duties of their office ethically and with good conscience. This notwithstanding, there was a deeply held public apprehension that politicians did not behave ethically or in a trustworthy fashion.

In my term of office, I have had cause to interact with the persons who have sought my advice as well as discussions with Ministers, Parliamentary Secretaries and CEOs of government departments. My experience has been similar to that found in the UK. My observation has been that, on a personal level, those I have dealt with evidenced a high degree of commitment to act ethically and with integrity, in matters of public administration.

It is also my perception as a member of the public, that there remains a deeply ingrained concern in public opinion as to the standard of ethical behaviour of politicians.

The success or otherwise of the statutory Office of the Integrity Commissioner is not a matter of self assessment. It is to be determined by an objective outside appraisal. It should be measured against its contribution to improving and maintaining highest standards in public administration.

What can be said by way of introduction is that there has been a steady stream of requests for advice and many expressions of thanks and gratitude for the advice given. On all occasions, advice given in response to a request has been accepted. There has not been any instance over the period of my tenure when I have been obliged to report to the Premier under section 34(4)(ii) of *Public Sector Ethics Act 1994*, my belief that, notwithstanding my advice, a person has behaved in a way whereby there exists an actual and significant conflict of interest.

It may also be added that the former Premier in the Parliament (Hansard 11 July 2006 at p15) gave firm endorsement to the role of the Integrity Commissioner.

In the reporting year, I believe that a number of significant steps has been taken to advance integrity in public administration. These include:

- (a) amendment of the *Public Sector Ethics Act 1994* to include all Members of the Legislative Assembly as “designated persons” capable of seeking the advice of the Integrity Commissioner in matters relating to conflict of interest. Previously, there had been some uncertainty as to the entitlement of non-Government Members to seek this advice. Such an amendment acknowledges and reinforces the independence of the Integrity Commissioner, being the occupier of a statutory office, not confined to giving advice only to those in Government;
- (b) fundamentally changing the approach to access to Government information by passing legislation creating a regime based upon the concept of a fundamental presumption of a right to information in a member of the public. Implementation of the legislation involves the major challenge of changing a culture dominated by a wish to keep secret as much information as possible. The new open approach is consonant with high standards of public administration;
- (c) the creation of a Code that regulates the practice of lobbying and curtails activity in this field by former Ministers or senior public officials. Again, this is consonant with the highest standards of public administration. An additional measure has been to remind former public servants of their responsibilities in relation to government information by including a clause in their contract of engagement which refers to these obligations. Additionally, a new offence of misconduct in public office has been created to address what were loopholes in defining the duty of a public official.

During my term of office, I have been inspired by witnessing the ethical concern and interest found in those public officials who chose voluntarily to attend meetings of the Queensland Public Sector Ethics Network. Here resides a wellspring of responsible and concerned individuals whose ethical commitment can only beneficially permeate to the daily activities of the organisations in which they serve.

I should also mention what was described as a “roadshow”, organised in partnership with the Queensland Branch of The Institute of Public Administration of Australia, to which thanks are due for its highly professional organisation and involvement.

This involved the making of a presentation concerning ethical matters at major coastal centres from Brisbane to Cairns, as well as Toowoomba. It was focussed upon persons in public administration, although there was quite some attendance from the private sector.

All sessions were very well attended and feedback was very positive. The initiative culminated with a session in Brisbane at which in excess of 210 people attended. The total number of attendees throughout the various centres was 470.

Another matter which I regard as a milestone of great value to continued progress, relates to an example set by an individual. A circle of senior people are aware of the circumstances, and all have been encouraged to use the matter as an example. What occurred was that a senior official was invited to attend what was undoubtedly a very sought after function as a guest of the organisation responsible for it. This organisation also had ongoing unresolved commercial dealings with the Queensland Government.

Although plausible reasons could be advanced for attendance at the event, and although it was undeniably personally very attractive, the individual took the high moral ground and politely refused the invitation on the basis that its acceptance could give rise to an adverse public perception of the Government being beholden to the inviting organisation, and thus inclined to accord some favourable treatment in commercial dealings.

Examples speak louder than words. The actions of this senior figure created a benchmark and a role model for others to note and follow. It has set the bar at a high level of selflessness and integrity in the important and practical area of day-to-day activity relating to the acceptance of gifts, including hospitality.

Speaking generally on the question of gifts, I feel constrained to refer to my comments to you in my previous annual report on this topic. I repeat, and emphasise, what I considered to be the basic principles appertaining thereto.

In my previous report, I recorded the substantial advance in ethical standards by the Public Service Commissioner's Directive on the receipt of gifts, endorsed by Cabinet, and addressing shortcomings in previous Codes. In my last annual report to you, I recorded that a similar review of such standards as they apply to Ministers was a work in progress. These standards languished under the same defects remedied in relation to public servants by the above Directive. Sadly, although I had enquired as to progress on a few occasions during the reporting year, the review, as it relates to Ministers, remains (as at the time of reporting - 30/6/09) a work in progress, although apparently still being advanced.

In a similar vein, I made mention in my last year's report of a published intention by the previous Government (Hansard 22 May 2007 at p1494) to create a Code listing requirements in relation to Ministerial and spouses' shareholding. This too has yet to be addressed.

I have repeatedly emphasised my view that the actual example set by those at the top is of fundamental importance. It is a sad fact that a single instance of falling short of high standards can drastically affect the good will generated by many instances of complying with them. Further to this, the example set by those at the top is of fundamental importance to creating an ethical culture. In the ethical field, those further down the chain of command cannot be expected to adhere to standards less than those set for, or observed by, those in higher ranks of public administration. In fact, an ethical culture requires that those at the top be prepared to accept even higher standards of conduct than those demanded of others further down the scale.

You have repeatedly emphasised your commitment to high ethical standards and concrete examples appear in the legislative amendments previously mentioned. There is no doubt that improving the image of politicians and Parliament itself will contribute to the enhancement of public administration. Action or inaction in the area of setting standards will always command close public attention, and rightly so. To the extent that words are not accompanied by actions, the image of those concerned will suffer.

Upon my departure, let me emphasise the importance of the notion of “capital” discussed in my previous report to you. This is the “capital” held in trust by the current Government for the benefit of members of the community. To enhance the image of politicians in the eyes of the community, there must be constant evidence that this trusteeship is acknowledged and visibly underpins attitudes and decisions.

On a day-to-day basis, all actions are assessed; from the courtesy and respect shown in the Parliament itself, through to substantial policy decisions.

The ethical health of public administration can be tested over many parameters. These include openness and accountability, including preparedness to discuss decisions or a course of conduct.

I am constrained to say that I feel that a significant shortcoming has ensued in relation to a matter which I raised in the final paragraph of my report to you of last year. This related to fundraising functions. It is an issue which falls squarely within the realm of practical everyday occurrences where a benchmark can be set and, again, where actions speak louder than words.

The tenor of my previous remarks was to call in question the practice of fundraising functions on the basis that the reverence and decision-making capacity accorded to the Government of the Day was part of the “capital” to be held in trust for the benefit of the community. As such, it is difficult to see how it could justifiably be used for the benefit of a political party, let alone how reasonably based adverse perception could be avoided, having regard to the perceived obligation of being beholden to those who had paid a large sum to be present at the function.

Responsibility and accountability rests heavily with Government in this area. Observations made by an independent office holder have no greater status than matters to be considered before a final decision is made. My disappointment is not so much that the decision made was not in accordance with my views, but rather that it was determined to proceed apace with continuing to hold such functions, without addressing any question of principle that attends their holding. This issue was simply not addressed and gives rise to anxiety that in some instances a strategy will be adopted of ignoring the rights and wrongs of a situation and proceeding notwithstanding.

The issue was addressed by the media where no less than outrage was expressed, as was the case in many commentaries. The voice of the Community, for whom this capital is held in trust, was loudly raised. This whole issue goes to the very essence of ethics and accountability, and weighs heavily in the balance in determining the respect held for politicians by the Community

I should emphasise, as I did previously, that the practice in question is of long standing, not only in Queensland, but elsewhere, and adopted and endorsed by political parties of all persuasions. The fact that it is a practice, does not necessarily mean that it is consonant with principle. Indeed, the fact that it continues to exist in the absence of any convincing argument to justify it, creates apprehension that the phenomenon of “dumbing down”, as it is called in modern parlance, is alive and well.

Here lies a ripe area to demonstrate by example (not words) that the highest standards of ethics and integrity will be adopted.

Summary of requests

Requests received

Requests	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09
Premier	3	4	2	1	4	4	5	3	0
Ministers or Parliamentary Secretaries	4	3	2	10	9	8	10	5	5
Directors-General	6	4	6	5	4	6	3	2	3
*Other designated persons	1	14	14	5	8	3	12	17	12
*Preliminary discussions/general advice					6	9	9	13	9
Total	14	25	24	21	31	30	39	40	29

* Prior to 04/05, there was no separation of these figures. These were included under the heading "Other".

Issues considered

A total of 29 written requests for advice were received in the reporting year. Section 43(2) of *Public Sector Ethics Act 1994* requires that my report must be in general terms and must not contain information likely to identify individuals who sought my advice. Additionally, there are strict statutory secrecy provisions relating to disclosure by the Integrity Commissioner of any advice or material submitted for the purpose of obtaining advice, all of which is exempt from the provisions of Freedom of Information legislation.

Bearing this in mind, I can report that requests received covered a broad field within the category of a possible conflict between personal interests and public duty.

Issues raised included potential conflicts including perceived influence or personal involvement regarding:

- family involvement or interest of relatives in the area of a public official's decision-making;
- membership of two bodies having jurisdiction and duties in similar areas;
- shareholdings;
- providing a reference in an official capacity;
- the acceptance of hospitality;
- a request for representation supporting a proposed business venture in an electorate;
- proper procedure for appointment to a public position;
- secondary employment;
- the purchase and use of a rental property;
- a newly appointed public official dealing with previous contacts in the private sector having an interest in his new area of decision-making;
- the transition from Member of Parliament to private citizen;
- appointment to a public position of friends or family members;
- limitations on proper use of Ministerial car and chauffeur;
- membership of a community council;
- patronage of a non-Government organisation;
- the involvement by a spouse in a business within the jurisdiction of the public responsibility of the other spouse;
- prior involvement in a development now the subject of a public official's jurisdiction.

Contribution to public understanding of public integrity standards

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 by the Office 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 were over 30,000 visits to the website.

The availability of the website to international and national governments, the Queensland public 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.

This function of the Integrity Commissioner is not a mandate to comment at large upon any matter of public interest. It is confined to public discussion of policy and practice relevant to the Queensland Integrity Commissioner's functions. In discharging this area of responsibility, the following steps have been undertaken in the reporting year:

- (a) Maintaining the website of the Integrity Commissioner, which includes publication of papers and presentations given by the Integrity Commissioner, together with various information sheets, and an Ethics Handbook which discusses the relationship between ethics and law prepared and published by the former Integrity Commissioner.

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

- (b) During the reporting year, the Integrity Commissioner:
 - participated in the induction program for the new Members of the Legislative Assembly;
 - met personally with newly appointed Ministers, Parliamentary Secretaries, Directors-General and other Chief Executive Officers to discuss his role and functions;
 - met personally with newly elected Leader of the Opposition to discuss his role and functions;
 - attended meetings of a group consisting of the Auditor-General, the Chairman of the Crime and Misconduct Commission, the Public Service Commissioner and the Information Commissioner to discuss common work priorities;
 - presented a paper at a Symposium "Building Trust Together" held in Ottawa, Canada in September 2008. This attendance was without cost to the budget of the Integrity Commissioner;
 - participated in a "Workplace Integrity Roadshow" in conjunction with the Institute of Public Administration (IPAA) and toured regional centres to discuss his role and functions;
 - made a submission on the Discussion Draft of the Right to *Information Bill 2009*;
 - provided comments on the CMC Paper on Lobbying and Post-separation Employment;

- provided comments to the Victorian Parliament Law Reform Commission on the Review of the *Parliament (Members' Interests Register) Act 1978*;
- gave presentations to:
 - Queensland Government Trade Commissioners;
 - senior officers of the Department of Infrastructure and Planning;
 - senior officers of the Queensland Police Service;
 - government lawyers;
 - members of the Graduate Program;
- worked with the Public Service Commission to increase awareness of ethical standards;
- provided comments to a department on revision of its Code of Conduct;
- attended meetings and spoke to the Queensland Public Sector Ethics Network.

Staffing for 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, like his predecessor usually resides outside of Brisbane. Like his predecessor, he spends at least two days per month in Brisbane and for the balance works from elsewhere. The only claim made associated with the Integrity Commissioner's location outside Brisbane is for reimbursement of telephone expenses.

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

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. I express my gratitude for this assistance and for the capable way in which the position is fulfilled by Mrs Mattea Slinger.

Compliance disclosures

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

On 20th August 2007, the Queensland State Archivist approved a Records Classification Scheme and Records Disposal Authority which was developed for the Office of the Queensland Integrity Commissioner. A copy of this document is available on the website www.integrity.qld.gov.au. A copy is also available on the Queensland State Archives website www.archives.qld.gov.au

No consultants were used.

Overseas travel was taken to deliver a paper at a symposium sponsored by the Canadian Government in Ottawa. No cost to the budget of the Integrity Commissioner was incurred by this travel.

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

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

Financial statement

Revenue and expenditure for the year ended 30 June 2009

	2008/09	2007/08
Revenue from ordinary activities		
Output revenue	185,200	159,700
Total revenue from ordinary activities	185,200	159,700
Expenses from ordinary activities		
Employee Expenses		
Salaries and wages and related costs	118,979	130,236
Salary-related taxes	6,521	10,477
Other employee expenses	5,337	1,667
Superannuation	14,432	15,888
Total employee expenses	145,270	158,268
Supplies and services		
Consumables	143	581
Parking	5,060	2,760
Travel costs - domestic	6,568	1,682
Telecommunications costs	1,145	2,935
Legal expenses	-	1,725
Marketing and public relations	1,440	2,294
Minor plant and equipment	41	1,894
Other administrative expenses	20	316
Repairs and maintenance	-	644
Total supplies and services	14,416	14,831
Total expenses from ordinary activities	159,686	173,099
Net Operating Result	\$ 25,514	-\$ 13,399

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

For reasons of economy and efficiency, funding and administrative support is received through the Public Service Commission. Corporate services and asset replacement have been provided through the Public Service Commission.

The Office of the Integrity Commissioner no longer reports assets due to the adoption of a whole-of-government non-current asset policy in 2005-06 which standardised the asset recognition threshold for all government assets and results in assets being expensed in the year of purchase rather than depreciated over a number years.

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



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