

Module	QLD STATE GOVERNMENT ENTITIES
Jurisdictions	QLD

Module Scope

Employment

Does the department or statutory body comply with its obligations in relation to employment, industrial relations and related matters?

Does the employer comply with the collective bargaining requirements in relation to a proposed bargaining instrument?

Does the employer comply with the requirements of the Public Service and Industrial Relations legislation when determining the basis of an employee's or public officer's employment such as permanent or temporary, fixed term or tenured, casual or permanent and any periods of probation applicable?

Governance

What are the legislation and standards applicable to the governance of Queensland government departments and statutory bodies?

Do public officials discharge their duties in accordance with the prescribed ethical framework, and do they avoid potential conflicts of interest?

Does the accountable officer of the department regularly review departmental operations to assess commercialisation opportunities and implement any commercialisation in accordance with the Commercialisation of government business activities in Queensland guidelines?

Reporting, Record Keeping and Information Security

Does the organisation maintain appropriate records, submit required reports, release required information, and maintain the security of its data and any personal information in its custody in accordance with legislative requirements?

Does the agency meet its non-financial reporting and record-keeping requirements?

Does the agency prepare and submit financial records and meet all reporting requirements?

Resource Management

Does the department or statutory body comply with its obligations under the Queensland Government financial accountability framework?

Does the department or statutory body have a financial management practice manual in place that is subject to regular maintenance?

Module Application

The Queensland State Government Entities module has 4 sub modules:

- Employment
- Governance
- Reporting, Record Keeping and Information Security
- Resource Management

Employment

The *EMPLOYMENT* sub module covers the obligations related to employment and industrial relations for QLD public sector employers and employees. The module informs both individuals and government departments or statutory bodies.

Primarily private sector employers and their employees are subject to the national workplace relations system established under The Fair Work Act 2009.

QLD public sector employers and employees are not generally covered by the Fair Work Act 2009. Instead the QLD public sector employers and employees derive their obligations from The Public Service Act 2008 and The Industrial Relations Act 2016. The *EMPLOYMENT* sub module informs employees and employers who are subject to The Public Service Act 2008 and The Industrial Relations Act 2016. The module doesn't cover the obligations of employees and employers who are subject to the Fair Work Act 2009.

Obligations covered in the *EMPLOYMENT* sub module which is intended to inform QLD state government employees and employers of their rights and responsibilities concerning;

- establishing a complaint review process with bargaining instruments;
- the recruitment process;
- basis and terms of employment;
- remuneration and working hours;
- leave and flexible arrangements;
- managing superannuation contributions;
- career management;
- conduct management;
- fair treatment in the workplace;
- termination;
- industrial action and disputes;
- workers compensation.

The *EMPLOYMENT* sub module also covers obligations for QLD state government employees and employers co-operating with authorised officers and inspectors and any dealings with the QLD Industrial Relations Commission.

The Chief Executive Officer (CEO) of a government department has a range of obligations specific to the employment of the department's upper management staff. Generally these would be senior executive service employees (SES). The same obligations are applicable to the employment of other employees who are not referred to as SES employees but are remunerated at a level equivalent to SES employees. These additional obligations for CEO's are covered by the *EMPLOYMENT* sub module.

Breaches or non-compliance with obligations may result in disciplinary action for any offending public service officer including at CEO level. Actual penalties depend on the severity of the offence and the position of the offender. They may include;

- › termination;
- › suspension;
- › monetary penalty;
- › transfer or redeployment;
- › reduction in remuneration level.

The *EMPLOYMENT* sub module covers penalties for breaches as well as notification requirements and remedial actions that are recommended.

Governance

The *GOVERNANCE* sub module informs any Queensland government department or statutory body what their legal and best practice obligations are based on the applicable legislation and standards and what procedures and processes the organisation should have in place to ensure and maintain compliance with the obligations.

The *GOVERNANCE* sub module covers the legislation from which the primary obligations and responsibilities related to governance of Queensland government departments and statutory bodies are derived including;

- › Crime and Corruption Act 2001 (QLD);
- › Financial Accountability Act 2009 (QLD);
- › Financial Accountability Regulation 2009 (QLD);
- › Financial and Performance Management Standard 2009 (QLD);
- › Integrity Act 2009 (QLD);
- › Public Service Act 2008 (QLD); and
- › Public Sector Ethics Act 1994 (QLD).

The Performance Management Framework (under the Department of the Premier and Cabinet) sets out the principal framework including policies and guidelines for Queensland government departments and statutory bodies in terms of their primary governance obligations. Essentially these are accountability and effective management, as covered in the module;

- › Commercialisation of government business activities;
- › Financial reporting requirements;
- › Annual reporting requirements; and
- › Agency planning requirements.

All public officials in Queensland are required to conduct themselves ethically. The module covers this obligation with reference to;

- › Integrity and impartiality;
- › Accountability and transparency;
- › Promotion of the public good;
- › Commitment to the system of government;
- › Avoiding conflicts of interest; and
- › Complying with codes of conduct developed by individual public service agencies.

The module provides practical advice and assistance to organisations regarding their governance duties and responsibilities and the best way to ensure compliance. The following duties and obligations are comprehensively expanded in the module;

- › Responsibilities of the accountable officer;
- › The duty to disclose material personal interests;
- › Carry out operations efficiently, effectively and economically;
- › Regularly review operations for commercial opportunities;
- › Establish procedures for monitoring other entities where applicable;
- › Internal control and risk management;
- › Keep funds and accounts in compliance with the prescribed requirements;
- › Prepare and certify financial statements;
- › Undertake planning and budgeting appropriate to the size of the department;
- › Perform functions conferred under legislation and standards;
- › Prepare a budget each financial year for the appropriate Minister;
- › Comply with the applicable Australian Accounting Standards;
- › Risk management;
- › The employment, training and assessment of qualified and competent officers;
- › Develop and implement strategic plans and operational plans; and
- › Establish, manage and regularly review management systems.

The module covers the obligations derived from the National Collaboration Framework which is a key element in the governance of Queensland government departments and statutory bodies which is designed to facilitate collaborative co-operation with other state, commonwealth and local government entities.

The module also covers possible consequences to public service employees where a standard of conduct or a standard of practice is contravened. At the discretion of the chief executive the consequences to the employee can include suspension, termination, demotion or a reprimand. These disciplinary measures may also apply to employees who have moved to another department.

The *GOVERNANCE* sub module focuses primarily on the duties and obligations of an entity rather than on individuals employed in the government sector.

Reporting, Record Keeping and Information Security

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers the obligations that are applicable to all QLD government departments including local government, public authorities and statutory bodies. They all have obligations that require them to;

- maintain records;
- submit required reports;
- release or provide required information;
- maintain data security; and
- maintain the security of personal information in accordance with legislative requirements.

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers the obligations of QLD government departments and specific obligations which apply to individual officers of the public service. The processes and procedures to be implemented and maintained by QLD government departments to ensure compliance with all regulations and obligations is also covered by the module.

There are obligations on the QLD government departments or statutory bodies to provide reports and notifications to the relevant Government Minister. The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers obligations related to the preparation of the annual report which is intended to be presented to Parliament including the information that must be included in the report as well as other obligations relating to reporting requirements and regulations.

Remediation involves taking every step to prevent the same or a similar failure happening again. The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers obligations and requirements in the event of a breach by individual officers of the public service or QLD government departments including;

- breach notifications;
- a requirement to take action to mitigate the consequences of specific failures;
- remediation actions to be taken;
- possible penalties for non-compliance include fines and imprisonment.

The QLD government has significant obligations towards private individuals who are the subject of personal information breaches. The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module covers the extent of these obligations. In the event the government department is found to have breached its obligations then the Queensland Civil and Administrative Tribunal (QCAT) has a range of orders they are authorised to enforce including;

- compensation to the individual for loss and damage suffered including for injury to feelings or humiliation suffered;
- a requirement to make particular amendments of the documents it holds; and
- reimbursement to the individual for reasonable expenses incurred in making the complaint.

The *REPORTING, RECORD KEEPING AND INFORMATION SECURITY* sub module also covers the obligations of QLD government departments to comply with all directions from QCAT and penalties that may apply if directions are not complied with.

Resource Management

The *RESOURCE MANAGEMENT* sub module informs any Queensland government department or statutory body with resources to manage and allocate what their legal obligations are under the Queensland Government Financial Accountability Framework and what procedures and processes they should have in place to ensure compliance.

A government department or statutory body includes public service offices and statutory authorities.

The *RESOURCE MANAGEMENT* sub module covers the legislative basis for legal obligations and responsibilities for government departments and statutory bodies dealing with resource management;

- The most significant act is the Financial Accountability Act 2009 (Qld); and
- also of significance is the Statutory Bodies Financial Arrangements Act 1982 (Qld).

The module also covers important subordinate legislation and guidance as to how the different pieces of legislation interact including;

- The Financial and Performance Management Standard 2009 (Qld);
- The Financial Accountability Regulation 2009 (Qld); and
- The Statutory Bodies Financial Arrangements Regulation 2007 (Qld).

In addition the module covers the role of Queensland Treasury which has responsibilities in the administration of the financial accountability framework including;

- Preparing the State Budget and making payments to departments from the consolidated fund;
- The administration of the Queensland Treasury Corporation which oversees;
 - Debt funding and management;
 - Facilities for cash management;
 - Financial risk management advisory services;
 - Specialist public finance education; and

- Issuing the Financial Accountability Handbook (the handbook) designed to assist in the development of a financial management framework.

Each accountable officer of a government or statutory body is required to establish, implement and regularly review general resource and contract management systems of the organisation in order to comply with the financial accountability framework and general legal obligations. The *RESOURCE MANAGEMENT* sub module expands on each of these systems and provides practical assistance on successful implementation;

- A practice manual that is subject to regular review and maintenance;
- A revenue management system to ensure revenue is promptly identified, collected and managed;
- An expense management system to ensure that expenses and losses are promptly identified, managed, and reported where necessary;
- An asset management system including procedures for identifying, acquiring, managing, disposing of, valuing, recording and writing off assets;
- An intellectual property management policy that complies with relevant government policies and reflects the circumstances of the specific department or statutory body;
- A cash management system that ensures cash is promptly identified, collected, paid and invested as appropriate;
- A liability and contingency management system to ensure prompt identification, recording and management;
- Processes for the design and management of grant programs administered by the department or statutory body;
- A contract management and performance guarantee system; and
- Systems to manage the procurement process in compliance with relevant government policies and international agreements.

A range of additional policy documents developed by specific government departments are also covered by the module in terms of compliance requirements and practical guidance;

- The Queensland Procurement Policy, issued by the Department of Housing and Public Works;
- The Project Assessment Framework, issued by Queensland Treasury; and
- The non-current asset policies for the Queensland Public Sector.

Accountable officers of the organisation may delegate some functions to suitably qualified people, and in particular situations delegation is compulsory. The module covers different roles within the organisation including the requirements of delegation, responsibility and authority.

The module covers possible consequences of non-compliance with obligations at the individual level, both for an accountable officer and any other relevant employees. They can include;

- Termination;
- Suspension;
- Imposition of a monetary penalty;
- Transfer or redeployment; and/ or
- Reduction of remuneration level.

The module also covers instances where non-compliance may have ramifications at the agency level or even broader government level. For example, inadequate processes for the execution and management of contracts may result in an over-commitment or inefficient allocation of resources, and failure to appropriately manage intellectual property may result in a loss of protection under the relevant legislation.

The *RESOURCE MANAGEMENT* sub module covers the obligations of government departments and statutory bodies which includes public services officers and statutory authorities. It does not include or cover obligations related to;

- › Joint ventures;
- › Government-owned corporations;
- › Proprietary limited companies (special purpose vehicles); or
- › Controlled entities of other entities.

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