

Post separation employment

Identifying the integrity risks

This fact sheet has been prepared to provide an overview of important issues for public authorities to consider when public officers depart to take up employment in the private sector. This is known as 'post separation', or 'post-public', employment.

Introduction

In a contemporary labour market, there is invariably a continuous movement of people between both the public and private sectors. Public officers may consider a move to the private sector where their skills and knowledge make them highly employable. Alternatively, private sector employees may move to the public sector at relatively senior levels and then move back to the private sector some years later. These movements bring many benefits to the individual and their respective employers. However, due to the nature of the roles these public officers have performed, public authorities should plan for and implement risk mitigation strategies to address associated integrity risks.

What are the integrity risks?

Public officers often have access to sensitive and confidential information. Integrity risks can arise when a public officer contemplates or accepts a position in the private sector where knowledge of that confidential information may be of value to the new employer.

The misuse of confidential information may ultimately result in an erosion of confidence in the public sector.

Risk factors

Risk of misconduct arises from any conflict of interest created by the potential or new employment and are greatest when the new employer is a non-government organisation that:

- operates in a related field, is a public and private partner or competes commercially with the public authority
- receives contracts, funding, loans or similar from or through the public authority
- comes under the licensing, regulatory or auditing authority of the public authority
- engages in lobbying ministers, members of parliament or government agencies.

The circumstances where risks arise include when:

- the public officer, while still employed in the public sector body, may use their position to influence decisions or elicit information and advice in favour of the prospective new employer
- the public officer may reveal confidential, sensitive or official government information to their new employer, or provide intellectual property or other information that would give the new employer an advantage in dealing with the public sector and a competitive advantage in the marketplace
- the former public officer may use their knowledge of the public sector and contacts within it and Government to lobby, or otherwise seek advantage for their new employer in dealing with the public sector
- public sector colleagues may provide the former public officer more (or less) favourable treatment in their professional dealings (e.g. licensing, regulatory compliance, auditing) on the basis of a personal relationship with the former public officer.

Addressing risks

To mitigate conflict of interest and to safeguard confidential and sensitive information in the context of post separation employment, public authorities should ensure that they can identify and manage any related risks. A comprehensive approach should consider the business context and includes ensuring the public authority's:

- risk management framework identifies and addresses risks associated with post separation employment
- policy and procedural framework is in place as a proactive measure
- communication and capability strategies enable policies to be understood and effectively implemented
- contract arrangements incorporate protective measures where appropriate
- including measures to address risks including specific action when a public officer is offered outside employment or separates from the public authority
- assigns roles and responsibilities for the oversight of risk, the management of conflicts of interest and to manage issues associated with post separation employment
- managers are skilled to address risks and conflict of interest issues arising in relation to post separation employment.

The policy framework

The public authority's policy framework for managing the risks associated with post separation employment should be in place and operating effectively to boost the public authority's response. The essential elements include:

- a standalone policy (if required) on post separation employment, or at least a checklist of actions to be taken at separation
- information management policies and procedures, outlining all requirements for the protection of confidential information, including information access and authorised disclosure
- appropriate technical system access controls, including enabling monitoring of access leading up to separation
- code of conduct which covers issues relevant to post separation employment, such as information access and disclosure, conflict of interest, requirement to notify employer etc.
- interest register, especially for high risk functions or situations
- conflict of interest policy and register, which covers any requirements to notify any potential or actual conflicts of interest
- induction training, which covers ethical conduct, integrity, security rules and instructions
- business practice documentation for internal and external stakeholders (e.g. contractual measures which outline any restrictions to former public officer involvement in certain projects within a certain time period after leaving the public sector).

Practical steps to address these risks

The following checklist comprises some key actions to consider throughout the employment tenure to address risks associated with post separation employment.

Pre-employment - Employ people with high integrity	
Appropriate pre-employment checks which consider integrity are conducted.	<input type="checkbox"/>
Expectations are communicated through advising the prospective employee of the public authority's requirements.	<input type="checkbox"/>
Where relevant, employee declaration of interests and an assurance of compliance with policies are sought. This includes seeking and recording a declaration for agreed compliance with the public authority's code of conduct.	<input type="checkbox"/>
Post separation requirements, where necessary, are negotiated and agreed, (e.g. insertions to contractual requirements).	<input type="checkbox"/>

During employment - Remind and reinforce expectations and delegations

Ongoing declarations of interest are required and made for sensitive roles.	<input type="checkbox"/>
Where necessary, there is a process for dealing with contact by former colleagues and this process is understood by all employees.	<input type="checkbox"/>
Business documentation, such as tenders and contracts, outline any restrictions to former public officer involvement in certain projects within a certain time period after leaving the public sector.	<input type="checkbox"/>

On the offer of external employment – Respond appropriately

Risk assessment is undertaken (e.g. immediately that information is received that an employment offer has been made) when an employee in a high risk area leaves, but there may be no information about future employment.	<input type="checkbox"/>
As a result of the risk assessment, action is taken to address risks and any conflict of interest (e.g. amendment to systems access, removal of employee to other duties or from involvement in certain projects).	<input type="checkbox"/>
Employee is formally reminded of the continued duty to comply with all policies, code of conduct, interest register etc.	<input type="checkbox"/>

At separation – Be diligent

Public authority resources are returned, computer network access revoked.	<input type="checkbox"/>
Departing employee is formally reminded of obligations under public authority policies, such as need to safeguard information and no unauthorised disclosure. A written declaration is sought regarding these obligations.	<input type="checkbox"/>
Audit of recent employee access to systems is undertaken in high risk situations.	<input type="checkbox"/>

After separation – Review actions and behaviours

A process is facilitated for employees to record contact by a former employee in relation to the public authority programs and projects.	<input type="checkbox"/>
Ongoing monitoring and vigilance by public authority in relation to high risk situations.	<input type="checkbox"/>

Other relevant legal considerations

- Section 81 of the *Criminal Code Act Compilation Act 1913* refers to the offence of disclosing official secrets and specifically refers to unauthorised disclosure by former public servants.
- Section 83 of the *Criminal Code Act Compilation Act 1913* refers to the offence of corruption where a public officer acts, without lawful authority or a reasonable excuse upon any knowledge or information obtained by reason of office or employment to obtain a benefit or detriment.
- Section 14 of the *Integrity (Lobbyists) Act 2016* prohibits a senior public sector executive from registration or listing as a lobbyist within 12 months of holding their public sector role.

Need further information?

For further information about post separation employment, consider the guidance in the resources and publications below or contact:

- your manager, legal, HR, or risk management team
- the Public Sector Commission's Integrity Advisory Service on (08) 6552 8888.

Acknowledgments

The Public Sector Commission has drawn on the following resources and publications in the preparation of this Background note:

- Crime and Corruption Commission, Queensland, [Post separation employment](#)
- Independent Commission against Corruption, NSW [Post separation employment webpage](#)
- Australian Public Service Commission, [Circular 2007/3: Post Separation Employment: Policy Guidelines](#) (Archived)
- Australian Public Service Commission, [Post-separation employment guidelines](#)

Other publications

- Organisation for Economic Co-operation and Development, [Post-public employment: good practices for preventing conflict of interest](#)
- Government of Canada, Policy on Conflict of interest and post-employment and [Application Guide for Post-Employment under the 'Policy on Conflict of Interest and Post -Employment'](#).