

Post-separation employment

Introduction

Over time, public sector officers acquire valuable skills, knowledge and contacts which make them highly employable, and many officers make the move into the private sector to enhance their careers. The period leading up to separation from the public sector, and after it, can create corruption risks for an agency.

This advisory will assist public sector agencies to manage the risks associated with employees moving on.

Corruption risks

Corruption risks can arise from the potential conflict of interest created by an officer's new employment and are greatest when the new employer is a non-government organisation that:

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

The major risks can be broadly categorised as **misuse of information/resources** and **undue influence**.

Misuse of information/resources can be a risk at any time for an agency, but the period just prior to and immediately after the employee leaves the public sector can be a period of heightened risk.

Undue influence is likely to become a corruption risk after the employee has left the public sector.

Misuse of information

Information is an intangible asset owned by the organisation and, like physical assets, must be safeguarded. It differs from physical assets in that it is harder to put a price on and, once taken, can be difficult to recover from those who have benefited from it.

The loss or misuse of confidential official or commercial information as a result of poor information security can damage an organisation's reputation, business activities and profitability. The loss of commercial-in-confidence information or intellectual property due to negligence or theft may open the organisation to legal proceedings for damages. If the public loses confidence in the integrity of an agency's processes and decisions, people may be less willing to participate in its legitimate attempts to gather information. (For more information, see the CCC Prevention Advisory on misuse of confidential information.)

Types of information open to misuse include:

- information protected by law, convention, or the [Queensland Government information security classification framework](#) (e.g. Cabinet-in-Confidence documents)
- commercial information (e.g. trade secrets, research, technical processes, information about competitors' business activities, client information to generate business leads)
- sensitive information about proposed changes and policies (e.g. political, industrial, legislative, regulatory or zoning)
- information provided to the agency in confidence (e.g. tenders, development proposals)
- personal information protected under the [Information Privacy Act 2009](#) (e.g. personal particulars and identity data, health information, criminal records)
- copyright materials and other intellectual property (e.g. technical inventions, manuals, artworks, journal articles, scientific results, teaching materials, statistics, survey results).

Departing employees put information and intellectual property at risk when they:

- provide a new or prospective employer with documents, research findings or materials in order to impress them or win favour
- manipulate, conceal or destroy their current employer's information to benefit their future employer
- collect information and materials they think may be useful in their new role and take these to the new workplace
- take documents and materials that they had a substantial role in creating because they consider them to be their personal property, and use them in their new role. (For more information, see the [Queensland Public Sector intellectual property principles factsheet.](#))

Undue influence

Once an officer leaves a position in the public sector, they have no more entitlement to public sector advice, access or information than any other member of the public. Nor should they be in any special position to influence an agency's decision-making because of their prior employment and relationships with former colleagues.

Employees who work in the public sector need to ensure that they do not give any preferential treatment to former colleagues when it comes to making decisions about awarding contracts, providing confidential information or engaging contractors for project work.

Employees need to remember that prior relationships with former staff members can create actual or perceived conflicts of interest that will need to be declared and managed.

Statutory prohibitions on further employment

Under the [Integrity Act 2009](#):

- Former senior government representatives¹ are prohibited from making any contact which attempts to influence state or local government decision making in any area in which they had official dealings during their last two years in office².

¹ *Integrity Act 2009* s. 45(1). The term "Government representatives" includes the Premier, ministers, assistant ministers, councillors, ministerial staff members, and CEOs and employees of any government entity including departments, government owned corporations, local governments, courts and tribunals, and any other entity that is assisted by public funds (*Integrity Act* ss. 44 – 47B).

² *Ibid.* s. 70



- Government representatives are prohibited from knowingly
 - permitting a person who has been a former senior government representative or former opposition representative for less than two years to carry out lobbying with them³
 - dealing with unregistered or restricted lobbyists.

Such breaches reflect poorly on the integrity of both the staff involved and the organisation.⁴

- Third-party lobbyists are required to be registered before undertaking lobbying activities, and are required to adhere to the [Lobbyists code of conduct](#).

Strategies to prevent corruption

Managers have an ongoing responsibility to implement efficient and effective controls to minimise the harm that could arise when an employee leaves their organisation. The principal strategy should be to foster a culture of ethical conduct throughout the organisation such that employees understand their obligations when they leave.

The following steps will help managers to anticipate, minimise and manage risks before, during and after separation.

Assess the risk

Agencies should conduct a detailed assessment of risks relating to separation. The risks will vary depending on the departing employee's role and classification and the nature of the job to which the employee is going. The positions creating the most risk will be chief executive officers, senior officers, and other key positions such as research and development, and technical expertise.

The risk assessment should be reviewed regularly.

Implement policies and procedures

Based on the risk assessments, appropriate strategies, policies and procedures should be developed to manage the identified risks.

In particular, [Queensland Government Information Standard 18 Information security](#) Principle 3, "Human resources management" requires agencies to develop and implement procedures for the separation of employees from, or movement within, the agency, to maintain the security of information.

Consider developing policies and procedures and training programs that cover the following:

Recruitment and ongoing employment policies and procedures

- Ensure that security vetting, declarations of interests and criminal history checks are carried out before people are appointed to positions with access to sensitive information.
- Consider introducing contractual provisions preventing senior officials, or other officers in positions where there is a serious risk or sensitivity, from taking employment in specific fields for specified periods after leaving your agency.

³ Ibid. s. 70

⁴ Ibid s. 71(3)



- Consider limiting job offers from external agencies to your agency's employees by including contract clauses restricting successful tenderers from employing agency employees who managed, or were materially involved in, the tender process (for a specified period during and after the process).
- Require certain employees to declare job offers.
- Maintain registers of interests.
- Improve information security.
- Promote awareness of confidentiality requirements.
- Detail a process for preventing, managing and recording any contacts by former senior government representatives who, under s. 45 of the [Integrity Act 2009](#), are restricted from lobbying government on any matter with which they had dealings as an official for a period of two years after leaving government service.

Pre-separation policies and procedures

- Introduce a separation declaration that reminds departing staff of their obligations regarding conflicts of interest, post-separation restrictions and lobbying.
- When an officer gives notice, make it their manager's responsibility in each case to ensure that any actual or perceived conflicts of interest are declared and managed.
- Remind employees that giving notice does not end their obligation to declare any possible conflict of interest and to cooperate in managing it.
- The departing employee's manager should carry out a risk assessment on the vulnerabilities of those assets available to, or under the control of, the employee and implement additional controls when there are heightened risks associated with the impending departure.
- Develop a separation checklist to ensure that identification cards, agency equipment and official documents are returned and computer network rights are revoked.
- Ensure that staff are aware of the legal restrictions on post-separation dealings with the agency.

Align with the code of conduct

Ensure that the agency's code of conduct and other policies include clear statements of employees' obligations regarding:

- putting the public interest above all private interests
- declaring and transparently managing conflicts of interest
- information security
- contacts and dealings with lobbyists
- gifts and benefits
- separation processes, including management of potential conflicts of interest
- post-separation employment.



Provide training and awareness programs

Ensure that key issues are covered at induction and, importantly, also provide periodic reminders and refresher training. For example, when a departing staff member goes to a client organisation, business or competitive industry, remind remaining staff that the departing employee is to be given no better or different treatment or service than any of your agency's other clients.

It is important to educate your staff on the policies and procedures that may affect them directly when they leave your employment, especially their obligations in regard to conflicts of interest, lobbying and information security.

Further information and resources

- [Integrity Act 2009](#)
- [Public Records Act 2002](#)
- [Public Sector Ethics Act 1994](#)
- [Public Service Act 2008](#)
- [Queensland Government information security classification framework](#)
- [Queensland Government Information Standard 18 Information security](#)
- [Right to Information Act 2009](#)

- Crime and Corruption Commission: [Corruption Prevention Advisories](#)
- Crime and Misconduct Commission 2008, [Public duty, private interests](#)
- [Crime and Misconduct Commission & Independent Commission Against Corruption 2004](#)

All Queensland legislation is available at www.legislation.qld.gov.au



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