

# PREVENTION in focus

## Conflicts of interest and disclosing confidential information — grounds for dismissal



*Don't let personal relationships cloud your judgement in the workplace*

In February 2021, the Queensland Civil and Administrative Tribunal (QCAT) made a finding that a former police officer engaged in corrupt conduct and the conduct was so serious that it would have resulted in his dismissal had he not already medically retired. The officer's conduct included a failure to disclose his relationship with a suspect and the disclosure of confidential information to that suspect.

### What you should know

- A failure to disclose a prior relationship with a person you deal with in your work may amount to corrupt conduct.
- The disclosure of confidential information to a person can constitute corrupt conduct.
- The CCC and public sector agencies can apply to QCAT for a finding that a person who is, or has been, employed in a public sector agency has engaged in corrupt conduct.
- Where the person has already resigned or retired, QCAT can make an order stating what sanction they would have imposed if the person was still employed (a 'disciplinary declaration').

#### For officers involved in law enforcement or integrity units:

- A failure to properly investigate and record information about a possible offence committed by a person known to you in a personal capacity can constitute corrupt conduct.

This Prevention in focus aims to highlight the importance of dealing appropriately with a conflict of interest and the consequence of disclosing confidential information. It also explains that a person who resigns prior to a disciplinary matter being finalised can be the subject of a disciplinary declaration that can impact their future employment in the public sector.



*Disclosure of confidential information — such as information that leads to the identity of an informant or a Public Interest Discloser — is a very serious form of corrupt conduct.*



## Conflicts of interest

A conflict of interest occurs when an employee's private interests interfere, or appear to interfere, with their duty to put the public interest first. A conflict can manifest itself in many ways and in areas related to professional duties and obligations. The types of conflicts that most commonly occur involve:

- Family and close associates
- Secondary employment
- Previous employment
- Asset ownership (e.g. property, investments)
- Memberships (e.g. political, professional, sporting, social or cultural organisations).

A failure to disclose and properly manage a conflict of interest — such as when your work requires you to take action or make a decision in relation to a person with whom you have a relationship — can constitute corrupt conduct.

## Disclosing confidential information

Much of the information public sector employees come across in the performance of functions and powers is likely to be confidential for one reason or another. Various legislative sections will mandate that public sector employees must not disclose confidential information other than in appropriate circumstances, including in the performance of their work.

Improperly disclosing confidential information can be a criminal offence. It is a breach of the trust placed in employees to carry out their duties ethically and honestly.

Disclosure of confidential information — such as information that leads to the identity of an informant or a Public Interest Discloser — is a very serious form of corrupt conduct.

## Disciplinary declarations

Officers who engage in serious corrupt conduct will face disciplinary proceedings that may result in their dismissal.

Public sector officers who resign or retire in the hope they can avoid disciplinary action can still be the subject of a disciplinary declaration which can be made by their former employer (e.g. under chapter 7A of the *Police Service Administration Act 1990* or section 188A of the *Public Service Act 2008*) or by QCAT under section 219IA of the *Crime and Corruption Act 2001*.

When a public sector agency is conducting checks on a job applicant who has previously worked in the public sector, they can obtain information about any disciplinary declarations made by a former employer or QCAT. At a minimum, agencies should require applicants to disclose if they have been the subject of any prior disciplinary proceeding or post separation disciplinary declaration.

*“...failure to disclose his conflict of interest and willingness to assist [NE] with his police matter had the potential to undermine any further police investigation and undermines public confidence in the QPS.”*

Member Browne



## Case study



### QCAT proceedings against a former police officer

The proceedings were commenced by the CCC who sought a finding that the former police officer (the officer) had engaged in corrupt conduct and an order that he be dismissed from the Queensland Police Service (QPS). The officer medically retired before the proceedings could be finalised, so the CCC then sought an order for a declaration that if the officer had still been employed by the QPS, he would have been dismissed.

#### The failure to disclose a conflict of interest

The officer and [NE] were acquaintances. QPS officers executed a search warrant at NE's residence which resulted in NE and his girlfriend being transported to a police station. After they were released and as they were leaving the station, NE saw the officer and they discussed the reason for NE being at the police station. The officer then drove NE and his girlfriend home in an unmarked police car (having obtained permission from his shift supervisor but without having disclosed his relationship with NE). The officer agreed to assist NE 'as a friend' with a minor drug possession charge that had been laid against NE and gave NE his business card.

#### The failure to investigate a criminal offence

Ten days later, the officer arrested JS who told him that NE had supplied him with the drug 'ice'. The officer did not question JS about this information, make a record of the information, conduct any further investigations into what he had been told, or tell another officer so they could investigate.

#### Disclosure of confidential police information, including informant details

When NE coincidentally contacted the officer on the same day JS was arrested, he told NE that someone currently in police custody was saying NE had supplied him with drugs. He also disclosed the approximate location from where JS had been picked up by police. This information was sufficient for NE to work out it was JS who had made the allegations against NE. The information supplied by the officer also gave NE the opportunity to protect himself from any future investigation or prosecution, for example, by ceasing to supply drugs and/or disposing of any evidence.

#### QCAT's decision

The day before the hearing was due to begin, the officer conceded that his conduct did constitute corrupt conduct, and the appropriate order for QCAT to make was a disciplinary declaration that he would have been dismissed had he not already medically retired.

QCAT accepted that this was the appropriate order to make.



## Related publications/ further information

- [Misuse of confidential information: What you need to know](#) (a short animation) (June 2020)
- [Improper access to public sector databases, no. 2](#) (May 2019)
- [Conflicts of interest — are you managing yours appropriately?](#) (June 2018)
- [The potential cost of failing to perform duties as a police officer](#) (May 2018)
- [Improper access to public sector databases](#) (February 2018)
- [Managing conflicts of interest in the public sector — guidelines and toolkit](#) (November 2004)

## Points to remember

The following list should help you identify any corruption risks that may arise from mixing your role as a public sector employee with your personal relationships.

- 1. Remember your official duties and obligations**  
As a public sector employee, your primary responsibility is to act in the best interests of the Queensland community.
- 2. Identify, declare and manage any conflict of interest, perceived or actual**  
You are obliged to report all actual, potential and perceived conflicts of interest. Some agencies require you to report and manage any declarable associations.
- 3. Set clear boundaries in personal relationships**  
You should be cautious when asked by relatives, friends and business acquaintances for assistance with any action that could involve the business of your agency. Even if they are unaware that they are creating a potential conflict for you, you should make clear that you are unable to assist, and declare the approach to your supervisor.
- 4. Exercise judgement about your social networks**  
Within your social networks you may meet people who see your position as one that can facilitate benefits for them. Be mindful of your social settings, who you engage with and how much information you share, particularly if you work in finance, contract management, law enforcement, regulatory compliance, or procurement. Be careful of what you reveal about yourself and your job through social media.



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