

**OFFICIAL**



**Australian Government**

**Defence**

## **INTEGRITY POLICY**

This policy is an interim replacement for the 2019 Integrity Policy Manual.  
It will be reviewed and replaced in 2022–23.



This Policy is to be read in conjunction with [Defence Instruction Administrative policy Annex C – AG5 – Conflicts of Interest and Declarations of Interest](#).

A handwritten signature in black ink, appearing to read 'D. Haddad'.

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31 March 2022

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## AMENDMENT CERTIFICATE

<b>Amendment number</b>	<b>Amendment Description</b>	<b>Effective date</b>
AL1	Minor editorial amendments	March 2021
AL2	Additions relating to procurement, minor editorial amendments	April 2022
AL3	Minor editorial amendment to Annex 1A	May 2022
AL4	Additions relating to the appointment of Defence's authority for Conflicts of Interest, inclusion of obligations relating to Defence Committees and related forums and other minor editorial amendments	Dec 2022

## INTEGRITY POLICY

Issued by:	The Integrity Policy has been issued by First Assistant Secretary Defence Integrity with the authority of the Associate Secretary.
Purpose:	This policy is a collection of administrative policies that enables the Secretary and Chief of the Defence Force to set guidelines for the promotion and promulgation of integrity within Defence.
Scope and applicability:	<p>This policy is an administrative policy framework document. It applies to all Defence personnel.</p> <p>The terms of a relevant contract may extend the application of this policy to a person/s engaged under a contract. <a href="#">Defence Instruction – Administrative Policy</a> should be read in conjunction with this policy. In accordance with <a href="#">Defence Instruction – Administrative Policy</a>, the Secretary and the CDF expect Defence personnel to comply with this policy.</p>
Management:	This policy will be reviewed and replaced in 2022–23 to ensure it is in proper alignment with the Administrative Policy Framework.
Availability:	This policy is available at <a href="#">Administrative policy (defence.gov.au)</a> . Its currency cannot be guaranteed if sourced from other locations. It is available for public release.
Policy domain:	Administration and Governance
Accountable officer:	Associate Secretary
Policy owner:	First Assistant Secretary Defence Integrity
Policy contact:	<a href="mailto:defence.integrity@defence.gov.au">defence.integrity@defence.gov.au</a>
Cancellation:	NIL
Definitions:	Definitions that apply to this policy are at <a href="#">Annex 1A</a> .

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**CHAPTER 1****CONFLICTS OF INTEREST AND DECLARATIONS OF INTEREST**

## INTRODUCTION

1.1 Public confidence in the integrity of Defence and its personnel is vital to the proper operation of Government. Defence Personnel need to be aware that their private interests, both financial and personal, could conflict or reasonably be seen to conflict with their official duties. Defence Personnel need to know how to recognise Conflicts of Interest and what to do when conflicts arise.

1.2 Conflicts of Interest, whether actual, potential or perceived, are part of the broader issue of integrity in Defence. Defence Personnel, and those who undertake business with Defence are expected to perform their duties and contractual obligations in accordance with a range of legal obligations, directive requirements and policy expectations in relation to avoiding and managing Conflicts of Interest. In this context, Defence has affirmed its commitment to being a values-based organisation that epitomises integrity. The concept of integrity is solidified in Defence by its inclusion in the Defence Values and Behaviours. To exhibit integrity, Defence Personnel must behave honestly, ethically and demonstrate the highest standards of probity in their personal and professional conduct.

1.3 This chapter sets out Defence's requirements for the general reporting and management of Conflicts of Interest to ensure clarity and consistency within the workplace. The formal reporting requirements for specific Defence Personnel submitting a Declaration of Interests is also set out in this chapter.

## POLICY STATEMENT

1.4 Conflicts of Interest and their associated risks are an inevitable fact of organisational life. The identification and management of risk associated with Conflicts of Interest is fundamental to ensuring the highest levels of integrity and public trust are achieved and maintained while enabling the efficient and effective operation of Defence.

1.5 Defence Personnel have a primary responsibility to act in the public interest and avoid or effectively manage actual, potential or perceived Conflicts of Interest between their private interests and official duties. Defence Personnel, person/s engaged under a contract and suppliers must avoid or effectively manage Conflicts of Interest consistent with their legal obligations, Commonwealth policy and Defence Instructions, policies and values.

## SCOPE

1.6 This Chapter applies to all Defence Personnel, person/s engaged under a contract and suppliers where compliance is a term of their engagement with Defence.

## DEFINITIONS

1.7 A [list of definitions](#) is available to support the chapters in this document.

## PRINCIPLES

1.8 Defence's Conflicts of Interest policy is based on the following underpinning principles:

- a. **Protect the public interest** by demonstrating high levels of integrity, upholding Defence values which reinforce the need to avoid Conflicts of Interest and maintaining impartiality in dealing with the public, industry and service providers.
- b. **Support transparency and accountability** by taking a consistent and open approach to identifying, disclosing and managing Conflicts of Interest.
- c. **Promote individual responsibility for integrity and impartiality** by encouraging Defence Personnel to accept responsibility and accountability for their individual behaviour.
- d. **Build a supportive organisational culture** by implementing a policy that supports and encourages efficient, effective and ethical decision-making when conflicts arise.

## WHAT ARE CONFLICTS OF INTEREST

1.9 Conflicts of Interest occur when there is an interaction between a person's official and/or contractual duties and private interests. Defence Personnel and person/s engaged under a contract must keep the following factors in mind when assessing whether actual, potential or perceived Conflicts of Interest exist:

- a. **An actual Conflict of Interest** is one where there is a conflict between a person's official/contractual duties and responsibilities and their private interests.
- b. **A potential Conflict of Interest** arises where a person has private interests that may conflict with their official/contractual duties.
- c. **A perceived Conflict of Interest** can exist where a third party could reasonably form the view that a person's private interest may influence the performance of their official/contractual duties, now or in the future. This can occur whether there is a conflict or not.

1.10 Conflicts of Interest can arise from Defence Personnel and person/s engaged under a contract avoiding personal losses or detriment, as well as gaining personal advantage—whether financial or otherwise—for themselves or a third party.

## PRIVATE INTERESTS

1.11 An interest for the purposes of this document means anything that can have an impact on an individual or group. The term ‘private interests’ includes not only an individual’s own personal, romantic, professional or business interests, but also the personal, professional or business interests of individuals or groups with whom they are closely associated. This can include partners, relatives, friends and associates. The term encompasses both positive and negative relationships and interests.

1.12 Private interests can be divided into two types, specifically pecuniary and non-pecuniary:

- a. **Pecuniary interests** involve an actual, potential or perceived financial loss or gain. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a partner, relative, friend or close associate) own property, hold shares, hold a position in a company bidding for government work, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source.
- b. **Non-pecuniary interests** do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement with another person or group.

## OFFICIAL DUTIES

1.13 Official duties are duties performed by an individual on behalf of the Commonwealth in accordance with relevant legislation, relevant Defence documentation (such as a duty or tasking statement) and any lawful and reasonable direction or lawful general order given by a manager or commander. Defence Personnel have an obligation to put the public interest above their private interests when carrying out their official duties.

1.14 The public interest can be defined as the interest(s) of the public at large or a considerable portion of it. Public interest could, but need not necessarily, involve the personal rights of individuals or interests of a particular group.

1.15 Determining the public interest in a particular situation can be complex, but on a practical day-to-day level, Defence Personnel can best fulfil their duty to put the public interest first by:

- a. carrying out their official duties fully and effectively in accordance with relevant legislation and policy;



- b. carrying out their official duties in accordance with Defence Values and the Australian Public Service (APS) values and behavioural codes as appropriate; and
- c. identifying and reporting any Conflicts of Interest and seeking assistance to avoid or manage it; and identifying any actual, potential or perceived Conflicts of Interest that they have and ensuring that these are managed or avoided appropriately.

1.16 Conflicts of Interest can arise in situations where personnel perform more than one official role. This is particularly common in regional and rural settings due to the size of the communities. In such situations transparency is vital.

### SITUATIONS THAT MAY GIVE RISE TO CONFLICTS OF INTEREST

1.17 There are many situations where Conflicts of Interest may occur. Some of these include;

- a. offers of gifts, benefits or hospitality;
- b. outside employment;
- c. post-separation employment;
- d. some volunteer or unpaid work situations;
- e. use of Commonwealth resources;
- f. personal and family relationships within the workplace or with person/s engaged under a contract;
- g. access to official information;
- h. public comment;
- i. political participation (including lobbying);
- j. employment decisions;
- k. procurement decisions; and
- l. sponsorship.

### LEGISLATIVE FRAMEWORK

1.18 This policy is underpinned by the [Public Service Act 1999](#), the [Defence Act 1903](#), the [Defence Force Discipline Act 1982](#) and the [Public Governance and Accountability Act 2013](#).

## **ROLES AND RESPONSIBILITIES**

### **DEFENCE PERSONNEL, PERSON/S ENGAGED UNDER A CONTRACT, CONTRACT MANAGERS AND POTENTIAL SUPPLIERS**

1.19 All Defence Personnel and person/s engaged under a contract are responsible for identifying, reporting and managing situations where actual, potential or perceived Conflicts of Interest arise.

1.20 All Defence Personnel who award and/or manage contracts, person/s engaged under a contract, and potential suppliers must ensure that any Conflicts of Interest are documented and appropriately managed for all procurement processes and throughout all phases of the procurement lifecycle.

1.21 The delegate for a procurement activity must be notified immediately of any Conflicts of Interest that could affect the integrity of a procurement process. If Conflicts of Interest occur in relation to an existing contract, Defence Personnel and person/s engaged under a contract must report these conflicts to the contract manager or procurement panel.

1.22 Potential suppliers that are involved in Defence procurement processes must retain written records of decisions made relating to Conflicts of Interest, including, if applicable, a determination that no conflicts exist.

1.23 All Defence Personnel who preside as a chair of a committee<sup>1</sup> must ensure that during their term as chair of the committee, any Conflicts of Interest are documented and appropriately managed. This obligation includes obtaining Conflict of Interest Declarations for committee members who are person/s engaged under a contract.

1.24 All Defence Personnel and person/s engaged under a contract are responsible for the day-to-day management of any identified Conflicts of Interest and must adhere to the Conflicts of Interest management strategies where they have been established.

### **MANAGERS AND COMMANDERS**

1.25 Managers and commanders are responsible for providing the decision maker with guidance on potential management strategies and any additional information that may inform the decision-making process. Managers and commanders must monitor the implementation of management strategies and report suspected breaches or implementation concerns to the decision maker. Managers and commanders are responsible for the day-to-day management of Conflicts of Interest.

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<sup>1</sup> "Committee" includes forums such as Boards, Working Groups and/or Oversight Panels.

## BRANCH HEADS AND ONE STARS

1.26 Branch Heads and One Stars are responsible for determining whether actual, potential or perceived Conflicts of Interest exist for non Senior Executive Service (SES) or Star Ranked personnel and person/s engaged under a contract. They must develop and implement an effective Conflicts of Interest management strategy where any conflicts are identified. Branch Heads and One Stars must keep the conflicted individual and their manager, commander or relevant contract manager informed about the decision making process. Branch Heads and One Stars must ensure that their decision and its rationale are recorded on the Conflict of Interest Declaration web form [AE916](#).

1.27 After recording their decision and rationale, Branch Heads and One Stars are responsible for submitting the Conflict of Interest Declaration [web form AE916](#) to the Defence Integrity Division via the [Integrity Forms mailbox](#).

## GROUP HEADS AND SERVICE CHIEFS

1.28 Group Heads and Service Chiefs are responsible for determining whether actual, potential or perceived Conflicts of Interest exists for Branch Heads or One Stars and Division Heads or Two Stars. They must develop and implement an effective Conflicts of Interest management strategy where conflicts are identified. Group Heads and Service Chiefs must ensure that their decision and its rationale are recorded on the Conflict of Interest Declaration [web form AE916](#).

1.29 After recording their decision and rationale, Group Heads and Service Chiefs are responsible for submitting the Conflict of Interest Declaration [web form AE916](#) to the Defence Integrity Division via the [Integrity Forms mailbox](#).

1.30 Group Heads and Service Chiefs are responsible for ensuring that Defence Personnel within their Group or Service are aware of the policy on Conflicts of Interest. They should also provide support to their personnel to ensure Conflicts of Interest are managed appropriately. Group Heads and Service Chiefs must bring any serious Conflicts of Interest to the attention of the Secretary or Chief of the Defence Force respectively. Group Heads and Service Chiefs are responsible for managing Declaration of Interests (see from paragraph 1.76).

## DEFENCE INTEGRITY DIVISION

1.31 The Defence Integrity Division, through First Assistant Secretary Defence Integrity is responsible for:

- The central oversight of Conflicts of Interest for all Defence personnel and person/s engaged under a contract, including SES and Star Ranked personnel, for compliance, assurance and reporting purposes.
- Communication of integrity risks and their management, and ensure consistency of integrity policy advice.

- Receiving reports of breaches of Conflicts of Interest policy considered to be Notifiable Incidents in accordance with [Defence Instruction Administrative policy Annex C – AG4 – Incident reporting and management](#).

1.32 All signed declarations and letters of notification must be provided to the Defence Integrity Division via the [Integrity Forms mailbox](#).

## REPORTING PROCESS

### CONFIDENTIALITY

1.33 Conflicts of Interest often involve situations that give rise to confidentiality and privacy obligations. It is important to maintain confidentiality on sensitive and private Conflicts of Interest issues consistent with statutory requirements, in compliance with contractual arrangements and in keeping with the Defence 'need to know' principle. When reporting sensitive Conflicts of Interest issues, the reporting should be confidential and based on evidence, and the issues must not be discussed in an open area or with any person who is not required to know of the issue.

1.34 Managers and commanders should also be aware of their privacy and confidentiality obligations when storing and accessing information relating to the ongoing management of Conflicts of Interest.

### DEFENCE OFFICIAL REPORTING OF CONFLICTS OF INTEREST

1.35 [Defence Instruction Administrative policy Annex C – AG5 – Conflicts of Interest and Declarations of Interest](#) requires Defence Personnel to report Conflicts of Interest as soon as they are identified. Conflicts of Interest must be notified in writing, using the Conflict of Interest Declaration [web form AE916](#), through the appropriate manager or commander for determination by the appropriate decision maker. If Conflicts of Interest occur relating to a contractor tendering process, Defence personnel must also report these to the relevant contract manager or procurement panel.

1.36 The written record of declaration should include details of the circumstances that give rise to a belief that there is actual, potential or perceived Conflicts of Interest. Defence Personnel are required to identify in the form the strategy for managing the Conflict of Interest. The Conflict of Interest Declaration [web form AE916](#) and/or Letter of Notification – Post Separation Employment [web form AE918](#), and other written records must be stored in Objective and retained for future reference.

1.37 All finalised Conflict of Interest declarations must be provided to the Defence Integrity Division via the [Integrity Forms mailbox](#) for compliance, assurance and reporting purposes.

1.38 Defence Personnel and person's engaged under a contract are responsible for notifying managers, commanders, procurement panels and contract managers when the circumstances of a Conflict of Interest change.

**Case study**

Warrant Officer First Class Stacy Keen is posted to a regional base in Victoria in her role with the Capability Acquisition and Sustainment Group. WO1 Keen will be part of a team that manages the contracts for perishable food supplied to the base.

WO1 Keen's brother Phillip is a supplier of perishable foods who has previously been contracted to supply food to the base. Phillip does not currently have a contract with Defence and supplies food on an ad hoc basis as requested by the base.

WO1 Keen is not in a position that involves awarding contracts or selecting suppliers; however she does sometimes exercise financial delegations to finalise payments to suppliers.

Knowledge Check:

1. Does an actual, potential or perceived Conflict of Interest arise on these facts?
2. What is WO1 Keen responsible for?
3. If WO1 Keen is assigned duties relating to Phillip's account, such as paying invoices, ordering stock or drafting a request for tender, what should she do?

Answers:

1. Even though WO1 Keen does not have the authority to select her brother as a supplier or award a Defence contract to him, there could still be an actual, potential or perceived Conflict of Interest on these facts. An actual Conflict of Interest would arise if WO1 Keen authorised payment to Phillip for base supplies.
2. WO1 Keen is responsible for reporting the Conflict of Interest, in writing via the Conflicts of Interest Declaration [web form AE916](#), to her commanding officer through her manager. She is also responsible for ensuring her compliance with managing the conflict. For example, one management strategy could be that WO1 Keen does not exercise any financial delegations on or relating to work completed by her brother. In the event that her commanding officer adopts this strategy, WO1 Keen is responsible for ensuring she doesn't breach the agreed management strategy. Defence personnel are individually responsible for ensuring they manage the Conflict of Interests as agreed with their manager or commander.
3. If WO1 Keen is assigned duties that breach her agreed Conflict of Interest management strategy, she should raise the issue immediately with her commanding officer and request instructions in writing about how to proceed.

## REPORTING BY THIRD PARTIES OF SUSPECTED CONFLICTS OF INTEREST

1.39 When Defence Personnel and person/s engaged under a contract have sound reason to believe that another individual has Conflicts of Interest that may affect their official or contractual duties, and the situation has not been recognised or declared, they should raise the issue with that individual. If, for any reason, the issue cannot be raised with the individual or it is not resolved to the satisfaction of the person raising the issue, they must report the matter in writing to the appropriate decision maker through their manager or commander. Subject to privacy considerations, the decision maker may provide appropriate information to Defence Personnel who have raised Conflicts of Interest concerns on the outcome of any issue raised.

1.40 If suspected Conflicts of Interest has been reported, the decision maker will advise the conflicted individual as soon as practicable that a report has been made. The conflicted individual should be given an opportunity to respond and must provide all reasonable assistance to the decision maker.

### DECISION-MAKING PROCESS

1.41 A decision maker for non SES or Star Ranked personnel will be no lower than a SES Band 1 or One Star. A decision maker for Branch Heads and One Stars or Division Heads and Two Stars will be the Group Head or Service Chief. A decision maker for SES Band 3 or Three Stars will be the Secretary or CDF.

1.42 Initially, the decision maker must determine whether a matter involves Conflicts of Interest (whether actual, potential or perceived). This determination should be made as soon as practicable after being advised of the matter. If a matter is determined to be a Conflict of Interest, the decision maker must consider all the circumstances to identify the best way to manage the situation.

1.43 If the decision maker determines that the facts do not establish a Conflict of Interest, they are responsible for recording, via the Conflict of Interest Declaration [web form AE916](#), the justification for their decision. A finalised and signed record must be stored in Objective and retained for future reference, and a finalised copy provided to the Defence Integrity Division via the [Integrity Forms mailbox](#).

### STEPS TO EVALUATE AND MANAGE CONFLICTS OF INTEREST

1.44 The relevant decision maker must follow the steps below to evaluate and manage Conflicts of Interest:

- a. Obtain all relevant facts to ensure a complete understanding of the situation:
  - (1) If Conflicts of Interest have been reported by a third party, seek information in writing from the person alleged to have a conflict.
- b. Review the situation to determine the nature and scope of any alleged

Conflicts of Interest giving consideration to:

- (1) the person's position, duties and the level of their decision making responsibilities;
- (2) the person's decision making authority;
- (3) the levels of review to which the person's decisions are subject;
- (4) the proximity and significance of the matter causing the conflict;
- (5) the potential public perception of the alleged Conflicts of Interest and its management; and
- (6) the level of risk associated with any conflicts.

c. Determine if actual, potential or perceived Conflicts of Interest exist:

- (1) If there are no Conflicts of Interest, notify parties of the decision and ensure that the justification for the decision is recorded on the Conflict of Interest Declaration [web form AE916](#), stored in Objective for future reference, and provided to the Defence Integrity Division via the [Integrity Forms mailbox](#); or
- (2) If there are any Conflicts of Interest, proceed to next step.

d. In consultation with the conflicted person, determine an appropriate strategy to address the Conflicts of Interest. There are a number of options available for managing Conflicts of Interest. These range from simply disclosing relevant details to relinquishing the private interest. The appropriate option or combination of options used in any situation will depend on the circumstances. Commonly accepted strategies include:

- (1) **Restrict**—restrictions are placed on the individual's involvement in the matter. An example would be restricting a delegate from exercising a financial delegation that relates to a business they have financial interests in. Individuals can also be reminded of their confidentiality obligations to Defence by managers, commanders and contract managers ensuring a Statutory Declaration is signed. A [Statutory Declaration](#) template has been developed with suggesting wording available.
- (2) **Recruit**—a Defence Official (non-conflicted) third party can be appointed to oversee part or all of the process that deals with the matter. An example would be having an unbiased individual from a different area processing specific transactions that could relate to any Conflicts of Interest.
- (3) **Remove**—the individual so that they do not participate in the matter at

all. This may be achieved by a temporary or permanent transfer of the conflicted individual to another position.

- (4) **Relinquish**—the individual voluntarily relinquishes the private interest giving rise to the Conflicts of Interest. An example might be the member/employee/contractor selling their shares in a company where Conflicts of Interest exist with their official or contractual duties.
- e. Inform the conflicted person and any other relevant persons of the management strategy adopted to manage the Conflicts of Interest.
  - f. Implement the management strategy.
  - g. Ensure appropriate records of the matter, including details of the circumstances, the nature of the conflict and the steps taken or strategies adopted to manage it, are recorded on the Conflict of Interest Declaration [web form AE916](#) and stored in Objective for future reference. A copy of the Conflict of Interest Declaration [web form AE916](#) must also be submitted to the Defence Integrity Division via the [Integrity Forms mailbox](#) for compliance, assurance and reporting purposes.
  - h. Monitor and review the matter to ensure that the strategy is working effectively and the circumstances have not changed.

## FURTHER CONSIDERATIONS

1.45 Acceptable Conflicts of Interest management strategies are not limited to those identified by this policy. Decision makers are encouraged to tailor innovative solutions within the framework presented in this policy to address the Conflicts of Interest and broader integrity risks to Defence. The overarching requirement is to ensure that the Conflicts of Interest are managed in a reasonable and publicly defensible manner.

1.46 In conducting this evaluation process, decision makers should be mindful of the need to ensure that adversely affected persons are afforded procedural fairness. This includes engagement in consultation and providing an opportunity for affected persons to comment on or make their position known with respect to an intended management strategy.

1.47 The decision maker should also take into account the effect that the selected strategy could have on the affected individual's family. For example, a posting out of geographic location may cause academic and employment problems for an individual's family.

1.48 The Commonwealth will not accept liability for any losses suffered as a result of voluntary relinquishment. It is a matter of personal choice whether a Defence



Official decides to relinquish personal assets that might give rise to Conflicts of Interest.

### Case study

Squadron Leader Peter Henry is a member of the Reserves who has full time civilian employment with a large aviation company, Qanvir. SQNLDR Henry has taken leave without pay from his civilian employment and is engaged in a 12-month period of continuous full time service.

As part of his Reserve service, SQNLDR Henry is working on a large project to replace certain aircraft in the Defence fleet. The major service provider is Qanvir. SQNLDR Henry has authority to make decisions on budgeting and the scope of future work for the project that may impact his civilian employer.

Knowledge Check:

1. Does an actual, potential or perceived Conflict of Interest arise on these facts?
2. What type of Conflict of Interest management strategy might be appropriate to protect Defence's interests in this situation?

Answers:

1. An actual Conflict of Interest exists on these facts. SQNLDR Henry has the authority to make decisions that will have a significant impact on his employer Qanvir.

2. There are several major concerns to address in this situation:

That SQNLDR Henry may be asked by his employer to apply his authority within Defence to provide them with a commercial advantage.

That SQNLDR Henry's insider information might be exploited by Qanvir once he returns from leave.

Even if a suitable Conflict of Interest management strategy is devised the possibility of negative perception of the conflict that may continue to exist.

There are several strategies that could be adopted to address these issues:

**Restrict:** SQNLDR Henry's decision making authority relating to budgeting and future scope of work could be restricted to decisions that will not impact his civilian employer. Systems access should be strictly enforced and SQNLDR Henry should have the minimum systems access necessary to complete his role. Where a document is commercially sensitive to the project, additional approval mechanisms could be put in place to ensure that SQNLDR Henry's access has been carefully considered by Defence Personnel at the appropriate rank/level.

**Recruit:** An independent third party could be recruited to monitor SQNLDR Henry's work and ensure that appropriate justifications are provided for conflicted decisions. Alternatively, the decisions that may

impact on Qanvir could be delegated to an independent third party in another area to ensure that no undue influence is exercised.

**Remove:** If restricting and recruiting are not considered adequate (for example, because the restrictions would have the effect that SQNLDR Henry is unable to perform his current duties), SQNLDR Henry could be removed from the project and assigned new duties that do not affect his civilian employment.

**Relinquish:** It is unlikely that SQNLDR Henry would be willing to resign from his civilian position, but doing so could also remove the Conflicts of Interest.

**Deed Poll:** Whenever third parties engaging Defence employees raise a Conflict of Interest risk, the provision of a Deed Poll should be considered. Defence can negotiate with Qanvir to limit or modify SQNLDR Henry's duties when he returns to his civilian role to minimise the Conflicts of Interest risk.

**Statutory Declaration:** SQNLDR Henry could be required to sign a Statutory Declaration that acknowledges his statutory duties relating to confidentiality and commercially sensitive information. If Defence has negotiated conditions in a Deed Poll with Qanvir, these conditions should also be referenced in the Statutory Declaration.

**Other:** SQNLDR Henry's Branch Head or One Star may also design a unique or innovative management strategy that better meets Defence's capability in this specific circumstance.

## CONFLICTS OF INTEREST IN DEFENCE CONTRACTING AND PROCUREMENT

1.49 Contracting and procurement activities carry a heightened Conflicts of Interest risk due to the nature of the interactions between Defence and third-party organisations.

1.50 Defence must actively mitigate and/or manage the risk of Conflicts of Interest in all procurement and contracting activities.

1.51 Defence Personnel involved in the evaluation and selection of suppliers/contractors, via all tender arrangements, must be aware of their obligations to disclose and document that conflicts of interest (actual, potential and perceived) have been considered and managed in accordance with this document and the Defence Commercial Framework.

1.52 Defence Personnel involved in the evaluation and selection of suppliers/contractors must document and retain on the relevant procurement file that the following has occurred:

- a. Conflict of Interest Declarations from both Defence Personnel involved in the procurement planning and approach to market process and declarations

made by tenderers through the conditions of tender requirements have been considered and documented as part of the tender evaluation process; and

- b. Documented acknowledgement that to the best of the Tender Evaluation Board's knowledge, after making reasonable due diligence inquiries, no undeclared Conflicts of Interest exist.

1.53 If Conflicts of Interest are identified at any time during the procurement process, it must be discussed with the Tender Evaluation Board and procurement delegate, and a Conflict of Interest Declaration [web form AE916](#) completed and submitted in accordance with the provisions outlined in this document.

## ENGAGING EXISTING SUPPLIERS/CONTRACTORS

1.54 Defence encourages Defence Personnel to support positive and productive working relationships with person/s engaged under a contract.

1.55 There is no absolute prohibition on a person/s engaged under a contract providing services prior to a tender process and winning a bid in that tender process while engaging with Defence. Each situation must be considered carefully to determine whether any Conflicts of Interest that arise can be appropriately documented and managed and whether it is appropriate to do so in the circumstances.

1.56 Person/s engaged under a contract and the contract manager or procurement officer, as appropriate, must work collaboratively to document a Conflicts of Interest Management Agreement for every contract or tender where they propose to be engaged prior to the tender process and place a bid in that process. The Management Agreement must be tailored to address the unique Conflicts of Interest concerns for each specific contract or tender.

1.57 This Management Agreement must be documented in writing and stored in Objective for future reference. The Management Agreement must detail how the company will address any actual, potential or perceived Conflicts of Interest that exist or may arise.

1.58 The provision of a Conflicts of Interest Management Agreement does not guarantee that a person/s engaged under a contract will be permitted to engage prior to the tender process and place a bid in every situation. The production of a Conflicts of Interest Management Agreement is solely to provide the decision maker with information to make an informed decision.

1.59 Before making a decision about whether a person/s engaged under a contract can operate in both capacities in any contract or tender, the decision maker must be satisfied of the following:

- a. The risks to Defence presented by any Conflicts of Interest (actual, potential or perceived) in this situation are adequately managed by the arrangements in the Conflicts of Interest Management Agreement and any residual risk is

justified by the business need to proceed with the engagement;

- b. The person/s engaged under a contract will comply with the specific terms of the Management Agreement; and
- c. Defence is not exposing itself to additional unnecessary risks by engaging the provider on the basis of the Management Agreement.

1.60 The decision maker may request other additional information from person/s engaged under a contract to determine whether it is adequate and appropriate to manage the Conflicts of Interest, or whether the person/s engaged under a contract will be restrained from working before the tender process and placing a bid in that specific situation.

1.61 The decision maker will seek the advice of the procurement panel before engaging a person/s engaged under a contract in both capacities, where relevant.

1.62 The decision maker must file all documentation in relation to their decision making in the relevant procurement file within Objective.

## **RIGHTS OF REVIEW**

1.63 If a conflicted individual disagrees with the proposed course of action suggested or determined by the decision maker, they may seek review of the decision using established Defence review processes. This option is not available to person/s engaged under a contract, who should refer to the dispute resolution options within their contract of engagement with Defence.

1.64 If the decision is subject to internal or external review, the Branch Head or One Star making that decision should ensure that any relevant risks or exposures surrounding the conflict in question are communicated to the authority or person conducting the review.

## **DECLARATION OF INTERESTS**

### **WHAT IS A DECLARATION OF INTERESTS**

1.65 While all Defence Personnel are required to report issues that may lead to actual, potential or perceived Conflicts of Interest, for the Senior Leadership Group and particular individuals in Defence (detailed in paragraph 1.69) there is an additional requirement to submit an annual written declaration of their financial and other interests.

1.66 A Declaration of Interests is a written declaration, provided to Defence marked [OFFICIAL: Sensitive] [Personal-Privacy] of private and personal interests held by Defence Personnel. The declaration covers interests in areas such as real estate, share holdings, trusts or nominee companies, company directorships/partnerships, other investments, assets, sources of income, outside employment including unpaid or voluntary work, gifts and liabilities and any other

matter that could amount to a conflict such as a close personal or business relationship where Conflicts of Interest may arise or could be inferred.

## THE PURPOSE OF THE DECLARATION OF INTERESTS

1.67 The purpose of the Declaration of Interests is to ensure that the Secretary, CDF, Group Heads, and Service Chiefs are aware of any private interests or relationships of senior Defence Personnel in leadership or other sensitive positions which could influence or be seen to influence the decisions those Defence Personnel are making or the advice they are giving. The Declaration of Interests will help to ensure that the Secretary and CDF have the necessary foreknowledge of possible Conflicts of Interest situations and can take appropriate action to manage any conflict.

1.68 The completion of a Declaration of Interests [web form AE917](#) also provides Defence Personnel with the opportunity to consider whether any of their financial or personal interests might give rise to Conflicts of Interest with their duties, and take action to remove or minimise the potential for that to occur.

## WHO IS REQUIRED TO MAKE A DECLARATION OF INTERESTS

- 1.69 A Declaration of Interests [web form AE917](#) must be provided by:
- a. members of the Senior Leadership Group (SLG) including all Star Ranked Officers, all Star Ranked Reserve Officers who are SERCAT 3, 4 or 5, Senior Executive Service Officers, Medical Officers Class 5 and 6, and Chiefs of Divisions;
  - b. other positions in which the level of decision making or advice is deemed by a Group Head or Service Chief as being equivalent to that of the SLG;
  - c. anyone acting in one of the above positions; and
  - d. anyone below SLG level who is designated by their Group Head or Service Chief because their responsibilities require them to be particularly transparent about their financial and personal interests.

## RESPONSIBILITY OF DEFENCE PERSONNEL REQUIRED TO MAKE A DECLARATION OF INTERESTS

1.70 [Defence Instruction Administrative policy Annex C - AG5 - Conflicts of Interest and Declarations of Interest](#) requires Personnel appointed to an SLG position to make a declaration. This declaration must be submitted by the Declaration of Interests [web form AE917](#). The Declaration of Interests submission should include details of private interests and relationships that could impact, or be seen to impact, on the discharge of official duties in that role.

1.71 A Declaration of Interests [webform AE917](#) must be submitted by 01 July each year, as they arise or within thirty days of being appointed to an SLG position.

1.72 Defence Personnel are responsible for revising and resubmitting declarations if there is a change in their responsibilities or personal circumstances that could impact on their official duties as soon as they arise.

1.73 Non SLG members required to provide a Declaration of Interests should submit their declaration through their chain of command, as appropriate, to their Group Head or Service Chief.

1.74 Normally, the personal interests and relationships of the declarant's partner, relatives, friends and associates need not be disclosed in a declaration. However, where the declarant is aware of interests that may impact upon, or be perceived to impact upon, the declarant's role or official duties, all pertinent information should be declared. Written consent must be obtained from third parties if the declarant is proposing to disclose their private interests.

1.75 If the third party does not provide written consent and the declarant is concerned that Conflicts of Interest may arise or exists, they should discuss the matter in general terms with their Group Head or Service Chief.

#### RESPONSIBILITY OF MANAGEMENT AND COMMAND

1.76 Group Heads and Service Chiefs are responsible, on behalf of the Secretary and/or CDF, for ensuring that any actual, potential or perceived Conflicts of Interest that are identified in a Declaration of Interests is avoided or effectively managed. This means that Group Heads and Service Chiefs will need to be sufficiently informed of the content of a Declaration of Interests.

1.77 Group Heads and Service Chiefs are responsible for identifying non-SLG Defence Personnel who will be required to submit a Declaration of Interests. Factors to be taken into account in identifying such personnel include:

- a. the person's position, duties and the level of their decision making responsibilities;
- b. the known interests of the Defence Personnel involved; and
- c. the level of decision making or advice provided by the Defence Personnel.

1.78 The reporting standards and process for these individuals must be managed by the relevant Group Head or Service Chief.

1.79 Group Heads and Service Chiefs are required to bring any serious Conflicts of Interest to the attention of the Secretary and/or CDF, as appropriate. They are also responsible for ensuring the confidentiality and privacy of any Declaration of Interests.

1.80 Group Heads and Service Chiefs should retain a copy of Declaration of Interests [web form AE917](#) to assist them in actively managing any identified Conflicts of Interest.

1.81 Group Heads and Service Chiefs must submit all completed Declaration of Interests [web form AE917](#) to the Defence Integrity Division via the [Integrity Forms mailbox](#).

1.82 The Defence Integrity Division will store Declaration of Interests that have been reviewed by the Group Heads and Service Chiefs, and if required, by the Secretary and CDF, in a secure and confidential repository.

1.83 The Directorate of Senior Officer Management (DSOM) will:

- a. ensure that there is a Declaration of Interests clause contained in the terms of engagement in relevant employment contracts with SLG Defence Personnel;
- b. ensure that SLG Defence Personnel, new SLG appointments and Defence Personnel acting in SLG positions are aware of the reporting standards and the processes involved; and
- c. assist in this process by providing advice or assistance to declarants in consultation with the Defence Integrity Division.

#### RESPONSIBILITY FOR MAINTAINING THE CONFIDENTIALITY AND PRIVACY OF DECLARATIONS OF INTERESTS

1.84 The Secretary, CDF, Group Heads, Service Chiefs, probity advisors, and the Defence Integrity Division on behalf of the Principle Integrity Officer, will:

- a. ensure that all Declarations of Interests are collected and managed in strict compliance with the Australian Privacy Principles contained in the [Privacy Act 1988](#);
- b. assign a protective marking of [FOR-OFFICIAL-USE-ONLY] [Personal-Privacy] to Declaration of Interests and handle declarations in accordance with internal policy; and
- c. dispose of Declarations of Interests in accordance with the requirements of the [Archives Act 1983](#).

1.85 Any failure by Defence Personnel to meet the required high standards of integrity, protection and confidentiality in managing and handling Declaration of Interests, or the information contained in them, will be taken very seriously. Any failure to comply with these requirements should be reported to the appropriate Group Head or Service Chief and the situation must be managed to ensure that the interests of the declarant are protected.

1.86 If the declarant is proposing to disclose the personal information of a third party, the declarant should obtain permission from the third party.

## DISCLOSING DECLARATION OF INTERESTS TO THIRD PARTIES

1.87 Declaration of Interests or information contained in Declaration of Interests may be made available to the Minister's associated with Defence upon their request. The affected Defence Personnel must be consulted if a request is received from a Minister. Such requests will be managed in accordance with relevant Commonwealth legislation. Other requests for access to Declaration of Interests, such as parliamentary, court or Freedom of Information requests, will be handled in accordance with relevant Commonwealth legislation.

### Case study

Rochelle Flink is the Director of Behavioural Integrity in Defence. She has recently been asked to act as a Senior Executive Service (SES) Band 1 in Behavioural Integrity for two months while her manager is on leave.

Rochelle's husband Thomas has recently been offered a position with a major auditing company that works with the Defence Behavioural Integrity area.

Knowledge Check:

1. Does Rochelle need to submit a Declaration of Interest?
2. Does Rochelle need to include information about Thomas in her Declaration of Interest?

Answers:

1. SES personnel are required to submit an annual Declaration of Interests. As Rochelle is acting in an SES role she will have to submit a Declaration of Interests in addition to any regular Conflict of Interests previously declared to her management. The potential Conflicts of Interest arising with Thomas would need to be reported through the regular Conflicts of Interest provisions set out in this document irrespective of her acting role.
2. Rochelle should include information about Thomas's new job in her Declaration of Interests, but only if she has received written consent to do so. If Thomas refuses to supply written consent, Rochelle cannot include information about him in her Declaration of Interest. In that situation, Rochelle should have a discussion with her Group Head in general terms about the possibility of Conflicts of Interest.

## COMPLIANCE

1.88 All Defence Personnel must comply with [Defence Instruction Administrative policy Annex C – AG5 – Conflicts of Interest and Declarations of Interest](#) and the directions in this policy.

1.89 Non-compliance may result in disciplinary or administrative action under the [Defence Force Discipline Act 1982](#) for members of the Australian Defence Force, or investigation and sanction under the [APS Code of Conduct](#).



1.90 Person/s engaged under a contract are bound by [Defence Instruction Administrative policy Annex C – AG5 – Conflicts of Interest and Declarations of Interest](#) and the guidance in this policy where it is a term of their contract. Failure to comply with these directions may result in a breach of contract.

**DEFINITIONS**

The following list of terms are defined in [Defence Instruction – Administrative policy](#). The definitions are intended to apply to their use in administrative policy framework documents:

**Accountable officer**

**Administrative policy**

**Australian Public Service employee**

**Commander**

**A person/s engaged under a contract**

**Defence**

**Defence civilian**

**Defence locally engaged employee**

**Defence member**

**Defence personnel**

**Defence-wide administrative policy framework document**

**Framework documents**

**Manager**

**Policy domain**

**Policy owner**

**Supervisor**

## CHAPTER 2

### POST SEPARATION EMPLOYMENT

#### INTRODUCTION

2.1 It is recognised that Defence Personnel display integrity, have high ethical standards and demonstrate close regard for their own reputation and that of Defence and its suppliers. Integrity in post separation employment is crucial in order to safeguard Defence's reputation. It is also in the national interest that Defence's procurement activities are, and are seen to be, fair and equitable. Therefore, it is important to avoid or appropriately manage any actual or perceived Conflicts of Interest in post separation employment.

#### POLICY STATEMENT

2.2 Defence encourages its personnel separating from Defence to consider a career in the wider workforce while paying careful attention to whether Conflicts of Interest (actual, potential or perceived) may exist.

#### SCOPE AND APPLICABILITY OF THIS CHAPTER

2.3 This Chapter applies to all Defence Personnel and person/s engaged under a contract where compliance is a term of their engagement with Defence. This chapter sets out the considerations and administrative arrangements applicable to Defence Personnel and person/s engaged under a contract who are considering taking up new employment with companies involved, or potentially involved, in providing materials or services to Defence.

#### DEFINITIONS

2.4 A [list of definitions](#) is available to support the chapters in this document.

#### GUIDING PRINCIPLES

2.5 In accordance with common law principles, Defence Personnel must not be unreasonably restrained from using skills, knowledge or experience gained in the course of their employment when changing employers. Defence encourages those separating from Defence to consider a career in another area of the wider Defence workforce, including Defence industry, where their skills and experience may continue to contribute to the achievement of Defence objectives. In turn, Defence is active in recruiting from Defence industry and encourages Defence industry employers to support their employees in becoming members of the Reserve.

2.6 Nevertheless, there are matters that Defence Personnel must take into account when considering taking up employment with private sector organisations. In particular, Defence Personnel must consider whether there will be an actual, potential or perceived Conflicts of Interest in taking up any post separation employment. Where an offer of employment could result in actual,

potential or perceived Conflicts of Interest, Defence Personnel:

- a. must fully inform Defence of the situation before accepting the offer; and
- b. should at the earliest opportunity notify their prospective employer of their Conflicts of Interest disclosure obligations to Defence.

## RESPONSIBILITIES

### DEFENCE PERSONNEL

2.7 Defence Personnel must report, in writing, as soon as practicable and before accepting, any offer of post separation employment that could lead to actual, potential or perceived Conflicts of Interest to their manager or commander. Defence Personnel who are in doubt as to whether their post separation employment offer could lead to Conflicts of Interest are to notify their manager or commander.

### MANAGERS AND COMMANDERS

2.8 Managers and commanders are responsible for receiving reports of post separation employment that may give rise to an actual, potential or perceived Conflicts of Interest. For non SES or Star Ranked personnel, managers and commanders must escalate reports of post separation employment conflicts to their Branch Head or One Star.

2.9 Where their subordinates are SES or Star Ranked personnel, managers and commanders are responsible for determining whether actual, potential or perceived Conflicts of Interest exist with the proposed post separation employment of their personnel. Where Conflicts of Interest are determined to exist, managers and commanders must determine whether a Letter of Notification is required.

2.10 Where SES or Star Ranked Defence Personnel have submitted a Letter of Notification, managers and commanders must inform the person in writing of the outcome/s of their notification. Managers must also provide the completed Letter of Notification [web form AE918](#) to the Defence Integrity Division via the [Integrity Forms mailbox](#).

2.11 Where necessary, managers and commanders should provide advice and guidance to Defence Personnel regarding post separation employment. This is especially necessary when personnel are considering transitioning from being a member of the Permanent Navy, the Regular Army, the Permanent Air Force (including those transferring to the Reserve), or an APS employee in a sensitive role, to a position in an industry connected to Defence.

## BRANCH HEADS AND ONE STARS

2.12 For non SES or Star Ranked personnel, Branch Heads and One Stars are responsible for determining whether actual, potential or perceived Conflicts of Interest exist with the proposed post separation employment of their personnel. Where Conflicts of Interest are determined to exist, Branch Heads and One Stars must determine whether a Letter of Notification is required.

2.13 Where non SES or Star Ranked Defence Personnel have submitted a Letter of Notification, Branch Heads and One Stars must inform the person in writing of the outcome/s of their notification. Branch Heads and One Stars must also provide the completed Letter of Notification [web form AE918](#) to the Defence Integrity Division via the [Integrity Forms mailbox](#).

2.14 Branch Heads and One Stars must also ensure that appropriate personnel, when resigning, discharging, or transferring to another part of the organisation, or transferring out of Defence, are requested to complete a Statutory Declaration [web form AE385](#) confirming their understanding about their obligations under this policy.

## GROUP HEADS AND SERVICE CHIEFS

2.15 Group Heads and Service Chiefs must ensure that personnel are aware of their obligations under Defence policy regarding post separation employment. In particular, they will have regard to the provisions of the [Defence Instruction Administrative policy Annex C – AG5 – Conflicts of Interest and Declarations of Interest](#) and this document.

2.16 Group Heads and Service Chiefs must identify areas of Defence where there is a particular risk presented by post separation employment in related businesses. Group Heads and Service Chiefs should direct Branch Heads and One Stars in identified areas to have all separating staff complete a Statutory Declaration [web form AD385](#).

## DEFENCE INTEGRITY DIVISION

2.17 The Defence Integrity Division, through First Assistant Secretary Defence Integrity is responsible for the central oversight of conflicts of interest for all Defence personnel, including for SES and Star Ranked personnel, for compliance, assurance and reporting purposes. All finalised Letter of Notification [web form AE918](#) must be provided to the Defence Integrity Division via the [Integrity Forms mailbox](#).

## LEGAL OBLIGATIONS

### OBLIGATIONS TO DEFENCE

2.18 Defence Personnel and person/s engaged under a contract should be aware that former Defence Personnel may continue to have ongoing obligations to Defence after their separation. Where recently separated Defence Personnel are offered employment that creates a Conflict of Interest that has not been declared to Defence through a Letter of Notification, they should notify Defence and their new employer of the conflict.

### DISCLOSURE OF INFORMATION

2.19 Decision makers must ensure that Defence Personnel who advise them that they wish to take up post separation employment are made aware of their obligations regarding disclosure of information gained in the course of their employment in Defence.

2.20 While Defence Personnel should not be restrained from using skills, knowledge or experience gained in the course of employment, a clear exception to this is where information of a confidential nature is imparted to Defence Personnel and an obligation of confidence is imposed.

### INTELLECTUAL PROPERTY

2.21 Broadly, any work performed or produced by Defence Personnel is, and remains, the property of the Commonwealth and may not be used by Defence Personnel after their separation without the Commonwealth's consent.

### LOBBYING BY FORMER DEFENCE PERSONNEL

2.22 Former government officials who intend to undertake lobbying are required to comply with the [Lobbying Code of Conduct](#) and register on the [Register of Lobbyists](#). This information is governed and maintained by the Attorney-General's Department.

2.23 Defence Personnel at the SES level and Star Ranked personnel are prohibited for 12 months after separation from engaging in lobbying activities that relate to any matter they have had official dealings with in their last 12 months of employment.

## LETTER OF NOTIFICATION PROCEDURES

### LETTER OF NOTIFICATION

2.24 Defence Personnel considering post separation employment in circumstances in which business is, or is likely to be, undertaken with Defence, including self-employment, or any other circumstances where there is a possibility, or any potential for a perception of a Conflict of Interest, must submit a Letter of Notification via [web form AE918](#). The Letter of Notification must state any relationship that exists between their official duties in Defence during the previous

year and the proposed employment. If in any doubt, Non SES or Star Ranked personnel must notify their Branch Head or One Star through their manager or commander, who will determine whether a Letter of Notification is required.

## SUBMITTING A LETTER OF NOTIFICATION

2.25 Defence Personnel must submit the Letter of Notification [web form AE918](#) through their chain of command or reporting line to their manager or commander who is at least one level above them and no lower than a SES Band 1 or One Star.

2.26 A decision maker for non SES or Star Ranked personnel will be no lower than a SES Band 1 or One Star. A decision maker for Branch Heads and One Stars or Division Heads and Two Stars will be the Group Head or Service Chief. A decision maker for SES Band 3 or Three Stars will be the Secretary or CDF.

2.27 SES and Star Ranked personnel must notify the Secretary or CDF, through their chain of command.

2.28 Defence Personnel with a significant role in procurement decisions must submit their Letter of Notification [web form AE918](#) to the Secretary or CDF through their Group Head or Service Chief.

## TIMING OF NOTIFICATION

2.29 Early notification by Defence Personnel of post separation employment will give Defence and the prospective employer greater opportunity to prevent any Conflicts of Interest. The timing of notification relies on the judgment of Defence Personnel having regard to their role and the high standards of integrity expected in Defence. This may include when a job offer is received, or earlier, when negotiating with a prospective employer or at the short-list stage of a selection process. In any case, notification must occur prior to the acceptance of any job offer.

2.30 Where an unsolicited job offer is received by Defence Personnel that gives rise to actual, potential or perceived Conflicts of Interest, Defence Personnel must immediately notify their Branch Head or One Star through their manager or commander.

## ACTION ON RECEIPT OF NOTIFICATION

2.31 Any Letter of Notification must be handled promptly by managers and commanders to avoid any undue delay which could be perceived as a barrier to employment.

2.32 Defence Personnel submitting a Letter of Notification [web form AE918](#) must be advised in writing of the outcome of deliberations on their notification.

## MANAGING A POST SEPARATION CONFLICT OF INTEREST

2.33 After being notified of post separation employment, the decision maker will assess actual, potential or perceived Conflicts of Interest. Should it be found that Conflicts of Interest exist, the decision maker may direct that measures be imposed to ensure that the conflicts are effectively managed.

2.34 Post separation employment decision makers must have regard to the following considerations when making a determination on actual, potential or perceived Conflicts of Interest:

- a. The level or rank of the separating individual;
- b. The sensitivity of the information the individual has or has had access to;
- c. Whether the individual is currently or had recently been involved in tendering, procurement or contracting activities;
- d. The person's decision making authority;
- e. The scope of the person's new role and any interaction with their current or former positions;
- f. The reputational impact of any actual, potential or perceived conflict; and
- g. Any other considerations that may be circumstantially appropriate.

2.35 All of the Conflicts of Interest management strategies detailed in this policy are available where a post separation Conflict of Interest arises. Defence Personnel should be immediately restrained from having access to Defence information relevant to their future role.

2.36 In addition to the management strategies in paragraph 1.44, Branch Heads and One Stars may request a [Statutory Declaration](#) from Defence Personnel on departure. This declaration should include an acknowledgement of the ongoing obligations to Defence relating to disclosure of information and may include a statement that they will not engage in certain activities with the specific employer for a set timeframe.

2.37 In some situations it may be appropriate for managers and commanders to liaise with the individual's future employer to determine whether any restrictions may need to be placed on the Defence Personnel's specific duties within the company.

2.38 In some circumstances, Defence may instruct the company not to employ the Defence Personnel on specific Defence-related activities.

2.39 In a variety of commercial circumstances, especially instances where the employee was involved in writing specifications or statements of work, or negotiating tenders or contracts, Defence may exclude the company from consideration for specific contracts or activities should it employ the Defence employee/member in a related area of work or it is otherwise not possible to



address the perception of Conflicts of Interest.

2.40 Defence may require certain undertakings in the form of a legal restraint from the future employer of the Defence Personnel via a [Deed Poll](#).

### Case Study

Lieutenant Commander Otto Pohl has been in the Permanent Navy for many years and has been posted across several major projects in Defence. His current posting involves working on the WATERWORLD 5000 Project.

LCDR Pohl is actively looking for work outside of Defence and applies for a job with a major shipbuilding company. He is offered a job in the company working on the WATERWORLD 5000 project. The new job has significantly different duties to his current role, however his knowledge of the project and his access to internal Defence systems would be highly advantageous to his new employer.

LCDR Pohl has submitted notification of post separation employment.

Knowledge Check:

1. Is there an actual, potential or perceived Conflicts of Interest in this situation?
2. At what stage of the employment process should LCDR Pohl submit his notification of post separation employment?
3. What type of Conflict of Interests management strategy should be used for LCDR Pohl?

Answers:

1. Even though LCDR Pohl will be working in a role with significantly different duties to his current Defence role, his access to insider information about the project would give rise to a potential or perceived Conflicts of Interest. Even if LCDR Pohl was transferring to a role with the major shipbuilding company on another project, there would likely still be a perceived Conflicts of Interest.
2. Notification of post separation employment should be completed as soon as possible. LCDR Pohl may choose to put in his notification of post separation employment when he is short-listed for the role, or when it is formally offered to him. The notification must be submitted before LCDR Pohl accepts the job offer with the company.

There are two major concerns in this situation:

- a. LCDR Pohl's insider knowledge of the WATERWORLD 5000 Project being exploited by the company after he leaves Defence; and
- b. LCDR Pohl's access in his current role to systems and information that may advantage the company.

There are several strategies that could be adopted to address these issues:

- **Restrict:** LCDR Pohl's access to systems and information relating to the WATERWORLD 5000 Project may be discontinued. This may occur through changing permission levels in systems or modifying his duties to involve less interaction with information sensitive to the project.
- **Recruit:** LCDR Pohl's access to WATERWORLD 5000 Project systems and information could be monitored by recruiting an independent third party. This would not necessarily require additional personnel resourcing and may be achieved by expanding the duties of an existing team member.
- **Remove:** If it is not feasible to implement restrict or recruit strategies, it is possible to remove LCDR Pohl from working on the WATERWORLD 5000 Project. This might be achieved through a short-term deployment to sea or another area not involved in the project. LCDR Pohl may also elect to take leave prior to his departure from Defence to remove himself from a possible conflict. Even if LCDR Pohl removes himself from the project there will still be a need to manage future Conflicts of Interest considerations with his new employer.
- **Deed Poll:** In this situation LCDR Pohl will be employed by a major Defence provider on a project with significant financial expenditure and media interest. It would be necessary to negotiate some restrictions with the future employer on LCDR Pohl's duties relating to the WATERWORLD 5000 Project. The restrictions will be imposed for a set period of time which will be determined by the type and sensitivity of information that LCDR Pohl had access to in his current and former roles. The future employer will need to sign a Deed Poll to indicate their awareness and compliance with any agreed restrictions and other legislative restraints (such as use of confidential information).
- **Statutory Declaration:** LCDR Pohl must sign a Statutory Declaration that acknowledges his duty of nondisclosure relating to sensitive or confidential information. If restrictions are negotiated between Defence and the future employer, the Statutory Declaration should also acknowledge the restrictions.

- Any combination of these management strategies can be utilised. Managers and commanders should try to be innovative in their solutions to Conflicts of Interest situations in post separation employment and more broadly. Strategies used to manage Conflicts of Interest are not limited to those identified in this policy but must be consistent with the intent and guidance within this document.

### **INFORMING PROSPECTIVE EMPLOYERS**

2.41 When an employment offer could result in a Conflicts of Interest, Defence Personnel must notify their prospective employer of their obligations to Defence at the earliest opportunity.