

Senate Standing Committee on Foreign Affairs, Defence and Trade

Additional Estimates – 28 February 2018

ANSWER TO QUESTION ON NOTICE

Department of Defence

Topic: SSCFADT - AE - 28 Feb 18 - Q92 - Relationships within the ADF - Anning

Question reference number: 92

Senator: Fraser Anning

Type of question: Written

Date set by the committee for the return of answer: 13 April 2018

Question:

1. Conflicts of interest and abuse of power over sexual relationships are current issues for obvious reasons. What processes are in place within the Defence Force where sexual relationships between commanders and subordinates can cause, or be seen to cause, a conflict of interest?
2. Can you confirm if any officers within the senior leadership group of Defence have had any affairs or sexual relationships with other Defence members since 2012?
3. What action, if any, was taken to ensure that there was no conflict of interest or abuse of power?
4. What is the usual time in rank for a Lieutenant Commander (how many years as a lieutenant commander)?
5. How long did Commander Chloe Griggs/Wootten spend as a Lieutenant Commander?
6. Was she promoted to Commander after her relationship began with the VCDF?
7. Who appointed Commander Chloe Griggs/Wootten to the role of Director of Communications and Media for the Navy?
8. How long did Commander Chloe Griggs work for the VCDF when he was Chief of Navy?
9. When did VCDF and Commander Chloe Griggs begin their relationship?
10. What actions were taken to prevent a conflict of interest or the perception of a conflict of interest with this relationship?

11. Given the reporting in The Australian, is the VCDF an appropriate person to be a White Ribbon Ambassador?

Answer:

Defence would not usually provide public comment on the personal circumstances of members. However given the particular circumstances of this case and the inaccuracies featured in recent media reporting, Defence has obtained consent from the individuals affected to release the following details.

1. See response to Q105 and refer to attached Defence policy - Defence Instructions (General) PERS 25-6 *Conflict of interest and declarations of interests*.
2. As the Chief of the Defence Force (CDF) stated at the Estimates Hearings on Wednesday 28 February 2018, there are many members of the Australian Defence Force (ADF) who are in cross-rank relationships, including a number of members of the Defence senior leadership group. Defence policy with regards to such relationships is clear and focuses on potential conflicts of interest within the chain of command. It does not preclude relationships between members of the ADF of different ranks or between members of the ADF more generally, except in a trainee/instructor situation. Further to this, all members of the ADF and the Australian Public Service in Defence are required to undergo security clearances and must report any significant changes to their personal circumstances. Generally, details of such changes are not made public because to do so would breach personal privacy and undermine the confidentiality in which personal information is provided to the Defence Security and Vetting Service.
3. See 1 and 2 above.
4. As indicated in response to Question 104, for substantive promotion to Commander four years seniority as Lieutenant Commander is normally required. From time to time, earlier or temporary promotions may be granted if there is a capability requirement. The average time any rank varies significantly between branches based on position availability, branch size, promotion targets and Navy capability requirements.
5. As indicated in response to Question 104, Defence does not normally release details of promotions for officers below star rank. However with the express permission of the individual concerned Defence can confirm the following details:
 - Substantive promotion to Lieutenant Commander occurred on 1 January 2012.
 - Substantive promotion to Temporary Commander occurred on 18 September 2015.
 - Substantive promotion to Commander occurred on 1 July 2016.
6. VCDF proactively disclosed to CDF that his personal circumstances were changing on 1 October 2014. VCDF position does not have any involvement in the promotion of members within Navy below the star rank level.
7. The Navy People Career Management Agency is the authority for the postings of all Navy members. Recommendations for postings/appointments below the star rank are approved by the Director General Navy People.

8. The then Lieutenant Commander Wootten did not work directly for the then Chief of Navy. The position of Director of Communications and Media – Navy sits within Navy Strategic Command working to the Deputy Chief of Navy through the Director General Navy Communication and Coordination. The then Lieutenant Commander Wootten held this position for two weeks prior to the Chief of Navy handover in July 2014.
9. and 10. The VCDF proactively disclosed that his personal circumstances were changing to the CDF in October 2014. As indicated in response to Question 1014, subsequently, to assure himself that there had been no breach of any Defence policies, the CDF initiated a review. This was undertaken by a very senior retired ADF officer who was not in the chain of command of the VCDF. The review found no evidence of any breach of policy. Following the subsequent provision of documentation to the CDF by the former Mrs Griggs, the CDF asked the very senior retired officer to conduct a second review into this documentation. He concluded that this did not indicate any breach of policy.
11. Yes. Recent reporting contains inaccuracies and unsubstantiated allegations. The implied criticisms featured in recent media reporting are unjustified. The VCDF has been at the forefront of efforts to reduce the incidence of domestic violence within Defence, which saw him driving the accreditation of Navy as a White Ribbon workplace when he was the Chief of Navy. He has spoken publicly of his commitment to White Ribbon being borne out of his own experiences in his youth. There is no relevant correlation between the role of White Ribbon Ambassador and the recent reporting referred to in the question.



Australian Government
Department of Defence

DEFENCE INSTRUCTIONS (GENERAL)

Amendment

PERS 25–6
AMDT NO 1
Complete Revision

Conflicts of interest and declarations of interests

Department of Defence
CANBERRA ACT 2600

29 March 2011

Issued with the authority of the Chief of the Defence Force and the Secretary of the Department of Defence pursuant to section 9A of the *Defence Act 1903* for members of the Australian Defence Force.

Issued with the authority of the Secretary pursuant to section 20 of the *Public Service Act 1999* for Department of Defence Australian Public Service employees.

I J WATT, AO
Secretary

A.G. HOUSTON, AC, AFC
Air Chief Marshal
Chief of the Defence Force

LIST B—ISSUE NO PERS B/1/2011

Sponsor:

Inspector-General Defence

Sponsor contact:

Directorate of Fraud Control, Policy and Ethics

Review Date: 29 March 2014

Cancellation

DI(G) PERS 25–6 ISSUE NO PERS B/24/2000 of 22 SEP 2000 is cancelled, this amendment no longer includes single-Service filing numbers also DI(G) PERS 25–3 ISSUE NO PERS B/11/99 of 13 SEP 99, pages 1–2 and ISSUE NO PERS B/23/2000 of 3 AUG 2000 (AL1), pages 3–4.

Note

This amendment incorporates a title change.

CONFLICTS OF INTEREST AND DECLARATIONS OF INTERESTS

INTRODUCTION

1. Public confidence in the integrity of Defence 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 a conflict of interest and what to do when a conflict arises.
2. Conflicts of interest, whether perceived or actual, are part of the broader issue of public sector ethics. Defence personnel are subject to a range of legal obligations, directive requirements and policy expectations in relation to avoiding and managing conflicts of interest and are required to conduct themselves accordingly. In this context, Defence has affirmed its commitment to being a values-based organisation. One of the Defence values is 'integrity'. This value requires Defence personnel to behave honestly and ethically and to demonstrate the highest standards of probity in their personal and professional conduct.
3. This Instruction defines a number of relevant terms to ensure clarity and consistency and sets out Defence's requirements for the general reporting and management of conflicts of interest within the workplace. This Instruction also sets out the formal reporting requirements for specific Defence personnel through Declarations of Interest (see [paragraph 42.](#)).

POLICY STATEMENT

4. Conflict of interest risks are an inevitable fact of organisational life. The management of risk associated with any conflict of interest is fundamental to ensuring the highest levels of integrity and public trust in Defence are achieved and maintained.
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 must avoid and/or manage conflicts of interest in a manner consistent with their legal obligations, Commonwealth policy and Defence Instructions, policies and values.

SCOPE

6. This Instruction applies to all Defence personnel and External Service Providers where compliance is a term of their engagement with Defence.

DEFINITIONS

7. A list of definitions used in this Instruction is contained in [annex A.](#)

PRINCIPLES

8. Underpinning Defence's conflict of interest policy are the following principles:
 - a. **Protect the public interest** by upholding public sector values which reinforce the need to avoid conflicts of interest and maintain 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 IS A CONFLICT OF INTEREST?

9. Conflicts of interest may occur between official duties and private interests. Defence personnel must keep the following factors in mind when assessing whether a conflict of interest exists. These can be actual, potential or perceived:

- a. An **actual conflict of interest** is one where there is a conflict between a person's official 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 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 duties, now or in the future. This can occur whether there is a conflict or not.

10. A conflict of interest can arise from Defence personnel avoiding personal losses or detriment, as well as gaining personal advantage—whether financial or otherwise—for themselves or a third party.

Private interests

11. An interest in this context means anything that can have an impact on an individual or group. The term 'private interests' includes not only an individual's own personal, 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 relatives, friends or those with whom an individual has less amicable relationships.

12. Private interests can be divided into two types specifically pecuniary and non-pecuniary:

- a. **Pecuniary interests** involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or a 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

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 statement) and any lawful and reasonable direction or lawful general order given by a supervisor or superior officer. Defence personnel have an obligation to always put the public interest above their private interests when carrying out their official duties.

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.

15. Determining the public interest in a particular situation can be complex, even problematic, 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 and/or Australian Public Service (APS) values and behavioural codes;

- c. identifying and reporting any conflict of interest and seeking assistance to manage or avoid it; and
- d. identifying any actual, potential or perceived conflicts of interest that they have and ensuring that these are managed or avoided appropriately.

16. Managing conflict of interest risks includes 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.

17. There are many situations where a conflict of interest may occur. Defence has specific policies on some of these matters, as follows:

- 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 contractors;
- g. access to official information;
- h. public comment;
- i. political participation;
- j. employment decisions; and
- k. sponsorship.

18. [Annex C](#) provides a list of Defence's policy documents for each of the situations discussed above. This Instruction must be read in conjunction with these policies.

BEHAVIOURAL REQUIREMENTS

19. Defence personnel must:

- a. disclose to their supervisor and take reasonable steps to avoid any conflicts of interest (actual, potential or perceived) in connection with their official duties;
- b. act transparently when making work-related decisions, reflecting the probity and ethical standards of the Commonwealth, Defence and/or APS values and behavioural codes; and
- c. take reasonable steps to restrict the extent to which a private interest could compromise, or be seen to compromise, their impartiality when carrying out their official duties.

20. Defence personnel must not, either by action or inaction:

- a. make improper use of their authority, status, power, position or access to information in order to solicit or obtain a benefit or advantage or to cause a disadvantage for themselves or any other person or group (including relatives and friends);
- b. use Defence resources to gain, or seek to gain, a private benefit or advantage or to cause a disadvantage for themselves or any other person or group;
- c. accept any benefit that might lead a reasonable person to view such acceptance as a conflict of interest;

- d. behave in a manner in which their action or inaction could be construed as favouritism, bias or coercion;
- e. cause an unfair advantage or disadvantage to any person or entity actually or potentially doing business with Defence; or
- f. take improper advantage of their official position or privileged information gained in that position when seeking or participating in employment or business outside of Defence.

LEGISLATIVE FRAMEWORK

21. This policy is underpinned by the [Public Service Act 1999](#), the [Defence Act 1903](#), the [Defence Force Discipline Act 1982](#) (DFDA) and the [Financial Management and Accountability Act 1997](#). [Annex B](#) provides a comprehensive list of related legislation, policy and publications.

ROLES AND RESPONSIBILITIES FOR MANAGING CONFLICTS OF INTEREST

22. **All Defence Personnel** must avoid conflict of interest situations where possible. If such situations cannot be avoided, they must report the issue to their Branch Head or Commanding Officer through their Manager or Commander. Defence personnel must consider possible strategies that may be available to resolve or appropriately manage the conflict of interest. Defence personnel must cooperate with their Branch Head or Commanding Officer to resolve the conflict of interest.

23. Defence personnel must report situations where their partners, family, friends and associates are engaged in activities or have interests that place Defence personnel in an actual, potential or perceived conflict of interest situation.

24. **Branch Heads and Commanding Officers** must assess each situation reported to them and determine if a conflict of interest exists (see [paragraph 36.](#)). They must develop an appropriate strategy to manage the situation and keep appropriate records of the facts surrounding the conflict of interest and the process adopted to manage it. Branch Heads and Commanding Officers must bring any serious conflicts of interest involving Defence personnel within their chain of command or Branch to the attention of their Group Head, Service Chief or the Chief Executive Officer Defence Materiel Organisation (CEO DMO).

25. If the conflict of interest is serious, continues indefinitely or is unresolved Branch Heads and Commanding Officers must seek advice from the Directorate of Investigations and Recovery within the Inspector-General's (IG) organisation. Failure to report a conflict of interest in accordance with this Instruction may result in a disciplinary action being taken against the individual.

26. **Branch Heads or Commanding Officers** must raise directly with their Group Head, CEO DMO or chain of command, respectively, any conflict of interest involving themselves.

27. **Group Heads, Service Chiefs and the CEO DMO** are responsible for ensuring that Defence personnel within their Group or Service are aware of the policy on conflicts of interest, and provide support to their Defence personnel to manage conflict of interest situations appropriately. Group Heads, Service Chiefs and CEO DMO are also responsible for managing Declarations of Interest (see [paragraph 42.](#)). Group Heads, Service Chiefs and CEO DMO must bring any serious conflicts of interest to the attention of the Secretary or Chief of the Defence Force (CDF), respectively.

28. **The IG** is responsible for the development, promulgation and regular review of conflicts of interest policy and for providing advice to Defence personnel on appropriate ways of managing conflicts of interest. The IG receives reports of breaches of conflict of interest policy considered to be Notifiable Incidents in accordance with [Defence Instruction \(General\) \(DI\(G\)\) ADMIN 45-2—The reporting and management of notifiable incidents.](#)

REPORTING PROCESS

Confidentiality

29. In dealing with a conflict of interest that may involve personal sensitivities, individuals and managers must be aware of confidentiality and privacy issues. It is important to maintain confidentiality regarding information on sensitive and private conflict 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 conflict 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.

Reporting by the Defence official experiencing the conflict of interest

30. When an actual, potential or perceived conflict of interest is identified, Defence personnel must promptly report this to their Branch Head or Commanding Officer through their Manager or Commander. If the conflict of interest occurs in relation to a contract, Defence personnel must also report this conflict to the contract manager.

31. Defence personnel must outline the circumstances giving rise to the belief that there is an actual, potential or perceived conflict of interest and, if possible, identify any course of action to resolve the issue. Defence personnel reporting an actual, potential or perceived conflict of interest must also keep their Branch Head or Commanding Officer informed of any changes to the subject circumstances.

Reporting by third parties of suspected conflicts of interest

32. If Defence personnel have sound reason to believe that another individual has a conflict of interest that may affect Defence personnel's official duties and the situation has not been recognised or declared, the Defence personnel should raise this issue with the individual. If, for any reason, the issue cannot be raised with the individual or it is not resolved to the satisfaction of the Defence personnel raising the issue, they must report the matter to their Branch Head or Commanding Officer through their Manager or Commander. Subject to privacy considerations, Branch Heads or Commanding Officers may provide appropriate information to Defence personnel on the outcome of any issue raised.

33. If a suspected conflict of interest has been reported, the Branch Head or Commanding Officer must advise the individual who is the subject of the suspected conflict of interest that a report has been made and ensure that the individual concerned has the opportunity to respond to the report.

DECISION-MAKING PROCESS

34. Branch Heads and Commanding Officers must determine whether a matter involves a conflict of interest (whether actual, potential or perceived) as soon as practicable after being advised of the matter. If a matter is determined to be a conflict of interest issue, Branch Heads or Commanding Officers must consider all the circumstances to identify the best way to manage the situation.

35. The Branch Head or Commanding Officer must consider the following:

- a. the person's position, duties and the level of their decision making responsibilities;
- b. the person's autonomy with regard to decision making;
- c. the levels of review to which the person's decisions are subject; and
- d. the proximity and significance of the matter causing the conflict.

Steps to evaluate and manage conflicts of interest

36. Branch Heads or Commanding Officers must follow the steps below to evaluate and manage a conflict of interest:

- a. Obtain all relevant facts to ensure that they completely understand the situation:
 - (1) If the conflict of interest has been reported by a third party, seek information from the person alleged to have a conflict.
- b. Review the situation to determine the nature of any alleged conflict of interest.
- c. Determine if an actual, potential or perceived conflict of interest exists:
 - (1) If there is no conflict of interest, inform relevant persons and ensure details are included in the corporate file or other appropriate registration process.
 - (2) If there is a conflict of interest, proceed to next step.
- d. Determine the level of risk associated with the conflict of interest. To determine the level of risk associated with a conflict of interest, it is necessary to consider the likelihood of it occurring and the consequence if it did occur. A serious conflict of interest would be one where the risk of adverse consequences is high and the nature of the adverse consequences to the activity involved is significant.
- e. In consultation with the affected person, determine an appropriate strategy to address the level of risk. 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.
 - (2) **Recruit**—an independent (non-conflicted) third party can be appointed to oversee part or all of the process that deals with the matter.
 - (3) **Remove**—the individual so that they do not participate at all in the matter. This might 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 conflict of interest.
- f. Inform the person with the conflict of interest and any other relevant persons of the intended course of action to address the conflict of interest.
- g. Implement the course of action.
- h. Ensure appropriate records of the matter, including details of the circumstances, the nature of the conflict and the steps taken to manage it, are placed on a corporate file or other appropriate recording system.
- i. Conduct a regular review of the matter to ensure that the strategy is appropriate and circumstances have not changed.

Further considerations

37. In conducting this evaluation process, Branch Heads or Commanding Officers should be mindful of the need to ensure that persons who may be adversely affected by the selected strategy for managing the conflict of interest situation 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 strategy.

38. The Branch Head or Commanding Officer must also take into account the effect that the selected strategy may have on the affected individual's family. For example, a posting out of geographic location may cause education problems for an individual's children.

39. It is a matter of personal choice whether a Defence official decides to relinquish personal assets that might give rise to a conflict of interest. The Commonwealth will not ordinarily accept liability for any losses suffered as a result of voluntary relinquishment.

RIGHTS OF REVIEW

40. If an affected individual disagrees with the proposed course of action suggested or determined by their Branch Head or Commanding Officer, they may seek review of the decision using established Defence review processes. This option is not available to External Service Providers, who should refer to the dispute resolution options within their contract of engagement with Defence.

41. If the decision is subject to internal or external review, the Branch Head or Commanding Officer making that decision must ensure that any relevant risks or exposures surrounding the conflict in question are communicated to the authority or person conducting the review.

DECLARATIONS OF INTEREST

42. While all Defence personnel are required to report issues that may lead to potential, perceived or actual conflicts of interest, for particular individuals in Defence (detailed in [paragraph 46.](#)) there is an additional requirement to submit a written declaration of their financial and other interests.

What is a Declaration of interest?

43. A Declaration of interest is a written declaration, provided to Defence on an IN–CONFIDENCE basis, 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 a conflict of interest may arise or could be inferred.

The purpose of the Declaration of interest

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

45. The completion of a Declaration of interest also provides Defence personnel with the opportunity to consider whether any of their financial or personal interests might give rise to a conflict 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 interest?

46. Declarations of Interest must be provided by:

- a. members of the Senior Leadership Group (SLG) including all Star Ranked Officers, all active Star Ranked Reserve Officers, 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 or CEO DMO as being equivalent to that of the SLG;
- c. anyone acting in one of the above positions for longer than three months; and
- d. anyone below SLG level who is designated by their Group Head or Service Chief or CEO DMO 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 interest

47. Defence personnel required by this Instruction to make a Declaration of interest must submit, in concert with their annual performance management programme, a declaration of the private interests and relationships that could impact or could be seen to impact upon the decisions they are making or the advice they are giving because of an actual or potential conflict of interest.

48. 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.

49. SLG members and Defence personnel acting in SLG positions must submit their declarations to their Group Head or Service Chief. Declarations made by Group Heads, Service Chiefs and CEO DMO must be submitted to the Secretary or the CDF through Directorate of Senior Officer Management (DSOM). Non-SLG members must submit their declaration through their chain of command, as appropriate, or to their Group Head or Service Chief.

50. All newly appointed SLG members must submit a Declaration of interest within one-month of taking up their appointment.

51. Normally the personal interests and relationships of the declarant's immediate family members need not be disclosed in a declaration. However, where the declarant is aware of family member's interests that may impact upon, or be perceived to impact upon, the declarant's role or official duties, all pertinent information must be provided. Written consent must be obtained from family members if the declarant is proposing to disclose their family members' private interests (see [paragraph 57](#) for further information on the privacy provisions).

52. If written consent is not given and the Defence personnel is concerned that there is a conflict of interest, they should discuss the matter in general terms with their Group Head or Service Chief.

Responsibility of Management

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

54. Group Heads, Service Chiefs and CEO DMO must identify Defence personnel occupying positions (other than SLG positions) who will be required to provide Declarations of Interest. Factors to be taken into account in identifying such Defence personnel include the sensitivity of the issue or the known interests of the Defence personnel involved and the level of decision making or advice provided by the Defence personnel. The reporting standards and process for these individuals must be managed by the relevant Group Head or Service Chief.

55. Group Heads, Service Chiefs and CEO DMO must 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 Declarations of Interest (see [paragraph 57](#) for further information on this topic).

56. **DSOM** must:

- a. ensure that there is a Declaration of interest 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;
- c. store Declarations of Interest that have been considered by the Group Heads, Service Chiefs and CEO DMO, and if required, by the Secretary and CDF in a secure and confidential repository; and
- d. assist in this process by developing standard templates for Declarations of Interest and by providing advice or assistance to declarers.

Responsibility for maintaining the confidentiality and privacy of Declarations of Interest

57. The Secretary, CDF, Group Heads, Service Chiefs, CEO DMO, probity advisors and DSOM, must:

- a. ensure that all Declarations of Interest are collected and managed in strict compliance with the Information Privacy Principles contained in the *Privacy Act 1988*;
- b. assign a protective marking of STAFF–IN–CONFIDENCE to Declarations of Interest and handle declarations in accordance with the *Defence Security Manual*;
- c. dispose of Declarations of Interest in accordance with the requirements of the *Archives Act 1983*.

58. Any failure by Defence personnel to meet the required high standards of probity, protection and confidentiality in managing and handling Declarations of Interests, or the information contained in them, will be taken very seriously and may result in disciplinary or administrative action being taken against the person responsible for the failure. Any failure to comply with these requirements must be reported to the appropriate Group Head or Service Chief or CEO DMO and the situation must be managed to ensure that the interests of the declarant are protected.

59. To ensure their own privacy, Defence personnel providing Declarations of Interest are responsible for following the postal procedures set out by DSOM or their Group Head/Service Chief or CEO DMO. If the declarant is proposing to disclose the personal information of a third party, the declarant should first inform the third party of the proposed disclosure.

Disclosing Declarations of Interest to third parties

60. Declarations of Interest or information contained in Declarations of Interest may be made available to the Minister for Defence (Minister) on request. The affected Defence personnel must be consulted if a request is received from the Minister. Such requests will be managed in accordance with relevant Commonwealth legislation.

61. Other requests for access to declarations of interest, such as parliamentary, court or Freedom of Information requests, will be handled in accordance with relevant Commonwealth legislation.

IMPLEMENTATION

62. This policy cancels DI(G) PERS 25–3—*Disclosure of Interests of Members of the Australian Defence Force*.

COMPLIANCE

63. All Defence Personnel must comply with this Instruction.

64. DI(G)s are issued jointly by the Secretary and the CDF under [section 9A](#) of the *Defence Act 1903*.

65. **Australian Defence Force.** This Instruction from the CDF constitutes a general order to Defence members for the purposes of the *DFDA*. Non-compliance may result in disciplinary action being taken in accordance with the *DFDA*.

66. **APS.** This Instruction is a lawful and reasonable direction to Defence Employees by the Secretary under [subsection 13\(5\)](#) of the *Public Service Act 1999*. Non-compliance may be referred to a delegate for investigation and possible sanction in accordance with the APS Code of Conduct.

67. Defence contract managers must include the requirement that External Service Providers must comply with this Instruction in the terms of the contract. Failure by an External Service Provider to comply with this Instruction may result in a breach of contract.

RELATED INSTRUCTIONS/PUBLICATIONS/MANUALS

68. This Instruction is to be read in conjunction with the related documents shown in [annex C](#).

Annexes:

- A. [Definitions](#)
- B. [Related Legislation, Policy and Publications](#)
- C. [Defence policies that cover some situations where conflicts of interest may occur](#)

DEFINITIONS

1. The following definitions apply to this Instruction:
 - a. **Benefit** means a non-tangible item of value (eg a new job or promotion, preferential treatment, access to confidential information, hospitality etc) that one person or organisation confers on another. Benefit includes any advantage that can be conferred either officially or personally. A benefit also includes bribes, which are given with the intention of influencing an employee to take, or not to take, specific action.
 - b. **Defence** means the Department of Defence which includes the Defence Materiel Organisation, and the Australian Defence Force (ADF).
 - c. **Defence civilian**, as defined in [section 3](#) of the *Defence Force Discipline Act 1982* (DFDA), means a person (other than a Defence member) who:
 - (1) with the authority of an authorised officer as defined in the [DFDA](#) accompanies a part of the ADF that is:
 - (a) outside Australia; or
 - (b) on operations against the enemy; and
 - (2) has consented, in writing, to subject themselves to ADF discipline while so accompanying that part of the ADF.
 - d. **Defence employee**, means a person employed in the Department of Defence under [section 22](#) of the *Public Service Act 1999*.
 - e. **Defence member**, as defined in [section 3](#) of the DFDA, means:
 - (1) a member of the Permanent Navy, the Regular Army or the Permanent Air Force; or
 - (2) a member of the Reserves who:
 - (a) is rendering continuous full-time service; or
 - (b) is on duty or in uniform.
 - f. **Defence personnel** for the purpose of this Instruction, includes all Defence members and Defence employees, Defence Locally Engaged Employees overseas, Defence civilians, and the equivalents from other organisations on exchange to Defence.
 - g. **External service providers** for the purpose of this Instruction, includes contractors, consultants and external members of Defence boards and committees contracted by Defence.
 - h. **Probity advisor** for the purpose of this Instruction, means a person who is employed to provide independent advice and assistance on the ethical behaviour in a particular process.

RELATED LEGISLATION, POLICY AND PUBLICATIONS

Source material

Some of the material used in this Instruction has been sourced from:

- [APS Values and Code of Conduct in Practice: Guide to official conduct for APS employees and Agency Heads.](#)
- [Conflicts of Interest Policy Framework.](#)
- [Managing Conflicts of Interest in the Public Sector Guidelines.](#)

Legislation

- [Public Service Act 1999.](#)
- [Financial Management and Accountability Act 1997.](#)
- [Defence Force Discipline Act 1982.](#)
- [Archives Act 1983.](#)
- [Privacy Act 1988.](#)
- [Defence Act 1903.](#)

Defence Instructions

- [Defence Instruction \(General\) \(DI\(G\)\) ADMIN 08–1—Public comment and dissemination of official information by Defence personnel.](#)
- [DI\(G\) ADMIN 10–6—Use of Defence telephone and computer resources.](#)
- [DI\(G\) ADMIN 45–2—The reporting and management of notifiable incidents.](#)
- [DI\(G\) FIN 12–1—The control of fraud in Defence and the recovery of public monies.](#)
- [DI\(G\) PERS 21–1—Political activities of Defence personnel.](#)
- [DI\(G\) PERS 25–2—Employment and voluntary activities of Australian Defence Force Members in off-duty hours.](#)
- [DI\(G\) PERS 25–4—Notification of Post Separation Employment.](#)
- [DI\(G\) PERS 25–5—Employment of immediate family members in the same chain of command and/or working environment.](#)
- [DI\(G\) PERS 45–5—Defence Whistleblower Scheme.](#)

Defence Chief Executive's Instructions

- <http://intranet.defence.gov.au/find/policies/FINMAN5/index.html>.

Defence Materiel Organisation Instructions

- [Defence Materiel Instruction \(Human Resources\) \(DMI \(HR\)\) 02–1–007—Dealing with Conflict of Interest in the Workplace.](#)
- [DMI \(HR\) 02–1–006—Post-Separation Employment Policy.](#)
- [DMI \(Finance\) 01–0–033—Acceptance of Gifts and/or Benefits by DMO Officials.](#)

Defence Manuals

- [Defence Financial Management Manual.](#)
- [Defence Procurement Policy Manual.](#)
- [Defence Security Manual.](#)
- [Defence Workplace Relations Manual.](#)

DEFENCE POLICIES THAT COVER SOME SITUATIONS WHERE CONFLICTS OF INTEREST MAY OCCUR

Offers of gifts, benefits or hospitality

- [Defence Chief Executive's Instruction \(CEI\) 6.2](#)—*Receiving and Gifting Gifts*.
- *Financial Management Manual* (FINMAN 5), [chapter 6.2](#)—'Receiving and Gifting Gifts'.
- *Defence Workplace Relations Manual* (DWRM), chapter 11, part 5—'Acceptance of Gifts and Other Benefits'.
- [Defence Materiel Organisation \(DMO\) CEI 6.8](#)—*Receiving and Accepting Gifts and Benefits*.
- [Defence Materiel Instruction \(DMI\) \(Finance\) 01-0-033](#)—*Acceptance of Gifts and/or Benefits by DMO Officials*.

Outside employment

- [Defence Instruction \(General\) \(DI\(G\)\) PERS 25-2](#)—*Employment and voluntary activities of Australian Defence Force Members in off-duty hours*.
- [DWRM](#), Chapter 7, part 5—'Outside Work'.

Post separation employment

- [DI\(G\) PERS 25-4](#)—*Notification of Post Separation Employment*.
- [DWRM](#), chapter 6, part 3, section 6—'Post Separation Employment'.
- [DMI \(Human Resource\) 02-1-006](#)—*Post-Separation Employment Policy*.

Volunteer or unpaid work situations

- [DI\(G\) PERS 25-2](#)—*Employment and voluntary activities of Australian Defence Force Members in off-duty hours*.
- [DWRM](#), chapter 7, part 5, section 3—'Unpaid Outside Work'.

Use of Commonwealth facilities and equipment

- [DI\(G\) ADMIN 10-6](#)—*Use of Defence telephone and computer resources*.
- [CEI 2.3](#)—*Defence Credit Cards*.

Personal and family relationships within the workplace or with contractors

- [DI\(G\) PERS 25-5](#)—*Employment of immediate family members in the same chain of command and/or working environment*.

Access to official information

- [DI\(G\) ADMIN 08-1](#)—*Public comment and dissemination of official information by Defence personnel*.
- *Defence Security Manual*, part 2, [chapter 30](#)—'Classification and Protection of Official Information'.

Public comment

- [DI\(G\) ADMIN 08-1](#)—*Public comment and dissemination of official information by Defence personnel*.
- [DWRM](#), chapter 11, part 7—'Defence Speakers'.

Political participation

- [DI\(G\) PERS 21-1](#)—*Political activities of Defence personnel*.
- [DWRM](#), chapter 7, part 5, section 3.

Sponsorship

- [CEI 2.12](#)—*Receiving and Providing Sponsorship*.
- [FINMAN 5](#), [chapter 2.12](#)—'Receiving and Providing Sponsorship'.

Employment decisions

- [DWRM](#), chapter 5, part 1, section 1—‘Legal context, merit and employment decisions’.

Procurement decisions

- [Defence Procurement Policy Manual](#).
- [Departmental Procurement Policy Instruction 23/2010](#)—*Managing Potential Ministerial Conflicts of Interest*.