



## CONFLICT OF INTEREST

### Setting up a private company

A senior employee of Department of Employment and Training is looking to exit public service. How did he manage the transition?

#### The story

In 2007, former Director-General of the Department of Employment and Training, Mr Scott Flavell, misused departmental information for his personal benefit and failed to disclose a personal interest in a private training company, while in office. Flavell began working in the private company immediately after leaving public employment.

While still Director-General, Flavell had given considerable assistance to establishing the company by providing information about a proposed subsidy scheme. The information gave the company a commercial advantage.

#### Resolution or outcome

- ▼ Flavell could not be disciplined as he no longer works in the public sector.
- ▼ Criminal charges were not laid due to deficiencies in the Criminal Code (subsequently amended).
- ▼ A number of other public servants in DET were also investigated – one faced disciplinary action and the other had already resigned.
- ▼ Public hearings occurred in lieu of a criminal trial and Queensland's Crime and Misconduct Commission recommended that:
  - ▼ senior executive contracts in the public sector to include provisions that require staff not to improperly disclose confidential information gained in the course of employment
  - ▼ the Queensland Government adopt post-separation and lobbying requirements in the code of conduct
  - ▼ the Queensland Government adopt a Lobbying Code of Conduct, establish a register of lobbyists, impose a post-separation employment quarantine period on former ministers, parliamentary secretaries, ministerial staff and senior public servants and other limitations on lobbying
  - ▼ departments review exit processes to ensure staff are reminded of their obligations to hand over any official information and to ensure compliance, and
  - ▼ the government insert into all CEO and senior executive contracts in the public service, and into the conditions of employment of all ministerial staff, an acknowledgement by the employee of their duty, both during their employment and subsequent to it, not to improperly disclose or use confidential information gained in the course of that employment.

*With thanks to Crime and Misconduct Commission, Queensland*

## Questions – Facilitator copy

1. List all of the ethical issues around this situation
  - ▽ Conflict of interest, post-separation employment, improper use of information, and failure to act in the public interest
2. What part of the ethical framework failed?
  - ▽ The Director-General did not understand conflict of interest requirements.
  - ▽ The Director-General did not declare and record his conflict of interest nor did he seek independent advice.
  - ▽ A non-compliance culture was promoted by the Director-General's attitude and lack of commitment to ethical behaviour.
  - ▽ There was no commitment from the top to public sector values, the department's values, and code of conduct or its conflict of interest policy.
3. What could be fixed to avoid this?
  - ▽ Declare and record all conflicts of interest – actual, potential and perceived.
  - ▽ Develop, implement and provide training in conflict of interest policies, including declarations.
  - ▽ Regularly audit the disclosure register.
  - ▽ Develop and implement post-separation employment policies and address the issue of lobbying.
  - ▽ Consider imposing time limits on how soon former senior public servants can enter into certain employment after exiting the public sector.
  - ▽ Educate staff on conflict of interest and post-separation employment policies, regularly hold refresher courses.
  - ▽ Protectively uphold and promote the public sector values and the values of the agencies – commitment from the top.
  - ▽ Develop and regularly review exit processes to ensure staff are reminded of their obligations to hand over any official information (both hard copies and electronic copies, including those on portable storage devices), and to ensure compliance.
  - ▽ Include all public sector CEO and senior executive contracts, and in the conditions of employment of all ministerial staff, an acknowledgement by the employee of their duty, both during their employment and subsequent to it, not to improperly disclose or use confidential information gained in the course of that employment



### The Commission can help

We are available to provide support and assistance with identifying, reporting, investigating, managing and preventing misconduct: [prevention@integrity.tas.gov.au](mailto:prevention@integrity.tas.gov.au) or 1300 720 289.

For more Integrity Commission resources go to [www.integrity.tas.gov.au/resources](http://www.integrity.tas.gov.au/resources)