

Post separation employment provisions

1. Application

This policy applies to staff employed in all Queensland Government departments.

2. Effective Date: 1 January 2011

3. Purpose

The purpose of this policy is to:

- assist in the interpretation of the restrictions imposed under the *Integrity Act 2009* (the Act) and the former Queensland Contact with Lobbyists Code (the Code) in relation to the conduct of lobbying activity by former senior government representatives,
- establish the relevant quarantine periods for the conduct of business meetings between departmental staff and former senior government representatives as required under the Code of Conduct for the Queensland Public Service (the Code of Conduct), any relevant departmental Standards of Practice and employment contracts regarding employment following separation from the Queensland public service.

4. Policy

4.1. Principles

- 4.1.1. It is the responsibility of departmental staff to ensure that any interaction with former senior government representatives complies with this policy, the provisions of the Act, relevant sections of the Code, the Code of Conduct and post separation employment provisions in departmental standards of practice (where applicable).
- 4.1.2. Former senior government representatives also have a responsibility to ensure that they comply with these provisions.
- 4.1.3. Former senior government representatives must not use confidential information gained during government employment for a private commercial benefit. The confidentiality clause in former senior government officers' contracts requires the non-disclosure of confidential information post separation.

- 4.1.4. Post separation employment provisions are not intended to hinder government business, rather the intent is to promote transparency and accountability. Nor is it intended for these provisions to prevent former senior government representatives from using their skills, expertise and general knowledge of the workings of government in the private sector following their departure from the public service. However, former senior government representatives should not use information gained in the course of public service employment for personal financial gain in the private sector.

4.2. Provisions

4.2.1. **Obligation of government representatives to not allow a former senior government representative to undertake related lobbying activity**

The Act places particular obligations on government representatives, effective from 1 January 2010, which prevent former senior government representatives from undertaking related lobbying activity with government representatives on behalf of a third party.

Principally, government representatives must not allow former senior government representatives to lobby them on behalf of a third party during the relevant quarantine period on matters which the former senior government representative had official dealings with during a defined period of employment or office.

This was also a requirement under the Code, however the quarantine and employment periods applicable to this requirement under the Code varied from those contained in the Act. It is important to note that the provisions of the Code still apply with respect to former senior government representatives who left employment or office prior to 1 January 2010.

Appendix 1 lists the relevant quarantine periods and employment periods that must be considered with respect to the various types of former senior government representatives.

4.2.2. **Obligation of departmental staff to not allow a former senior government representative to conduct business meetings with government representatives**

Departmental staff are also required to ensure that they do not have business meetings with a former senior government representative during the relevant quarantine period on any matter which that person had official dealings with during a defined period of employment or office.

Business meetings are generally regarded as meetings that have a commercial focus where there is a profit motive involved. It is important to note that this provision is not intended to apply to meetings with former senior government representatives who have taken up government appointments (such as public service appointments or board memberships); advocacy or dealings on behalf of not-for-profit entities (such as engagements with charity organisations, churches or the like); and social or personal contact.

Appendix 1 lists the relevant quarantine periods and employment periods that must be considered with respect to the various types of former senior government representatives.

4.2.3. Allowable lobbying and business meeting activity

Government representatives may allow former senior government representatives to conduct lobbying activities on matters which the former senior government representative had no official dealings with during the relevant period in public sector employment or office (see Appendix 1).

Similarly, departmental staff may allow former senior government representatives to have business meetings with them on matters which the former senior government representative had no official dealings with during the relevant period in public sector employment or office (see Appendix 1).

It is important to note that a former senior government representative who is an employee of an organisation or firm that represents their own interests to government is not captured by the restrictions on lobbying activity but may be captured by the business meeting restriction.

The subject for discussion should be ascertained prior to attending any business meeting to establish whether the matter is one which the former senior government representative had official dealings with and if they are captured by the relevant quarantine periods.

A suggested meeting protocol is provided (see Appendix 2 of this policy) to assist government representatives in determining whether they should meet with former senior government representatives. Where meetings are held with former senior government representatives who are lobbyists (as defined under section 41 of the Act), government representatives should ensure that this is recorded on the relevant departmental register of contact with lobbyists.

5. Definitions

Business meetings are meetings which have a commercial focus, and have been convened to discuss matters which have a profit motive in mind.

Former senior government representative is any person who was one of the following people—

- the Premier or another Minister;
- a Parliamentary Secretary;
- a councillor;
- a public sector officer, who was a chief executive, senior executive or senior executive equivalent;
- a ministerial staff member;
- a parliamentary secretary staff member;

and is no longer a government representative (see section 45 of the Act).

Government representative includes each of the following:

- the Premier or another Minister;
- a Parliamentary Secretary;
- a councillor;
- a public sector officer;
- a ministerial staff member; and,
- a parliamentary secretary staff member (see section 44 of the Act).

Lobbying activity is contact with government representatives which attempts to influence State or local government decision-making such as the making or amendment of legislation, development of government policy, awarding of a government contract or allocation of funding (see section 42 of the Act for full definition).

The definition of lobbying activity **excludes** a number of types of contact including:

- contact with Members of Parliament on constituency matters;
- petitions or grassroots campaigns;
- responses to calls for submissions or requests for information from government representatives; or
- incidental meetings or non-business (e.g. personal) contact

The full list of lobbying activity exemptions is provided under section 42 of the Act.

Lobbyist means an entity that carries out a lobbying activity for a third party client or whose employees or contractors carry out a lobbying activity or a third party client (see section 41 of the Act for full definition).

The definition of lobbyist excludes a number of entities including:

- a non-profit entity;
- an entity constituted to represent the interests of its members (e.g. an employer group, a trade union or a professional body such as the Queensland Law Society);
- members of trade delegations visiting Queensland;
- an entity carrying out incidental lobbying activities; or

- an entity carrying out a lobbying activity only for the purpose of representing the entity's own interests.

The full list of lobbyist exemptions is provided under section 41 of the Act.

Official dealings are specific policies, procedures, transactions, negotiations or cases in which former senior government representatives previously acted for, or provided advice to, the government (either through the CEO or the Minister). Simply viewing documents, such as Cabinet submissions and decisions, would not constitute having had "official dealings" on a matter. However, the confidentiality provisions of the *Queensland Cabinet Handbook* and *Public Service Commission Directive No. 2/09 - Employment Separation Procedures* would still apply.

Public sector officer is a chief executive of, or a person employed by, one of the following entities—

- a department;
- a public service office;
- a registry or other administrative office of a court or tribunal;
- a local government;
- a corporate entity under the *Local Government Act 2009*;
- the parliamentary service;
- a government owned corporation;
- an entity, prescribed by regulation, that is assisted by public funds (see section 47 of the Act).

Appendix 1: Summary of post separation quarantine periods

POSITION <i>(Business meeting restrictions enforced through codes/contracts)</i>	QUARANTINE PERIODS BEFORE 1 JANUARY 2010		QUARANTINE PERIODS AFTER 1 JANUARY 2010			
	Third Party Lobbying (enforced through the <i>Queensland Contact with Lobbyists Code</i>) and Business Meetings		Third Party Lobbying enforced through the <i>Integrity Act 2009</i>		Business Meetings	
	<i>Relevant period of official dealings before separation</i>	<i>Post-separation quarantine</i>	<i>Relevant period of official dealings before separation</i>	<i>Post-separation quarantine</i>	<i>Relevant period of official dealings before separation</i>	<i>Post-separation quarantine</i>
Ministers <i>(Ministers' Code of Ethics)</i>	2 years	2 years	2 years	2 years	2 years	2 years
Parliamentary Secretaries <i>(Ministers' Code of Ethics)</i>	2 years	18 months	2 years	2 years	2 years	18 months
Ministerial Staff <i>(Ministerial Staff Code of Conduct and contracts of employment)</i>	18 months	18 months	2 years	2 years	18 months	18 months
CEO and SES equivalents <i>(Codes of Conduct and contracts of employment)</i>	18 months	18 months	2 years	2 years	18 months	18 months

Appendix 2: Suggested Meeting Protocol

When contacted by individuals wanting to meet with you to discuss an issue:

- Ask: do they represent the interests of a third party?
If yes: are they registered on the Register of Lobbyists? (check on line on the Queensland Integrity Commissioner's website at www.integrity.qld.gov.au)
Advise them that lobbying activities are governed by the *Integrity Act 2009* which requires all professional third-party lobbyists to register prior to lobbying government representatives.
You can refer them to the Queensland Integrity Commissioner's website for further information on the Act and the Register of Lobbyists (www.integrity.qld.gov.au).
- Ask: are any of the representatives attending the meeting, or who will be in contact with the Government, former senior government representatives?
If yes: Are they captured by the post separation lobbying or business meeting restrictions?
Check when they were last in public office/public sector employment and in what portfolio they worked.
If there is any doubt in relation to the restrictions it would be best to postpone any meeting until the situation is clarified.
- If they are a registered lobbyist make sure you update the register of contact with lobbyists for your department with details of any contact with that lobbyist.
- **DO NOT** meet with a lobbyist who is not registered on the Register of Lobbyists.
- **DO NOT** permit a former senior government representative to lobby for a third party client or conduct a business meeting with you during the quarantine period on any matter with which they had official dealings for the relevant period before leaving public office/public sector employment.
Refer to Appendix 1 of this policy for details of the specific quarantine periods that apply to the different types of former senior government representatives.