



# Declarable Associations

## Procedural Instruction

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# 1. Purpose

The Department of Home Affairs is a central policy agency, providing coordinated strategy and policy leadership for Australia's national and transport security, federal law enforcement, criminal justice, cyber security, border, immigration, multicultural affairs, emergency management and trade related functions. The Department is central to how the Australian Government responds to terrorism, cyber threats and tackles organised crime; works internationally to manage migration and humanitarian programs; facilitates trade and travel; and manages response to natural disasters.

The Department and its staff, have a broad range of powers and responsibilities as well as access to a significant amount of personal and sensitive information, which if used incorrectly could have serious consequences to the s, security, unity and prosperity of our nation.

The work of the Department and the information that is held by (or available to) the Department is of significant value to a range of entities who may seek to act against Australia's interests or exploit Immigration and Border Protection (IBP) workers to further their own interests

Within this context, the community and Australian Government has a legitimate and reasonable expectation that workers:

- exercise their powers reasonably, lawfully, impartially and professionally, and
- do not maintain relationships or associate with people or entities who they know or reasonably suspect are engaging in activities that are inconsistent with the Department's role, mission and values.

# 2. Scope

This Procedural Instruction outlines:

- what is a declarable association,
- when and how declarable associations must be declared, and
- the Department's expectations regarding how the risks created by declarable associations will be managed.

This Procedural Instruction applies to any individual who requires an Employment Suitability Clearance (ESC) as defined by the *Employment Suitability Screening* Procedural Instruction (regardless of whether they currently hold an ESC), unless that individual has been:

- permanently waived from the requirement to hold an ESC (including the requirement to comply with this Procedural Instruction), or
- otherwise determined to fall outside the scope of the Department's Employment Suitability Screening policy.

It is recognised that in certain individuals (such as secondees, co-located officers and contractors with multiple sponsoring agencies/employers) may be subject to multiple integrity frameworks and reporting requirements.

- Employees of other Home Affairs Portfolio agencies who are seconded to the Department or otherwise require an ESC to enable access to (or co-location within) a Departmental premises are bound in full by Department's *Declarable Associations* Procedural Instruction.

- It is however recognised that the majority of Home Affairs Portfolio agency employees have had their ESC granted on the basis that they have undergone an equivalent process with their home agency, rather than undergoing a substantive ESC process with the Department.
- In the first instance, employees of Home Affairs Portfolio agencies should report all declarable associations to the business area within their home agency that is responsible for receiving and assessing declarable association reports.
- The home agency (in consultation with the Integrity and Professional Standards (I&PS) Branch) will have primary responsibility for assessing and managing the declaration in accordance with their own declarable associations (or equivalent) policies and procedures.
- In all other cases, individuals are bound in full by the Department's *Declarable Associations* Procedural Instruction. This requirement applies regardless of whether the individual:
  - has a security clearance that is sponsored by one or more other Australian Government agency, and/or
  - is subject to the integrity framework of one or more other employer.

## 3. Procedural Instruction

### 3.1. What is an association?

An association within the context of this Procedural Instruction includes any connection (either direct or indirect) with any individual, group, entity, organisation or event that is unrelated to an individual's official duties with the Department. This includes (but is not limited to):

- family members (including blood and non-blood relatives, as well as members of a partner's family)
- friends, social connections and close personal acquaintances
- business associates and business partners (including 'silent' partners)
- connections through clubs, groups or organisations including sporting teams
- connections or 'friends' on social media or via other online platforms or forums, regardless of whether the individual has ever physically met or interacted in person.

### 3.2. What is a declarable association?

A declarable association is an association between an individual that is subject to this Procedural Instruction and any individual, group, entity, organisation or event that meets one or more of the following criteria:

- the individual, group, entity, organisation or event is alleged, known or reputed to be engaging in (or has previously engaged in, or to have expressed an intent to become engaged in) criminal or illegal activities, or activities that are otherwise incompatible or inconsistent with the role and mission of the Department, or
- should an association between an individual that is subject to this Procedural Instruction and any individual, group, entity, organisation or event become publicly known, it may:
  - cast doubt on that individual's judgement, loyalty, decision-making and/or ability to resolve integrity issues in favour of the Department,

- create a perception in the mind of a reasonable person that the association is inappropriate and/or the individual has used, may misuse, or may be approached or encouraged to misuse their position within the Department,
- undermine the confidence the community places in the Department to maintain the integrity and security of Australia's borders, or
- otherwise adversely impact on the good standing and reputation of the individual and/or the Department.

In the case of criminal or illegal activities, a declarable association is created when a person is the subject of a credible allegation or admission of criminal or illegal conduct, regardless of whether that person has been formally charged, prosecuted or convicted.

Examples of declarable associations include (but is not limited to) any individual, group, entity, organisation or event that is alleged, known or reputed to be:

- involved in the consumption or use of drugs (regardless of whether personal use of the particular substance may have been decriminalised within the jurisdiction within which it was consumed),
- involved in inappropriate use of non-illicit drugs or prescribed drugs,
- involved in the consumption or use of border controlled substances,
- involved in the sale, distribution, manufacture, exportation or importation of
  - illicit drugs
  - precursor chemicals to be used in the manufacture of illicit drugs
  - equipment to be used in the manufacture of illicit drugs (such as tablet presses or tablet press parts),
- involved in any criminal or illegal activities,
- otherwise in trouble with or 'known' to police or law enforcement,
- involved in (or closely associated with) breaches or the circumvention of border controls,
- suspended, dismissed or have resigned from any law enforcement, intelligence or border management agency (on whatever terms) due to integrity issues,
- involved in the cultivation, bribery, blackmail, coercion, intimidation or corruption of other individuals,
- involved in acts or threats of violence or harm intended to achieve a political or religious objective,
- members of groups or organisations that are reputed to have criminal affiliations or advocate violent confrontation, or a group or association known to be frequented by individuals suspected of engaging in such activity, such as:
  - outlaw motorcycle groups
  - organised crime groups
  - street gangs
  - extremist groups
  - groups operating online such as the 'Anonymous' hacker group
  - groups involved in people smuggling or illegal migration activities, and/or
- otherwise involved in activities that may be in conflict with the role and mission of the Department.

### 3.3. Declarable associations and conflicts of interest

Conflicts of interest are primarily managed through the Department's *Conflicts of Interest* Procedural Instruction (PPN SM-1556).

However, in certain cases, an actual, potential or perceived conflict of interest may subsequently become a declarable association. Where a conflict of interest subsequently becomes a declarable association, the association must be reported to the I&PS in accordance with the requirements of this Procedural Instruction, regardless of whether the conflict of interest has already been declared or is already being managed.

***Example:** A relationship between an employee and a migration agent or customs broker may generally be considered to be a conflict of interest. If however, that migration agent or customs broker was subsequently identified as being involved in the circumvention of border controls, or to have been the subject of an adverse decision or regulatory action by the Department, then the relationship would also become a declarable association. Regardless of any existing conflict of interest declarations and management plans that may already be in place, the employee must now declare the relationship as a declarable association.*

### 3.4. Identifying a declarable association

Individuals that are subject to this Procedural Instruction must proactively and continually turn their mind to whether any of their associations are, or may be, declarable associations.

Individuals are not obliged to proactively seek adverse information regarding their associates, nor does the Department expect an individual to know facts or circumstances about an associate that they could not be reasonably expected to know. This includes, for example, associations with past Departmental employees who may have (unbeknown to the individual) resigned under adverse circumstances.

However, once an individual becomes aware that circumstances exist (or forms a reasonable suspicion that circumstances may exist) which may meet the definition of a declarable association, then the association must be declared. A declaration must be made irrespective of an individual's personal opinion of the risk or relevance of the matter.

Where doubt exists as to whether an association is declarable, individuals must resolve any doubt in favour of the national interest and declare the association. I&PS can also provide advice where an individual is unable to determine whether an association is declarable.

***Example:** An employee is a long term friend of Person A. This employee has never personally witnessed any concerning behaviour undertaken by Person A. Recently, Person B (who is a mutual friend of Person A and the employee) advised the employee that they had observed Person A appearing to snort something off the back of their hand while they were out nightclubbing. Person B did not confront or directly speak to Person A about this.*

*In this case, while the employee themselves has not witnessed any concerning behaviour, the statement of Person B would be sufficient to trigger a reasonable suspicion in the employee's mind that Person A may be involved in illicit drug use. On that basis, the relationship with Person A must be declared.*

***Example:** An officer is close friends with Person A. Person A maintains a close relationship with their sibling, Person B. Person A discloses to the officer that Person B has been arrested and charged for serious drug importation offences. Person A claims to have no knowledge of, or involvement in, Person B's activities. The officer has met Person B on several occasions, however has no regular or ongoing contact with Person B.*

*In such cases, Person A would still be considered to be a declarable association, as well as Person B. Both relationships must be declared by the officer. This is because despite Person A's claims, the officer is not in a position to determine whether Person A is making a truthful statement regarding*

*their knowledge or involvement in Person B's activities. In addition, should the public become aware that an officer is good friends with a sibling of an alleged drug trafficker, this could have and by itself undermine the community's confidence in the Department and call the good standing and reputation of the officer and Department into disrepute.*

### **3.5. Declaration and assessment of declarable associations**

Declarable associations must be reported to I&PS in accordance with the timeframes and requirements of the Department's *Declarable Circumstances* Procedural Instruction (PPN SM-1552).

### **3.6. Post-declaration obligations and processes**

Declarable associations must, as far as reasonably practicable, be avoided or relinquished once they become known.

**Example:** *An employee has attended the same barber for several years. The employee reads in the newspaper that the barber has been charged with a number of criminal offences including assault causing grievous bodily harm and domestic violence. In this case, the Department's expectation is that the employee would immediately cease all contact with the barber.*

**Example:** *An employee is a member of their local gym. The employee learns that another member of the gym who they regularly train and socialise with has been recently seen drinking at a local pub while wearing the insignia of an outlaw motorcycle gang. In this case, the Department's expectation is that the employee would immediately cease all contact with the individual. Depending on the circumstances, it may be appropriate for the employee to also train at a different gym.*

Where this is not immediately possible (for example, the individual and declarable associate have some form of legal, business or financial connection) or if the declarable associate is a member of the individual's immediate family, then individuals must take all reasonable steps to minimise contact and/or mitigate any risks to themselves and the Department until a formal assessment of the association can be undertaken by I&PS.

**Example:** *An employee is currently living in a share house with several other individuals. One day, the employee returns home from work and discovers that a 'bong' has been left on a table in a common area of the house. The employee confronts their housemates however all deny any knowledge of who owns the 'bong'.*

*While the employee does not have sufficient information to form a view as to which of their housemates may be involved in drug activity, there is sufficient evidence to indicate that at least one of their housemates is involved in drug activity, or associated with others involved in drug activity. In this case, the Department's expectation is that the officer would, as soon as reasonably practicable, take steps to find an alternative place of residence.*

Once a declarable association has been declared, I&PS will assess the association in accordance with section 3.5 of the *Declarable Circumstances* Procedural Instruction (PPN SM-1552).

### **3.7. Special consideration for immediate family members**

The Department does not expect individuals to relinquish relationships with members of their immediate family who do not pose an extreme or intolerable risk to themselves or the Department. The *Employment Suitability Clearance Process* Procedural Instruction (PPN SM-1555) and the *Employment Suitability Clearance Assessment Criteria* (PPN SM-1553) make it clear that the Department will give special consideration to declarable associations who are members of the individual's immediate family. However, this special consideration must also be balanced against the risks created by that member of the individual's

immediate family to the individual, the Department and more broadly the national interest. As outlined in the *Employment Suitability Clearance Assessment Criteria* (PPN SM-1553), a decision-maker may determine that an existing employee is not suitable to be granted an ESC where a member of the individual's immediate family poses an extreme or intolerable risk to the individual or the Department that cannot otherwise be mitigated or managed.

### 3.8. Accidental or incidental contact

The Department recognises that after an individual has taken steps to avoid or relinquish an association, accidental or incidental contact with that association may still occur. In such cases, the individual must submit a Declarable Circumstances report in about the contact accordance with the timeframes and requirements of the Department's *Declarable Circumstances* Procedural Instruction.

## 4. Accountability and Responsibility

Role	Description
All individuals who are subject to this Procedural Instruction	Comply with this Procedural Instruction including reporting declarable associations.
Line managers and contract managers	Ensure all IBP workers they manage are aware of their obligations regarding the reporting of declarable associations.
Integrity and Professional Standards Branch	Receiving, triaging and assessing declarable circumstances reports (and on-forwarding to the AGSVA or other third parties as appropriate).
Director Personnel Security and Suitability	Policy responsibility for ensuring this Procedural Instruction complies with the Department's relevant mandatory obligations under the Protective Security Policy Framework.
Division Heads (SES Band 2)	Own policy and procedure for the functions within the division and are responsible for approving policy statements for the functions owned by their division, ensuring there is high-level support for the outlined policy intent. Are accountable for ensuring the policy statement aligns with the strategic objectives of the Department.
Branch Heads (SES Band 1)	Owner and responsible for the development of policy statement documents for the functions of the branch. Approve PI for the functions owned by the branch, ensuring the policy statement owner has been consulted in the process and confirms that the procedural instruction is in line with any tiered policy statement.

## Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (ABF Act), requires all IBP workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

## 5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	27/06/2019	Assistant Director, Employment Suitability Section	Initial Draft of PI in new PPCF format
1.1	4/8/2020	Senior Assessor, Personnel Suitability Team	Update

## Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Australian Border Force	ABF	The ABF is an operational law enforcement workforce trained and equipped to undertake functions across the border continuum.
Australian Government Security Vetting Agency	AGSVA	The Australian Government Security Vetting Agency (AGSVA) is the central agency for the processing and granting of security clearances for the majority of Australian Government agencies and state and territory agencies.
Australian Public Service	APS	Australian Public Service
Declarable Association	N/A	As defined by section 3.2 of the <i>Declarable Associations Procedural Instruction</i>
Declarable Circumstance	N/A	As defined by section 3.1 of this Procedural Instruction
Department of Home Affairs	The Department	The Department of Home Affairs, including the Australian Border Force.
Illicit Drug	N/A	As per the definition in the <i>Employment Suitability Clearance Assessment Criteria</i>
Immigration and Border Protection Workers	IBP worker	Defined in the Secretary's Determination of Immigration and Border Protection Workers and under subsection 4(1) of the ABF Act, includes but is not limited to: <ul style="list-style-type: none"> <li>• all APS employees in the Department</li> <li>• persons employed by an Agency under the Public Service Act whose services are made available to the Department (often referred to as 'seconded')</li> <li>• persons engaged as consultants or contractors to perform services for the Department in-house in the Department</li> <li>• persons engaged as consultants or contractors to performing services for the Department that require non-public access to Departmental Assets.</li> </ul>
Integrity and Professional Standards Branch	I&PS	Administers the Professional Standards and Integrity Frameworks, which set out the standards of integrity and ethical behaviour required by all employees of the Department.
Immediate Family	N/A	As per the definition in the <i>Employment Suitability Clearance Assessment Criteria</i>

Term	Acronym (if applicable)	Definition
Policy and Procedure Control Framework	PPCF	The Policy and Procedure Control Framework mandates a consistent and integrated approach to the development and management of the Department's policies and procedures. The PPCF is aligned to, and complements, the Department's Risk Management Framework, Quality Management Framework and Information Environment Strategy.
Policy Statement	PS	A statement of principle which outlines statutory, regulatory or organisational requirement in line with the strategic direction of the Department and the Australian Government.
Procedural Instruction	PI	Describes how to implement a Policy Statement by outlining actions in relation to a particular activity.

# Attachment B – Assurance and Control Matrix

## 1.1. Powers and Obligations

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
<i>Australian Border Force Act 2015</i>	55	The Secretary may give directions to IBP workers in connection with the administration and control of the Department	No	
<i>Public Service Act 1999</i>	13	Section 13 of the Public Service Act contains the APS Code of Conduct.	No	

## 1.2. Controls and Assurance

<p><b>Procedures / Supporting Materials</b></p>	<ul style="list-style-type: none"> <li>• Employment Suitability Screening Procedural Instruction (PPN SM-1554)</li> <li>• Employment Suitability Screening Process Procedural Instruction (PPN SM-1555)</li> <li>• Employment Suitability Clearance Assessment Criteria Supporting Material (PPN SM-1553)</li> <li>• Declarable Associations Procedural Instruction (PPN SM-1551)</li> <li>• Security Clearances Procedural Instruction (PPN SM-1550)</li> <li>• Declarable Circumstances Procedural Instruction (PPN SM-1552)</li> <li>• Drug and Alcohol Testing Procedural Instruction (PPN SM-6177)</li> <li>• Mandatory reporting of Serious Misconduct, Corrupt Conduct and Criminal Activity Procedural Instruction (PPN SM-1557)</li> <li>• Procedures for Determining Suspected Breaches of the Code of Conduct Procedural Instruction (PPN SM-1547)</li> <li>• Outside Employment and Voluntary Activities Procedural Instruction</li> <li>• Public Interest Disclosure Procedural Instruction (PPN IIB-1548)</li> <li>• Use of Social Media and Other Online Services (PPN SM-1560)</li> <li>• Dress and Appearance Standards Procedural Instruction (PPN HR-1221)</li> <li>• Protective Security Policy Framework</li> <li>• Secretary Determination of Immigration and Border Protection Workers</li> <li>• Secretary Determination 1 of 2015 – Professional Standards</li> <li>• Secretary Determination 2 of 2015 – Employment Suitability and Security Screening</li> <li>• Secretary Determination 3 of 2015 – Integrity Measures</li> </ul>
<p><b>Training/Certification or Accreditation</b></p>	<p>Essentials mandatory eLearning module</p>
<p><b>Other required job role requirements</b></p>	<p>Employment Suitability Clearance Baseline Security Clearance</p>
<p><b>Other support mechanisms (eg who can provide further assistance in relation to any aspects of this instruction)</b></p>	<p>Personnel Security and Suitability Personnel.suitability@homeaffairs.gov.au 1300 243 717</p>
<p><b>Escalation arrangements</b></p>	<p>Director, Personnel Security and Suitability Integrity and Professional Standards</p>

<b>Recordkeeping (eg system based facilities to record decisions)</b>	Electronic records to be stored in secure I&PS TRIM repository or ESC Case Management System (Seibel)
<b>Control Frameworks (please refer to a specific document outlining QA or QC arrangements)</b>	Integrity Framework Policy Statement
<b>Job Vocational Framework Role</b>	All Job Roles

# Attachment C – Consultation

## 1.1. Internal Consultation

- Integrity, Security and Assurance Division
- Legal Group
- all staff through Department-wide consultation.

## 1.2. External Consultation

- staff representatives through the National Staff Consultative Forum
- Community and Public Sector Union.