

Circular 2021-23 | Pre-employment misconduct screening for public entity executive recruitment policy and guide



**Victorian
Public Sector
Commission**

Circular Number	2021-23
Issue date:	30 June 2021
Application:	Prescribed Victorian public entities, except those excluded in the 'Scope' section below.
Resources:	<ul style="list-style-type: none">• Policy – Pre-employment misconduct screening for public entity executive recruitment (DOCX, 120KB)• Guide – Pre-employment misconduct screening for public entity executive recruitment• Template forms – Pre-employment misconduct screening for public entity executive recruitment
Enquiries:	Integrity and Advisory branch Victorian Public Sector Commission integrity@vpsc.vic.gov.au

Key points

Integrity vulnerabilities in Victorian public sector recruitment processes, particularly in pre-employment screening, have been highlighted in reports by the [Independent Broad-based Anti-corruption Commission \(IBAC\)](#), [Victorian Auditor General's Office](#), and the [Victorian Ombudsman](#).

To address these integrity vulnerabilities the Victorian Public Sector Commission (VPSC) has developed the Model Policy for Pre-employment Misconduct Screening –

Executive Recruitment in Public Entities (the policy) and accompanying guide (the guide) as the minimum standard for prescribed entities to follow.

The policy seeks to prevent employees moving into public entity roles without disclosing a history of misconduct so that it may be appropriately assessed against the inherent requirements of the role.

This policy and guide will help entities comply with the binding [Public Sector Values, Employment Principles and Standards](#).

The guide provides practical advice about implementing the policy. It supports all entities, regardless of how big or small they are, in making the policy part of their executive recruitment practices.

The policy requires that a declaration and a consent form (collectively, the Form) be completed by candidates as part of the recruitment process for all executive positions in public entities. This is usually done at the preferred candidate stage. This includes preferred candidates already working in the organisation or within the Victorian public sector, at officer or executive level, as well as external candidates.

Under this policy, any offers of employment for executive roles must be made conditional to the outcome of screening checks.

The VPSC has issued a recommendation that prescribed public entities review their recruitment processes to determine whether adequate pre-employment screening is being undertaken, and align its current processes to conform with the Policy and Guide as the minimum standard for their executive recruitment process.

Update summary

This is the first version of the Model Policy for Pre-employment Misconduct Screening – Executive Recruitment in Public Entities.

It applies to recruitment for executive roles at specific public entities as outlined in the scope below.

Read the [model policy and guide to implementation](#).

Requirements

In accordance with s 63 of the Act, the VPSC recommends that within a reasonable and practicable timeframe, your public entity:

- reviews its executive recruitment policies and processes to determine whether appropriate pre-employment misconduct screening is being undertaken, and
- align its current policies and processes to conform with the Model Policy and the Guide in relation to executive recruitment.

Public entity Heads have 14 days to adopt the recommendation. This means they agree with the recommendation and, within a reasonable and practicable time, will undertake a review of their executive recruitment policies and processes and align them with the model policy and guide.

If public entity heads do not accept the recommendation within 14 days, they must advise the Commission why not, within 14 days after the end of that period (i.e. 28 days after receiving the recommendation).

The policy requires preferred candidates to complete a declaration and consent form (the Form) as part of the recruitment process, covering a number of questions relating to misconduct in employment. The Form must be completed by all preferred candidates, including those who already work for the employer, unless one of the exceptions outlined in the guide applies.

Statutory declaration and consent form templates for executive roles are available online. Model (non-statutory) declaration and consent form templates are available online where it is not possible to complete a statutory declaration in the first instance either electronically or in person.

The policy includes features to support natural justice and protect candidates from unlawful discrimination.

You will need to set up an independent consideration panel to review and assess misconduct declarations and verify information with past employers. This will be a person or persons with a high level of seniority, in addition to strong HR or investigative skills who can make decisions for the organisation.

The consideration panel makes a recommendation to the hiring panel on whether the candidate is suitable or not and never shares any other information with the hiring panel. This ensures the information provided by candidates is kept confidential and considered by someone with relevant expertise.

Candidates with an adverse conduct history are not necessarily precluded from employment. The policy is designed to enable you to assess the risk of any claims the candidate may make against your recruitment processes and have a robust process in place.

Only rule out candidates where their history of misconduct is relevant to the inherent requirements of the role and level of risk.

Employers are strongly encouraged to validate completed forms. Employers are strongly encouraged to do this even if the candidate is an existing or new executive or doesn't declare relevant misconduct, given the inherent risk in executive positions.

Background

Public sector employees occupy positions of trust in the community and must be accountable for their actions. Executives occupy particularly important positions and executive misconduct puts the community at risk and erodes public trust.

The policy and guide have been developed to lessen the risk of executive misconduct in the public sector.

Information on the Victorian Public Service pre-employment screening policy and guide can be found online.

Scope

This policy applies to:

- all public entity executive roles (however described) covered by the [Public Entity Executive Remuneration Policy](#)
- all public entities prescribed under regulation 5 of the [Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards \(Prescribed Public Entities\) Regulations 2019](#) (as amended from time to time) or their successor entities not yet prescribed

- any other public entity referred to in section 5 of the PAA that the Victorian Public Sector Commission notifies in writing

This policy doesn't apply to:

- public entities that are health services covered by the Health Executive Employment and Recruitment Policy
- public entities already covered by or applying the Victorian Public Sector Commission's Victorian Public Service Pre-employment Screening Policy
- persons employed under Part 2.3 and Part 2.4 of the [Education and Training Reform Act 2006](#)

A public entity is an entity established under section 5 of the PAA and a public entity Head has the meaning given to it under the PAA.

Date of application

The recommendation is in effect from 30 June 2021.

