Model Policy for Pre-employment Misconduct Screening – Executive Recruitment in Public Entities[[1]](#footnote-2)

<insert organisation>

1. **Purpose**

The Victorian public sector needs employees who act in accordance with the public sector values. Public sector employees occupy positions of trust in the community and must be accountable for their actions.

Misconduct[[2]](#footnote-3) by public sector employees can put the safety of employees and the community at risk and erode public trust.

Thorough pre-employment misconduct screening can reduce the chance of employees moving between employers without relevant misconduct being identified. It also enables a risk assessment of any misconduct identified in a candidate’s work history.

The Model Policy for Pre-employment Misconduct Screening – Executive Recruitment in Public Entities (this Policy) sets out the responsibilities and obligations for <insert organisation> in relation to misconduct screening for executive recruitment.

This 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 includes 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 subject to the successful outcome of screening checks.

1. **Principles**

<add any organisation-specific principles, codes and values>

Public sector values

The Victorian Public Sector Commission (the VPSC) issues the [Code of Conduct for Victorian Public Sector Employees](https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/), based on the Public Sector Values enshrined in the [Public Administration Act 2004](https://vpsc.vic.gov.au/about-vpsc/legislative-framework-the-public-administration-act-2004/) (PAA).

Under the PAA, the Code of Conduct is binding on Public Sector employees and any contravention of it constitutes misconduct. The Values and the Code of Conduct support the high standards the community expects of its Public Sector. They are the foundation of the integrity and accountability framework for all Public Sector employees, including those undertaking recruitment activities and executives once they commence employment.

Public interest

Victorian Public Sector employees are obliged to act in the interests of the Victorian community. They must perform their official functions and duties, and exercise any discretionary powers, in ways that promote the public interest that is applicable to their official functions.

Public Sector Employment Principles and Standards

Section 8 of the PAA outlines the public sector employment principles (the employment principles).

Section 62 of the PAA requires the VPSC to issue binding standards concerning application of the employment principles. The VPSC has issued six standards that define essential elements of the employment principles:

* fair and reasonable treatment
* merit in employment
* equal employment opportunity
* human rights
* reasonable avenue of redress; and
* career public service.

Equal opportunity and human rights
<Organisation> must consider whether an adverse conduct record would impact on the preferred candidate’s ability to fulfil the inherent requirements of the position. An adverse conduct record does not automatically preclude a candidate from employment in the Victorian Public Sector.

Natural justice

The principles of natural justice and procedural fairness must be applied in the pre-employment misconduct screening process. Following the principles of natural justice and procedural fairness, it is important that the candidate is provided the opportunity to discuss any declared conduct with <the organisation>, and to respond to any information presented by a current or former employer.

A preferred candidate with an adverse conduct history will not necessarily be precluded from employment within the organisation and should not be ruled out without validation, discussion and a risk assessment of the disclosed conduct as it relates to the role they have applied for.

Risk-based approach

A risk-based approach to pre-employment misconduct screening ensures appropriate and proportionate screening according to the risk level and the inherent requirements of the position in question.

Consistency with other policies and processes

The Policy is to be implemented in a way that ensures consistency with other Government, Victorian Public Sector, and <organisation> policies, and any other relevant legislative or regulatory obligations of the public entity.

The Policy sets a minimum standard for pre-employment screening. Where a public entity has existing screening processes that are more comprehensive than those provided in the Policy, the Policy should be incorporated into, and not replace or duplicate, those processes.

1. **Requirements**

Candidates must complete the Form as part of the recruitment process. This includes candidates already working in the organisation or another part of the Victorian Public Sector, including at officer or executive level, as well as external candidates. The Form should generally only be required from an applicant after they have been identified as the preferred candidate. Forms provided at earlier stages in the recruitment process may be appropriate in some circumstances, such as for higher risk roles.

The Form consists of a <declaration, or statutory declaration> and a consent form.

The Form provides a prospective employer with information about a candidate’s history of conduct in employment. A declaration of prior misconduct or an open investigation does not necessarily rule out the preferred candidate from employment. The Guide to Implementing the Model Policy for Pre-employment Misconduct Screening – Executive Recruitment in Public Entities (the Guide) provides advice on determining the relevance of declared information to the inherent requirements of the position.

The consent form provides permission from the candidate to enable <organisation> to verify the accuracy of declarations made with current and previous employers. The Guide sets out a risk-based approach to validating information provided by candidates in their application for employment.

For guidance on screening contractors or candidates with a history of self-employment, see the Guide.

Offers of employment should be made conditional on the successful outcome of any pre-employment screening.

The **Oaths and Affirmations Act 2018** (Vic) provides that it is a criminal offence for a person to make a statutory declaration they know to be false.

Knowingly providing false information in a declaration is a contravention of the public sector values under the *Public Administration Act 2004* (Vic).

1. As prescribed in Regulation 5 of the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards (Prescribed Public Entities) Regulations 2019 (as amended from time to time), as well as at any successor public entity not yet prescribed under the Regulations and any other public entity within the meaning of the Public Administration Act 2004 as notified by the Victorian Public Sector Commission. Victorian public entities not listed in the regulations may voluntarily adopt the policy should they not have suitable alternative arrangements in place to uphold integrity in recruitment by ensuring appropriate misconduct screening. [↑](#footnote-ref-2)
2. Misconduct is defined in the Public Administration Act 2004 as including:

	1. contravention of a provision of this Act, the regulations or a binding code of conduct;
	2. improper conduct in an official capacity;
	3. a contravention, without reasonable excuse, of a lawful direction given to the employee as an employee by a person authorised (whether under this Act or otherwise) to give the direction;
	4. a refusal by an employee to perform duties assigned under Part 3 (public service employment) or Part 7A (emergency situations);
	5. an employee making improper use of his or her position for personal gain;
	6. an employee making improper use of information acquired by him or her by virtue of his or her position to gain personally or for anyone else financial or other benefits or to cause detriment to the public service or the public sector.This definition is indicative and is not intended to exclude conduct by people not employed under Part 3 of the Public Administration Act. [↑](#footnote-ref-3)