Statutory Declaration and Consent Form for misconduct screening

**Information for Applicants**

VPS and Victorian public sector employees must adhere to standards of conduct and behaviour that exemplify the Public Sector Values prescribed in the **Public Administration Act 2004**. Public servants occupy positions of trust in the community and are accountable for their actions. As such, all candidates for any role in the VPS and all candidates for Victorian public sector executive roles are subject to appropriate integrity checks.

This Statutory Declaration and Consent Form (this Form) must be completed as part of the recruitment process for these roles.

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.

The binding Code of Conduct applicable to VPS and Victorian public sector employees can be found at https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees.

This definition is indicative and is not intended to exclude conduct by people not employed under Part 3 of the **Public Administration Act**.

**<insert employer name>** will protect personal information collected in the course of undertaking employment related checks by restricting its distribution to individuals who require it to make or participate in making an employment decision, and ensuring proper record management procedures are adhered to. **<insert employer name>** will comply with relevant privacy legislation requirements. You will be able to gain access to any relevant personal information that <**insert employer name**> collects about you throughout the recruitment process.

A preferred applicant with a conduct history (criminal or misconduct) will not necessarily be precluded from employment. The relevance of any information collected will be assessed strictly in relation to the requirements of the position applied for.

**<insert employer name>** will determine the relevance of any conduct to the position applied for, taking the following into account:

* the age of the applicant at the time of the conduct
* the nature and seriousness of the conduct
* the relevance of the conduct to the particular position applied for
* the risk to <insert employer name> and the Victorian community
* the period of time that has elapsed since the conduct took place
* the type and severity of any penalty imposed
* whether there is a pattern of behaviour
* any evidence of rehabilitation including subsequent work experience
* any additional information provided by the applicant, including references from persons who are aware of the conduct history.

**<insert employer name>** will conduct any relevant and required checks about applicants and the information you provide with your application. Such checks may include but are not limited to:

* Identity (evidence of name/change of name, date of birth, address)
* National and/or international police checks (which may include fingerprinting depending on the role)
* Right to work (including visa, separation package and redeployment status)
* Declarable associations to individuals known or suspected to be involved in unlawful activity
* Disciplinary history (including misconduct, open investigations and findings)
* Working with children
* Qualifications
* Professional registration or licence
* Contacting references to obtain referee statement

**Instructions (subject to modifications appropriate to a person's circumstances)**

The person making the declaration and the witness must complete the document as indicated. More guidance on making statutory declarations can be found at [www.justice.vic.gov.au](http://www.justice.vic.gov.au).

Both the person making the declaration and the witness must sign or initial each page of the document.

Before signing the declaration, the person making the declaration must say aloud in the presence of the witness:

"I, [full name of the person making the declaration] of [address of the person making the declaration], declare that the contents of this statutory declaration are true and correct."

**Statutory Declaration**

I, ,

[full name] [occupation]

of

[address]

make the following statutory declaration under the **Oaths and Affirmations Act 2018**(hereafter, the Act):

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Correct/ True** | **Incorrect/ False** | **Do not know/ cannot answer due to legal reasons** |
| 1. I have **not** had my employment terminated by any previous employer due to misconduct in employment. |  |  |  |
| 1. In the past:   7 years (if applying for a non-executive role)  10 years (if applying for an executive role)  **(circle the appropriate section)**  I have **not** been found to have engaged in misconduct in employment. |  |  |  |
| 1. I am **not** the subject of any open investigation into misconduct in employment. |  |  |  |
| 1. I have **not** ceased employment while being the subject of a misconduct investigation. |  |  |  |
| 1. All information I have provided in and with my present application for employment is complete, true and correct. |  |  |  |

**I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.**

[signature of person making this declaration]

Declared at in the state of Victoria on

[city, town or suburb] [date]

**I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:**

on

[signature of authorised statutory declaration witness] [date]

[full name of witness] [title/occupation/capacity to witness statutory declaration]

of

[address of witness, writing typing or stamp]

A person authorised under section 30(2) of the Act to witness the signing of a statutory declaration.

**\*This section must be completed and signed by the witness if the person making the statutory declaration is illiterate, blind or cognitively impaired and the statutory declaration is read to them.**

I certify that I read this statutory declaration to **[name of the person making the statutory declaration]** at the time the statutory declaration was made.

[signature of authorised statutory declaration witness]

**\*This section must be completed and signed by the witness if reasonable modifications were used in preparing this statutory declaration and that the contents of this statutory declaration were read to the person making the statutory declaration in a way that was appropriate to the person's circumstances.**

I confirm that reasonable modifications were used in preparing this statutory declaration and that the contents of this statutory declaration were read to the person making the statutory declaration in a way that was appropriate to the person's circumstances.

[signature of authorised statutory declaration witness]

**\*This section must be completed and signed by any person who has assisted the person making the statutory declaration, for example by translating the document or reading it aloud. If no assistance was required, this section does not need to be completed.**

I certify that I have assisted **[name of the person making the statutory declaration]** by **[specify what assistance was provided, for example translating the document]**……………………………………………………………………….

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on

[signature of person providing assistance] [date]

[name of person providing assistance] [address of person providing assistance]

Under section 30(3) of the Act the person making the statutory declaration and the statutory declaration witness must, in the presence of each other, sign or initial any alteration to the statutory declaration (s30(3)(a)); sign or initial each page of the statutory declaration (s30(3)(b); sign and date the statutory declaration (s30(3)(d), and legibly write, type or stamp their name and address on the statutory declaration (s30(3)(e)).

The statutory declaration witness must write or stamp under their signature required by ss30(3)(c) and (d) of the Act their qualification as a statutory declaration witness as prescribed by section 6 of the Oaths and Affirmations (Affidavits, Statutory Declarations and Certifications) Regulations 2018 (s30(5) of the Act).

If the person making the declaration has a disability or impairment that prevents them from completing any of the prescribed steps, please contact the <insert public entity legal or HR contact> for further advice on completing a statutory declaration.

**Consent Form**

I,

[full name]

of

[address]

, consent to the following:

[occupation]

1. I consent to **<insert employer name>** gathering information and conducting relevant and required checks about me and the information I have provided in my present application for employment and throughout the recruitment process.
2. I consent to <**insert employer name**> contacting my current and previous employer(s) to substantiate my employment history, including regarding past conduct and performance.
3. Should I be successful in this application I consent to the information provided in my present application for employment to be used during my employment for employment related purposes.

Full name of person providing this consent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of person providing this consent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_