

D R A F T

S E C R E T

March 14, 1978.

MEMORANDUM FOR DEPUTY MINISTERS AND
HEADS OF AGENCIES

Sexual behaviour, security, and public
service employment

The Public Service Employment Act, and the regulations made pursuant to it, contain no restrictions relating to sexual behaviour.

However in the context of national security and in some other situations, e.g. military, police and similar environments, sexual behaviour must, along with other aspects of human behaviour, be taken into consideration in making judgments on the suitability of persons for employment in some positions.

Persons being considered for access to classified information must have security clearance. Policy in this regard is set out in Cabinet Directive No. , which provides criteria relating to loyalty and reliability of persons being considered for such access. In the criteria relating to reliability, sexual behaviour is cited, along with greed, indebtedness, alcohol or drug abuse, and mental instability, as an example of "features of character" which might raise doubt because they might cause indiscretion, or vulnerability to blackmail or coercion.

The policy concerning reliability does not provide for automatic and universal exclusion of any category of persons from access to classified information. Instead, it places an onus on the deputy head to make a judgment: security clearance must not be granted to a person whose reliability is in doubt unless after careful consideration of the circumstances, including the value of the person's services, the risk involved seems justified in his/her opinion.

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It should be noted that this provision applies in the directive only to the criteria relating to reliability, and not to those relating to loyalty.

Experience indicates that judgments relating to reliability are particularly difficult ^{to make} where sexual behaviour is concerned. To assist deputy heads in carrying out their responsibility in this regard, the following guidelines are provided. Departments are reminded that these are intended only to supplement, and not to replace or vary, the policy set out in the Cabinet directive on personnel security clearance.

Judgment in granting access

1. Whenever a public servant, or an applicant for employment in the public service, is being considered for a position for which security clearance is required, or for a position where there is virtual certainty that security clearance will be required at a reasonably early date, and there are reasonable grounds to believe that the sexual behaviour of the person might pose a security problem, judgement on reliability must be made. This must be done in the light of the information available concerning the behaviour involved. The risk in granting security clearance must be weighed in relation to the degree of access to classified information and the vulnerability of the person in the position.

Factors to be considered

2. The following are suggested as aspects of sexual behaviour which could adversely affect reliability and therefore should be considered in arriving at a judgment:

- Secretiveness in relationships, on the part of the person and/or the partner.
- Frequent changes of partner.
- Proneness to relationships which might invite blackmail, (e.g. with a person whose social status or life style might cause the employee embarrassment if the relationships became known.

... 3

- Frequent or habitual purchase of sexual services.
- Aggressiveness in proclaiming or promoting a form of behaviour.

- Record with respect to arrest or conviction; proneness to situations where arrest or conviction might occur.

Access to Secret and Top Secret information

3. Particular care should be exercised in the case of persons whose sexual behaviour gives reasonable grounds for security concern, when the person is being considered for access to the higher levels of classified information (SECRET and TOP SECRET).

Access to Confidential information

4. Particular care should also be exercised in such cases in granting access to and including the CONFIDENTIAL level when it seems virtually certain that the person will, at an early stage in career development, require access to the higher levels of classified information (SECRET and TOP SECRET).

5. Where it seems reasonably certain that access to the higher levels will not be required, the security risk in granting security clearance for access to information to and including the level of CONFIDENTIAL is in most such cases minimal. However it would be appropriate, at the time of granting clearance in such circumstances, to make clear to the individual that access to the higher levels of classified information would require further investigation and clearance.

Rotational service abroad

6. Persons whose sexual behaviour gives reasonable grounds for security concern should generally not be employed in rotational service abroad, because such service involves in many cases a greater degree of vulnerability than domestic service with respect to blackmail, and in relation to the law (see section 9).

... 4

Frankness with employee when access denied

7. In the case of a person already employed in the public service, where the decision is made to deny or limit security clearance because the person might be unreliable for reasons of sexual behaviour, the person should be told the reason, to the fullest extent possible, (subject to protection of confidential sources of information), and the considerations involved should be explained. (Frankness should present less difficulty than is the case where the adverse information relates to loyalty, as sources are more likely to be open.) Maximum possible frankness is especially important where dismissal is being considered. It should be noted that if dismissal is considered on security grounds, the employee has recourse to the procedures set out in the Public Service Security Inquiry Regulations made pursuant to subsection 7(7) of the Financial Administration Act.

Frankness with applicant

8. In the case of a person who is an applicant and is refused employment in the public service because security clearance cannot be granted for reasons of sexual behaviour, the deputy head must make a judgment as to whether and to what extent explanation should be given. The deputy head might consider it advisable to make clear that, as head of the department or agency, he/she has responsibility,

in the interest of national security, to try to ensure the personal suitability of employees for performance of their duties, and to make judgments to achieve this. Emphasis might be placed on the duty to consider all relevant factors that could affect reliability of which sexual behaviour is one, when access to classified information is a requirement of a position.

Frankness with employee when access granted

9. In the case of a person already employed in the public service, where the decision is made to grant security clearance,

... 5

though there are reasonable grounds for security concern because of sexual behaviour, the situation should be discussed as frankly as possible with the person. The risks involved, both to national security and to the reputation and career prospects of the person, should be stressed. The person should be required to report immediately any indication of blackmail or coercion. Emphasis should be placed on any legal provisions in Canada and abroad which relate to the sexual behaviour concerned. Attention should be drawn to the fact that in some other countries, legal sanctions exist in the case of some forms of sexual behaviour which are not illegal in Canada.

Confidentiality of information

10. In all consultations with the employee or applicant, emphasis should be placed on the fact that the information concerned is kept in strictest confidence.

Consultation with P.C.O.

11. With a view to achieving consistency in the application of security clearance policy, departments are advised to discuss problems relating to the granting or denial of security clearance to persons whose sexual behaviour causes concern about reliability, with the Privy Council Office Security, Intelligence and Emergency Planning Secretariat, particularly in cases where access to the higher levels of classified information is involved, and where dismissal is being considered.