

# The Rose Book Annex E

Talent Mobility Guidance

## **Annex E**

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## Talent Mobility Guidance for Knowledge Asset Opportunities

- E1. This Annex sets out guidance for organisations to develop HR talent mobility policies to enable public sector staff ("innovators") to spend time outside of their home organisation to support the development and exploitation of Knowledge Assets.
- E2. Innovator mobility can often make a significant contribution to the success of the Knowledge Asset development and exploitation, for example by sharing knowledge and expertise; providing advice, direction and/or technical or professional support to help develop the Knowledge Asset to the next stage; or helping set technical or commercial direction. Benefits will also accrue to the home organisation, for example through new connections, skills and expertise that can be brought back on the innovator's return.
- E3. Scenarios in which innovators may move include to another public sector organisation; to an academic or research organisation to access expertise and facilities; to an organisation that has licensed the Knowledge Asset or to a new spin-out company formed to develop and commercialise the Knowledge Asset.
- E4. Potential mechanisms include:
  - a. Secondments a temporary transfer of an employee from one organisation to another.
  - b. Secondary employment for employment outside the public sector, part-time work in addition to the employee's substantive position may be possible subject to agreement by the home organisation and compliance with relevant appointment and conflict of interest controls (see secondary employment section, refer to page 7).
  - c. Career breaks an agreement between an employer and an employee to temporarily pause their employment (including all salary and benefits).
  - d. Loans a temporary transfer to work in another team in the same department or another Civil Service department.

Moves within the Civil Service are classified as intergovernmental loans and follow the Civil Service loans policy and guidance.

#### **Case study:**

Spire Global and STFC Talent Sharing arrangement

#### **Background**

The Science and Technology Facilities Council (STFC) generates Knowledge Assets including patents, industrial designs and copyrights for papers, processes, and software as part of its work to support research in astronomy, physics, and space science, and operate world-class research facilities for the UK.

Having developed the Hyperspectral Microwave Sounder (HYMS) - a new advanced millimetre wave sensing technology that delivers enhanced data for weather forecasting - STFC entered a licensing agreement with Spire Global, a space-based data and analytics company, to develop and deploy the technology on Spire satellites.

Two STFC employees temporarily joined Spire Global, one as a career break from STFC, and one undertaking part-time secondary employment. They have supported the exploitation of the Knowledge Asset by carrying out specialist engineering, design, and building of the technology, with the long-term objective of launching a full constellation for more accurate atmospheric monitoring.

Since joining Spire Global, the team have bid into major projects, being awarded a total of  $\mathfrak{L}6.9$  million in commercial contracts to trial test data from the HYMS sensor and a design phase study for a new sensor. The technology has progressed from prototype to early airborne demonstration with end users and is now reaching build stage for the in-orbit demonstrator.

"The innovators have a truly unique set of skills which globally, only a handful of institutions have access to. Being able to have them join Spire Global from STFC to provide critical expertise has been essential to Spire Global developing in-house competency in microwave sensing and opening new global markets".

John Ward, Senior Director of R&D, Spire Global

- E5. Where there is a clear public or organisational benefit, line managers should support the innovator to consider the talent mobility options available. This should take into account the wider organisational objectives to support public sector innovation and deliver benefits to the taxpayer through the exploitation of the Knowledge Asset, alongside the local resourcing, capability and procedural needs of the home organisation.
- E6. Additional considerations that should be applied are:
  - **Timeframe:** The duration of the time that the innovator will spend outside of their home organisation will depend on the nature of the Knowledge Asset opportunity, the stage of development of the Knowledge Asset and type of support required from the innovator. For example, initial transfer of the Knowledge Asset and working knowledge to a third party may require a short-term placement whereas where the Knowledge Asset underpins a spin-out company the arrangement may be longer term, full or part-time, and may include, e.g. taking on roles such as directing the development of the Knowledge Asset and associated IP protection and/or supporting development of the business.
  - Working arrangements: Consideration should be given to whether temporary transfer or part-time working arrangements or a career break best suit the scale of support that is required for the Knowledge Asset development, the needs of the home organisation, and the preference of the innovator. For example, depending on the role to be adopted, in a spin-out company situation an innovator may join the company for a number of years; work in a part-time leadership role; or be involved on the advisory board. Investors typically favour an innovator joining the spin-out and this may influence their decision to invest, or the amount of investment.
  - Remuneration: Innovators engaged with a private venture to develop the Knowledge Asset may have the opportunity to receive payment for their services in the form of a salary, consultancy or other financial rewards, alongside or in place of their regular public sector salary. In some situations, this may also include being granted equity in a company subject to any potential conflict of interests being managed. When the transfer of the Knowledge Asset is to the private sector, commercial terms will typically be negotiated between the public sector organisation and the company. The home organisation should have in place local policy for how revenue and, where relevant, equity is allocated to those who developed the Knowledge Asset, including the innovator who may be further engaging with the company. Local revenue share policy should determine how the innovator may benefit in these scenarios.
  - **Tax matters**: It is also important to consider whether the placement could create any new personal tax liabilities for the innovator for example, where equity in a company is offered. It may be appropriate for independent advice to be sought by the innovator and/or their employer to inform decisions on remuneration impacts and manage any associated risks.

E7. Civil Service and wider public sector HR policies are typically determined at organisational level; however, typical approaches include:

#### **Secondments**

#### Working arrangements

Secondments enable employees to temporarily leave their posts to join an external organisation for an agreed period of time. This is usually full-time, however part-time secondments may also be considered by line managers and HR leads where there is a clear benefit to the organisation.

Under a part-time arrangement, the innovator would split their weekly hours between the external organisation and their substantive position within the public sector.

#### **Timeframe**

The timeframe of the secondment should be agreed between the line manager, innovator and host organisation, taking into account the purpose of the secondment and the needs of the host organisation, home department, and the employee. Within the Civil Service, the maximum length of outward secondments is usually two years, but this may be extended subject to approval from all parties and where there is a benefit to the home organisation – for example, where extended support would facilitate the exploitation of a public sector-owned Knowledge Asset.

#### Remuneration

The usual arrangement for outward secondments is for the employee to remain on their home organisation's payroll whilst the host organisation reimburses their full or pro-rata pay costs (depending on whether the secondment is full or part-time) including basic pay, national insurance, pension contributions, and any other contractual entitlements. Where secondments offer a significant business benefit - for example, through financial returns from the commercialisation of the asset- the home organisation may also agree not to be reimbursed, or to be partially reimbursed the salary costs.

See the Civil Service Secondments Playbook for more information on managing secondments within the Civil Service (this document is usually held by HR teams).

#### **Conflicts of Interest**

Particular consideration should be given to whether the secondment might affect the innovator's official role or duties in line with the organisations' conflict of interest policy. This includes both where the individual is on a full or part-time secondment.

See Section 2 of this Annex for more information on declaring and managing conflicts of interests. Civil Servants should also ensure that they are compliant with the Declaration of Outside Interests in the Civil Service.

#### **Secondary employment**

#### Working arrangements

For transfers to organisations outside of the public sector and where a secondment arrangement is not suitable, secondary employment may be an alternative arrangement for the innovator to pursue the Knowledge Asset opportunity.

Subject to the approval from their organisation, the innovator would reduce the weekly hours of their substantive post to free up time to take a part-time position within the external organisation.

For Civil Servants, departments and agencies require staff to seek permission before accepting any outside employment which might affect their work either directly or indirectly and must make appropriate arrangements, which reflect the Business Appointments Rules for Civil Servants. See section 4.3 of the <u>Civil Service Management Code</u> for more information.

#### **Timeframe**

The length of the secondary employment would be negotiated between the innovator, their organisation and the external organisation. Unlike secondments, the innovator may not be automatically guaranteed return to their full-time position on completion of their secondary employment.

#### Remuneration

The innovator's pay and reward benefits including any pension contributions and annual leave entitlements would be reduced to reflect the new working arrangement on a pro-rated basis.

Details of any secondary employment of Senior Civil Servants that is paid (or otherwise remunerated) must be published through the departmental management of outside interests process.

#### **Conflicts of Interest**

Particular consideration should be given to whether the secondary employment might affect the innovator's official role or duties in line with the organisations' conflict of interest policy.

See Section 2 of this Annex for more information on declaring and managing conflicts of interests. Civil Servants should also ensure that they are compliant with the Declaration of Outside Interests in the Civil Service.

#### **Career breaks**

Career break policies usually preclude individuals from taking up alternative employment during their time away from their post – however, some exceptions may apply where there is clear benefit to the organisation and the personal development of the employee. This will be described in the relevant organisation's Career Break policy.

#### Remuneration

During a career break, all salary and pension contributions are suspended.

#### Loans

Loans enable Civil Servants to move to a different post within the Civil Service, either at the same substantive grade or on a promotion basis. Organisations outside the Civil Service are not eligible for loans into Civil Service organisations and should therefore utilise secondments when seeking to interchange with the Civil Service.

#### **Timeframe**

Loans are usually only agreed for a period of up to two years unless there is an exceptional business justification which is agreed by department management teams.

Loan opportunities should only be considered for employees who:

- have been recruited in line with the Civil Service Commissions' Recruitment Principles (appointment on merit through fair and open competition).
- have successfully completed their probationary period.
- have demonstrated acceptable performance and attendance levels.
- do not have any immigration visa restriction which specifies a particular place of work.

See the <u>Civil Service combined HR and finance policy and process</u> for more information on how to manage loans.

- E8. Where an organisation's existing HR policies do not support effective exploitation of Knowledge Assets, the organisation should consider creating HR policy flexibilities for innovators to pursue Knowledge Asset opportunities.
- E9. Where talent sharing arrangements are agreed, line managers and innovators should refer to their organisational procedures to report and mitigate any conflicts of interests which may occur during or after the placement. This includes confidentiality, information management and any financial interests. Civil Servants must also ensure that they are compliant with the Declaration of outside interests for the Civil Service.
- E10. In particular, an actual or perceived conflict of interest may arise where an innovator is engaged with a company and may benefit financially in its success. For example, to incentivise development of Knowledge Assets, an innovator may be eligible for a share of revenue that their employing organisation receives in respect of commercialisation of a Knowledge Asset that they have helped to create and/or they may benefit from a personal equity stake in a spin-out company. Section 2 of this Annex provides guidance on how to declare and manage conflicts of interests arising from the exploitation of Knowledge Assets.
- E11. Organisations should ensure that individuals follow their local rules regarding employment in the private sector following public sector employment. Civil Service organisations should ensure that the individual understands any potential implications under the Business Appointment Rules if, following a period of secondment, secondary employment or career break, they wish to leave the Civil Service permanently. The <u>Business Appointment Rules</u> apply from an individual's last day of service and requires the individual to consider whether they meet the criteria that would require them to submit an application form to their former department to take up a non-Civil Service role. This would include permanently joining their secondment organisation, or making their secondary employment their primary employment, or taking up a new role after a career break an application form may be required, even if the individual has already been carrying out the same role via a secondment or secondary employment basis.
- E12. It is also important for all parties to have a clear understanding of ownership rights for any foreground IP generated or developed by the innovator prior and during the placement and whether any transfer of background IP or licences to background IP will be needed between organisations to support the exploitation of the Knowledge Asset. A usual arrangement during a temporary transfer of employment is for IP to be owned by the organisation that they are generated in, however, this may vary depending on the agreement between organisations.
- E13. Confidentiality during the placement must also be considered in order to protect sensitive information and know-how. Confidentiality is especially important when working with potentially patentable IP, or when working in a setting where there could be a perceived conflict of interest. See guidance on <a href="Managing Intellectual Property and Confidentiality">Managing Intellectual Property and Confidentiality</a> for more information. The Official Secrets Act will also continue to apply to employees and former employees who are or were in scope.

## Declaring and managing Conflicts of Interests related to Knowledge Asset exploitation

- E14. Conflict of interest refers to a set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest. It can occur in any situation where an individual or organisation (private or government) can exploit a professional or official role for personal or other benefit. Conflicts can exist if the circumstances create a risk that decisions may be influenced, regardless of whether the individual actually benefits. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.
- E15. Once an actual, potential or perceived relevant outside interest has been raised, the decision maker, usually the individual's line manager, will need to decide what action to take in response. This should be agreed in conversation with the individual who has made the declaration where possible and then be formally recorded. The following is a non-exhaustive list of the types of action that may need to be taken:
  - Agreement that there is no conflict of interest (or perceived conflict of interest).
     It may be that the decision maker and individual decide that there is in fact no conflict of interest to be found. If this is the case, then no additional action is likely to be necessary.
  - Exclusion from the activity it may be that the only reasonable step to take to eliminate the risk is to have the individual concerned remove themselves from the activity/relationship that is causing the conflict of interest. All actual conflicts of interest (where there is a risk that an individual's ability to apply judgement is or could be impaired or influenced by an extant secondary interest) must be resolved in this manner. Examples of actions include changing responsibilities, recusal from decision making, divestment or ending a role.
  - Continue with the activity but implement actions to mitigate any real or potential risk (where an individual's ability to apply judgement or act in their role could be impaired or influenced by a secondary interest in the future) - what actions are necessary will be entirely dependent on the nature of the conflict of interest and the level of risk, however it might include closer monitoring, revisions to existing work plans, or the additional disclosure of all relevant information to others involved in the decision-making process.

- E14. Any actual conflicts of interest must be resolved in a way which removes the conflict. Potential conflicts of interest or perceived conflicts of interest (where an individual's ability to apply judgement or act in one role could reasonably be perceived as impaired or influenced by a secondary interest) may exist in some circumstances, provided that effective mitigations are put in place. The assessments, considerations and actions agreed should be properly documented to ensure a clear audit trail.
- E17. Conflicts of interest that may arise in connection with Knowledge Asset exploitation include, but are not limited to, the following:
  - · An individual using their position to:
    - influence a contract or other favourable terms for a company in which they, or a relative or friend, had a financial interest.
    - obtain financial or non-financial benefits for themselves or for a relative or friend in return for providing advantage, or potential advantage.
    - use public sector resources or confidential information for personal financial or non-financial benefit or benefit to a relative or friend.
  - Conducting business, employment or activity outside of the public sector which adversely affects the individual's ability to perform their duties.
  - An individual compromising research objectivity or independence in return for financial or non-financial benefit for them or for a relative or friend.
- E17. Examples of these kinds of conflicts in relation to Knowledge Asset exploitation include (this is not an exhaustive list):
  - A staff member having a financial interest in the company sponsoring work at their home organisation, this being exacerbated if the value of their interest may be affected by the outcome of the work.
  - An individual is an inventor of patents or creator of other IP whose value may be affected by the outcome of research/work (including policy, delivery, procurement) in which they are involved.
  - An individual holds a position in an enterprise (e.g. as director) that may wish to restrict (or otherwise manage) adverse findings for commercial reasons or not wish to publish certain results.
  - An individual having a financial interest or other personal interest in a spin-out which may be impacted by their home organisation or conflict with their home organisation's interests (e.g. through regulatory, research or commercial activity, or by the home organisation having a financial interest in the spin-out).
  - An individual having a financial interest in the licensee (or proposed licensee) of public sector Knowledge Asset.

- E14. Organisations must put in place a process to ensure that all relevant outside interests can be declared, and where appropriate managed as soon as they arise. The Declaration and management of outside interests in the Civil Service sets out the guidance for civil servants and can provide useful reference information for other public sector organisations.
- E20. The table below sets out some example strategies to manage conflicts of interests deriving from the exploitation of Knowledge Assets. This is not an exhaustive list of approaches to manage conflicts of interests and should be used only as a guide for organisations to inform their decisions.

Declaration details	Is it relevant to their official duties?	Is it an actual, potential, perceived or no conflict of interest?	Management approach	Outcome
A public sector innovator is seeking a secondment or career break for three years to a spin-out based on a licensed public sector-owned Knowledge Asset. The innovator will receive an equity stake in the company.	Yes	Actual conflict of interest.	Example:  Conflict of interest recorded.  Public sector innovator to absent themselves from any relevant information and decision-making that relates to the company or its competitors in question on return to the public sector. Innovator maintains confidentiality in respect of any knowledge or information pertaining to the public sector or the company with which they were engaged.	Agreement: conflict of interest recorded and management approach applied.

Declaration details	Is it relevant to their official duties?	Is it an actual, potential, perceived or no conflict of interest?	Management approach	Outcome
A public sector innovator is seeking a secondment to a company that has taken a licence to a public sector-owned Knowledge Asset to support the exploitation of the Knowledge Asset. The innovator would continue to receive their full public sector salary and remuneration benefits and would not receive any additional financial rewards or equity from the company. The public sector organisation does not propose to share any revenue returns from commercialisation via the licensee company with the innovator.	Yes	No conflict of interest.	Example:  Agree review period during secondment to consider whether any additional conflicts of interests may be presented on the public servants' return to the home organisation.  Innovator maintains confidentiality in respect of any knowledge or information pertaining to the public sector or the company with which they were engaged.	Agreement: conflict of interest recorded and management approach applied.

Declaration details	Is it relevant to their official duties?	Is it an actual, potential, perceived or no conflict of interest?	Management approach	Outcome
A public sector innovator is seeking a part-time secondment with a company (existing or new spin-out) that has taken a licence to a public sector-owned Knowledge Asset whilst continuing their substantive position within the public sector on a reduced basis. They will split their weekly hours between the company and their home organisation, and their salary will be met by home organisation and company, on a pro-rata basis.	Yes	Potential conflict of interest.	Example: Salary remuneration recorded. Public sector innovator to absent themselves from any relevant information and decision-making that relates to the company or its competitors in the home public sector organisation and vice versa.  Innovator maintains confidentiality in respect of any knowledge or information pertaining to the public sector or the company with which they were engaged.	Agreement: conflict of interest recorded and management approach applied.
A public sector innovator completed a secondment with a spin-out company that had licensed a public sector-owned Knowledge Asset. Several years later they join a new government department which has policy responsibility for the sector that the company operates in. The innovator retains no links or financial interests with the company.	Yes	No conflict of interest.	Example:  No management approach required.	Agreement: no risk or perceived risk.

