



Secondary employment

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Introduction

A person is in secondary employment when they engage in paid work for another organisation while employed by a public sector organisation. Secondary employment includes self-employment, involvement in a private business or partnership, provision of paid consultancy services, or service as a company director.

As a general principle, unpaid or volunteer work is not covered by this advisory, however employees may be as motivated by non-paid or voluntary work as they are by paid secondary employment. Consequently, the guidance provided below may equally apply to non-paid or voluntary work.

The Public Service Commission's Directive No. 3/07, *Public service employees engaging in other employment* puts limitations on secondary employment to ensure that the public receives effective and impartial service.

In addition, it is a criminal offence (punishable by a fine and up to three years imprisonment) for a public service employee to work for any company that is engaged in business with their own agency (section 89 of the *Criminal Code Act 1899* (Qld)).

Secondary employment is permissible but it must be managed to ensure it does not negatively impact on the employee's primary role. Usually, an approval for secondary employment will be accompanied by conditions, and in some circumstances it may not be granted.

Compliance with legislation and policies relating to secondary employment continues to apply even when an employee is on leave (whether paid or unpaid) from the organisation.

Major misconduct risks

The risks associated with secondary employment depend on the job roles involved and the functions of the public agency. Potential risks include:

- the creation of an actual or perceived conflict of interest between official and private business interests
- misuse of public resources, especially telephones, email and office consumables
- unauthorised use of information and intellectual property
- absenteeism due to clashing commitments
- diminished work performance resulting from tiredness, distraction or time pressures
- increased load on co-workers who must 'cover' the reduced performance of one employee
- adverse effects on the public's perception of the integrity of your organisation.

The risks to your organisation are greatest when the second employer:

- has or is likely to have contractual dealings with your organisation
- is in, or may come into, commercial competition with your organisation
- has a regulatory relationship with your organisation.

There may also be risks when employees have hobbies or undertake volunteer work in areas related to their public sector employment (e.g. employees in an environmental policy area who also volunteer with their local conservation group) and for which they may occasionally receive nominal payments. In most organisations these risks are handled under a conflict of interest policy.

Strategies to prevent misconduct

Every organisation should have a declaration and approval process for secondary employment to enable them to determine risks to the organisation for employees undertaking that secondary employment.

Managers (as representatives of the primary employer) are entitled and obligated to:

- ensure that the employee will perform their job efficiently and effectively and that there is no actual or potential conflict of interest in relation to the employee's duties
- evaluate whether the secondary employment will, or has the potential to, compromise the integrity of the employer.

If the manager cannot satisfy themselves about these risks or if the applicant cannot explain how they will manage their ongoing efficiency and effectiveness obligations, then the manager will have to seriously consider not supporting the application.

Each public sector organisation should have a secondary employment policy to provide clear guidance to staff about their obligations. The policy should:

- reflect the requirements of Directive No. 3/07, *Public service employees engaging in other employment*
- explain the key issues, and provide clear guidance to managers about the basis on which decisions are to be made
- set out a process for employees to notify the agency of secondary employment, and for the agency to take appropriate steps to consider and prohibit or approve the employment and to manage any risks thought to arise from it
- specify that approvals may be subject to particular contractual conditions to ensure adequate management of the situation (particularly for certain professionals, consultants or part-time employees)
- specify that approvals are always conditional, to ensure the secondary employment does not have a negative impact on either the performance of the employee's substantive duties or on the reputation of the agency or the public service generally
- require the employee to disclose specific information including the duties undertaken, hours worked, any current links the secondary employer has with the organisation and any potential conflicts of interest
- require the employee to promptly notify the agency of any change of circumstances that may need an approval or any conditions to be reconsidered
- specify that secondary employment or functions relating to it must not be carried out during work time or using agency resources
- identify a suitable manager or delegate to make decisions about the management of secondary employment risks
- empower the agency to take disciplinary action against employees who fail to declare or do not cooperate in managing secondary employment
- require that written declarations of and applications for secondary employment, including reasons for approval or rejection, are maintained with staff records for future reference and audit purposes
- provide for regular reviews of the organisation's policy to ensure it is being followed, by reminder broadcasts to staff, regular training for managers and supervisors, and inclusion in ethics awareness sessions
- direct employee attention to related policies on conflict of interest, misuse of official resources, timekeeping and the code of conduct
- require the provision of adequate education and awareness programs to ensure that all staff know and understand their obligations under the policy
- make provision for an annual review of each employee's secondary employment approval, and also make clear that any previous secondary employment approval can reasonably be revoked.

It is important that this policy be readily available to and understood by all staff members, and that appropriate managers be properly trained in the management of secondary employment issues.

Further information and resources

- *Criminal Code Act 1899* (Part 3, Chapter 13)

- *Directive No. 3/07 Public service employees engaging in other employment* (PDF, 60 KB)
- *Crime and Misconduct Commission and Independent Commission Against Corruption 2004, Managing conflicts of interest in the public sector: toolkit* (PDF, 2 MB)
- *Public Sector Ethics Act 1994* (Part 4)
- *Public Service Act 2008* (Chapters 1 and 6)

Please contact us if you would like further detailed guidance and information on any aspect of this advisory.

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Last updated: 22 February 2013

Contact us

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