

Private or Secondary Employment

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AUTHORISED BY: Deputy Secretary, Finance, Strategy & Operations	AUTHORISED DATE: 6/03/2017
ISSUED BY: Corporate Strategy	EFFECTIVE DATE: 27/04/2017
CATEGORY: People, Ethics and Conduct	REVIEW DATE: 31/01/2019

Policy Statement

NSW Department of Industry (the department) staff may work outside the department if it does not conflict with or adversely affect the performance of their official duties, or unnecessarily create health or safety risks.

Purpose

The purpose of this policy is to:

- Ensure staff are not improperly influenced by their own private interests
- Build and maintain a professional and ethical workplace
- Promote the NSW public sector core values of integrity, trust, service and accountability
- Minimise the risk of fraud or corrupt conduct
- Safeguard community trust and confidence.

Scope

This policy applies to all full-time, ongoing and temporary staff and in certain circumstances part-time and casual staff of the department. It does not apply to contingent workers.

The policy continues to apply to staff who are absent from work for extended periods, including parental leave, sickness absence and agreed employment breaks, and should be read in conjunction with these relevant departmental policies.

For simplicity, private and secondary employment are considered and treated in the same way.

The policy expands on, and is to be read in conjunction with the department's Code of conduct.

Objectives

To ensure that:

- The integrity and objectivity of the department is maintained at all times
- The right decisions are made, free from conflicting interests wherever possible
- The safety of staff and customers is protected from preventable risks.

Requirements

1. *Staff* must:

- Be aware that:
 - The department will not rearrange their duties or hours of engagement to accommodate private or secondary employment
 - Each proposal for private or secondary employment needs to be applied for separately

- Approval for private or secondary employment may be withdrawn at any time (in writing) if the circumstances or conditions change, the staff member is transferred to other duties or another work location within the department.
- Ensure all private or secondary employment arrangements have been discussed with and agreed by their manager
- Submit all private or secondary employment applications via the FSO Portal
- Ensure approval has been received prior to commencing private or secondary employment. (This would normally be expected to take at least 10 business days)
- Ensure private or secondary employment arrangements do not:
 - Expose the department to unmanaged conflicts of interest
 - Adversely affect their capacity to carry out their designated duties
 - Pose a risk to the health and safety of themselves or others, or
 - Use the department's intellectual property without prior approval from the Secretary (or delegate).
- Notify their manager if the conditions or circumstances of approved private or secondary employment change and submit a new application via the FSO Portal
- Resubmit their application each year prior to the original approved commencement date if they wish to continue the private or secondary employment.

2. *Part-time and casual staff* must:

- Comply with the requirements for staff (above) in the following circumstances:
 - Where private or secondary employment is undertaken during the period the person performs duties for the department (e.g. telemarketing at lunchtime on a work day)
 - Where private or secondary employment performed on a weekend or a non-work day affects the performance of their departmental duties.

3. *Managers* must:

- Maintain open and constructive communication with staff regarding private or secondary employment arrangements
- Review approved private or secondary employment arrangements whenever circumstances change or prior to any expiration date
- Monitor staff work performance to ensure private or secondary employment does not adversely affect the performance of their duties under their employment contract with the department
- Action private or secondary employment applications within **five working days** of receiving them from their staff
- Promote ethical conduct and regularly remind staff of their responsibilities in relation to conflicts of interest
- Take appropriate action in relation to breaches of this policy in consultation with the Deputy Secretary, Finance Strategy and Operations as the department's Fraud Control Officer.

4. *Approvers* (as Secretary's delegate) must:

- Consider applications for private or secondary employment in a fair and consistent manner
- Consider potential risks to the health and safety of staff or others before approving private or secondary employment
- Negotiate access, licence or use of intellectual property if required.

Procedures

See NSW Department of Industry Private or secondary employment procedure.

Roles and responsibilities

1. Corporate Strategy Branch:

- Manage and review the policy, procedure and related forms
- Provide advice and raise awareness about private or secondary employment across the department
- Manage and maintain the official private or secondary employment register and the forms required to track and record this information
- Provide information about private or secondary employment declarations to relevant executives.

Breaches

The department may take disciplinary action for breaches of the Private or secondary employment policy in accordance with the relevant sections of the GSE Act. Action may include counselling, official notification of unsatisfactory performance, formal cautions, demotion or dismissal. In serious cases the matter may be referred to the NSW Police or other appropriate authorities.

Grievances

All disputes regarding private or secondary employment will be managed in accordance with the department's grievance resolution procedure.

Confidentiality and privacy

All private or secondary employment information is subject to the requirements of the NSW Privacy and Personal Information Protection Act 1998. Unauthorised disclosure of confidential information is prohibited under the department's code of conduct.

The Private or secondary employment register will be open to inspection by internal and external auditors and may be viewed by the public on application.

Definitions

For the purposes of this policy and related procedures, all terminology is taken to mean the generally accepted or dictionary definition with the exception of the following terms which have a specifically defined meaning:

- *Approver* Staff with a delegation Level 3 and above consistent with the levels of Authority within the Human Resources Manual of Authority.
- *Conflict of Interest* A conflict of interest occurs when the private interests of a public official come into conflict with their duty to act in the public interest. Conflicts of interest are particularly relevant where the public official has a decision-making role.
- *Corrupt conduct* Is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation.
- *Managers* An authority that supervises staff within the structure of the department. Management levels 1 - 5 consistent with the Levels of Authority within the Human Resources Manual of Authority.
- *Private employment* Any form of employment, including unpaid or voluntary work, outside the staff members' employment with the NSW Department of Industry.
- *Secondary employment* Any work or position within the department which is in addition to the principal employment with the department.

Legislation

- Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009
- Government Sector Employment Act 2013
- Government Sector Employment Regulation 2014
- Independent Commission Against Corruption Act 1988
- State Records Act 1998 (NSW)

Related policies

- Code of conduct [IND-P-184]
- Conflicts of interest (IND-P-183)
- Grievance management (A-109)
- Human resources manual of authority (INT16-27439)
- Intellectual property (TI-G-150)
- Private interest disclosures (IND-P-176)

Other related documents

- [NSW Public Service Commission: Code of Ethics and Conduct](#)
- [Preventing Corruption - Knowing your Risks - Secondary Employment, Independent Commission Against Corruption.](#)
- [NSW Ombudsman: Recognising and managing conflict of interests](#)
- [NSW Ombudsman: Good Conduct and Administrative Practice Public Service Agencies](#)
- [NSW Procurement Policy Framework](#)

Further information

For further advice and information on private and secondary employment, please contact:

Position	Business Unit	Contact Details
Manager, Corporate Governance	Corporate Governance Unit, Corporate Strategy	E: corporate.governance@industry.nsw.gov.au

Superseded documents

- Private and secondary employment - Department of Primary Industries July 2007
- Secondary and private employment – Department of Water and Energy DP_012 May 2008

Revision history

Version	Date effective	Reviewed By	Changes made
1.0	17/02/2017	Manager, Corporate Governance	New policy developed for NSW Department of Industry