



Second Jobs and Volunteering Policy

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ISSUED BY:

WORKFORCE CAPABILITY AND
GOVERNANCE, CMTEDD

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Introduction

1. The independence and impartiality of the ACT Public Sector (ACTPS) and its employees is a fundamental aspect as to how it operates.
2. Conflicts of interest, whether they be perceived, potential or actual, can arise in various circumstances. This includes situations where employees engage in activities outside of their work at the ACTPS, such as having a second job or participating in volunteering programs.
3. The purpose of the Second Jobs and Volunteering Policy (the policy) is to provide clear guidance on when employees are required to seek prior approval before engaging in second jobs or volunteering activities.
4. The approval requirement also ensures that the ACTPS, as an employer, can meet its duty of care obligations, through preventing or mitigating conflicts of interest or workplace health and safety concerns that may arise.

Application

5. This policy contains a set of whole-of-government instructions issued by the Head of Service under section 17(2)(a) the *Public Sector Management Act 1994* (PSM Act) and binds all employees engaged under that Act.
6. For the purpose of this policy, 'employees' are defined as including permanent officers, temporary employees, casual workers and Statutory Office-Holders of the ACTPS.
7. All directorates/agencies are expected to adhere to this policy as a minimum standard. However, directorates/agencies may put in place their own policy and procedural documents which recognises differences in their operating environments and organisational structures.
8. As this policy focuses in detail on conflict of interest matters, it should be read in conjunction with the [ACTPS Conflict of Interest Policy](#).

Key Legislative Provisions

9. Section 244(1) of the PSM Act provides that an employee must have approval from the Head of Service or delegate (the delegate) for any of the following activities, other than in the exercise of their work-related functions. For the purpose of this policy, these activities are identified as 'second jobs' and include:
 - a. other employment;
 - b. business activities; and
 - c. membership of a board or committee.
10. Section 152 of the PSM Act grants this approval power to Statutory Office-Holders and Chief Executive Officers (or delegates) for public sector bodies.
11. However, section 244(2) of the PSM Act states that an employee does not need approval to be a member or shareholder of, or hold an unpaid position in, an incorporated company, a political party or a body registered under a law of the Territory, a State or the Commonwealth.
12. Section 108 of the Public Sector Management Standards 2016 (PSM Standards 2016) provides further guidance in relation to second jobs. This includes that:
 - a. under section 108(2), employees must tell the Head of Service (or delegate) in writing about a second job as soon as practicable, before they plan to start the activity;
 - b. under section 108(3), the Head of Service (or delegate) must not approve the employee's second job, if they reasonably believe to do so:
 - i. would be inconsistent with the public sector principles; or
 - ii. would create a real or perceived conflict of interest for the employee; and

- c. under section 108(4), the Head of Service (or delegate) must tell the employee if their second job has been approved, in writing, as soon as practicable. A decision under section 108 is reviewable.
- 13. Section 9(1)(a) of the PSM Act further sets the expectation that an employee must take all reasonable steps to avoid any conflicts of interest. This means taking into consideration what a reasonable person in the employee's situation would do when facing a conflict of interest issue.
- 14. Section 9(1)(b) then states that an employee must declare or manage a conflict of interest that cannot be reasonably avoided.
- 15. The *Work Health and Safety Act 2011* (ACT) (WHS Act) and the corresponding Commonwealth law places a legal obligation on an employer to manage and mitigate risks to the health and safety of its employees, which extends to managing fatigue in the workplace and the wellbeing of their employees. Employees are also obligated to look after their own health and safety in the workplace.
- 16. Clause A2.21 of the relevant ACTPS Enterprise Agreements further states that the ACTPS, as an employer, will take all reasonable steps and precautions to provide a healthy, safe and secure workplace for their employees, and that both parties will act in a manner that is consistent with the principles under the WHS Act.
- 17. A breach of this policy may be reviewed under section 9 of the PSM Act. It is to be managed under clause H6: Misconduct and Discipline (and their respective counterparts) of the relevant ACTPS Enterprise Agreements for non-executive employees and section 47 of the PSM Standards 2016 for executives.

Principles

- 18. Employees must always seek delegate approval before commencing their second job outside of the ACTPS. This includes situations where the employee intends to work in a second job at a public sector body while already being employed at a directorate and vice versa.
- 19. Employees should always be conscious of whether their second jobs outside of the ACTPS could raise a conflict of interest or work health and safety issue. They should always discuss these issues with their supervisor/manager at the earliest opportunity. The two parties would then work together to manage these issues.
- 20. Similarly, employees must also seek approval before commencing their second job within the ACTPS. This includes situations where the employee intends to work in a second job at a directorate while already being employed at another directorate.
- 21. This approval process will enable the employee's supervisor/manager to ensure that, where appropriate, there is an arrangement in place between both workplaces that addresses any possible conflict of interest or work health and safety issues that may arise.
- 22. Requesting approval in advance can allow the employee, their supervisor/manager and the delegate to identify any issues associated with the second job as soon as possible.
- 23. While this pre-approval does not apply to employees who intend to participate in volunteering activities, it is important that these employees still make a self-assessment of whether any conflicts of interest exist between their volunteering activities and their work-related functions at the ACTPS.
- 24. If there are any perceived, potential or actual conflict of interest concerns with their volunteering role, the employee should complete a [Conflict of Interest Disclosure form](#) and discuss any further options for managing the conflict with their supervisor/manager.
- 25. Generally, employees should not take personal leave to undertake work in a second job. An employee seeking to work in a second job while on personal leave should outline these details in the Second Jobs Application form (**Attachment A**). This should be assessed on a case by case basis by the delegate as there may be compelling circumstances under which these arrangements may be acceptable. For

example, this may include to assist in their health and wellbeing recovery and capacity for returning to work.

Procedure

26. To seek delegate approval for a second job, the employee must firstly complete the Second Jobs Application form.
27. Examples of second jobs requiring approval include, but are not limited to:
 - a. a second position within the ACT Government;
 - b. other employment outside of the ACT Government;
 - c. business activities; and
 - d. profitable activities outside official duties, for example membership of a board or committee.
28. The delegate will review the application within 14 days of receipt, and will seek further information from the employee or their directorate/agency corporate Human Resources (HR) area if there are any further concerns.
29. In considering the application, supervisors/managers and delegates should consider:
 - a. if there are any potential risks to workplace health and safety as a result of the employee's second job - for example, if they are often fatigued as a result of working excessive hours at their second job, they may be at risk to their colleagues or themselves while working at their current ACTPS position;
 - b. if there would be any conflicts of interest with the employee's current ACTPS position and second job;
 - c. if the work involved in the employee's second job would affect the performance of their current work-related functions;
 - d. if the second job is being performed outside of the employee's working hours;
 - e. if the interests of the ACT Government as an employer are balanced; and
 - f. the right of the employee to lead their life free from unnecessary intrusion.
30. Applications to work in second jobs should be approved by the delegate unless there is a demonstrated conflict of interest, work health and safety or other relevant risks to the employee or their workplace. Approval should not be unreasonably withheld.
31. If the application is approved:
 - a. the delegate should note this on the application form, record this with their directorate/agency corporate HR areas and submit the form to Shared Services HR for processing;
 - b. the employee must advise the delegate if there are any changes to their circumstances during the approval period, so the delegate can review the application to ensure it is still appropriate; and
 - c. the employee should seek to have the application renewed by the delegate at a minimum of every 12 months to ensure it is still appropriate.
32. Changes in circumstances that would lead to a review of the approval by the delegate could include:
 - a. the nature of the employee's second job changing;
 - b. the employee changing jobs within the ACTPS, which may give rise to new potential conflicts of interest; or
 - c. the employee commencing an active workers compensation claim.
33. If the application is not approved:
 - a. the delegate should discuss their concerns with the employee and provide clear reasons in writing as to why the application has not been approved; and

- b. the employee may seek an internal review of the decision under clause I: Internal Review Procedures (and their respective counterparts) of the relevant ACTPS Enterprise Agreement, if unsatisfied with the outcome.

Responsibilities

Employees

- 34. The employee is responsible for:
 - a. ensuring they obtain approval prior to commencing their second job outside or within the ACTPS;
 - b. remaining conscious of any conflicts of interest associated with their volunteering activities, declaring these on the [Conflict of Interest Disclosure form](#) at the earliest opportunity and discussing options for managing the conflict with their supervisor/manager;
 - c. ensuring their second job or volunteering activities does not affect their efficiency and performance of work-related duties, including impacting their availabilities, fatigue levels and capacity to perform;
 - d. informing the delegate without delay of any changes in circumstances that may impact on the approval of their second job;
 - e. seeking to have their application renewed every 12-months or where there has been a change to their circumstances; and
 - f. ensuring they read and complete any of their directorate/agency-specific Second Job policies and application forms, in addition to this policy.

Supervisors/Managers

- 35. The supervisor/manager is responsible for:
 - a. determining whether to endorse their employee's second job application for the delegate's approval, having consideration to the factors listed in this policy together with any other relevant circumstances; and
 - b. working with the employee to manage any conflict of interest matters that may arise with their second job or volunteering activities.

Delegates

- 36. The delegate is responsible for:
 - a. reviewing and approving/refusing an employee's second job application, having consideration to the relevant circumstances such as conflict of interest and work health and safety issues;
 - b. communicating their decision in writing to the employee;
 - c. ensuring the approval is documented and recorded within their directorate/agency corporate HR areas, as well as provided to the Shared Services HR team for processing;
 - d. maintaining a record of conflicts of interest disclosed to them, which includes noting down any actions taken, and ensuring they are reflected on platforms such as the whole-of-government Conflict of Interest Register;
 - e. ensuring that the approval is regularly reviewed every 12 months or in accordance with this policy and recording this review with their directorate/agency corporate HR areas; and
 - f. ensuring that any conflicts of interest issues raised by the employee are addressed in a co-operative and appropriate manner.

Consultation

37. This policy was developed in consultation with the ACT Government Human Resources Council, Shared Services, the Co-ordinator Generals Group and unions.

References

38. The relevant legislation, policy and employment arrangements underlying this operational guidance are:
- [Public Sector Management Act 1994](#)
 - [Public Sector Management Standards 2016](#)
 - [Work Health and Safety Act 2011 \(ACT\)](#)
 - [Work Health and Safety Act 2011 \(Cth\)](#)
 - [ACTPS Enterprise Agreements](#)
 - [ACTPS Conflict of Interest Policy](#)

Further Information

39. For further information on this policy, please contact the Executive Group Manager, Whole of Government Industrial Relations and Public Sector Employment team, Workforce Capability & Governance Division at the Chief Minister, Treasury and Economic Development Directorate.

Review

40. This policy is due for review 12 months from the last issued or reviewed date, or earlier where there are changes that affect the operation of the policy.

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| Document name: ACTPS Second Jobs and Volunteering Policy | Prepared by: Assistant Director, Industrial Relations and Public Sector Employment, Workforce Capability & Governance, CMTEDD |
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Approval Authority

Dr Damian West
Deputy Director-General
Workforce Capability and Governance Division
Chief Minister, Treasury and Economic Development Directorate
On behalf of the Head of Service
July 2021

Attachment A – Second Jobs Application Form



Second Jobs Application Form

In accordance with legislative obligations and the ACTPS Second Jobs and Volunteering Policy, all employees are required to obtain written approval prior to commencing a second job. This type of work includes, but is not limited to:

- a second position within the ACT Government;
- employment outside the ACT Government;
- business activities; and
- profitable activities outside official duties, for example membership of a board or committee.

Approval to work in a second job should be reviewed every 12 months or earlier at the discretion of the delegate. It must also be reviewed if the circumstances surrounding the approval or secondary employment change.

The form must be **signed by the applicant, supervisor/manager and the delegate** with copies retained by the applicant and supervisor/manager.

| Applicant to complete | | | |
|---|----------------------|--------------|--|
| Family name: | | Given names: | |
| Directorate: | | Section: | |
| Classification: | AGS/Employee number: | Tel (work): | |
| Is the second job internal or external to the ACT Government? <input type="checkbox"/> Internal <input type="checkbox"/> External | | | |
| If internal , what directorate/agency/public sector body will the second job be worked in: | | | |
| If external , what organisation will the second job be worked in: | | | |
| Details of work to be undertaken (<i>Duties performed and other relevant considerations</i>) | | | |
| Hours of duty/days/shift roster: (attach a copy of the roster) | | | |
| Do you have an active workers compensation claim? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>I have read and understand the Public Sector Conduct principles set out in Section 9 of the Public Sector Management Act 1994 and understand that these may apply to me whilst undertaking working in a second job.</p> <p>I understand a breach of these obligations may constitute misconduct and lead to disciplinary action. I acknowledge the requirements in relation to:</p> <ul style="list-style-type: none"> • possible conflicts of interest – subsections 9(1)(a) and (b); • using my public position or information obtained through that position, to seek an advantage for myself or another person – subsection 9(2)(b); • improper use of property of the Territory – subsection 9(2)(c); • unauthorised disclosure of information obtained by me as a public employee – subsection 9(2)(d)(i); • unauthorised comments that may be taken as an official comment – subsection 9(2)(d)(ii); and <p>I understand that all official information, resources, and property that will be or has been used or acquired by me in the course of my employment with the ACTPS is to be regarded as the property of the Territory.</p> <p>Note: Employees may not undertake paid work of any kind during their prescribed hours of duty. If the second job affects your attendance or work performance in any way the approval may be cancelled.</p> | | | |
| Signature: | | | Date: |
| Supervisor/Manager to complete | | | |
| Application supported? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |

| | |
|--|-----------------|
| <p>If supported, is there the potential for a perceived or actual conflict of interest? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the conflict of interest must be declared in accordance with Section 9 of the <u>Public Sector Management Act 1994</u>. If you are unsure what action is required, please consult the <u>ACTPS Conflict of Interest Policy</u> or your directorate's Corporate Governance branch for guidance.</p> | |
| <p>If not supported, provide reasons: e.g. conflict of interest, would affect employee's work performance</p> | |
| Name: | Position Title: |
| Signature: | Date: |
| <p>Delegate to complete</p> | |
| <p>Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> | |
| <p>In approving this I have considered:</p> <ul style="list-style-type: none"> consistency with the public sector principles <input type="checkbox"/> Yes <input type="checkbox"/> No the potential for any real or perceived conflict of interest? <input type="checkbox"/> Yes <input type="checkbox"/> No <p>Note: Section 108 of the Public Sector Management Standards 2016 prohibits approval of work outside the service (including business activities and membership of boards or committees) where the delegate reasonably believes to do so:</p> <p>(a) would not be consistent with the public sector principles; or</p> <p>(b) would create a real or perceived conflict of interest for the applicant.</p> | |
| <p>If not approved, provide reasons:</p> | |
| Name: | Position Title: |
| Signature: | Date: |

Send to Shared Services for action via:

Email to HRSharedServices@act.gov.au

Internal mail to Shared Services, Winyu House, GPO Box 158 Canberra ACT



WORKFORCE CAPABILITY AND GOVERNANCE,
CMTEDD

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