



Secondary Employment Policy and Procedure

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Role	Name	Signature	Date
Commissioner	Brett Bassett		February 2020
Chief Human Resources Officer	Alarna Lane-Mullins		February 2020

1 Purpose

This Policy and Procedure provides guidance on how the Queensland Building and Construction Commission (QBCC) will identify, manage and monitor secondary employment to ensure that these risks are managed properly, consistently and fairly.

2 Introduction

The QBCC acknowledges employees may wish to engage in **secondary employment**. However, the *Public Sector Ethics Act 1994* establishes that the primary obligation of a public official is to always act in the public interest. The *Code of Conduct for the Queensland Public Service* (the Code) requires that employees:

- always disclose a personal interest that could, now or in the future, be seen as influencing the performance of our duties
- actively participate in developing and implementing resolution strategies for any **conflict of interest**, and
- ensure that any conflict of interest is resolved in the public interest.

As well as creating a risk of conflicts of interest, other potential risks of secondary employment include:

- adverse effects on the public's perception of the QBCC's integrity and impartiality
- use of public resources, especially telephones, email and office consumables, for the other employment
- unauthorised use of information and intellectual property, particularly where the employee has access to confidential agency information concerning their secondary employment
- diminished work performance resulting from fatigue, distraction or time pressures
- absenteeism due to clashing commitments, and
- increased load on co-workers who must "cover" the reduced performance of the employee.

3 Scope

This Policy applies to all QBCC employees.

Secondary employment includes employment as an employee or contractor, self-employment, involvement in a private business or partnership, provision of paid consultancy services, or service as a company director. These all involve a contract of employment that may create obligations that can conflict with government employment.

This Policy does not apply to unpaid and volunteer work by QBCC employees. Actual, potential or perceived conflicts of interest that may arise through unpaid or volunteer work are managed under the *Conflicts of Interest Policy and Procedure*.

QBCC employees must not work for any business that has any contracts with the QBCC. This may give rise to a criminal offence under section 89 of the *Criminal Code Act 1899*.

4 Policy

The QBCC recognises that secondary employment can contribute to an employee acquiring additional skills and knowledge, and can legitimately supplement an employee's income. However, in order to ensure the primacy of employees' obligation to always act in the public interest, and to manage the risks associated with secondary employment, the QBCC's policy is that an employee must not engage in secondary employment unless and until their intention to engage in secondary employment has been properly declared and approved in the manner set out below.

If the risks of the proposed secondary employment cannot be mitigated to the QBCC's satisfaction, the employee will not be approved to engage in the other employment. While the employee can still accept other employment, if they do so without approval, then their employment with the QBCC may be terminated on the basis of a breach of the Code. Identified failures to seek prior approval to engage in secondary employment in accordance with this policy will be referred to the, Integrity and Complaints Branch, for assessment. This may result in the QBCC commencing **disciplinary action** against the employee.

5 Definitions

<p>Conflict of interest</p>	<p>A conflict between a public official's duties and responsibilities in serving the public interest, and the public official's personal interests (including interests of the public official, the public official's partner and/or the public official's dependents) which can arise due to avoiding personal losses as well as gaining personal advantage, whether financial or otherwise. Any conflict of interest must be resolved in favour of the public interest.</p> <p>An actual conflict of interest exists where a reasonable person, in possession of the relevant facts, would conclude that there is a direct conflict between an employee's current duties and responsibilities and existing personal interests.</p> <p>A perceived conflict of interest occurs where it may be perceived by others that a QBCC employee's personal interests could improperly influence the performance of their public duties, whether or not this is in fact the case.</p> <p>A potential conflict of interest arises when a QBCC employee has personal interests that could interfere with their official duties in the future.</p>
<p>Disciplinary action</p>	<p>Action taken within the disciplinary provisions of the <i>Performance Management Policy and Procedure</i>.</p> <p>Disciplinary action also includes the assessment and investigatory phase prior to any formalise show cause processes.</p>
<p>Official duties</p>	<p>The duties of an employee undertaken in their work capacity and include duties performed which may be compromised by the presence of a conflict of interest.</p>
<p>QBCC employee</p>	<p>QBCC employee includes all full-time, part-time, temporary and casual employees, and contractors. It includes employees taking any form of approved leave from QBCC employment, including recreation and long service leave, and including unpaid leave.</p>

<p>Secondary employment</p>	<p>Any additional paid employment performed by a QBCC employee (either on-full time, part-time, temporary or casual basis), in the Queensland Public Service, public sector or other government jurisdictions in the private sector as an employee whether for a private company or business or ownership of, or directorship of a company, trading trust or partnership working as an independent contractor; or self-employment.</p> <p>Secondary employment does not include the ownership and investment in shares in a publicly listed company, or investments in rental properties or other similar activities.</p>
<p>Secondary employment documentation</p>	<p>Any documentation generated as part of the application of this Policy regarding secondary employment, including information submitted via the on line reporting tool, iDeclare, where the application and declaration for secondary employment is lodged, management plans, approvals, any variations and other correspondence relating to secondary employment between an employee and their senior leadership team member.</p>

6 Roles and Responsibilities

Employees must:

- not commence or engage in secondary employment until approval is obtained in accordance with this policy, via the on line reporting tool, [iDeclare](#).
- disclose specific details of the proposed secondary employment, including the duties proposed to be undertaken, the other employer's name and location, the hours proposed to be worked, and any current links the other employer has with the QBCC or other government organisations
- self-identify and declare any potential conflicts of interest and other possible risk factors, and propose how they propose to manage those risks
- engage with their manager identify risks and develop an appropriate management plan
- comply with an approved management plan to ensure that the secondary employment does not have a negative impact either on the performance of duties, or on the QBCC's reputation
- ensure that engaging in approved secondary employment does not impact adversely on their ability to safely and effectively carry out their **official duties** in their QBCC employment
- promptly notify the QBCC of any changes of circumstances that may need to be managed or which indicate that conditions of the approval may need be reconsidered
- ensure that the approval is reviewed annually, and participate in that review
- ensure that any approved secondary employment and actions relating to it are not carried out during work time or using QBCC resources
- not misuse QBCC information, intellectual property, physical or other resources to engage in approved secondary employment
- keep a copy of any secondary employment declarations and approval
- ensure that their secondary employment approval remains reflective of the contemporary situation.

Managers must:

- understand and be able to explain the key issues, and provide clear guidance to an employee about the basis on which decisions about secondary employment are to be made
- remind the employee about their obligations concerning conflict of interest, misuse of official resources, timekeeping and the Code of Conduct

- identify and assess all potential risks inherent in proposed secondary employment (including risks not identified by the employee)
- review and decide on the practicality of the mitigating steps the employee proposes to manage the risks
- consider whether there are any unacceptable risks arising from the proposed secondary employment
- engage with the employee and seek to reach documented agreement on how any identified risks will be managed
- implement a review process to ensure that an approved management plan is effective, ensure the secondary employment is not affecting the employee's performance, and to identify emerging risks not previously identified
- ensure the employee understands that compliance with legislation and policies relating to secondary employment is required even when an employee is on leave (paid or unpaid) from the QBCC (subject to any explicit approvals).

Senior Leadership Team (SLT) members:

- review secondary employment declarations and proposed management plans
- determine whether or not to approve or otherwise amend or decline the application
- may add further conditions to the approval, in addition to those proposed in the management plan.

Integrity and Complaints Branch:

- Provide advice to QBCC employees and management on ethical and integrity issues, including corrupt conduct, employee misconduct, conflict of interest matters with regard to secondary employment applications;
- Receive, assess and report on alleged failures to declare conflicts of interest and secondary employment
- Maintain QBCC's Secondary Employment Declaration Register; and
- Receipt and assess undeclared conflicts of interest and secondary employment (suspected or otherwise).

7 Application Process

Employees are encouraged to informally discuss any proposed secondary employment with their manager and/or the Integrity and Complaints Branch prior to formally applying for approval.

Employees may apply for approval to engage in secondary employment by completing an on line declaration via, [iDeclare](#), providing all the required details concerning:

- the nature of the proposed employment
- duties to be performed and proposed hours of work
- any potential, perceived or actual conflicts of interests
- any possible links to the QBCC or other government agency, and
- the proposed management plan.

For the purpose of providing further guidance, employees are advised to complete a Secondary Employment Checklist¹ to inform their decision-making. The Secondary Employment Checklist is a critical self-assessment by the applicant of the perceptions of others of their proposed secondary employment.

¹ Secondary Employment Checklist

Employees should discuss their intention to submit a *Secondary Employment Declaration*, along with the Secondary Employment Checklist with their manager in the first instance, before formally submitting via [iDeclare](#) to the relevant SLT member for approval.

The employee and manager should meet to discuss the application and seek agreement on the proposed management plan. If the manager considers that there are unacceptable risks arising from the proposed secondary employment that cannot be adequately managed, or the employee and manager cannot reach agreement on a management plan, then the declaration/application should not proceed at that time. The applicant and manager should seek independent advice with regard to any unresolved issues.

In the instance whereby the approver has declined the secondary employment declaration/application, the applicant may then seek a review under the *Managing Employee Complaints Policy and Procedure*.

If a promotion or internal transfer opportunity arises for an existing employee who is already subject to a management plan, that plan must be revisited with the 'receiving manager' under the proposed new working arrangements, and adjusted if required, before the promotion or transfer is approved.

8 Approval Process

Once the employee and manager have agreed on a management plan, the applicant should complete their declaration using the in line reporting tool, [iDeclare](#), and submit it to the relevant SLT member.

The SLT member will then decide whether or not to support the application. The SLT member may ask the employee to agree to changes to the proposed management plan before final approval.

When deciding whether to approve a secondary employment application, the approver will aim to ensure that the employee is not unfairly disadvantaged. However, the primary consideration must be to ensure that QBCC work is done, and any conflicts of interest are resolved in the public interest.

Notwithstanding the above, if the inherent risks of the proposed secondary employment cannot be sufficiently mitigated to the approver's satisfaction, the employee will not be approved to engage in the other employment. That being said it remains open to the employee to accept other employment. However, if they do so without the appropriate approvals, then such instances will be referred to the Integrity and Complaints Branch for assessment and consideration of commencing disciplinary proceedings as a potential breach of the Code of Conduct.

Completed secondary employment declarations and management plans will be referred to the Integrity and Complaints Branch for logging and for annotation on the QBCC's Secondary Employment Register.

9 Relevant Legislation

Crime and Corruption Act 2001
Ombudsman Act 2001
Public Records Act 2002
Public Sector Ethics Act 1994
Public Service Act 2008
Right to Information Act 2009
Information Privacy Act 2009
Judicial Review Act 1991
Public Service Act 2008
Public Service Regulation 2008 (Qld)

10 Secondary Employment Checklist

Effective 14 May 2020
Version 1.0

Employees making an application for secondary employment must complete the following conflict of interest assessment.

In assessing whether an application for secondary employment may have an actual, perceived or potential conflict of interest, it may be useful to ask yourself these questions. The test in assessing these situations is “could this conflict with my public duty to serve the public interest”.

NOTE: This Checklist is not designed to be a definitive tool in determining what is or is not a relevant interest and/or conflict of interest. What is intended is to guide individuals through some basic questions in this regard.

It is possible you may answer “no” to all the questions in the checklists and still have a relevant and/or conflict of interest. Open discussion and declaration of interests will assist all individuals in avoiding all circumstance where their integrity may be questioned through undertaking secondary employment.

QUESTION	YES	NO
Is the secondary employment with a client or supplier to the organisation?	<input type="checkbox"/>	<input type="checkbox"/>
Is the secondary employment with an organisation, group or individual, QBCC may investigate or provide advice to in a professional capacity?	<input type="checkbox"/>	<input type="checkbox"/>
Is it reasonably possible that through your secondary employment you could, directly or indirectly, gain a financial or other benefit from decisions or advice by QBCC?	<input type="checkbox"/>	<input type="checkbox"/>
Is it reasonably possible that through your secondary employment you could, directly or indirectly, be adversely affected by decisions or advice by QBCC?	<input type="checkbox"/>	<input type="checkbox"/>
Could the secondary employment potentially adversely on your health, well-being or ability to safely and effectively carry out your official duties?	<input type="checkbox"/>	<input type="checkbox"/>
Could the secondary employment potentially adversely affect your availability to carry out your official duties (for example, by requiring your attendance during normal work hours, or limiting your ability to travel for work)?	<input type="checkbox"/>	<input type="checkbox"/>
Might a reasonable person doubt your integrity, or the integrity of the QBCC, because of your secondary employment?	<input type="checkbox"/>	<input type="checkbox"/>
If you saw someone else doing this, would you suspect they had a conflict of interest, not knowing all the facts?	<input type="checkbox"/>	<input type="checkbox"/>
Would you be happy for your colleagues and/or the public to be aware of your involvement, association or connection?	<input type="checkbox"/>	<input type="checkbox"/>
Could the media reasonably portray your secondary employment negatively?	<input type="checkbox"/>	<input type="checkbox"/>
Is the secondary employment in relation to a matter of particular public interest or controversy?	<input type="checkbox"/>	<input type="checkbox"/>

Note: Under the *Conflict of Interest Policy and Procedure*, QBCC employees must declare any Secondary Employment and obtain prior approval. An employee who proposes to engage in Secondary Employment must also declare any possible conflicts of interest that may arise as a result of the secondary employment in accordance with the *Conflict of Interest Policy and Procedure*.