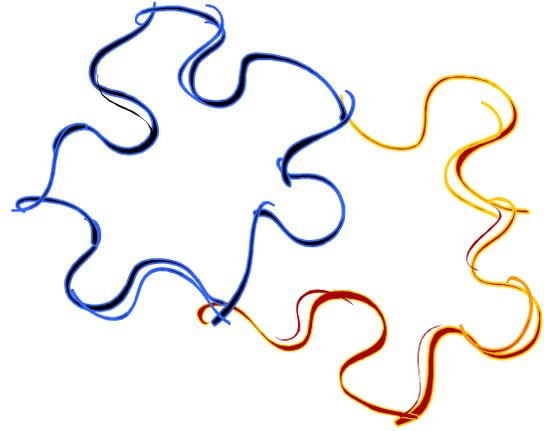


# CORRECTIVE SERVICES NSW

## OTHER PAID EMPLOYMENT POLICY AND GUIDELINES



**Assessment of Other Paid Employment Form**

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## Other Paid Employment Policy and Guidelines

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### 1. POLICY

Corrective Services NSW (CSNSW) has a responsibility to maintain public confidence in the administration of criminal justice by ensuring that its employees act in the public interest. To this end, CSNSW must limit the risk of a conflict of interest occurring between an employee's employment with CSNSW and any other paid employment.

Section 59(1) of the Public Sector Employment and Management Act 2002 states that *"A person employed in the Public Service is not to undertake any other paid work without the permission of the Department Head"*.

Section 59(2) states that Section 59(1) does not apply to a casual employee or a person working part-time during the period that the person is not required to discharge duties in the Public Service but only if the discharge of those duties is not adversely affected and no conflict of interest arises.

Where a full-time employee proposes to undertake other paid employment, the employee must seek written approval, which includes a formal assessment to determine whether a conflict of interest exists or whether the employee's duties may be adversely affected by the other paid employment.

A part-time employee (permanent or temporary) or casual employee is required to submit details of any proposed other paid employment, including employment in another Government agency, for assessment to determine whether the other paid employment may give rise to a conflict of interest or adversely affect their duties consistent with Section 59(2) of the Public Sector Employment and Management Act 2002.

The policy should be read in conjunction with the CSNSW Guide to Conduct and Ethics.

### 2. SCOPE

The policy and guidelines apply to all CSNSW employees who seek to undertake other paid employment (OPE).

### 3. PRINCIPLES

**3.1** Priority must be given to an employee's employment in CSNSW (and in other NSW Government agencies, in the case of part-time and casual employees working in both CSNSW and another NSW Government agency).

**3.2** OPE should be performed in an employee's private time. It must not affect the efficiency or performance of official CSNSW duties or other NSW Government agency duties and must not involve an actual or potential conflict of interest.

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- 3.3** Prior to engaging in OPE **all employees** (permanent officers or temporary and casual employees) must submit an 'Assessment of Other Paid Employment' form for consideration before engaging in any form of OPE. Each case will be considered on its merits in accordance with this policy.
- 3.4** An employee is required to re-submit an '[Assessment of Other Paid Employment](#)' form at least 4 weeks prior to the expiry date of the existing approval, if they wish to continue to engage in OPE.
- 3.5** This policy applies during any period of approved leave, whether paid or unpaid.
- 3.6** Any employee engaging in OPE without the relevant approval or where incorrect or misleading information has been provided, may be subject to disciplinary action.
- 3.7** An employee must submit a new assessment form to undertake OPE where it is proposed to vary the OPE arrangements eg increased hours with the other employer.
- 3.8** It is the responsibility of all employees to be familiar with the requirements and criteria in the Other Paid Employment Policy and Guidelines.

## 4. TYPES OF OTHER PAID EMPLOYMENT

### 4.1 Types of other paid employment that may be considered acceptable

This policy should be read in conjunction with the NSW Government Personnel Handbook which provides guidance for specific types of OPE which may be acceptable and the appropriate provisions that apply in relation to payment and fees. Types of OPE that may be appropriate include:

- lecturing, teaching, tutoring, demonstration work etc;
- examiners or members of examination committees;
- publications;
- appearances in radio and television programs;
- trades such as electrician, plumber, carpenter;
- directors of companies;
- primary producing properties; and
- volunteer fire fighting.

### 4.2 Other paid employment with CSNSW

An application from a CSNSW employee seeking to undertake OPE with CSNSW, either as an employee under a separate contract of employment or as an independent contractor, will be assessed in consultation with the relevant Assistant Commissioner and the Director Workplace Relations. Consideration will be given to Work Health and Safety (WHS) and award implications eg proposed total number of hours, leave accrual, overtime entitlement.

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### 4.3 Types of other paid employment that may not be considered acceptable

The following are examples of OPE situations that are considered areas where a conflict of interest may arise and/or where the employee's CSNSW duties may be adversely affected.

#### 4.3.1 Contracting, tendering, supply or delivery relationships with CSNSW

A conflict of interest may arise should an employee engage in OPE with an organisation that provides or could be involved in contracting, tendering, supplying or delivering services or products to CSNSW. The employee must declare all details of the nature of the relationship and their activities on behalf of the other employer. This will enable CSNSW to make a proper assessment of the relationship and avoid any situation where a potential conflict of interest could arise.

#### 4.3.2 Employment as bouncer or hotel/club/retail security

A position in the security, liquor, transport or retail industry such as that of a 'static guard' where there is no direct public contact may be approved. However, employment as a crowd control officer for a private security company or a security position where there is interaction with the public will not be approved.

#### 4.3.3 Direct selling businesses

Employees engaging in direct selling businesses must not engage in direct selling activities whilst on duty or direct sell to other officers who are on duty.

#### 4.3.4 Employment in establishment licensed under Liquor Act 2007

When considering applications for employment as a waiter/waitress etc at premises licensed under the *Liquor Act 2007* (eg restaurants, clubs, discos, hotels, casinos etc), the public reputation of the establishment will be taken into account.

#### 4.3.5 Type of establishment/nature of the business

Consideration will be given to the nature of the business and the employee's role in that business. Employees are not generally permitted to accept employment in a managerial, administrative, consultative or public relations capacity in a security/private investigation company. Employees are not permitted to act on behalf of, or as an agent of, such a company/business in order to recruit colleagues. Employees should not seek to undertake OPE where there are any doubts about the integrity of the other employer or business associates of the other employer.

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### 4.3.6 Employment within adult entertainment industry

Employment within the adult entertainment industry may not be approved.

### 4.3.7 Private practice - psychologists

Approval to undertake other paid employment as a psychologist (including a private practice) may be approved.

The type of work considered inappropriate for a CSNSW psychologist to undertake in a private practice/employment capacity includes:

- clients who were formerly clients within the correctional setting;
- clients who are known to have a criminal record;
- assessments and reports which are intended to be used in criminal legal proceedings; and
- counselling with clients who are facing criminal legal proceedings.

The conditions governing professional contact with former clients of the correctional system are covered in the Post Release Professional Conduct Policy available on the intranet at *Policies & Procedures >> Policy Directory >> Psychological Services*.

## 5. PRIMARY CONSIDERATIONS WHEN ASSESSING OTHER PAID EMPLOYMENT

When a delegated officer considers the merits of an application to undertake OPE, the delegated officer should consider:

*'If the application were to be approved, what effect would it have on an employee's ability to effectively carry out their official functions with CSNSW?'*

The operational requirements of CSNSW must take priority over the OPE to ensure the employee's participation in the OPE does not directly or indirectly adversely affect the security, discipline or good order of a correctional centre or other CSNSW workplace or the employee's work performance in any manner whatsoever.

An employee's request to undertake OPE must include the name of the other employer and clearly set out the role and the duties that will be undertaken so that the approving officer can assess the possible impacts on the primary role with CSNSW.

### 5.1 Avoiding conflicts of interest

A conflict of interest is deemed to exist where an employee is actually influenced, is likely to be influenced or could reasonably be perceived by others to be influenced, by a personal interest in carrying out their public duties. Important considerations when assessing a request to engage in OPE will be:

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- the preservation of the reputation and integrity of CSNSW;
- avoiding a conflict of interest between the employee's CSNSW functions and those associated with the proposed OPE. Other paid employment must not have the potential to bring CSNSW into disrepute either due to the type of employment or the place in which the employment will be undertaken;
- CSNSW employees are required to disclose situations which could give rise to a conflict of interest with their official functions. This duty of disclosure is consistent with the Guide to Conduct and Ethics.

### 5.2 Employee's official functions

CSNSW employees, in the course of performing their official functions, are sometimes privy to information of a confidential nature, eg access to the NSW Police COPS system and the Offender Integrated Management System (OIMS). An employee is prohibited from engaging in OPE which requires them to access or utilise such information.

However, there may be circumstances where an employee has knowledge and/or skills of a technical or professional nature which they may utilise when engaging in OPE. For example, an employee may be employed with CSNSW as a computer programmer and could be permitted to engage in OPE as a 'consultant' developing computer programs, provided the employee does not breach confidentiality or use the intellectual property of CSNSW.

### 5.3 Outside usual hours of duty

Where an employee engages in OPE it must be in their own private time, ie outside their normal hours of duty. This ensures the employee has the capacity to perform their official functions effectively. OPE can not be undertaken during any hours where sick leave / FACS leave is taken. Approval to engage in OPE other than in the employee's own time will be granted only in exceptional circumstances. All activities relating to OPE must also occur outside the employee's normal hours of duty, eg receiving or making telephone calls.

### 5.4 Hours/frequency of other paid employment

An employee must include details of proposed hours and the days of the week in which the OPE will be performed. The delegated officer has the discretion to consider each application on its individual merits. While no formal limitations have been determined in relation to the hours or frequency of an employee's OPE, she/he must be fit to discharge the full range of duties for all rostered shifts / contract hours.

A consistent and responsible approach should be adopted having regard to the employee's health, safety and welfare. For example, under current rostering arrangements, a correctional officer is not rostered on duty after a C Watch (afternoon shift) for an A Watch (day shift) as the nature of the correctional officer's functions requires that they be alert when on duty. (Note: due to WHS

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concerns, the roster principles require that there is a minimum 2 days off following a set of C Watches before an officer can commence an A Watch.)

If, in OPE situations, an employee may become physically and mentally exhausted leading to impairment of their ability to perform official duties, then the approval to undertake OPE should be withdrawn.

### **5.5 Conduct and performance (including sick leave and attendance)**

A review of the employee's conduct and performance will be undertaken when considering an application to engage in OPE. Approval will only be given where conduct and performance (including sick leave and attendance record) in the previous 12 months is acceptable, unless exceptional circumstances exist.

Where an employee is approved to undertake OPE, the employee's sick leave and attendance record must be carefully monitored to ensure that the performance of their official functions is not adversely affected. If the performance of the employee is affected, then approval to undertake OPE may be withdrawn.

An employee undertaking approved OPE must advise the CSNSW manager immediately of any conduct or performance issues with the other employer eg disciplinary action; accusations of corrupt conduct. The CSNSW manager is to advise Professional Standards Branch immediately so that an assessment can be made on the impact on the employee's CSNSW role.

### **5.6 Workers compensation or restricted duties**

Where an employee has a current workers compensation claim or is on restricted duties, it may not be in the interests of the employee or CSNSW to approve a request to engage in OPE.

In such circumstances the employee must provide a complete description of the proposed duties, the hours of employment and the type of establishment or the nature of the business. It will also be necessary for the employee to provide a medical certificate that clearly indicates whether there may be any physical or other restrictions associated with the work to be performed and which confirms that the current injury will not be exacerbated by undertaking OPE.

In considering an application, the delegated officer should be cognisant of the provisions of the Managing Sick Leave and Other Unplanned Absences Policy where it applies to absences not related to the current injury. If there is any concern that the employee may further aggravate the injury, the employee should be referred to an approved medical assessor.

Arrangements to refer an employee to an approved medical assessor can be co-ordinated by the Human Resources Division.

The Human Resources Division will contact the insurer and claims manager in all instances where OPE is being considered for an employee who has a current workers compensation claim.

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### 6. DISCLOSURE OF INTERESTS

CSNSW employees should disclose any interest they have, if any of the following circumstances exist:

- (a) where the CSNSW employee employs other CSNSW employees, or acts as an agent on behalf of CSNSW employees seeking OPE, or acts on behalf of a private enterprise seeking to employ CSNSW employees.
- (b) where the CSNSW employee has any pecuniary, family, close personal or business relationship with the direct owner, partner, large shareholder or director of a transport company, security company or a company operating premises licensed under the *Liquor Act 2007*.

### 7. UTILISATION OF CSNSW RESOURCES

An employee must not access or utilise any CSNSW resources in the course of the proposed OPE. For example, an employee is prohibited from:

- wearing any part of a correctional officer's uniform or other CSNSW uniform;
- utilising CSNSW equipment or facilities in connection with the OPE eg telephone/facsimile and/or email/internet facilities), or stationery etc;
- utilising CSNSW equipment (such as handcuffs and batons) for security work.

### 8. CLAIMS FOR COMPENSATION/LOSS OF WAGES

Where a CSNSW employee is injured whilst engaging in OPE, the other employer is responsible for loss of wages etc arising from that injury and for managing the employee's claim for compensation.

Additionally, if the injury is such that the employee is unable to perform their official CSNSW duties, then the other employer may also be responsible for any loss of wages the employee may have earned, had they performed their normal duties as an employee of CSNSW.

Where there is concern that the injuries sustained as a result of the OPE would be aggravated if the employee returns to the normal CSNSW functions, the employee will be required to proceed on accrued or unpaid leave until CSNSW is satisfied that there is no risk of further aggravation to the employee's injuries and fit to resume the pre-injury duties.

If an employee is injured whilst performing their OPE duties, the employee must:

- inform CSNSW immediately of the nature and extent of the injury/injuries;

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- provide medical evidence indicating whether the injury/injuries sustained will restrict the employee in performing their official functions with CSNSW (if so to what extent);
- submit to a medical examination or other health assessment as considered necessary if there is reason to believe that the employee may not be fit for duty (ie within the meaning of Clause 13(1) of the Public Sector Employment and Management Regulation 2009;
- comply with any lawful order or direction issued in accordance with Clause 13(2) of the Public Sector Employment and Management Regulation 2009; and
- not make a claim against CSNSW for injuries or compensation which resulted from engaging in the OPE.

Details of relevant workers compensation, accident insurance policies etc must be obtained from the prospective other employer and recorded on the 'Assessment of Other Paid Employment' form.

Where a CSNSW employee who is engaging in OPE makes a claim for compensation for injuries/loss of wages against CSNSW which are alleged to have resulted whilst performing official CSNSW functions, inquiries may be made with the other employer to verify that the injuries are not subject to another claim with the other employer.

### 9. ASSESSMENT AND APPROVAL PROCESS

#### 9.1. Assessment of Other Paid Employment request

Where an employee seeks approval to undertake OPE, an 'Assessment of Other Paid Employment' form - Part A needs to be completed by the employee and submitted to their manager for assessment of the OPE in the first instance.

The **Manager** will:

- review the employee's conduct and performance, including sick leave and attendance record, and advice received from the Professional Standards Branch;
- review any current workers compensation claims;
- review OPE reports from BIMS (approved or refused) relating to other employee OPE requests from within the business unit;
- assess the OPE employer; the role of the OPE and the proposed hours to be worked;
- consider if there is likely to be a conflict of interest with the primary role in CSNSW;
- propose a suitable review date. The review date may be for the duration of the specified employment period (this should not exceed 12 months) or a shorter period or trial to monitor any potential adverse impact on CSNSW duties.

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### Part-time / Casual Employees

The manager will make a recommendation that:

- (i) the employee may undertake other paid employment. The form is to be scanned and emailed to Human Resources by email address [payroll@dcs.nsw.gov.au](mailto:payroll@dcs.nsw.gov.au) for completion of Part D; or
- (ii) the employee is required to obtain approval to undertake other paid employment in accordance with section 59 of PSEMA. The manager is to complete Part B and refer the form to the delegated officer for further consideration and completion of Part C.

### Full-time Employees

The manager will make a recommendation and forward the assessment, supported or unsupported, to the delegated officer to make a decision. Where the assessment is not supported, the reason must be provided.

## 9.2 Approval process

The Director General has sub-delegated the function of approving or declining applications received from employees to undertake OPE or extra-official activities (ie lecturing, tutoring, and demonstration work) to certain officers as provided in the [Administrative Delegations](#).

The delegated officer will:

- make a decision based on the information available and having regard to whether the OPE may adversely affect the employee and / or the discharge of CSNSW duties or whether a perceived or actual conflict of interest exists;
- complete Part C of the 'Assessment of Other Paid Employment' form
- scan paperwork and send to Human Resources by email address [Payroll@dcs.nsw.gov.au](mailto:Payroll@dcs.nsw.gov.au).

Regardless of whether the application is approved or declined, PPSU will complete Part D and:

- notify the employee in writing;
- enter the details onto BIMS;
- provide a copy of the approval/non-approval letter to the manager;
- place a copy of the assessment and the letter on the employee's Personal file.

Where the application is **refused**, the applicant must be advised of the reasons for non-approval and be advised of their right to make representations to the delegated officer or to seek a review.

## 9.3 Variations and extensions

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Where an employee intends to seek approval to **vary or extend** an existing OPE arrangement, an Assessment of Other Paid Employment form must be submitted at least 4 weeks prior to the expiry date. Further approval will only be considered if the employee's conduct and performance (including sick leave and attendance record) remains acceptable.

### 10. EVALUATION AND MONITORING

#### 10.1 Managers

Managers will:

- monitor employee sick leave and attendance records;
- make a recommendation concerning continuation of OPE, counselling or other action to the delegated officer if required;
- monitor the OPE to assess the impact on the employees duties.

#### 10.2 Human Resources Division

PPSU will maintain details of all applications to undertake OPE. The information will facilitate attendance monitoring and reporting of all employees undertaking OPE.

Other paid employment approvals should be reviewed by Managers in accordance with the agreed review date and ensure that the employee submits a new 'Assessment of Other Paid Employment' form at least 4 weeks prior to the expiry date of the existing approval if they wish to continue to engage in other paid employment.

### 11. REVIEW MECHANISM

An employee not satisfied with the Other Paid Employment process can raise the concern with the decision-maker or with the Director, Human Resources.

Employees may also refer to the Grievance Resolution Policy and Guidelines on the intranet at [Policies & Procedures](#) » Policy Directory » Human Resources Division.

### 12. LEGISLATION AND OTHER REFERENCES

- *Public Sector Employment and Management Act 2002*, section 59 Departmental staff not to undertake other paid work without permission; and Part 1.2 Ethical framework for the public sector
- *Public Sector Employment and Management Regulation 2009*, clause 13 Health and safety
- *Liquor Act 2007*
- *Personnel Handbook* – Section 5-9 Private employment and Section 6-8.4 Other employment
- Commissioner's Instruction 2010/02 *Conflicts of Interest*

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- CSNSW Guide to Conduct and Ethics
- CSNSW Grievance Resolution Policy and Guidelines
- CSNSW Managing Sick Leave and Other Unplanned Absences Policy
- CSNSW Post Release Professional Conduct Policy
- CSNSW Assessment of Other Paid Employment Form

**13. IMPLEMENTATION**

This policy supersedes the Other Paid Employment Policy published in May 2012 and rescinds Commissioner’s Memorandum 2010/21.

**Date approved:** 6 September 2013

**Review date:** 7 May 2015

**Ownership:** Assistant Commissioner, Office of the Commissioner and Human Resources is assigned ownership to ensure the policy is maintained and updated.

**Contact:** Director, Human Resources

**File:** 10/22904

**14. DOCUMENT HISTORY**

Version	Date	Reason for amendment
D07/61049	20/04/2007	Changes to Section 59 of Public Sector Employment and Management Act 2002 and policy re-title from “Secondary Employment” to “Other Paid Employment”.
D10/677756	07/05/2012	Cyclic Review and removal of references to OPE registers; update references, temporary changes to delegation and approval processes; POVB consultation.
D13/385795	06/09/13	Changes relate to the new approval process to support the Let the Leaders Lead initiative.