

POLICY:-	
Policy Title:	Secondary Employment Policy
File reference:	F10/618-06
Date Policy was adopted by Council initially:	14 December 2006
Resolution Number:	390/06
Other Review Dates:	20 August 2009; 18 October 2012, 16 June 2016
Resolution Number:	338/09; 345/12, 170/16
Current Policy adopted by Council:	19 December 2019
Resolution Number:	372/19
Next Policy Review Date:	2022

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy Developed by:	Human Resources Coordinator
Committee/s (if any) consulted in the development of this policy:	Consultative Committee
Responsibility for implementation:	Human Resources Coordinator
Responsibility for review of Policy:	Human Resources Coordinator

OBJECTIVE:

The aim of this policy is to provide the framework for identifying conflicts of interest that may arise from employees engaging in employment or business outside Council. The mechanisms for notifying, approving, prohibiting and reviewing secondary employment are detailed in this policy and the appeals process to be used if an employee wishes a prohibition to be reviewed.

POLICY STATEMENT:

The terms “work outside of Council” and “outside work” or “other work” refer to secondary employment for the purpose of this policy. All references to “paid work outside Council” or “paid outside work” in this policy are to be understood to mean private employment or contract work, for remuneration.

SCOPE:

This policy applies to all employees of Upper Lachlan Shire Council.

Other Work:

Section 353, of the Local Government Act 1993 states:-

- (1) The General Manager must not engage, for remuneration, in private employment or contract work outside the service of the council without the approval of the council.
- (2) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the member's Council duties unless he or she has notified the General Manager in writing of the employment or work.
- (3) The General Manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the member's council duties.
- (4) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council if prohibited from doing so under subsection (3).

Any staff engaging or wishing to engage in secondary employment must have the approval of the General Manager. Generally, the view will be taken that approval will be granted subject to the secondary employment not conflicting with Council duties in any way.

All Council employees must have ten (10) consecutive hours off duty from Council and/or their secondary employment, before they commence their next Council rostered shift as per section 18(v) of the Local Government (State) Award.

Employees who are considering entering into outside work should consider the following:

- ⇒ Is the outside organisation, person or entity in, or entering into a contractual relationship with Council?
- ⇒ Is Council in a regulatory relationship with the outside organisation, person or entity?
- ⇒ Will the hours of work conflict in any way with his/her Council duties, or his/her health and safety?
- ⇒ Will there be sufficient rest time away from both forms of work to enable the employee to present for work fit and alert and be able to work efficiently and to the standard required?
- ⇒ Will the outside work involve him/her in litigation against another Council or directly in written or oral submission before another Council?
- ⇒ Will performance of the outside work impact negatively on Council's image and credibility?
- ⇒ Will performance of the outside work require release of confidential information which is known to the employee, but not available to the general public?
- ⇒ Is there any other conflict of interest, or potential conflict of interest, between the employee's Council duties and those involved in the outside work?

Answering "yes" to any of the above questions is likely to result in the General Manager prohibiting performance of the outside work.

Breaches of the Policy may result in counselling or disciplinary action which may ultimately result in dismissal, depending on the severity, scale and importance of the matter.

The more severe sanctions will ordinarily only apply when there is repeated and deliberate concealment of pertinent information, failure to disclose, or continuation of prohibited outside work.

The process of the application will be (as per the attachment Secondary Employment Notification Form):

- (i) Written application to the General Manager;
- (ii) Personal interview with the General Manager;
- (iii) Written advice from the General Manager on approval/disapproval.

In the event of disapproval the following steps may be followed:

- The member of staff may request a review of the decision and may be supported by other staff or the appropriate Union. Records of approval will be provided to the respective Directors.

- Approvals will be reviewed each twelve months or subject to change of circumstances which may affect the approval.

USE OF RESOURCES

Council employees are not permitted to use any of Council's resources or information, if granted approval for, or seeking, secondary employment.

Questions in relation to this Policy may be directed to the General Manager on 4830 1000.

The General Manager is the only delegated authority to approve secondary employment. All applications must be made to the General Manager.

Any approvals granted by others, whether in writing or not, are not official.

RELEVANT LEGISLATION AND COUNCIL POLICIES

The following legislation and Council policies that are relevant to this Policy include:

- Access to Information Policy;
- Anti-Discrimination Act 1977;
- Bribes, Gifts and Benefits Policy;
- Cash Handling Policy;
- Child Protection Policy;
- Civil Liabilities Act 2002;
- Code of Business Practice;
- Code of Conduct for Councilors, staff and delegates of Council;
- Complaints Management Policy;
- Corporate Credit Card Policy;
- Council's Code of Meeting Practice;
- Crimes Act 1900;
- Delegations of Authority Procedure;
- Disciplinary Policy;
- Drug & Alcohol Policy;
- Employee Assistance Program Policy;
- Employment and Retention Policy;
- Environmental Planning and Assessment Act 1979;
- Equal Employment Opportunity Act 1987;
- Equal Employment Opportunity (EEO) Management Plan;
- Fair Work Act 2009 (Cwth);
- First Aid Policy;
- Flexible Work Arrangements Policy & Procedure;
- Fraud and Corruption Prevention Policy;
- Government Information (Public Access) Act 2009;
- Grievance Policy;
- Harassment Policy;

- Higher Grade Pay Policy;
- Human Resource Succession Plan;
- Human Resource Training Plan;
- Independent Commission against Corruption Act (ICAC) 1988;
- Industrial Relations Act 1996;
- Injury Incident Management Procedures;
- Interaction between Councillors and Staff Policy;
- Internal Reporting – Protected Disclosures Policy;
- Internet and Email Policy;
- Local Government Act 1993;
- Local Government (General) Regulations 2005;
- Local Government (State) Award 2017;
- Loss of Drivers Licence Policy & Procedure;
- Manual Handling Policy;
- Mobile Phone Policy;
- NSW Long Service Leave Act;
- NSW State Records Act 1998;
- Payment of Expenses and Provision of Facilities Policy;
- Performance & Misconduct Policy;
- Privacy and Personal Information Protection Act 1998;
- Private Use of Council Motor Vehicles Policy;
- Private Works (Projects and Plant Hire) Policy;
- Protective Clothing and Equipment Policy;
- Public Access Policy;
- Public Interest Disclosures Act 1994;
- Public Interest Disclosures Policy;
- Purchasing and Acquisition of Goods Policy and Procedures;
- Recruitment and Selection Policy;
- Rehabilitation Procedure and Practice Policy;
- Salary Sacrificing Policy;
- Service Delivery Policy;
- Smoking in the Workplace Policy;
- Staff Training Policy;
- Statement of Ethical Principles;
- Sun Protection – Council Employees Policy;
- Time in Lieu of Overtime Policy;
- Trade Practices Act 1974;
- Trauma Management Policy;
- Trustees Act 1925;
- Upper Lachlan Shire Council Community Strategic Plan;
- Upper Lachlan Shire Council Resourcing Strategy documentation;
- Upper Lachlan Shire Council Delivery Program and Operational Plan;
- Volunteers Policy;
- Workforce Plan 2016-2020
- Workers Compensation Act 1987;
- Work Health & Safety Policy;

- Work Health & Safety Act & Regulations 2011;
- Workplace Relations Act 2008.

VARIATION

Council reserves the right to vary or revoke this policy.



Upper Lachlan Shire Council Secondary Employment Notification Form



This is a request for prior approval to obtain 'other' employment.

Name:	Employee Number:
Address:	
Phone Number:	

Please list date of intended employment (From - To): _____

Company/Organisation:
Phone Number:
Address:
Brief job description:

My signature on this written statement certifies that I understand and agree to comply with the following:

As per the Local Government Act 1993, Section 353, states:

- (i) The General Manager must not engage, for remuneration, in private employment or contract work outside the service of the council without the approval of the council
- (ii) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the members of councils duties unless he or she has notified the General Manager in writing of the employment or work
- (iii) The General Manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the member's council duties.
- (iv) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council if prohibited from doing so under subsection (3) of the Act:

Breaches of this policy may result in counselling or disciplinary action which may ultimately result in dismissal.

Employee's signature

Date

General Managers signature

Date

Approved / not approved