

Chapter 7 Part 5 – Outside Work

Policy Approved: 7 November 2007

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Overview

- 7.5.0.1** This Part contains Defence's policy relating to employees who wish to engage in outside work, which covers paid/unpaid employment and volunteer activities, either in addition to their official duties or while on leave. Employees should ensure that their conduct and dealings are consistent with the given principles.

Supervisors should also take care to ensure that their employees understand and meet the requirements of this policy.

Who this applies to

- 7.5.0.2** This information applies to:
- Defence APS employees, their supervisors and line managers
 - HR personnel who provide advice to staff, including:
 - CPAC staff
 - Defence Service Centre staff
 - local HR advisers, in each of the Defence groups
 - case managers.

Contents

- 7.5.0.3** In this Part you will find the following information:
- [Section 1 – Outside Work – General Principles](#)
 - [Section 2 – Assessment of Outside Work](#)
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 - [Section 4 – Outside Work During Periods of Leave](#)

See also

7.5.0.4 **Related Information in this Manual**

Other related information in this Manual includes:

- [Chapter 11 Part 2 – APS and Defence Values](#)
- [Chapter 11 Part 3 – Breach of the Code of Conduct](#)
- [Chapter 11 Part 5 – Acceptance of Gifts and Other Benefits](#)

Other Related Information

For the policy and legislative basis for this part, refer to:

- [Defence Instruction \(General\) 25-6 – Conflict of Interest and Acceptance of Offers of Gifts and Hospitality](#)
- [APS Code of Conduct](#)

Authority

- [Public Service Act 1999](#)

Further assistance

7.5.0.5 For more information and advice about outside work, contact the Defence Service Centre:

Phone: 1800 DEFENCE (1800 333 362)

Email: [Defence Service Centre](#)

Chapter 7 Part 5 Section 1 – Outside Work – General Principles

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Overview

7.5.1.1 This section introduces the principles on which Defence policy on outside work is based.

Definition of outside work

7.5.1.2 Outside work is other employment (paid or unpaid) or volunteer activities undertaken by an employee in addition to their official duties or while on paid or unpaid leave from Defence.

Examples:

- running a business from home
- directorship of a company
- driving a taxi
- working for a consultancy company
- serving on the committee of a sporting association
- volunteer fire fighter
- co-ordinating charity work being delivered by a community organisation

Exceptions:

- employment with an outside business, organisation or other Government agency, undertaken as part of an official training and development scheme
- training or duty with ADF Reserves
- secondment to another Government agency

Defence Policy on outside work

7.5.1.3 Defence policy on outside work, regardless of type and whether it is paid or unpaid, is based on the following principles:

- a strong adherence to the APS Code of Conduct
- employee consultation with supervisors and higher managers prior to engaging in

outside work

- a high expectation that employees will carefully examine their personal and normal employment circumstances before undertaking outside work
- no conflict of interest (real or apparent) with the employee's Defence duties
- no adverse impact on the:
 - work performance of the employee
 - workplace
 - operational requirements due to participation in outside work
- regular review of the situations surrounding existing outside work approvals
- use of sanctions available under the *Public Service Act 1999* for breaches of the APS Code of Conduct
- authority of supervisors and managers to direct employees not to engage in outside work.

See:

- [Chapter 11 Part 3 – Breaches of the Code of Conduct](#)
- [Public Service Act 1999](#)

What does this mean for employees?

7.5.1.4 In general, employees will be able to:

- engage in work additional to their Defence employment provided it remains within the principles given above
- involve themselves in outside activities of a voluntary and unpaid nature unless there is a clear conflict with the requirements of the APS Code of Conduct.

See: [Chapter 7 Part 5 Section 3 – Unpaid Outside Work](#)

Code of Conduct and outside work

7.5.1.5 Employees, supervisors and managers should be especially aware of the provisions of the [APS Code of Conduct](#) when discussing and approving outside work. The key provisions of concern relate to:

- conflict of interest (real or perceived)
- improper use of Defence resources
- improper use of inside information
- improper use of Defence employment
- compliance with any lawful and reasonable direction by someone within Defence with the authority to give the direction
- adherence to all applicable Australian laws.

Note: The potential for conflict of interest is of particular concern.

See: [Public Service Act 1999 s.13](#)

Conflict of interest

7.5.1.6 Employees, supervisors and managers are to examine potential for a conflict of interest from a Defence-wide perspective as well as from their workplace perspective in considering whether a conflict of interest exists or may be perceived to exist.

In considering whether a conflict of interest may exist, or appear to exist, (particularly in relation to taking up company directorships) the employee, supervisor and manager will need to consider whether the organisation is:

- in, or in the process of entering into, a contractual relationship with the Commonwealth or its authorities, **or**

- in receipt of Commonwealth Government assistance, the entitlement to which depends on the exercise of discretion by a Commonwealth employee, **or**
- created to lobby Ministers, Members of Parliament, government departments and authorities, **or**
- in a regulatory relationship with Defence.

Note: It is the employee's responsibility to advise a supervisor or manager if the potential for a conflict of interest arises.

Breaches of the Code of Conduct

7.5.1.7 Employees, supervisors and managers should be aware that sanctions may be imposed on an employee who is found to have breached the Code of Conduct.

See:

- [Chapter 11 Part 3 – Breaches Of The Australian Public Service Code Of Conduct](#)
- [Public Service Act 1999 s.15](#)

Regular review of approved outside work activities

7.5.1.8 Employees, supervisors and managers will need to regularly review the situation regarding outside work.

An appropriate time to do this might be when:

- performance is reviewed as part of the performance exchange
See: [Chapter 12 – Performance and Progression](#)
- a new Performance Agreement is negotiated
- an issue arises that may be associated with the impact of the outside work, such as:
 - unsatisfactory performance
 - potential for a conflict of interest arises
 - improper use of Defence resources
- the employee moves to a new Defence workplace
- there is a change in the circumstances of the outside work
- the employee is reassigned duties
- there is a reorganisation within Defence affecting your work area
- a new supervisor is appointed to the work team.

Further guidance for supervisors and managers

7.5.1.9 Managers and supervisors are encouraged to discuss outside work, including unpaid activities, with an employee, even if the employee has not initiated discussions.

Managers and supervisors need to be careful not to breach the Code of Conduct themselves by:

- ignoring the effects of an employee's outside work
- ignoring an employee's misuse of Defence time and/or resources to conduct outside activities
- failing to direct an employee not to engage in outside work when appropriate.

Chapter 7 Part 5 Section 2 – Assessment of Outside Work

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Overview

- 7.5.2.1** This section outlines the process for decision making regarding an employee's outside work, which can include outside work.

Employee and supervisor discussion

- 7.5.2.2** Employees are required to discuss the proposed outside work with their supervisor. The supervisor should consider the following issues:

- Will the proposed outside work put the employee in an actual conflict of interest with their official duties?
- Could the outside work lead to the perception that the employee will be placed in a conflict of interest with their official duties?
- Could the outside work adversely affect the efficiency of the employee in their Defence duties?
- Will the outside work be performed wholly within their private time?
- Could the outside work in any way adversely affect the operational requirements and/or the efficiency of the workplace?
- Is there any risk that the outside work could result in the improper use of Defence resources?
- Could the outside work lead to an improper use of Defence inside information?
- Could the employees' duties in their normal employment with Defence, and/or the status, power or authority derived from it be used to gain a benefit or advantage for the employee or any other person in their outside work?

Supervisor to make initial assessment

- 7.5.2.3** The employee will usually be able to engage in the proposed outside work if the supervisor concludes that the following apply:

- no possible breach of the Code of Conduct
- no adverse impact on the employee's own work performance, that of their colleagues or their workplace
- no adverse impact on operational requirements.

If the supervisor has concerns regarding the proposed outside work, then the supervisor must refer the matter to the relevant manager who holds recruitment and selection delegations and is in the employee's line of supervision.

Factors a manager may consider when examining a proposal for outside work

- 7.5.2.4** The manager may need to consider the proposed outside work from a wider Defence perspective at a higher management level.

The manager may consider:

- a proper balance between the interests of Defence and the rights of the employee to lead a private life free of unnecessary restrictions
- the impact on the workplace as a whole
- the impact on others in the workplace, such as:

- other employees may be undertaking additional work
- other employees may be feeling that this employee is not contributing equally to the workplace.

Note: Whether these issues are real or perceived, they will often impact on the overall morale, efficiency and productivity of the workplace.

Direction not to engage in outside work, or conditions imposed on outside work

- 7.5.2.5** If a manager concludes that the proposed outside work does not fit within the principles, then the manager is authorised to direct that:
- the employee does not engage in outside work, **or**
 - the employee may engage in outside work under certain conditions in respect of that employment.

Employees who have been directed not to engage in outside work, or whose outside work is the subject of other directions made by their manager, may seek a review of those directions.

See:

- [Chapter 15 Part 4 – Review of Employment-related Actions](#)
- [Public Service Act 1999 s.33](#)

Employee's compliance with a direction on outside work

- 7.5.2.6** Employees are expected to comply with a direction not to engage in outside work or to engage in the work under certain conditions imposed by a manager. Failure to comply with such a direction may be a breach of the Code of Conduct.

See:

- [Chapter 11 Part 3 – Breaches of the Code of Conduct](#)
- [Public Service Act 1999 s.15](#)

Documenting decisions

- 7.5.2.7** All decisions and any directions given to an employee should be recorded and forwarded to the CPAC for placement on the employee's personal file. This should be in the form of a minute from the employee's supervisor to the employee's CPAC, and should explicitly state that approval for the outside work by the employee was given by the supervisor. At a minimum, it must also explicitly state the outcomes of the assessments made by the supervisor of all of the considerations in the preceding [Section 7.5.2.3](#). The employee should keep copies of all documents.

Managers and supervisors should record decisions and directions regarding outside work on the employee's Performance Agreement to prompt regular review.

Chapter 7 Part 5 Section 3 – Unpaid Outside Work

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Overview

- 7.5.3.1** This section covers outside work other than paid employment. The same

assessment and decision making processes apply as for paid outside work in relation to conflict of interest and workplace performance.

The situation for employees wishing to contest an election for public office is also highlighted.

Unpaid voluntary work

- 7.5.3.2** Employees should be guided by the same principles that relate to paid outside work before undertaking unpaid voluntary work in addition to their official duties.

Employees need to consider whether voluntary work will adversely impact on their performance in the workplace or may lead to improper use of Defence resources.

See: [Chapter 7 Part 5 Section 2 – Assessment of Outside Work](#)

Conflicts of interest in unpaid outside work

- 7.5.3.3** Unpaid voluntary work is less likely to result in a conflict of interest. If a conflict of interest arises, or could be perceived to exist, employees have an obligation to raise the matter with their supervisor.

Examples:

- voluntary work for political organisations
- voluntary work for political lobby groups
- voluntary work for organisations not expressing their views in a lawful manner

Candidates contesting an election

- 7.5.3.4** An employee who is a candidate for any of the following elections **must resign** from Defence in order to contest the election:

- an election for a member of a House of Parliament of the Commonwealth or of a State
- an election for a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory.

However an employee who unsuccessfully contested an election is entitled to be engaged again as a Defence employee subject to specific conditions.

See: [Chapter 6 – Commencing, Changing and Leaving Jobs](#)

Chapter 7 Part 5 Section 4 – Outside Work during Periods of Leave

Policy Amended: 23 May 2008

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Overview

- 7.5.4.1** This section provides guidance on the appropriateness of performing outside work during periods of leave.

Appropriateness of using leave to undertake outside employment

- 7.5.4.2 Employees and leave decision-makers should give careful consideration to the reason leave exists as well as the normal consideration regarding outside work normal when approving or recommending leave to undertake outside work.

See: [Chapter 7 Part 5 Section 2 – Assessment of Outside Work](#)

Annual leave and long service leave (LSL) exist for the purpose of providing employees time away from their workplaces for rest and recreation from the demands and stresses of working life. Engaging in outside work while on leave may defeat this purpose.

Supervisors and leave decision-makers need to be sensitive and balanced in reaching conclusions about what might or might not constitute an effective and useful break from Defence work, taking careful account of the interests and wishes of each employee.

Outside work during periods of long service leave

- 7.5.4.3 The use of LSL is not an appropriate vehicle to 'try out' a new career. As the delegation for approving LSL resides with staff in CPAC, CPAC decision-makers need to thoroughly investigate the circumstances where an application for LSL is made for the purpose of engaging in outside work and the application is recommended.

Where an employee has been given a direction not to engage in outside work because of a concern that such work might result in a breach of the Code of Conduct, CPAC decision-makers must not approve the LSL for that purpose.

Outside work during periods of leave without pay

- 7.5.4.4 Leave without pay (LWOP) is generally not approved for the purpose of 'trying out' a second career outside the APS.

There are some circumstances where the approval of LWOP to engage in outside work may be appropriate.

Example: Michael is an APS5 in Sydney and his wife, a Naval Lieutenant, has been posted from HMAS Kuttabal to HMAS Coonawarra in Darwin. Michael wishes to accompany his wife on posting and engage in employment in Darwin. Michael's application for LWOP may be approved for this purpose.

An employee may also take LWOP to work for a non-Defence employer in the interests of the Department and of the APS as a whole.

See: [Chapter 8 Part 9 – Miscellaneous leave](#)

Note: The delegation for approving miscellaneous leave without pay to work for a non-Defence employer resides with an EL2 in the employee's line of supervision.

Outside work and personal leave

- 7.5.4.5 Employees are not allowed to undertake outside work while on personal leave.

Personal leave is provided specifically for employees to use when:

- they are suffering from an illness or injury which restricts their ability to perform their duties
- there is a medical requirement for them to provide care and support for a member of their immediate family or household

- there is a requirement for them to provide care and support for a member of their immediate family or household in an unexpected emergency.

An employee who misuses personal leave may incur sanctions for a breach of the Code of Conduct.

See:

- [Chapter 11 Part 3 – Breaches of the Code of Conduct](#)
- [Chapter 8 Part 7 – Personal Leave](#)
- [Public Service Act 1999 s.15](#)