

Secondary Employment

This document outlines the Scottish Prison Service Policy in relation to Secondary Employment

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Unlocking Potential - Transforming Lives.

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Directorate Owners:

Corporate Services, Human Resources

Policy Scope:

All SPS Employees

Links to Other Policies:

[SPS Payment of Additional Hours Policy](#)

[SPS Staff Attendance System – Revision 4](#)

[SPS Code of Conduct](#)

[SPS Grievance Policy](#)

[Protecting the Personal Data of Staff Members and Others](#)

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Head of Human Resources

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1.0 Introduction

This policy sets out the Scottish Prison Services' (SPS) position on Secondary Employment and employees taking on a second job.

This policy has been developed and agreed in Partnership with the SPS Trade Union Side (TUS) and the Prison Governors' Association (PGA), taking account of the requirements set out in SPS Statement of Terms and Conditions, namely:

- That as an SPS employee you are required during your hours of work to devote the whole of your time, attention and skill to your duties in your role with SPS.
- You shall not during the term of your employment with SPS, be employed or engaged in any capacity in any other work or voluntary activity (out with SPS) either for your own benefit or on behalf of any third party, without the prior written consent of SPS.

2.0 Aim

The aims of this policy are to:

- Ensure employees who wish to undertake secondary employment understand the process for obtaining approval from the SPS to do so.
- Ensure that the SPS are compliant with relevant working time regulations.
- Ensure that due consideration is afforded to employees' health, safety and welfare.
- Ensure that SPS employees are not employed in secondary roles that are unacceptable to the SPS, due to the potential for a conflict of interest.

3.0 Policy Statement

The SPS is keen to ensure that employees should have a healthy balance between work and non-work life, recognising the importance of supporting its employees in a way which promotes and sustains positive, productive and safe working environments.

As the main employer the SPS takes the view that a second job, or any additional jobs, should not impair the normal duties of employees. Employees who wish to undertake secondary employment must obtain the approval of the SPS prior to undertaking any additional work.

As an employer SPS has a duty to take all reasonable steps to ensure that employees do not work more than an average of 48 hours per 7 day period over a 17 week reference period. [The SAS Revision 4 policy](#) outlines further parameters for Operational staff.

In terms of our duty of care to our employees we need to ensure, where reasonable and practicable, that employees are not subject to excessive workloads which might affect their health and safety at work.

4.0 Scope

This policy applies to all SPS employees. Failure to adhere to this policy may result in action being taken under the SPS Code of Conduct policy.

Secondees' to SPS from other employers, temporary contractors and members of the Senior Civil Service are excluded from this policy.

5.0 Definitions

For simplification of this document the following terms and definitions apply:

- **Secondary Employment** - is any work, whether paid or unpaid, with any employer or service provider, on any type of contractual arrangement. This includes any type of self-employment or any voluntary activity. The carrying out of public duties does not count as a second job, nor do outside interests such as personal investments or being a member of a committee.

6.0 Roles and Responsibilities

6.1 Executive Management Group

Has overall responsibility for the effective operation of this policy and for ensuring compliance with relevant legislation.

6.2 Governors and Managers

Have the responsibility to:

- Make sure that their team are aware of and understand this policy and associated procedures.

- Review and monitor secondary employment arrangements of their employees.
- Ensure all requests are considered in line with this policy.
- Ensure appropriate measures are in place to effectively record and monitor working time and daily / weekly rest breaks and approve, as required.
- Liaise with the HR Team in relation to more complex cases concerning secondary employment.
- Ensure employees remain within legal requirements.

6.3 Line Managers

Have the responsibility to:

- Consider applications, taking into account the overall management or accumulation of TOIL/Banked or additional hours.
- Liaise with HR as necessary to review applications and undertake annual reviews.
- Provide a detailed response to an application within 5 working days of application being submitted.

6.4 Employees

Have the responsibility to:

- Be aware of and understand this policy and associated procedure.
- Obtain prior permission from the SPS to undertake secondary employment.
- Ensure total employment hours (Secondary employment hours + SPS hours) do not exceed 48 hours per week. Where the secondary employment is likely to mean the 48 hours per week is exceeded, an opt-out agreement will need to be completed to ensure compliance with the Working Time Regulations.
- Lodge any appeal within 6 working days of notification of refusal, or 8 weeks in the case of political activity.
- Record any potential interests or conflicts of interests on the SPS Register of Interests.
- Provide, where possible, written confirmation of secondary employment or voluntary work to include confirmation of days and hours of work to be undertaken.
- Notify the SPS of any changes to additional days/ hours of work as required for any secondary employment, to ensure appropriate monitoring and review of combined hours, including hours of work and weekly / daily rest periods.

- Where an employee acts in breach of this policy, for example by taking a second job (including self-employment) without first obtaining permission, or failing to disclose the circumstances of a second job, they may be subject to disciplinary action up to and including summary dismissal.
- Ensure that they remain fit to do their job, for example to make sure that they do not become over-tired through working long hours.

6.5 Human Resources

Have the responsibility to:

- Monitor and review this policy, and associated procedure, in Partnership with the Trade Union Side (TUS).
- Provide advice to managers and employees on more complex cases, e.g. change of employees' hours, sickness absence and performance management concerns etc.
- Support Line Managers and advise of appropriateness of application to ensure the policy is consistently and fairly applied.
- Arrange Occupational Health consultations where appropriate.
- Assist in the annual review process of secondary arrangements.
- Update secondary employment information in to HR systems.

7.0 Secondary Employment Applications

SPS provides the opportunity and means for its employees to undertake certain types of Secondary employment.

7.1 Applying for Permission

Employees wishing to undertake secondary employment or political activity must make an electronic application via the [Secondary Employment Application Form](#) on SharePoint before taking up another job, whether paid or unpaid, while they are employed by the SPS. Permission is required because management needs to make sure that the work does not:

- Affect employees negatively because it breaches applicable employment or health and safety legislation.
- Have a negative impact on their official work with the SPS; or

- Conflict with their official position, or with our interests, or damage public confidence with the SPS.

A decision will be made by the appropriate Line Manager, who will consult with HR where appropriate. Employees will be notified of decisions, normally within 5 working days of their application being submitted.

Employees who engage in any form of secondary employment which may influence, or be considered by others to influence their role in the SPS must declare this on the SPS Register of Interests.

7.2 Employees on Probation Period

Employees on probation require to meet performance objectives and be within the sick absence parameters outlined in the Probationary Policy for a request for Secondary Employment to be considered.

8.0 Eligibility and Considerations

8.1 Eligibility

In the spirit of encouraging open dialogue and transparency, applications made for secondary employment will normally be viewed favourably, providing that:

- The employee declares their plans prior to undertaking secondary employment.
- Secondary employment does not conflict with their duties or applicable legislation.
- The employee has sought and been given permission to undertake secondary employment.
- The secondary employment does not interfere with their health and well-being or their ability to undertake their full contractual duties with SPS.

8.2 Considerations

In deciding on whether to give permission managers must bear in mind the following:

- In most circumstances SPS work must have priority over any other work.
- The activity must not conflict with the employee's official position, SPS interests, damage public confidence in the SPS, or otherwise bring the SPS into disrepute.

- The activity should not require attendance during the employees' normal scheduled working hours with SPS.
- Subject to the particular requirements of their SPS role, the employee must be available to attend their SPS employment at short notice if required.
- The requirements of any applicable legislation.
- The employees' performance.
- The employees' attendance record.
- The employees' conduct where this is relevant to the nature of the secondary employment.
- All aspects that have the ability to impact or to influence the health, safety and welfare of an employee both positively and negatively, including TOIL, banked hours and annual leave management.

Where an application is declined, the justification and rationale for this should be clearly documented.

9.0 Secondary Employment Exclusions

Some forms of secondary employment are unacceptable for SPS Employees due to the potential for a conflict of interest. For instance:

- Special Constable.
- Commercial investigators.
- Working for outsourced SPS contractors.
- Any aspect of security work, including working within the licensed trade.

Normally SPS employees would not be allowed to be employed by the Emergency Services, but each case shall be considered on its merits. Employees will also not be able to carry out work as an agency worker in any SPS site.

Please note that the above list is not exhaustive. Employees should seek advice from their local HR team where appropriate.

10.0 Secondary Employment and Sickness Absence

Employees on any form of sick leave wishing to continue in secondary employment must seek authorisation from their Line Manager as soon as is practicable after the commencement of the sick leave. The Line Manager will make a decision based on

advice from HR. Employees who fall into this category may be referred to Occupational Health who will indicate if the continuation of secondary employment is appropriate for the duration of the sick leave and, if applicable, as part of the return to work programme.

11.0 Appeals

Employees can appeal against a secondary employment application that has been declined or revoked or suspended as part of a review.

Your intention and reason for appeal should be made to your local HR. Appeals will be chaired by the GIC or Branch Head, an external HR Business Partner and a National Trade Union Representative.

The grounds of appeal should be lodged within 6 working days of the application being declined. The employee is entitled to attend the appeal hearing. The appeal board will inform the employee in writing of its determination normally within 10 working days from the date of the appeal hearing.

The decision of the internal appeal board is final.

12.0 Secondary Employment Reviews

The SPS, via HR, will review secondary employment approvals on an annual basis and reserves the right to remove organisational approval, at any time, if circumstances warrant it.

During the review process consideration will be consistent with section 8.2 of this policy.

If there is evidence, of the points within section 8.2, having materially changed from permission been given, then consideration will be given to withdrawing approval for the secondary employment, or suspending approval for an appropriate period.

Where permission is withdrawn, the justification and rationale for this should be clearly documented.

Consideration will be given to withdrawing approval for the secondary employment prior to the scheduled annual review, should circumstances arise in between times that materially impact on the SPS and/or an employees' health, safety and welfare.

Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to Secondary Employment. In certain situations, employees' rights and obligations regarding Secondary Employment may change. In these circumstances the SPS will abide by any statutory obligations.

The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

GDPR

This Policy has been subject to a Data Protection Impact Assessment to ensure compliance with GDPR.

Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for staff.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format, please contact Human Resources.

Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing business and legislative requirements.

SPS policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Civil
Service
Management
Code



UK Legislation



EU
Legislation



ACAS



CIPD Best
Practice