

Concurrent Service within the ACTPS Policy

Office of Industrial Relations and Workforce Strategy

Chief Minister, Treasury and Economic Development Directorate (CMTEDD)

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# Concurrent Employment

## Purpose

1. This policy is to assist in the management of employees with dual/concurrent employment arrangements within the ACT Public Service (ACTPS).
2. An employee is in a concurrent employment arrangement when the employee has multiple positions (engagements) at the same time and each engagement creates a new Australian Government Staffing (AGS)/Employment Number within the ACTPS.
3. Where an employee commences an additional employment arrangement within the ACTPS, in most circumstances, all entitlements and provisions will be considered separately, and the arrangement will not be considered as a collective.
4. Concurrent employment is not working at different work locations under the one working arrangement.
5. This policy does not cover concurrent employment for jobs outside of the ACTPS. Refer to the [Second Jobs and Volunteering Policy (act.gov.au)](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0020/1802225/Second-Jobs-and-Volunteering-Policy.pdf).

## Application

1. This policy contains a set of whole-of-government instructions issued by the Head of Service under section 17(2)(a) the Public Sector Management Act 1994 (PSM Act) and binds all employees engaged under that Act.
2. For the purpose of this policy, 'employee(s)' are defined as including permanent officers, temporary employees, casual workers and Statutory Office-Holders of the ACTPS.
3. All directorates/agencies are expected to adhere to this policy as a minimum standard. However, directorates/agencies may put in place their own policy and procedural documents which recognises differences in their operating environments and organisational structures.

## Key Legislative Provisions

1. This policy is consistent with:
	1. *Public Sector Management Act 1994* (PSM Act)
	2. *Public Sector Management Standards 2016*
	3. *Work Health and Safety Act 2011*.

## Principles

1. Employees must seek delegate approval within their current role/s before commencing a new work arrangement either externally or within the ACTPS in accordance with the [Second Jobs and Volunteering Policy](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0020/1802225/Second-Jobs-and-Volunteering-Policy.pdf). This includes situations where the employee intends to work in a second job at the same directorate or different directorate.
2. Differing roles/positions within the ACTPS are normally identified through a separate AGS/Employment number for an employee. These are considered separate work arrangements and will generally be considered in isolation from each other, except for work health and safety purposes. There may be some exceptions where the separate work arrangements include classifications under the same Enterprise Agreement. The below Condition and Entitlements specific sections will provide the details regarding the ‘exceptions’.

Example of concurrent employment:

Stephanie has a part time permanent position as a Building Service Officer in the Education Directorate. Stephanie also has a casual employment arrangement as a casual driver for Transport Canberra. These two roles have separate AGS/Employment numbers and attract different entitlements and conditions of employment.

## Procedure

1. The general overall principle of concurrent or dual employment within ACTPS is to have arrangements considered as separate for all purposes except for work health and safety purposes and in some exceptional circumstances which are outlined in the specific sections below.
2. For the purposes of second employment within the ACTPS, an employee may be engaged within any ACT public sector directorates or agencies (see Appendix 1 to this policy).

## Conditions and Entitlements

### Annual Leave

1. Annual leave balances will be considered separate for each working arrangement.

### Increment level

1. Where an employee is engaged in concurrent employment arrangements in the same classification group the increment level will be the same in each arrangement unless there is a directorate policy or enterprise agreement stating otherwise due to increment barriers/restrictions. Where increment levels in the same classification are not aligned due to Leave Without Pay impacting service length in one position the employee may request assessment for accelerated increment advancement in accordance with the appropriate Enterprise Agreement.

Example:

If an employee is engaged as an ASO6.2 in one arrangement and there is a concurrent service arrangement for another ASO6 the employee would be engaged at the ASO6.2 increment level in both arrangements. Where the concurrent service arrangements are for different classification groups then increment level would be based standard process regarding prior service.

### Information sharing

1. Where required, personal, sensitive, and personal health information (‘personal information’) that is collected and held by a delegate or through Shared Services Payroll on behalf of ACTPS directorates through separate working arrangements, will only be shared between the relevant delegates in accordance with the *Fair Work Act 2009* where concurrent employment arrangements occur within the ACT Government.

### Long Service Leave

1. In accordance with Part 4.3 Long Service Leave in the *Public Sector Management Standards 2006* (repealed) the period of qualifying service for the purposes of eligibility to accrue/access long service leave entitlements is combined across all ACTPS employment - i.e. Where an employee has two or more individual employment arrangements, the date at which the employee becomes eligible to accrue long service leave for one employment arrangement will be recognised as the date of eligibility across all individual employment arrangements.
2. Long Service Leave accruals and rates of pay will be separate for each individual employment arrangement - i.e. Where an employee has two or more individual employment arrangements, each arrangement will have a separate accrual balance. Where an employee wishes to access long service leave, they would be required to submit separate leave applications for each employment arrangement. The calculation of accruals and relevant rate of payment are equivalent to each separate employment arrangement and are not a combined entitlement.
3. On cessation of one employment arrangement and continuation of the other(s), long service leave accrued on the ceasing appointment will be paid to an employee as part of their final entitlements for that employment arrangement. An employee may contact Shared Services to have the payment of long service leave accruals withheld from their final entitlements in order to apply for recognition of prior service on the continuing appointment. Long service leave accruals for the continuing appointment will then be recalculated, with additional credits added to the long service leave balance for that employment arrangement, as applicable. To note – where prior service is recognised, the eligible long service leave accrual balance is recalculated based on combined full time equivalent (FTE) for the period, up to a maximum of 1 FTE. This is different to a straight transfer of accrual balance from the ceased employment to the continuing employment. Employees should consider the implications of each option with regard for their individual circumstances, and with reference to the [ACTPS Prior Service Recognition Policy](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0019/2022409/Prior-Service-Recognition-Policy.pdf).
4. For long service leave purposes, periods of casual service are recognised as part time service.

**Example 1 – Long Service Leave Accrual and Rates of Pay**

Jane has been an ACTPS employee for 10 years. She holds two concurrent part time permanent positions within the service as follows:
Job 1 – Monday to Tuesday, 14.7 ordinary hours per week
Job 2 – Wednesday to Friday, 22.05 ordinary hours per week.

Jane decides to take two weeks’ long service leave. She submits a separate leave application for each job, both for the whole two-week period.

Whilst Jane is on long service leave, her payment for the period is calculated at two separate rates of pay, relative to the ordinary hours of work and salary payments for each separate employment.

Jane’s part time long service leave balance will be reduced by two weeks’ entitlement on each of her separate employment arrangements.

|  |  |  |
| --- | --- | --- |
|  | **JOB 1**  | **JOB 2** |
| long service leave credit | 3 months part time (0.4 FTE)Average hours: 14.7 per week | 3 months part time (0.6 FTE)Average hours: 22.05 per week |
| Period of leave taken | 2 weeks (14 days) | 2 weeks (14 days) |
| Leave period rate of pay | Job 1 ordinary weekly rate of pay x 2 weeks | Job 2 ordinary weekly rate of pay x 2 weeks |
| Remaining long service leave credit | 2.5 months part time (0.4 FTE) | 2.5 months part time (0.6 FTE) |

*To note: the calculation of long service leave credits and applicable rates of pay may vary, subject to the conditions outlined under relevant ACTPS enterprise agreements.*

**Example 2 – Eligibility to accrue Long Service Leave**

Betty and Tom are both employed as Administrative Services Officers (ASO) on a temporary part time basis from 01 January 2023, for a period of 18 months.

Tom has not previously worked in the service, or with any other recognised entity, and does not work a second job. Tom must wait until he reaches eligibility requirements, including length of service, in accordance with the relevant Enterprise Agreement at clause E25 before he is eligible to accrue long service leave.

Betty has a second job in the ACTPS as a part time School Assistant (SA). She has been working in this role since 01 June 2013. Her total ACTPS service counts towards eligibility to accrue long service leave on both her ASO and SA positions, in accordance with Long Service Leave provisions at clause E25 of the relevant Enterprise Agreement(s).

Betty is concurrently employed with the ACTPS under two separate work arrangements. Her long service leave entitlements under her ASO and SA positions are considered separate for each arrangement. Betty’s long service leave accruals will be credited based on the period of service for each separate position.

**Betty’s long service leave accruals as at 01 January 2024**

|  |  |  |
| --- | --- | --- |
|  | **ASO position** | **SA position** |
| Period of eligible service for accrual | \*1 year | \*9 years |
| Long Service leave accrual balance | 0.3 months part timeAverage hours per week: 22.05 | 2.7 months part timeAverage hours per week: 15 |

\**completed years of service.*

**EXAMPLE 3 – Unused Long Service Leave Accruals on Cessation**

Betty’s temporary part time ASO employment is due to cease on 01 June 2024. As part of her final entitlements, Betty is due payment for any unused long service leave accrued on her ASO position.

**Long service leave payment due on cessation of ASO employment**

|  |  |
| --- | --- |
| Period of eligible service for accrual | \*1 year, 6 months |
| Long service leave final entitlement | 0.45 months part time (1.8 weeks’) at 22.05 hours per week |

*\* completed months of service on cessation.*

Betty submits a request to have payment for her long service leave entitlements for the ASO service to be withheld from her final pay for the ASO position. Betty’s long service leave balance for her continuing School Assistant position is recalculated to incorporate her eligible ASO service.

**School Assistant Long Service Leave accruals - 02 June 2024**

|  |  |
| --- | --- |
| Period of eligible service | 10 years |
| Full time accrual balance | 0.45 months at the full-time equivalent of the SA rate of pay  |
| Part time accrual balance | 2.55 months at 15 hours per week |

*To note: the calculation of long service leave credits and applicable rates of pay may vary, subject to the conditions outlined under relevant ACTPS enterprise agreements.*

### Misconduct

1. Where an employee with concurrent employment within ACTPS is terminated for misconduct in one position, they may be terminated from any other positions they hold within the ACTPS. Prior to terminating employment in a second job, advice should be sought from Office of Industrial Relations Workforce Strategy (OIRWS) and Government Solicitor’s Office (GSO).

### North Canberra Hospital specific

1. Employees with concurrent service, temporary transfers and secondments while employed at North Canberra Hospital (NCH) need to notify their supervisor/manager and Shared Service Payroll as the employee may be placed on the different pay cycle and may subsequently need to transfer to different salary packaging arrangement.

### Overtime

1. Access to overtime is separated by the different employment arrangements. Where an employee has different AGS numbers they will only have access to overtime under the corresponding work arrangement with prior approval from the manager in accordance with the overtime provisions at clause C9 of the relevant EA.

Example:

Remus is a part time nurse under the NMEA and a part time teacher under the CIT Educators EA with two separate work arrangements. The hours of work are separate in line with each work arrangement and attract different employment conditions and arrangements under the relevant agreement. The hours of work in each separate arrangement are not combined for eligibility to overtime.

### Personal Leave

1. Personal leave balances will be considered separate for each working arrangement.
2. Where the employee is covered by the same Enterprise Agreement for their concurrent employment, in extenuating circumstances such as an exhausted leave balance in one position and with agreement from both delegates, personal leave accrual in one position may be used for the other position and the relevant business unit is able to undertake internal liability transfers with the approval of both delegates.
3. Where an employee is deemed unfit for duty for a period which covers scheduled work time in multiple ACTPS roles, an employee should advise their manager in all roles and not be accepting to work in another position (such as a casual shift) unless the employee is deemed fit for duty for the alternative role.

### Redundancy and redeployment

1. Concurrent employment in relation to redundancy and redeployment are considered separately. For further information please see the Redeployment Excess Officer Policy.

### Salary Packaging

1. As ACTPS is the employer, an employee can only have one salary packaging arrangement where the benefit/s has an annual cap each Fringe Benefit Tax (FBT) year.
2. This is particularly relevant while there continues to be a separate salary packaging provider for North Canberra Hospital (NCH) based employees. As any employee working concurrently, or within the same FBT year at either the NCH campus, or for Canberra Health Services, they must advise the relevant salary packaging provider on commencement of any new salary packaging arrangement. This is to ensure that any access to any correlating benefit can be verified and incorporated into the amount able to be packaged for the remainder of the current FBT year.

### Superannuation

1. An employee will need to nominate their chosen superannuation fund when they commence each separate working arrangement.

For employees with an existing Commonwealth Sector Superannuation (CSS) or Public Sector Superannuation (PSS) membership:

1. If the position is a permanent appointment the employee will remain with the Commonwealth Superannuation Corporation in the same membership.
2. If the position is non ongoing (that is, temporary or casual) then they have the option to choose a different fund of choice. Where the employee chooses to stay with the Commonwealth Superannuation Corporation (CSC), a separate membership number will be created by CSC.

Where an employee is unsure if they have a current membership, they should check with the [Commonwealth Superannuation Corporation](https://www.csc.gov.au/Members/Contact-us).

### Tax

1. The employee will need to seek their own advice regarding which working arrangement they wish to claim the tax-free threshold as this can only be claimed for one employment.
2. For further information about tax implications where working multiple jobs, please contact the [Australian Taxation Office (ATO).](https://www.ato.gov.au/)

### Work Health and Safety

1. An employee is responsible for disclosing second jobs outside the service and/or second employment arrangements within the ACTPS. Employees can do this by completing the appropriate form outlined in the [Second Jobs and Volunteering Policy](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0020/1802225/Second-Jobs-and-Volunteering-Policy.pdf).
2. On receipt of an application/discussion to seek approval for concurrent employment, the manager and the employee should firstly consider potential hazards and risks together. The two parties would then work together to manage any issues. Joint review of the risk assessment should occur periodically between the parties throughout the duration of the arrangement being in place, to verify that the risks are being controlled adequately and identify any new hazards (e.g. conflict of interest, rostering, fatigue etc).
3. Each supervisor/manager should assess the situation on a case-by-case basis, but a general guide would be to expect at least one 8 hour break in any 24 hour period and reasonable meal/rest breaks of at least 30 minutes during the remainder of the 24 hour period. Where there are work health and safety concerns a trial approval should be established with a review date to discuss any issues. The supervisor/manager will need to monitor the employee for performance or fatigue concerns. If any concerns arise, then ongoing conversations and review of the working arrangements will need to occur. Agreement for the second job/volunteering arrangement may be withdrawn if WHS issues arise and are unable to be resolved.

### Workers’ Compensation claims

1. ACT Public Sector staff are covered for workers’ compensation under the *Safety, Rehabilitation and Compensation Act 1988* (Commonwealth) which is administered by the ACT Government as a self-insurer. The ACT Government has entered into an agreement with Employers Mutual Limited (EML) which will provide claims administration services. EML will determine if additional jobs/multiple AGS numbers impact a compensation claim.

## Responsibilities

### Employees

1. The employee is responsible for:
	1. ensuring they obtain approval prior to commencing a second job outside or within the ACTPS;
	2. ensuring a second job or volunteering activity does not affect their efficiency and performance of work-related duties, including impacting their availabilities, fatigue levels and capacity to perform;
	3. informing the delegate without delay of any changes in circumstances that may impact on the approval of a second job;
	4. seeking to have their application for a second job renewed every 12-months or where there has been a change to their circumstances;
	5. ensuring they read and complete any of their directorate/agency-specific Second Job policies and application forms, in addition to this policy;
	6. inform Shared Services Payroll if they want to access Long Service Leave to confirm eligibility across employment arrangements;
	7. identify with Shared Services Payroll if there is any impact to a salary packaging arrangement; and
	8. informing all relevant managers of leave applications that may impact each work arrangement.

### Supervisors/Managers

1. The supervisor/manager is responsible for:
	1. determining whether to endorse their employee’s second job application for the delegate’s approval, having consideration to the factors listed in this policy together with any other relevant circumstances, enterprise agreements and other policies;
	2. working with the employee to manage any conflict of interest or Work Health and Safety matters that may arise with their second job or volunteering activities; and
	3. advise the employee to update Shared Services Payroll if there are any Salary Packaging arrangements.

### Delegates

1. The delegate is responsible for:
	1. reviewing and approving/refusing an employee’s second job application, as outlined in the Second Job and Volunteering Policy.
	2. maintaining a record of conflicts of interest disclosed to them and decisions, which includes having a written record of any actions taken, and ensuring they are reflected on platforms such as the whole-of government Conflict of Interest Register.

## Consultation

1. This policy was consulted with People Forum and Unions.

## References

1. The relevant legislation, policy, case law and employment arrangements underlying this operational guidance are:
* Public Sector Management Act 1994
* Public Sector Management Standards 2016
* Work Health and Safety Act 2011 (ACT)
* Work Health and Safety Act 2011 (Cth)
* ACTPS Enterprise Agreements
* ACTPS Conflict of Interest Policy
* ACTPS Second Jobs and Volunteering Policy
* Fair Work Act 2009 (Cth)
* *Lacson v Australia Postal Corporation* [2019] FCA 51
* *Kroeger v Mornington Peninsula Shire Council* [2019] FCCA 2313

## Further Information

1. For further information please contact Industrial Relations and Public Sector Employment Branch at eba@act.gov.au.

## Review

1. This policy is due for review 3 years from the last issued or reviewed date, or earlier where there are changes that affect the operation of the policy.

|  |  |
| --- | --- |
| Item | Details |
| Document name:  | [INSERT DETAILS] |
| Policy Number:  | [INSERT DETAILS - *(allocated by PSWR)*] |
| Prepared by:  | [INSERT DETAILS – (*Position Title, Branch, Division – no names)*] |
| Feedback to:  | [INSERT DETAILS - *(email address or contact area)*] |
| Issue Date:  | [INSERT DETAILS - *(date policy was issued)*] |
| Last Review Date: | [INSERT DETAILS - *(date policy was last reviewed)*] |
| Next Review Date:  | [INSERT DETAILS - *(date policy is due for review in the future)*] |

## Approval Authority

1. This policy is approved by xx , [INSERT MONTH AND YEAR].

## Appendix 1

ACT Audit Office

ACT Board of Senior Secondary Studies

ACT Electoral Commission

ACT Executive

ACT Health

ACT Integrity Commission

ACT Long Service Leave Authority

ACT Teacher Quality Institute

Canberra Health Services

Canberra Institute of Technology

Chief Minister, Treasury and Economic Development

City Renewal Authority

Community Services

Cross-agency

Cultural Facilities Corporation

Director of Public Prosecutions

Education

Environment, Planning and Sustainable Development

Independent Competition and Regulatory Commission

Independent Statutory Offices including boards, tribunals and committees

Justice and Community Safety

Legal Aid Commission

Major Projects Canberra

Office of the Legislative Assembly

Suburban Land Agency

Transport Canberra and City Services

Worksafe ACT