



Essex County
Fire & Rescue Service

SECONDARY EMPLOYMENT POLICY

About

The document outlines the Policy and Procedures for Service personnel wishing to undertake secondary employment.

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Secondary Employment Policy

1 KEY INFORMATION

- 1.1 This policy shall apply to all Essex County Fire and Rescue Service (“the Service”) employees.
- 1.2 No employee may engage in secondary employment without first obtaining written permission from the Service. The undertaking of secondary employment without approval may result in disciplinary action being taken.
- 1.3 Applicants will be required to comply with the Working Time Regulations (WTR) which may include signing an 'Opt out' agreement if maximum working hours are likely to exceed 48 hrs per week averaged over a 17 week period.
- 1.4 Applications shall be made in writing using the appropriate form. It should be submitted via the individual’s Line Manager for observations. The form should then be forwarded to HR for approval on behalf of the Service. The application and subsequent decision will be maintained on the Service's Secondary Employment Register.
- 1.5 Applicants will be notified in writing of the decision.

2 POLICY STATEMENT

- 2.1 Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (“the Authority”) permits their individual employees personal choice to carry out 'secondary employment'.
- 2.2 The undertaking of secondary employment must be without detriment to the local community, the Fire Service or its employees. Certain conditions and restrictions will apply.

3 INTRODUCTION

- 3.1 Secondary employment, in this context, is where an individual is occupied or involved in any activity either directly or indirectly for payment, on a voluntary basis or otherwise in any trade, profession or service outside the individual's primary contract of employment with the Service. This may include:
 - Employment 'outside' of the Service including self-employment, and the employment of others.
 - A secondary contract to carry out work for or on behalf of the Service in a role other than the individual's primary contract of employment i.e. working for the Service in an Industrial and Commercial Training Unit.

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- 3.2 It will only be used in exceptional circumstances and will not be used to make up planned shortfalls in overall staffing levels set out in the Authority's Integrated Risk Management Plan.
- 3.3 It will be strictly voluntary and no employee will suffer a detriment for refusing to undertake secondary employment on behalf of the Service.
- 3.4 Employees should consult Human Resources (HR) to ensure compliance with relevant policies such as: - Flexible working, Maternity and Paternity leave, Leave, Working Time Regulations.
- 3.5 This list is not exhaustive.

4 **SCOPE**

- 4.1 This policy shall apply to all Service employees.
- 4.2 Being employed by the Service on a second contract of employment as a firefighter on the retained duty system is not covered by this policy.
- 4.3 Reference should be made to the separate Service policy on this matter.

5 **RESPONSIBILITIES**

- 5.1 The Service has a duty under Regulation 5 of the Management of Health and Safety at Work Regulations 1999 to ensure that the health, safety and welfare of its employees is safeguarded through the provision of health surveillance systems.
- 5.2 The Service also recognises the duty placed upon it by the Working Time Regulations (WTR) 1998 to ensure, as best it can, that its employees do not work regularly in excess of 48 hours per week. In addition, this policy takes account of the nationally agreed Conditions of Service that exist for all Local Authority employees.
- 5.3 The Service has a right to expect that secondary employment will not adversely affect the ability of employees to carry out their duties and responsibilities as an employee of the Service (see 'Conditions and Restrictions').
- 5.4 Employees are reminded of their individual responsibilities under the Health and Safety at Work Act 1974.

6 LEGISLATION AND REGULATION

6.1 The provisions within this policy are in accordance with the following: -

- Working Time Directive (2003/88/EC)
- Working Time Regulations 1998 (for further details see 'Support Information')
- National Joint Council Scheme of Conditions of Service for Local Authorities Fire Brigades ('Grey Book')
- National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service ('Green Book').
- Management of Health and Safety at Work Regulations 1999
- The Health and Safety at Work Act 1974
- The Vehicle Drivers Hours, Tachographs and Records Rules (GV262 Rev 7/86)

6.2 This list is not exhaustive and further pieces of employment law may apply.

7 CONDITIONS AND RESTRICTIONS

7.1 A number of conditions apply to all employees undertaking secondary employment. These are set out below:-

- No employee may engage in secondary employment without first obtaining written permission from the Service. The undertaking of secondary employment without approval may result in disciplinary action being taken.
- Employees must ensure that any duties or conditions of secondary employment do not result, or potentially result, in the contravention of the requirements of this policy.
- Employees should not carry out any work which may render them unfit for their work in the Service. Permission will not be granted for any secondary employment the nature of which is considered to be dangerous or otherwise poses a serious risk of injury or illness to the employee or is incompatible with their role within the Service. Certain types of secondary employment will not normally be authorised.

For example:-

- Undertaking of activities that may compromise the rest period specified within the WTR.
- Other hazardous occupations where the potential for accidents or exposure to hazardous substances or situations represents an additional risk to that of firefighting.

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Note: These examples are not exhaustive and each case will be treated on its merits.

- Permission to undertake secondary employment as an LGV/PSV driver in no way implies authorisation to drive outside the parameters of any regulations applicable to such activity. Compliance with new or amended legislation remains with the individual.
- An employee is not permitted to undertake outside employment whilst on certificated or un-certificated sick leave without the express written permission of the Service. If in doubt, employees should check with their Line Manager or HR.
- Employees undertaking secondary employment in contravention of this condition will be subject to disciplinary procedures.
- Where secondary employment involves the supply of goods or services to any of the Regional Fire Authorities, County Councils or Unitary Authorities, or it is in any way associated with fire safety, fire engineering or fire/risk management, employees must take note of the following:-
 - There is no conflict, or potential conflict of interest between their duties or possible future duties, as respective employees of the Service and their duties in the course of their secondary employment.
 - Financial and procedural integrity is maintained.
 - Employees must not undertake activities that may lead to suspicion of undue favour or improper influence being exercised through contracts, or any kind of consent, permission or licence etc. that the public seek from the Service or any activity that may bring the Service and/or the Authority into disrepute.

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- 7.2** Secondary employment will not be carried out whilst at work. Service facilities must not be used. This includes the use of telephones, mobile communications, fax and computer facilities (including email) whether private or other for such purposes.
- 7.3** Permission to undertake secondary employment may not be given where the applicant is:-
- Under investigation as part of the disciplinary procedures although each case will be treated on its merits; or
 - Subject to restrictions such as the removal of the right to self-certification as part of the Services sickness and attendance management procedures.
- 7.4** Secondary employment is not to be undertaken where it involves a direct or indirect use of the applicant's Service expertise or information gained by the individual as a result of his/her employment with the Authority without the express permission of the Service.
- 7.5** Secondary employment must not interfere with any requirement to work casual overtime or detached duties. Additionally, employees will not be released early from duty to take up secondary employment.
- 7.6** No article of Service uniform, personal protective equipment or other equipment may be worn or used for any purpose associated with secondary employment, except where the secondary contract is with the same/primary employer and prior permission has been granted.
- 7.7** Being an employee of the Service must not be used to promote any form of secondary employment either directly or by implication.
- 7.8** Implicit in being granted permission by the Service for an employee to undertake secondary employment is the individual's acceptance that he/she may be the subject of an investigation where there are reasonable grounds for suspicion that he/she has breached the conditions of this policy or any other terms and conditions of employment.
- 7.9** Line Managers are to ensure that the performance of an individual for whom they are responsible is not impaired for whatever reason, and that this policy is adhered to.
- 7.10** This is particularly important for shift based personnel or personnel on the retained duty system.

8 WORKING TIME RESTRICTIONS

- 8.1** Employees must report for work on time, well rested and physically and mentally able to undertake their role.
- 8.2** Personnel employed on multiple contracts must ensure that they take adequate rest periods in accordance with the WTR.
- 8.3** If an individual undertakes secondary employment during annual leave periods, they should be aware of the conditions and restrictions placed on them by the WTR's and this policy.
- 8.4** All employees are reminded that ideally, they should utilise annual leave for rest and recuperation to enhance their general health, well-being and work-life balance.
- 8.5** The WTR's enables an individual to agree to 'opt out' of the maximum working hours if they are likely to exceed 48 hours per week averaged over a 17-week period.
- 8.6** The Service permits employees not exempt under the WTR to take up an 'opt out agreement' from the maximum working hours per week. The taking up of such agreements will be on a voluntary basis.
- 8.7** The opt-out clause does not remove the duty for Service personnel to comply with other aspects of the WTR such as daily and weekly rest periods and breaks. Compliance with these will automatically place a working time limit of 76 hours per week on average, because there is an entitlement for employees to have an average of not less than 92 hours rest in each 7 day period.
- 8.8** Under regulation 23 the terms of a collective or workforce agreement may vary the right of adult workers to rest breaks and rest periods, as long as in accordance with regulation 24 the Service undertakes to provide equivalent periods of compensatory rest.
- 8.9** In light of the current collective agreement in place, Service employees are entitled to have an average of 80 hours rest in each 7 day period (1x24 hour weekly rest, 6x9 hour periods of daily rest and 6x20 minute rest breaks). The Service undertakes to provide the additional hour's compensatory rest at another time convenient to the Authority and mutually agreed with the employee to meet the requirements as outlined in clause 8.7.

9 INCAPACITY DUE TO INJURY

- 9.1** If an employee is injured/incapacitated whilst engaged in employment other than with the Service and is subsequently unfit for duty, the employee's entitlement to paid sick leave may be reduced or withdrawn. It is the duty of the employee to notify their Line Manager where they are injured/incapacitated due to secondary employment. Failure to do so may result in disciplinary action being taken. The Line Manager will notify HR accordingly.
- 9.2** It is strongly recommended that applicants who receive approval for secondary employment ensure that adequate personal insurance cover exists, and make enquiries to determine their insurance arrangements and consider the implications.
- 9.3** It is the applicant's responsibility to ensure that they are able to reimburse the Service for any costs it incurs as a result of any sickness or injury sustained as a result of secondary employment, and individuals should ensure that they have adequate insurance cover.
- 9.4** Employees undertaking secondary employment must be aware that no compensation for loss of outside earnings will be paid by the Service in the event of any incapacity from secondary employment as a result of their normal Service duties.
- 9.5** Reporting of sickness will be in accordance with Service Sickness Absence Procedure.

10 POLITICALLY RESTRICTED POSTS

- 10.1** The 'Local Government and Housing Act 1989' designated certain posts as politically restricted.
- 10.2** These are likely to be more senior posts within the Service and these restrictions will not therefore apply to the majority of our employees. Where applicable such posts will be stated in the employees Contract of Employment where further details of the restrictions will be included.
- 10.3** The main implications set out below are that you cannot:-
- Be a Member of a Local Authority except a Town or Parish Council.
 - Be a member of the House of Commons.
 - Be a Member of the European Parliament.

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- Hold office in a political party if it requires you to participate in general management or act on behalf of the party.
- Canvass on behalf of a political party.
- Speak or write in support of or on behalf of a political party. This does not apply to Town or Parish Council level.

10.4 HR retains a list of politically restricted posts.

11 RECORD KEEPING

11.1 Robust systems for recording approval to undertake outside employment are in place within HR to ensure compliance with:-

- Health and Safety Legislation.
- Data Protection Legislation.
- Service Policy.
- Working Time Regulations.
- Pay and Conditions Agreements.
- Terms and Conditions of Employment.

11.2 This may include the maintenance of time sheets for time recording and monitoring by line managers and/or HR.

11.3 Service employees undertaking outside employment that cannot be closely monitored by the Service, should be mindful of the conditions and restrictions of the WTR's and this policy, and ensure the health and safety and welfare of themselves and others are not adversely affected.

12 APPLICATIONS/CONTRACTS/WITHDRAWALS

- 12.1** Employees will be required to inform the Service of any change of secondary employer or, in the nature of the secondary work, in which case a fresh application must be submitted.
- 12.2** It will be the responsibility of the individual to notify the approved secondary employer of their primary employment with the Service in order that they may comply with the WTR's.
- 12.3** Where an applicant employs other Service personnel for the purposes of secondary employment, the individuals concerned must make separate applications. This must not prejudice their professional working relationship with the Service.
- 12.4** Where a Service employee undertakes secondary employment for the same primary (Fire Service) employer, an additional contract(s) of employment will be issued.
- 12.5** Permission for specified secondary employment may be withdrawn or cancelled at any time by the Chief Fire Officer where it is considered that such employment is detrimental to the employees' health, safety or welfare.
- 12.6** Poor performance or poor attendance record may reflect this. The Service shall not be liable for any loss of earnings, losses or debts incurred.

13 APPEALS

- 13.1** Where an application for secondary employment has been refused employees have the right to appeal using the Service's 'Grievance Procedure'.

14 SECONDARY EMPLOYMENT PROCEDURE

14.1 Personnel must complete form HR308 to request permission to undertake secondary employment.

14.2 Forms can be requested from the HR support team.

14.3 Applicants will be given a month to submit a completed application form after which time HR will issue a second letter advising the applicant that they do not have approval to undertake secondary employment.

14.4 Upon receipt of completed applications the information will be entered on to the secondary employment register under the relevant department.

14.5 Before sending the completed form to the HR Manager for final approval, checks should be made to ensure that the individual is not:-

- On long term sickness
- Under investigation as part of the disciplinary procedures; or
- Subject to restrictions as part of the Services sickness and attendance management procedures.

14.6 Should any of the above apply the individual may not be eligible to undertake secondary employment.

14.7 Should the request be denied the applicant should be informed in writing of the reasons for the decision. An individual may register an appeal against the refusal using the Service grievance procedure. HR will ensure a decision is given within 7 days.

14.8 Approved applications should be processed as follows:-

- Complete prompt sheet for HR310 and send to HR.
- Send two copies of the letter to the individual (one has a sign and return agreement on the bottom of it).
- If an individual is driving for their secondary employment, send a copy of the driving regulations.
- Send a copy to the individual's line manager.

Frequently Asked Questions relating to this policy are available on the intranet.

If you would like to speak to someone about this policy please call the HR Support Team on 01376 576199 or email HR-Support.

15 Document History

Audit Trail

Page/para nos.	Brief description of change	Issue Date
Original SIS Policy	Created and implemented	March 2005
Whole document	Rebranding People Policy Crest, review and updates to rest periods in line with dispute resolution agreement and ASW Appendix, Authority name updated.	January 2018