



Policy Statement

The purpose of this policy is to provide guidance on how employees can engage in private employment or enterprise while employed as a public servant.

Scope

This policy applies to all employees of public sector agencies.

The policy excludes:

- Independent Contractors
- Civil list payees
 - Queen's Representative
 - Speaker of Parliament
 - Members of Parliament
- House of Ariki representatives
- Elected Mayors and Island Councilors
- Ministerial Support Office staff

Principles

The Public Service Act 2009 identifies the following values for public servants to adhere to:

Honesty	acting honestly, being truthful, and abiding by the laws of the Cook Islands
Impartiality	providing impartial advice, acting without fear or favour, and making decisions on their merits
Service	serving the people well through faithful service to the Government of the Cook Islands
Transparency	taking actions and making decisions in an open and transparent manner
Accountability	being able to explain the reason for actions taken and taking responsibility for those actions
Respect	treating the people, the Government of the Cook Islands and colleagues with courtesy and respect
Efficiency and Effectiveness	achieving good results for the Cook Islands in an economical way

Private employment and enterprise encourages productivity and entrepreneurial behaviour. However, the work or business activity must not interfere with the ability of employees to perform official duties of the public service. Any potential conflicts of interest must be declared and managed.

Legislation and Regulations

Public Service Act 2009, Employment Relations Act 2012 and other relevant legislation.

Definitions

Agency means any public service department, instrument, or agent of the Government and includes a body corporate or organisation that is wholly owned or controlled by the Crown

Conflict of interest is where an individual's perceived or real objectivity is impaired and can lead to the individual making a decision or taking action in their official capacity to derive personal benefit or favour others

Employee means any person who is an employee of the Public Sector

Employer means the Public Service Commissioner and Heads of Public Sector Agencies or their delegated authority

Private employment means employment in the private or non-government sector

Private enterprise means a business established, owned or operated by private individuals for profit

Public Service Commissioner means the Public Service Commissioner appointed under Article 73 of the Cook Islands Constitution and section 5 of the Public Service Act 2009

Procedures

Employers are responsible for administering this policy and developing procedures to support implementation of the policy. Employers are also responsible for ensuring all policies are easily accessible to employees. Employees must read, understand, and comply with this and other relevant government policies. A breach of the policy may be considered misconduct and may be subject to disciplinary action.

Private versus public sector employees

Private sector employees work primarily for businesses or non-profit organisations.

Public sector employees are commonly referred to as public servants. Some rights of public servants, such as free speech, can be limited as they often hold positions of trust in government and must maintain high standards of integrity and political neutrality in society.

Conditions for Private Employment or Enterprise

Private employment may include paid or unpaid part time, full time, casual or contract work outside normal official duties as a public servant. Private enterprise is where employees are involved in entrepreneurial or business activities outside normal official duties as a public servant.

Employers must:

- establish procedures and conditions to manage staff who engage in private employment or enterprise
- consider whether employees can discharge their official duties while engaged in private work
- manage perceived or actual conflicts of interest that may arise from employee's private work
- approve employee private employment or business activity outside the public sector when relevant
- notify employees of their reason(s) for non-approval of private work or business activity

Employees must:

- declare and obtain approval from their employer to engage in private employment or enterprise
- declare any conflict of interest resulting from their private employment, business activity, financial or entrepreneurial interests they have outside the public service as soon as the risk is identified
- ensure they uphold the public service values and code of conduct in their primary employment as a public servant

Employees must not engage in private work that:

- interferes with the ability to perform official duties as a public servant
- may breach or compromise their employment terms and conditions and immigration laws

Conflicts of Interest

Employees have a duty to declare and manage any conflicts of interest that may arise from their private work and this must be managed by the employers.

Conflicts of interest may include, but are not limited to the following:

- the private work of the employee involves providing goods or services that requires sales support during their official working hours as a public servant
- the private work of the employee negatively impacts their work as a public servant
- where employees involved in the procurement of goods or services process, submitted a tender to supply these goods and services
- where employees use their official capacity to obtain documents to benefit their private work
- where employees use their official position to obtain favours for their private work
- where employees use staff and government resources e.g. laptops, motor vehicles etc. for their private work

Other Provisions

All records relating to key aspects of employee private work must be kept for at least seven years and will only be accessible by the employer and/or authorised staff. After the seven year period, the agency may destroy the documentation in adherence with government official information management policies.

The Office of the Public Service Commissioner is responsible for reviewing and updating this policy and associated documents annually.

Associated Documents

- Code of Conduct Policy
- Contracting for Services Policy
- Risk Management Policy
- Political Neutrality Policy

Other Information

For policy queries contact the Office of the Public Service Commissioner on phone (682) 29421 or email: opscinfo@cookislands.gov.ck