



Heddlu•Police

DYFED-POWYS

Diogelu ein Cymuned - Safeguarding our Community

Business Interest and Secondary Employment Policy

VERSION CONTROL

Version	Date	Author	Reason for Change
V2	June 2013	S L Parry	1) Updating of terminology 2) Incorporating e-forms into application process 3) Amendment of decision maker to Head of PSD
V2	March 2013	N/A	No changes made to the Policy. However, ownership of the Policy transferred from Human Resources over to the Professional Standards Department (G Lemon Senior Manager).
V3	Oct 2014	N/A	No changes made to the content of the policy. Some minor textual changes made due to inaccuracies identified. Reviewed by G Lemon Senior Manager Professional Standards Department.
V4	Oct 2015	N/A	Review undertaken by G Lemon Senior Manager Professional Standards and no changes required.

EQUALITY IMPACT ASSESSMENT

Section 4 of the Equality Act 2010 sets out the **protected characteristics** that qualify for protection under the Act as follows: Age; Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; Sexual Orientation.

The **public sector equality duty** places a proactive legal requirement on public bodies to have regard, in the exercise of their functions, to the need to:

- eliminate discrimination, harassment, victimisation, and any other conduct that is unlawful under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The equality duty applies to all protected characteristics with the exception of Marriage and Civil Partnership, to which only the duty to have regard to the need to eliminate discrimination applies.

Carrying out an **equality impact assessment** involves systematically assessing the likely or actual effects of policies on people in respect of all the protected characteristics set out above.

An equality impact assessment should be carried out on any policy that is **relevant** to the public sector equality duty.

An equality impact assessment has been completed on this policy, click [here](#).

HUMAN RIGHTS ACT

CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its content and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Name: C Brettle, Chartered Legal Executive Lawyer

Department: Legal and Compliance Directorate

Signed: C Brettle

CODE OF ETHICS

CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Code of Ethics and has been reviewed on the basis of its content and the supporting evidence and it is deemed compliant with that Code and the principles underpinning it.

Name: Gavin Lemon (Senior Manager)
Department: Professional Standards Department
Signed: Gavin Lemon

Freedom of Information Act 2000

Section 19 of the Freedom of Information Act 2000 places a requirement upon the Force to publish all policies on the Force website. Policies are why we do things and procedures are how we do them. A case-by-case review of procedures must be undertaken to protect law enforcement and health and safety considerations. Where a combined policy and procedure document is being produced the Force is legally required to publish the policy section and assess the procedure part to ensure no sensitive information is published.

There is a requirement therefore to review this document to establish its suitability for publication. Please identify below whether the document is suitable for publication in its entirety or not. Where it is believed that disclosure will be harmful please articulate the harm that publication would cause and highlight the relevant sections within the document. Where it is perceived that there is harm in disclosure the document should be forwarded to the FOI Unit for review.

Suitability for publication

Suitability for publication	Yes/No	Date	Signature
Document is suitable for publication in its entirety	Yes	10 th March 2013	G Lemon
Document is suitable for publication in part, I have identified those sections which I believe are not suitable for disclosure and have articulated below the harm which would be caused by publication.			
Harm – in publication None			G Lemon

FOI review – to be completed by FOI Unit

Suitability for publication	Yes/No	Date	FOI Decision Maker
Document is suitable for			

publication in its entirety			
Document is suitable for disclosure in part and relevant redactions have been applied. A public facing version has been created.			
Once review has been undertaken FOI decision maker to return document to policy author and following sign-off document to be published within Force Publication Scheme. Any future changes to the document should be brought to the attention of the FOI Unit, as appropriate.			

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Business Interests & Secondary Employment Policy

1.0 Applicability - Scope of Policy

This policy replaces all previous Business Interests & Secondary Employment Policies and applies to Police Officers, Police Staff, Special Constables and Volunteers.

This policy does not form part of police staff terms and conditions of employment and may be subject to change at the discretion of Chief Officers.

2.0 Policy Aims

The aims of this policy are to ensure:

- (a) The right to a private life is maintained wherever possible;
- (b) Any action taken by the Force to prevent an individual undertaking an activity is proportionate to the risk it might pose to the individual and the Force;
- (c) The Force is not brought into disrepute by the actions of members of Dyfed Powys Police Service.
- (d) The interests of members of Dyfed Powys Police Service are protected, particularly those who could be vulnerable to corruption due to the nature of activities or their personal circumstances, i.e. debt. The introduction of the Bribery Act on 1st July 2011 also set out the provisions for protection of certain functions and activities within the Police Service.
- (e) Members of Dyfed Powys Police Service with a second job, (refer to section 4 for definition) or undertaking any outside work on a self-employed basis comply with their responsibilities under the Working Time Regulations 1998.
- (f) The Force complies with its responsibilities under the Working Time Regulations 1998 and Working Time (Amendment) Regulations 2002.

3.0 Terminology

For the purposes of this document the terms '**Staff member**' and '**Staff**' shall be used to refer to Police Officers, Police Staff, Special Constables and Volunteers.

4.0 Definition of a Business Interest

4.1 Regulation 7 of the Police Regulations 2003 (as amended by the Police (Amendment No 4) Regulations 2012) provides that a person has a business interest if :

- a) Being a member of a police Force, the person holds any office or employment for hire or gain (other than as a member of the Force) or carries on any business, or
- b) Being a member of a Police Force or a relative included in such a member's family, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment house or betting and gaming or regulating places of entertainment in the Force area.

4.2 For the purpose of this document "relative" in relation to a member of a Police Force means:

- a) A spouse or civil partner who is not separated from the member.
- b) A person living with the member as if they were the member's spouse or civil partner, or
- c) A parent, son, daughter, brother or sister of the member.

- 4.3 Whilst police staff and volunteers are not covered by police regulations, for the purposes of the Working Time Regulations 1998 and Working Time (Amendment) Regulations 2002, Police Staff and Volunteers are required to inform and seek approval from Dyfed-Powys Police for any other work undertaken. The same definition of a business interest or secondary employment and relative applies to police staff and volunteers.

5.0 Definition of Secondary Employment

- 5.1 Secondary Employment for the purpose of this policy is defined as any paid or unpaid work, with any employer or other organisation on any type of contractual arrangement or any type of self-employment.
- 5.2 The carrying out of public duties are not included as either a business interest or secondary employment neither are outside interests such as personal investments or being a member of a committee.

6.0 Policy

- 6.1 Staff who wish to be engaged in any other employment or have any outside business interest must first seek written approval.
- 6.2 Those applying to join Dyfed Powys Police who wish to retain other employment or outside business interests must seek written approval to do so before appointment. Such applications should be submitted as per paragraph 7 below. Applicants will not be eligible for appointment if they intend maintaining a business interest or secondary employment that is not compatible with being a member of the police service. (Appendix B provides further guidance). Decisions on compatibility will be based on this policy. (There is no right of appeal for such applicants under the terms of this policy).
- 6.3 Each approved application will be subject to an annual review initiated by the Head of Professional Standards. The Head of Professional Standards will have responsibility for matters relating to integrity and reputation, and will take into account the HR perspective (e.g. absence history of the individual) and the views of the applicant's departmental head who may be best placed to identify and assess risk surrounding compatibility with the individual role, duties and responsibilities.
- 6.4 Any change in other employment or outside business interest previously approved must be notified via the Line Manager to Anti-Corruption Unit, Professional Standards Department.
- 6.5 Staff given approval to be engaged in secondary employment or outside business interest must ensure they remain fit to undertake their role in Dyfed Powys Police. For example to make sure that they do not become over-tired as a result of the other employment or business interest resulting in being unable to effectively undertake their duties.
- 6.6 If absent due to sickness, working in secondary employment or an outside business interest must cease.
- 6.7 If absent due to sickness for a continuous period of 28 days or more, approval of secondary employment or outside business interest may be temporarily revoked.
- 6.8 If there is evidence a period of sickness absence has resulted from a secondary employment or an outside business interest Dyfed-Powys Police reserves the right to reclaim the cost of occupational sick pay.
- 6.9 Dyfed-Powys Police reserves the right, at any time, to rescind its approval of secondary employment or outside business interest if, in the Forces view it is having an adverse impact on performance, attendance or timekeeping (or any other aspect of the duties carried out in Dyfed Powys Police).
- 6.10 Where the Head of Department identifies an adverse impact on performance, as a result of undertaking a business interest or secondary employment, they should in the first instance seek advice from the HR Specialist – Performance and Attendance. The HR Specialist where appropriate will link with the Head of Professional Standards and outline the details of the impact on

performance.

The Head of Professional Standards will submit the circumstances of the case to the Business Interests and Secondary Employment Panel for a decision (see paragraphs 7.7 & 7.8 for reference to the Business Interest & Secondary Employment Panel), the panel will decide whether the Business Interest or Secondary Employment approval is suspended or rescinded.

If approval is rescinded, full reasons for the decision and reasonable notice will be given.

If the individual is subject of a conduct procedure then the business interest or secondary employment will be considered by the Head of Professional Standards.

- 6.11 Staff who act in breach of this policy, for example by taking a second job (including self-employment) without first obtaining approval, failing to disclose the circumstances of a second job or continuing to work whilst absent due to sickness, may be subject to potential disciplinary action.
- 6.12 In line with Regulation 7 (6) of Police Regulations 2003 if a Police Officer applies and submits an application for a business interest or secondary employment and has the application declined the Chief Constable may, subject to approval dispense with the services of the officer if they engage in the business interest or other employment.
- 6.13 Biannually Human Resources will provide Heads of Department with details of their staff who have registered Business Interests or Secondary Employment.

7.0 Seeking Approval for a Business Interest or Secondary Employment

- 7.1 Approval for a business interest or secondary employment must be sought by completion of an 'Application to Register a Business Interest or Secondary Employment'. This application must be submitted online by the applicant as an e-form to the their line manager.
- 7.2 In determining whether to support an application, the Line Manager will consider each application on its own merits, taking account of the following issues: -
 - a) Is it likely the activity will adversely influence the individual's judgement on organisational matters?
 - b) Is it likely the business interest will weaken public confidence in the honesty and integrity of the individual or Dyfed-Powys Police?
 - c) Are the hours of work likely to interfere with the applicants performance, attendance and/or timekeeping? (refer to paragraph 6.0 below)
 - d) Are the total number of hours worked likely, to impact on health and safety? (refer to paragraph 7.0 below)
 - e) Is the activity likely to cause a conflict of interest for the individual between the Dyfed-Powys Police and the proposed activity?

In considering the above issues the line manager must first familiarise themselves with the applicant's sickness absence record (available from Manager Self Service in iTrent) and evidence of performance (most recent PDR) and make reference to this information in their submission.
- 7.3 As set out in Paragraph 4.2 above, restrictions also apply to family members (i.e. spouse, partner, parent, siblings and dependants). In addressing any issues arising from perceived conflict, consideration will be given to implementing other Force policies such as Service Confidence.
- 7.4 The line manager will submit the e-form application with their comments to the Head of Department.
- 7.5 Having reviewed the application, with line manager comments, the Head of Department will record a recommendation and forward the application to the Head of Professional Standards.
- 7.6 The final decision on an application will be made by the Head of Professional Standards who will review all applications to ensure consistency in decision making. Careful consideration will be given to a number of factors including the nature of the business interest or secondary employment and the current role and responsibilities of the applicant.

When making a decision, the Head of Professional Standards will start from the premise that only those business interests or secondary employments that are compatible with the ethos and values

of the police service will be permitted and will give careful consideration to the potential for adverse reputational damage to the service arising from any perception of any shortfall in the integrity of a member of Dyfed Powys Police being associated with that employment or prospective interest.

(Appendix A – Provides guidance on incompatible Business Interests and Secondary Employment).

- 7.7 The final decision on an application will be made by the Head of Professional Standards. However if necessary the decision may be submitted via the Head of Professional Standards to a "Business Interests & Secondary Employment Panel".
The panel will consist of the Head of Professional Standards, Head of People Services and where considered appropriate may be chaired by the Deputy Chief Constable.
- 7.8 Advice and guidance may be sought from the Professional Standards Department at any stage of the application process.
- 7.9 An application for a business interest or secondary employment may result in :
a) Approval;
b) Approval with conditions;
Or
c) Declined
- 7.10 Written confirmation of the outcome of the application will be provided within 28 days of submission. If it is not possible for a decision to be made within this timescale the applicant will be informed and the reason for the delay confirmed.

8.0 Working Time Directive

- 8.1 The Working Time Regulations 1998 contain provisions relating to hours of work, rest periods, night working and annual leave.
- 8.2 Although the Working Time Regulations 1998 do not contain specific provisions covering workers with more than one job, reg. 4(2) requires employers to take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that workers adhere to the 48-hour limit on weekly working hours.
Therefore to fulfil it's obligations under the Working Time Regulations 1998 the Force requires staff who wish to engage in other employment or have any outside business interest to provide details on the 'Application to Register a Business Interest or Secondary Employment Form', of the number of hours that will be spent in the business interest or secondary employment, and when they are likely to be worked.
- 8.3 The total hours worked will be taken account of when considering the application. Specific consideration being given to:
a) Are the hours of work likely to interfere with the applicants performance, attendance and/or timekeeping?
b) Are the total number of hours worked likely, to impact on health and safety?
- 8.4 When additional hours are likely to be worked will also be taken account of when considering an application for secondary employment, i.e. the time of day and day of the week. This is because to comply with Working Time Regulations 1998, reg. 10(1) there must be a rest period of at least 11 consecutive hours in each 24 hour period [this does not apply to self employed activities].
- 8.5 If the application is approved and total hours worked in both jobs (including any overtime) is likely to exceed 48 hours per week (averaged over 17 weeks) the applicant **must** sign a Working Time Regulations opt-out agreement, (see Appendix B).
- 8.6 If the applicant is unwilling to sign an opt-out agreement, the Force will be under a duty to take steps to ensure the total hours worked (in both jobs combined) do not exceed 48 hours per week on average.

9.0 Charitable bodies and Other Voluntary Roles

Requests to undertake any charitable voluntary work or fund-raising activities fall outside the remit of this policy.

Individuals are reminded that they will not be permitted to respond to callouts whilst on duty, e.g. as mountain rescue volunteers, or volunteer crew members for Royal National Lifeboat Institute, (RNLI). Also participation in any off-duty activities must not affect the impartial discharge of their duties as a member of Dyfed Powys Police.

9.1 Retained Fire-fighters

Under Section 37 of the Fire and Rescue Services Act 2004, Police Officers are precluded from being employed as a Fire-Fighter.

Subject to gaining permission for secondary employment, Police Staff may be employed as retained fire-fighters. It should be noted however that if they subsequently apply and are successful in becoming a Police Officer, they will be required to relinquish their position.

9.2 Volunteer Reserve Forces

Dyfed Powys Police supports police officers and police staff who wish to take up membership of the Volunteer Reserve Forces (VRF) including the Royal Military Police. The Reserve Forces covered by this document include :-

- a) Territorial Army
- b) The Royal Naval Reserve
- c) The Royal Marines Reserve
- d) The Royal Auxiliary Air Force
- e) The Royal Air Force Volunteer Reserve.

Applications will be submitted to join the VRF as a secondary employment and will be considered by the Head of Professional Standards.

10.0 Employment Breaks and Business interests or Secondary Employments

Dyfed Powys Police recognise that there may be occasions where staff wish to undertake an activity which requires a break from employment, e.g. career break. In these circumstances, applications for a business interest or any secondary employment undertaken to provide living costs during the break in employment will be considered on an individual basis. It should however be noted that a break in employment should not be considered as a way to take up new alternative gainful employment.

11.0 Standard Conditions applicable to all Approved Business Interests or Secondary Employments

If an application for a business interest or secondary employment is approved the generic conditions detailed below must be complied with:

- a) Staff must not undertake duties associated with the business interest or secondary employment in Police uniform, neither are staff permitted to wear the uniform of other employers or organisations whilst performing their Police role.
- b) The duties and commitments in connection with the business interest or secondary employment must be carried out in the individual's own time, away from Dyfed Powys Police premises and must not involve Dyfed Powys Police property or information.
- c) The Business Interest or Secondary Employment must not be advertised at police premises or in any publications.
- d) The contact details of any business interest or secondary employment must not include any Dyfed Powys Police premises, telephone numbers, fax numbers or email addresses.
- e) Whilst on duty with Dyfed Powys Police no communications, either written or oral, will be sent

or received relating to the business interest or secondary employment.

- f) Private insurance cover must be taken out and Dyfed Powys Police must be indemnified from any claim or loss or absence from work as a result of any activities associated with the business interest or secondary employment.
- g) The individual is responsible for notifying the Inland Revenue of any income they receive through the business interest or secondary employment.
- h) Any change in the business interest or secondary employment must be notified to Head of Department. Consideration will be given to rescinding approval if the individual fails to inform Senior Managers of any change of circumstances or to supply any additional information.
- i) Staff must ensure there is 11 consecutive hours break between finishing secondary employment and starting work with Dyfed Powys Police [this does not apply to self employed activities].
- j) Staff must remain fit to do their job, for example to make sure that they do not become over-tired through working long hours.
- k) Staff must notify their Line Manager if a period of sickness absence has resulted from an outside business interest or secondary employment. In these circumstances Dyfed-Powys Police reserves the right to reclaim the cost of occupational sick pay from the private insurance provider or secondary employer.
- l) If absent due to sickness in primary employment with Dyfed Powys Police staff must cease working in secondary employment or an outside business interest.
- m) It is the responsibility of the individual to report any changes in circumstances that relate to the business interest or secondary employment through local management to the Professional Standards Department. Line Managers or Professional Standards may ask for any additional information deemed necessary.
- n) Consideration will be given to rescinding approval if the individual fails to inform of any change or circumstances or supply any additional information requested.
- o) Following the approval of an individual's business interest or additional occupation there may be circumstances that lead to a review of the approval. These may include performance and attendance issues; conduct; health; welfare and well-being issues; or any change in role.

11.0 Right of Appeal

An applicant may appeal a decision relating to an application for a business interest or secondary employment. For a detailed explanation of the Appeals procedure please see Appendix C.

12.0 Related Policies, Protocols, Practises or Service Agreements

This policy relates to the career break, police officer and police staff misconduct policies.

13.0 Monitoring

To ensure effectiveness of this policy it will be reviewed on an annual basis. Taking account of challenges to the policy/appeals and any changes to legislation and national guidance.

14.0 Review

This policy was ratified by COG on the 20th November 2012. It was implemented on the 1st November 2012 and will be reviewed annually. The next review will be completed by October 2014. The following groups were consulted on the policy:

Chief Officer Group	20 th November 2012
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Police Federation	11 th September 2012
Unison	11 th September 2012
Superintendents Association	11 th September 2012

15.0

Who to Contact about this Policy

Gavin Lemon (Senior Manager) Professional Standards Department, HQ Ext 23561,
gavin.lemon@dyfed-powys.pnn.police.uk

ACPO Guidance on incompatible Business Interests and Secondary Employment.

It is not possible to provide a definitive list of specific occupations, interests or activities that are likely to lead to an application being rejected because of the need to consider each case on its merits and to assess the risks involved.

The following framework is intended to provide a Force wide consistency of approach to the type of activities which are likely to lead to the rejection of an application. The list of activities and examples of specific jobs provided is not exhaustive. Equally it should not be assumed that an activity (other than the first) will automatically be rejected because it appears in the list below.

- Holding a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment within Dyfed Powys Police area.
- Working in licensed premises where there would be a conflict of interest with policing duties or with the specific work carried out by a police staff employee.
- An activity that would present a conflict of interest in the administration of justice (e.g. magistrate, practising solicitor, barrister, fine enforcement officer)
- An activity that involves investigation for other than police purposes (e.g. loss assessor, private detective)
- An activity that mirrors police responsibilities or is an extension of police functions (e.g. close protection, private security or surveillance, crime prevention or personal safety)
- An activity that is connected with the lending of money or recovery of debts for others or an activity that involves “hard selling” to colleagues or members of the public by placing undue pressure upon them to buy or rent, including recruiting others to sell on his or her behalf.
- An activity using specialist skills or knowledge obtained through the police service.
- Renting accommodation from or letting accommodation to a member of staff who is in the same line management structure (excluding short-term arrangements, eg. Holiday lets)
- Appearing in any commercial filming production in which they portray either a police officer, police community support officer or other uniformed role, whether on or off duty, or undertake any role where it could be construed that they are representing Dyfed Powys Police.
- The writing and publication of books, articles or other material for gain by serving members of the police service about their policing or work experiences.

Working Time Regulations Opt-Out Agreement

Name of employee:

Pay Reference:

Job title:

Contractual Hours of Work per week (with Dyfed Powys Police):

Estimated Hours of Work per week (business interest/secondary employment):

As a consequence of taking up business interest / secondary employment I agree that in total (including any overtime) I may voluntarily work more than an average of 48 hours per week (averaged over 17 weeks).

An 'application for a business interest or secondary employment' in relation to this secondary employment / business interest has been approved.

Signed:

Date:

BUSINESS INTERESTS – APPEALS PROCEDURE

1. INTRODUCTION

An appeal may be made on the grounds of process and / or be a substantive appeal against the decision. In either case the Chief Constable must consider all the information made available to them.

For the avoidance of doubt, all references in this guidance to 'days' mean actual days rather than working days.

2. LODGING AN APPEAL

An Appellant may send written notice of an appeal to the Chief Constable within 10 days of being notified of the decision not to authorise an application or to impose conditions. Appeals received outside of this period will be accepted only at the discretion of the Chief Constable. A notice of appeal should state briefly the reasons for the appeal.

3. CONSIDERATION OF THE APPEAL

An Appellant has a right to make written and / or oral representations to a Chief Constable in support of an appeal. Where the appeal is a substantive appeal against the decision made by the Appropriate Officer, the Chief Constable will consider the full case on its merits and reach a decision in light of all the evidence available to him or her. Where it appears to the Chief Constable that the Appellant has adduced substantive reasons why he or she should be permitted to have the business interest or additional occupation, or why conditions should not be imposed, which were not considered by the Appropriate Officer, or where the Chief Constable considers the Appropriate Officer failed to apply fair procedures, the Chief Constable may remit the matter back to the Appropriate Officer for reconsideration.

4. NOTIFICATION OF THE APPEAL OUTCOME

The Chief Constable's decision will be given to both parties to the appeal at the conclusion of the meeting and within 28 days of receipt of the notice of appeal (unless the Chief Constable decides to extend this period in which case the Appellant must be given written notice of the reasons for the extension). It is good practice to provide written responses for the decision within 7 days of the meeting. There is no further right of appeal against the decision of the Chief Constable.

5. REPRESENTATION

At all stages of this procedure the Appellant may be represented by a police friend or representative of a trade union.