



# Managing secondary employment risks in public authorities

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# Executive summary

The Public Sector Commission recognises that for economic, social and many other reasons, people may hold more than one job at any given time. 'Secondary employment'<sup>1</sup> refers to paid work undertaken by staff outside their position with a public authority. Working for more than one organisation is not unethical, however, careful management is needed by the public authority to ensure associated risks are recognised, disclosed and eliminated or minimised.

Secondary employment may lead to an actual or perceived conflict between public duty and private interests, as well as misuse of resources, including public facilities, equipment and work time. It may have a negative impact on the performance of an employee's official duties. Public trust in government is a central consideration in managing such risks.

## Current management practices

In November 2016, some matters brought to the Public Sector Commissioner's attention prompted an evaluation of secondary employment policies and practices in public authorities. The Commissioner sought to highlight the risks and ways in which they can be managed.

In addition to a survey and two focus groups, 11 public authorities participated in a more intensive evaluation. Figure 1 summarises the results from the intensive evaluation.

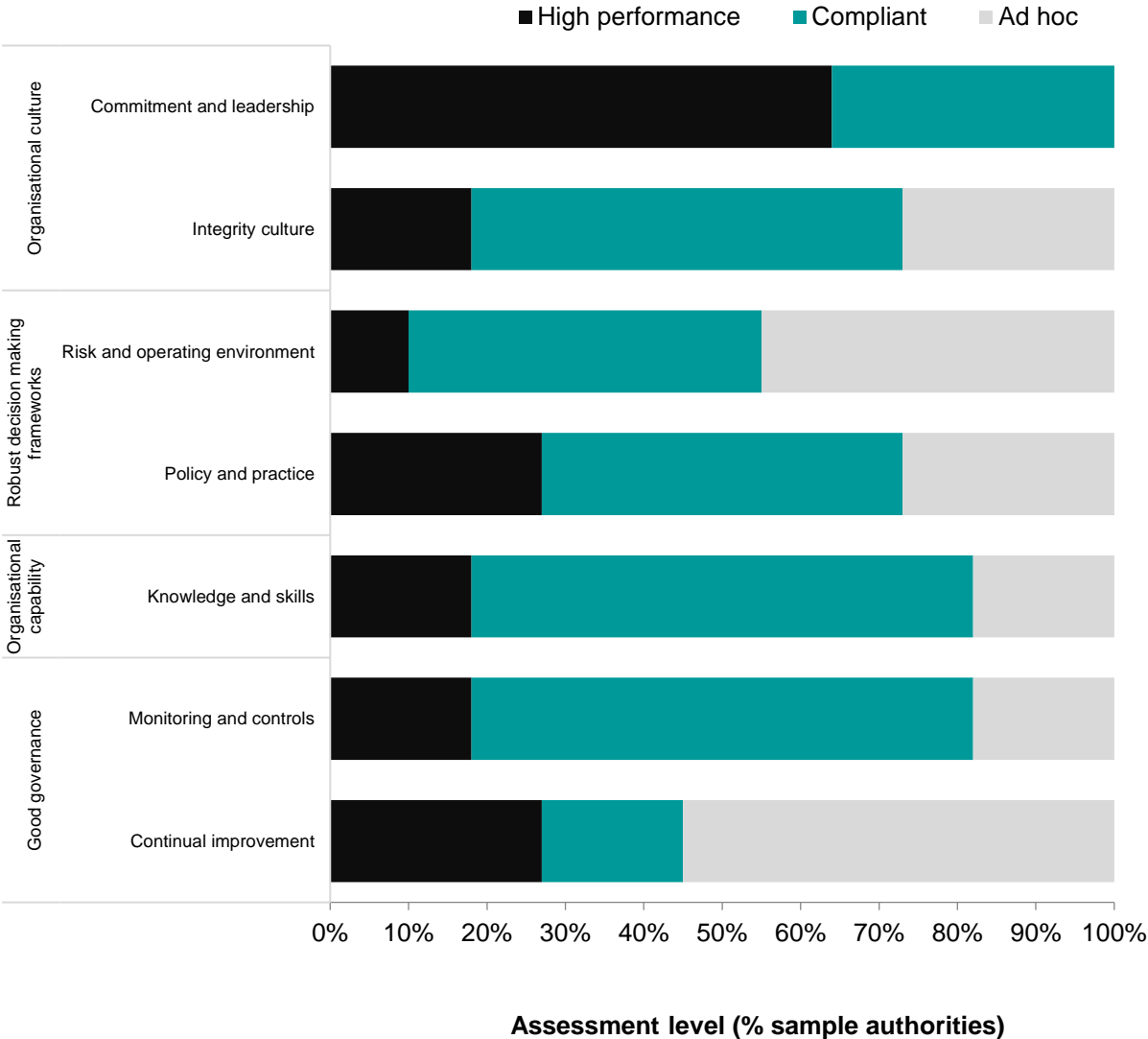
Overall, it was observed that:

- integrity risks are best managed through a healthy workplace culture, robust decision-making frameworks, capability and good governance
- secondary employment (or conflict of interest) policies are adequate to guide staff to report a second job, provided the policies are appropriately communicated
- regardless of policies, some employees do not believe there may be a conflict of interest risk or a need to disclose, which leads to underreporting
- where employees request approval, management often does not consider the risk of a conflict of interest and almost all arrangements are approved
- where ethics training does occur, the risks of secondary employment specifically are not covered in some training materials
- there is limited review or follow up activity of secondary employment arrangements.

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<sup>1</sup> For the purposes of this report, secondary employment is considered to include self-employment, involvement in a business or partnership, provision of consultancy services, employment in another public authority, or service as a company director.

**Figure 1: Management of secondary employment risks, 2016**



Note: Further information on the 11 sample authorities, evaluation framework and assessment levels is provided in the Appendices.

**Suggested actions**

It is recommended that public authorities reconsider the risks of secondary employment and check the ways they are managing them. This may also apply to voluntary and unpaid work. A number of suggestions are provided at the end of the evaluation report.

# Background to the issue

Data from the Australian Bureau of Statistics (ABS) indicates there were 610 500 multiple job holders (five per cent of all Australian employees) in February 2013.<sup>2</sup> Around one-quarter of these are estimated to have held three or four concurrent jobs.<sup>3</sup> These jobs generally included one full-time job and one or more part-time positions.

The incidence of secondary employment is expected to continue to grow in the next few years. It has become more accessible with advances in technology. People start a second job for a variety of reasons, such as a new business opportunity, to develop new and different skills, ensure their job security in times of change, or increase their income.

## Risks of a second job

While secondary employment brings a number of benefits, it also presents some risks to trust in government and perceptions of accountability if not appropriately managed.

The potential risks fall into two broad categories:

1. Misuse of public resources
  - Misuse of publicly funded mobiles, computers, vehicles, facilities or equipment for personal financial gain.
  - Misuse of work time (to undertake a second job) that is paid for by a public authority.
  - Misuse of intellectual property or misuse of privileged access to information for competitive purposes.
2. Abuse of position due to an inappropriately managed conflict of interest
  - Misuse of a public authority's name for commercial gain.
  - Bias in awarding grants, contracts or tenders.
  - Bias in authorising licences and other regulatory affairs.
  - Bias in conducting inspections and making findings.

Other risks to be considered in managing employees with second jobs may include issues such as fatigue and stress, and their connection with employee productivity and attendance in the workplace.

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<sup>2</sup> ABS 2013, *6202.0 Labour Force, Australia, Feb 2013*

<sup>3</sup> ABS 2015, *6311.0 Information Paper: Construction of Experimental Statistics on Employee Earnings and Jobs from Administrative Data, Australia, 2011-12*

The following case examples illustrate some risks of secondary employment. These examples may be similar to historic matters finalised by public authorities, however details have been changed for confidentiality reasons. These issues did not arise in the course of the evaluation.

### Case examples – risks of secondary employment

- An employee started a private counselling business while also being publicly employed as a counsellor. The employee was unaware of a potential conflict of interest although he had provided some of his employer's counselling support materials to his new clients. He operated his business during work time, where possible, to help it grow, and used resources such as his work mobile to make marketing calls and his work printer to produce colourful business advertisements for posting in the staff café. He considered these activities represented 'reasonable personal use' and that his employer would be supportive of them as part of his professional development.
- An employee worked in a department involved in excavating and concreting. She also had her own small company and this business was often contracted to undertake the same tasks alongside her public employer. The employee did not inform her employer of her business even though she felt somewhat disloyal when her attention was diverted from her job. She thought the personal benefits far outweighed the conflict as the knowledge she acquired through her job allowed her business to compete successfully in public tender processes against larger companies. She believed it was not worth mentioning as her employer was generally supportive of small business endeavours in the community.
- A public cleaner was using work time to undertake cleaning jobs in private homes. His manager was located in an office some distance away so he could undertake the second jobs during work time without his manager realising and so maximise his weekly wages. The cleaner made sure he finished his public work first each day before going to the private homes. He also borrowed public resources, such as a broom and squeegee, to undertake the second jobs and reduce his operating costs. He always made sure he returned these to his workplace by the following day so that no one would notice. He considered the cost of borrowing this equipment was negligible.
- A part-time university lecturer worked for an agency that regularly uses external service providers to develop audio-visual presentations. On one occasion, the lecturer put forward a proposal to her agency that one of her university colleagues be selected and paid to produce a presentation. She explained the staff member was the best person for the job due to his extensive skills and experience, without acknowledging she also worked closely with that person in her university role. When her colleague was contracted, she assumed her employer knew she was a lecturer at the university and had thought the arrangement represented a good opportunity to strengthen collaboration across sectors.

## Number of staff with a second job

The Commission does not regularly collect data on the number of employees with a second job. While there is a data collection program for the public sector workforce, employee records are anonymous so multiple appointments across agencies cannot be tracked.

In late 2016, the Commission sent an inaugural secondary employment survey to public authorities to gather information for this evaluation. The survey included a question on the number of employee requests for secondary employment approval in 2016.

This question was particularly relevant for public sector employees due to their legislative obligation to request written approval to accept or continue to hold a second job. Section 102 of the *Public Sector Management Act 1994* (PSM Act) requires that employees are not employed outside government without permission. This requirement encourages agencies to collect and maintain information on the nature of secondary employment requests received by them each year. Other public authorities do not have a similar legislative requirement, although many report having policies for managing conflicts of interest in general.

The survey results suggest that, in any given year, approximately 3000 public sector employees request permission (this may not include any continuing second jobs from previous years). At two per cent of the public sector workforce, this might suggest some underreporting by employees, given the previously mentioned ABS statistic<sup>4</sup> that five per cent of Australian workers hold a second job.

The survey did not elicit sufficient information to estimate the number of employee requests, or otherwise disclosures, received by other types of public authorities.

## Public sector staff and seeking approval

The Commission's annual Employee perception survey (EPS) asks public sector employees whether they have witnessed employees holding a second job without permission.

Around six per cent of employees have reported, in each of the last three years, seeing such practice in their division, branch or team. Together with the ABS data and secondary employment survey mentioned above, this would seem to strengthen the view that there is an underreporting of secondary employment by the public sector workforce.

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<sup>4</sup> ABS 2013, 6202.0 *Labour Force, Australia, Feb 2013*



# Approach to the evaluation

On 1 July 2015, the Commissioner assumed responsibility for the oversight of minor misconduct of public officers, and for misconduct prevention and education. Under Section 45A of the *Corruption, Crime and Misconduct Act 2003* (CCM Act), the Commission's role is to gather and analyse information to help prevent misconduct, as well as make recommendations to public authorities.

In 2016, the Commissioner received some allegations related to secondary employment through his oversight role, as well as associated requests for advice and support from public authorities. These matters prompted the Commissioner to initiate an evaluation in November 2016 of policies and practices in public authorities. The purpose was to gather information to identify opportunities to reduce and prevent misconduct.

## Scope

The evaluation was not conducted as a compliance audit but provides an indicative assessment of information available at the time. Its observations are not intended to be definitive or cover all issues in relation to secondary employment.

The evaluation focused on exploring arrangements to manage the risks of paid secondary employment in public authorities, including public sector agencies, local governments, public universities and government trading enterprises (GTEs).

While cognisant of some potential health risks with holding a second job, occupational health and safety management was not in scope.

## Evaluation methods

Table 1 shows the primary methods used in the evaluation, in addition to an analysis of existing data held by the Commission.

Policies and practices in a sample of 11 public authorities were subjected to a higher level of scrutiny (see Appendix 1). These authorities were selected based on:

- workforce size and composition
- business function and location
- practicality of conducting the evaluation.

**Table 1: Evaluation methods used**

Method used	Target audience	Primary purpose	Information sought	Assessment approach
<b>1. Brief online survey of public authorities</b>	Chief human resource officers (CHROs)	Assessed the extent of policies	Scoped the need for more detailed assessment	SurveyMonkey
<b>2. Two focus groups held at the Commission</b>	CHROs (or delegates)	Drilled into barriers and solutions to manage risk	Helped inform the intensive approach for a sample of public authorities	Facilitated small group discussions
<b>3. Site visits to 11 public authorities</b>	Chief Executive Officers and other staff in the sample	Explored organisational culture and examined policies and records	Discussed risk awareness, controls and how effective they are in practice	Assessed performance in evaluation focus areas

The evaluation took into account four key dimensions for managing integrity risks:

- Organisational culture
- Organisational capability
- Robust decision-making frameworks
- Good governance.

These themes formed the broad structure of the evaluation framework (see Appendix 2). The evaluation sought to consider performance relative to organisational size and function where possible and appropriate.



Botanic Gardens and Parks Authority, King’s Park

# Analysis and key observations

In evaluating arrangements for managing secondary employment risks in public authorities the Commission applied three methods. The key observations have been grouped by these evaluation methods below.

## Method 1: Brief online survey

The evaluation commenced with a secondary employment survey in December 2016. The survey was sent to 201 public authorities. Some very small local governments were not required to complete the survey.

Overall, a response rate of 51 per cent was achieved, with 55 public sector agencies responding, amongst others.<sup>5</sup>

The survey provided some baseline information on policies and practices in public authorities. Some interesting 'facts and figures' are highlighted below.

### Secondary employment – facts and figures

- Awareness of the risks presented by secondary employment stretches to potential conflicts of interest, health and safety, and loss of productivity. Misuse of public resources was not always recalled, particularly in GTEs.
- One in 10 public authorities reported they do not have a documented framework to guide staff in identifying secondary employment risks. These were generally local governments in regional areas.
- Almost all employee requests to approve secondary employment arrangements are approved by their managers.
- More than half of public sector agencies reported their Accountable and ethical decision making (AEDM) training does not describe or refer to the risks of secondary employment.
- Where public authorities keep records of employees with secondary employment, most said that any reviews of these are ad hoc. Authorities do not prompt staff to re-disclose or seek approval on a regular basis. They generally rely on staff remembering to advise them if there is a change to the employment details.

<sup>5</sup> Responses were low from the public universities as the academic calendar had ended the month before.

While the survey provided a good overview of the issues, it could not explain:

- why some employees do not report secondary employment
- how appropriate policies and programs are in guiding employees
- what is really occurring in practice.

## Method 2: Two focus groups

Following completion of the survey, two focus groups were convened at the Commission to help understand some of the barriers and solutions to managing secondary employment risks.

One group comprised 10 representatives from public sector agencies and the other a similar number from the larger local governments. The focus groups helped drill into issues raised through the survey.

Some key quotes from focus group participants are highlighted below.

### Managing secondary employment

- Younger employees are no longer seeking a job for life. Many enter local government, for example, already having another employer and 'local government is their secondary employer in their eyes'.
- Staff see what they do outside work as 'none of my employer's business' and 'human resources staff are labelled as the fun police'. Employees say 'this is the way we've always done it – I can't see what's wrong with it'.
- Secondary employment should be talked about in a positive way e.g. not just about making 'more rules to impose on employees'.
- Conflicts of interest are not well understood by staff, 'no matter the policy in place'. Using relevant examples in scenario-based training and asking staff to self-assess their second jobs may provide assistance.
- There are too many business priorities to address every integrity issue separately – 'there has to be cultural reform from the top'.
- It is 'not possible to monitor every step of the work day'. Employees have to 'share the responsibility'.
- Any issues are usually due to 'lack of knowledge rather than wilful misbehaviour'.
- Managers must be able to talk about this in ways staff can understand
- e.g. 'do not get yourself into trouble – we are here to protect you'.
- Manager training is important so they don't simply 'rubber stamp' applications. This means 'doing more than handing employees a policy to read'.

## Method 3: Site visits

Following the focus groups, 11 public authorities (see Appendix 1) were asked to participate in an in-depth evaluation of their policies and practices.

This involved face-to-face interviews with senior staff, as well as an examination of records such as applications for secondary employment, decision logs and conflict of interest self-assessments.

The interview responses and records were evaluated using the framework in Appendix 2, under the following four key dimensions for managing integrity risks.

### Organisational culture

Site visits were helpful to explore cultural dimensions in practice. Organisational culture was unique to each public authority and shaped by the characteristics of the senior leaders.

Most participating authorities had an organisational values statement to set the foundation for a high integrity culture. Some reported encouraging employees to help develop the values 'to ensure they resonated'.

Senior leaders in the participating authorities said they are aware of secondary employment risks. Some indicated that service delivery areas, with critical safety and environment risks, 'necessarily require more attention' than specific integrity issues. Others reported a focus on conflicts of interest more broadly.

The Commission observed the following signs of a healthy organisational culture:

- A public commitment to the utmost integrity in all operations.
- Consistent and fair leaders who model best practice.
- Open and regular engagement across the workforce on ethical dilemmas.
- Recognition and 'reward' of ethical behaviours demonstrated by employees.

Most staff agreed that 'a strong culture and tone at the top' (rather than a focus on policies and procedures) is likely to result in 'real and long-lasting' behavioural change.

### Organisational capability

Participating authorities had in place a number of capability building strategies, such as the use of inductions, training and regular staff information sessions.

The risks of secondary employment are generally covered at induction, albeit fleetingly. After completing induction, the Commission observed that most employees are unlikely to be regularly reminded of, or specifically trained in, the importance of managing risks in the context of secondary employment.

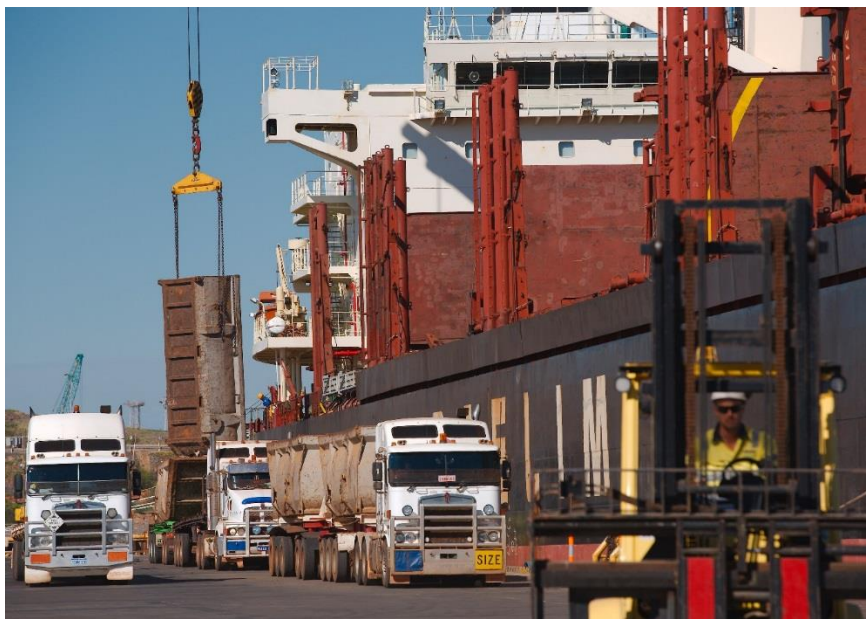
Some authorities reported encouraging employees to read and abide by their Code of conduct on a regular basis (i.e. more than at induction). Integrity risks such as conflicts of interest associated with secondary employment were often addressed in the codes.

The AEDM program, which is mandatory for the public sector, offers an instructive example of comprehensive ethics training. However, it was unclear how often public

sector employees are required to 'refresh' this training in the participating authorities. Only some AEDM curricula addressed secondary employment risks specifically and in detail.

Regional employees commented that their AEDM training was 'not customised with local examples' to help them understand their responsibilities and make ethical decisions. They indicated a strong preference for face-to-face training, rather than e-learning.

Only a few of the participating authorities reported offering training for managers in identifying and managing conflicts of interest, including those that might arise through secondary employment. Where additional training did exist, it primarily targeted fraud and corruption (particularly with regard to procurement and financial management).



Loading cargo at one of the State's regional ports

## **Robust decision-making frameworks**

### **Policy framework**

All policies in the participating authorities were seen to outline standards of ethical conduct and provide advice for employees to make ethical decisions in the workplace.

Good policies to manage secondary employment were observed to:

- have been recently reviewed
- outline key roles and responsibilities
- describe management processes
- include periodic review or audit of secondary arrangements
- link to relevant forms.



Some policies indicated a maximum number of additional hours that employees could work per week to reduce occupational health and public safety risks, particularly in frontline service areas.

The regular communication of policy, via a range of delivery methods, was important to increase awareness of the risks. Two authorities reported actively reminding staff at least annually to study the secondary employment policy and complete or update any relevant documentation as required.

Universities were observed to have particular policy requirements associated with consultancy work, which may take up to 20 per cent of the working year for academic staff. This secondary employment may be undertaken in a private capacity or on behalf of a university. The policies help manage issues such as private income tax, use of time, liability to the university and performance standards.

### **Making robust decisions**

Many of the observed policies did not fully address the breadth of potential issues, such as misuse of public resources. Some targeted only 'at risk' employees, such as those working in procurement and finance.

Outside the public sector, without the PSM Act Section 102 requirement to seek permission, there are examples of policies which do not require employees to disclose secondary employment unless they believe a conflict of interest exists. This places a significant responsibility on younger or less-experienced employees who may not have sufficient knowledge or understanding of the risks. It also serves to highlight the importance of staff training and education.

Appropriate delegations were seen to be in place for most participating authorities with clear responsibilities for approving (or noting) reports of secondary employment. However, requiring a high number of staff 'sign-offs' presented another risk, with the potential for each manager to assume the others had given due consideration to any conflicts of interest.

A couple of authorities indicated they are not 'resourced to manage a detailed risk assessment' for each request to approve a second job. This includes seeking further information where insufficient documentation has been provided. Some management processes appeared satisfied with putting in place a central repository of completed forms from employees.

Where managers were geographically dispersed, there was a heightened risk of insufficient information being provided to head office for review or audit. Risk assessments usually occurred locally and were seldom questioned at the head office level. Appropriate guidance and heightened awareness become more important in these environments.

### **Good governance**

All participating authorities reported arrangements for detecting and reporting suspected misconduct. They were generally alert to fraud and corruption and aware of their reporting obligations to the Commission.

Some participating authorities saw secondary employment as a low risk to upholding their values. Employees working in areas such as finance and procurement were most closely monitored for potential conflicts of interests.

Only a few were observed to seek information from applicants at pre-employment on whether they had a second job.

Few participating authorities periodically reviewed or audited secondary employment arrangements, although they were observed to have good governance and quality management systems in place. In almost all cases, the initial request for approval or employee report served for an employee’s tenure with the authority. Some authorities agreed a spot check or occasional sampling for review could be beneficial.

Any data collected by participating authorities in connection with secondary employment was rarely observed to be systematically analysed and disseminated across the organisation.

It was considered incumbent on employees to report any changes in arrangements, with a view that they ‘should just know’ to do this. This again emphasises the importance of training and regular communication of policies and other guidance materials in misconduct prevention.



Regional employment, Department of Education



# Suggested actions

In light of the observations made in this evaluation, it is recommended that public authorities reconsider the risks of secondary employment and check the ways they are managing them. This may also apply to voluntary and unpaid work.

A number of suggestions are made for consideration in future planning, education and monitoring activities. These are considered transferable across public authorities.

Suggestions include:

1. Ensuring the induction process covers employee obligations and also asks new starters whether they plan to commence or continue work with other organisations.
2. Reminding employees to request approval for, or advise any changes to, second jobs (or advise new arrangements), including the nature of the work, who they are working for, and the terms of their employment.
3. Regularly communicating an up-to-date secondary employment or related policy, which explains the risks, including misuse of resources and any health and safety impact, and sets conditions for working with other organisations.
4. Requiring all employees, across all locations, to undertake ethics training on a periodic basis that specifically reminds staff of the risks of a second job and improves their ability to identify and manage conflicts of interest in context.
5. Providing customised training to supervisors, who will be monitoring the impacts and manageability of second jobs, particularly the potential for a conflict of interest.
6. Auditing records of secondary employment disclosures, across all business functions, to identify where staff and managers need more guidance and education on reporting (e.g. absence of approvals) and managing conflicts of interest.

# Appendices

## Appendix 1 – Participating authorities

Authority name	Site visited
<b>Public sector</b>	
Botanic Gardens and Parks Authority	Head office
Department of Education	Head office, Geraldton Senior College and South Hedland Senior High School
Disability Services Commission	Head office and Geraldton branch
National Trust of Western Australia	Head office
<b>Local governments</b>	
City of Cockburn	Head office
Mindarie Regional Council	Head office
Town of Port Hedland	Port Hedland
<b>Public universities</b>	
Edith Cowan University	Head office
University of WA	Head office
<b>Government trading enterprises</b>	
Horizon Power	Head office
Mid West Ports Authority	Geraldton

# Appendix 2 – Evaluation framework

Focus areas	Focus questions
<b>Organisational culture</b>	<p><b>1. Commitment and leadership</b> Are corporate expectations of behaviour clearly and regularly communicated to staff?</p> <p><b>2. Integrity culture</b> Do staff behaviour and perceptions indicate a high integrity culture?</p>
<b>Robust decision making frameworks</b>	<p><b>3. Risk and operating environment</b> Do secondary employment and related policies support accountable and ethical decision making?</p> <p><b>4. Policy and practice</b> Are decisions made consistent with policy and commensurate with risk?</p>
<b>Organisational capability</b>	<p><b>5. Knowledge and skills</b> Are employees inducted and trained to minimise integrity risks associated with secondary employment?</p>
<b>Good governance</b>	<p><b>6. Monitoring and controls</b> Do practices reasonably support the management of secondary employment risks?</p> <p><b>7. Continual improvement</b> How do monitoring arrangements support continual improvement?</p>

Each focus area was assessed as ‘High performance’, ‘Compliant’ or ‘Ad hoc’ as defined below.

<b>High performance</b>	Part of a holistic approach to managing secondary employment risks e.g. all employees are required as part of their annual performance appraisal to submit details of any current secondary employment for approval.
<b>Compliant</b>	Part of a reactive approach to managing secondary employment risks e.g. supervisors are prompted during management meetings to remind employees to submit details of any changes to, or new arrangements for, secondary employment.
<b>Ad hoc</b>	Part of an ad hoc approach (with limited awareness) to managing secondary employment risks e.g. there is a policy that asks employees to declare any secondary employment and they are asked to read this policy on commencement. There are no scheduled or regular reminders to update the details.