# People and Talent

## Secondary Employment Policy

# HR Team

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##  Introduction

1.1 The purpose of this document is to define arrangements regarding the use of Cumbria Fire & Rescue Service’s (CFRS) Secondary Employment procedures and the application thereof, and to ensure that the Service is able to adhere to Working Time Directive (WTD) Regulations 1998 in the application of this policy, and that safeguards the health and well-being of its employees, and to maintain an efficient working environment to aid service delivery.

1.2 The Working Time Regulations (1998) implement the European Working Time Directive into GB law. The Regulations apply to all workers, though their outcomes may differ with certain types of worker.

1.3 The Directive imposes responsibilities on both managers and employees to ensure that working time conditions and safe working arrangements are observed. This policy outlines those responsibilities as well as providing guidance on how the Working Time Regulations apply to CFRS employees and how secondary employment can impact on these arrangements.

1.4 Staff should also be cognisant of the Service’s Code of Conduct which is relevant to all employees.

##  Scope

2.1 The policy applies to all wholetime and corporate CFRS employees. For operational staff this takes into account the requirements of Part B – Occupational Health, Paragraph 8 of the NJC Scheme of Conditions of Service in relation to outside employment. For corporate employees, this policy should be taken into account alongside the Service’s Code of Conduct. To ensure compliance with Scheme of Conditions of Service and the Working Time Regulations, CFRS requires all wholetime operational and corporate employees to complete a Declaration of Secondary Employment form, whether they undertake secondary employment or not, this includes unpaid work such as volunteering.

**2.2** **Exceptions**

2.2.1 Workers are responsible under the Health and Safety at Work Act 1974 for their own safety and that of others. They must only work an average of up to 48 hours per week, including overtime, in the agreed reference period, unless they voluntarily sign an opt out form. The electronic opt out form can be found here: <https://forms.office.com/e/PK3F5snQtj>

2.2.2 Employees are required to participate fully in recording and monitoring of working time and to raise any personal or wider concerns with their line manager immediately.

2.2.3 In line with the policy, and before undertaking such work, all wholetime and corporate employees are required to obtain authorisation for secondary/other employment (whether or not it attracts payment) in writing. Any secondary employment should not under any circumstances compromise the required rest breaks.

2.2.4 When working a shift pattern, an employee must comply with the 78 hours maximum working hours rule, in any 7 day period and take compensatory breaks. It is considered that shift work applies to all duty systems.

2.2.5 An employee should discuss with their manager any circumstances that do not comply with this policy.

 Under the Working Time Regulations employees may have to work more than 48 hours a week on average if employed in a job:

* Where 24-hour staffing is required.
* Emergency Services

2.2.6 As an emergency civil protection service, the Service is exempt from the provisions of the Working Time Regulations where activities conflict with these provisions. For example, when engaging in activities involving continuity of Service business, unusual circumstances, exceptional events and safety events. This is only ever likely to apply in exceptional circumstances, and at all other times, working time should be organised in accordance with the WTRs, the regulations are waived only to deal with emergencies.

2.2.7 Part B – Occupational Health, paragraph 8 of the NJC Scheme of Conditions of Service states that: this provision to request permission to undertake secondary employment applies to all employees other than those on the retained duty system. Therefore, employees working the on-call duty system only, are not required to seek permission for other employment. This does not impact an on-call employee’s responsibility to provide an employer consent form when required. On-call employees are still bound by the Service’s Code of Conduct.

## Responsibilities

**3.1 HR**

3.1.1 Provide competent advice and guidance on the interpretation and application of the Working Time Regulations; including remedial actions when non-compliances have been identified.

3.1.2 Support managers with the proper processing of Declaration of Secondary Employment forms and recording of authorised hours.

**3.2 Managers**

3.2.1 Ensuring employees are made aware of this policy and understand their responsibilities in relation to it.

3.2.2 Providing a complete induction of new staff and those transferring onto their watch/department; this includes explaining working hours, time keeping, breaks, annual leave, secondary employment etc, and any local processes regarding those that may be in place in accordance with the Service’s recruitment policies and induction toolkit.

3.2.3 Ensure that all employees have completed the Declaration of Secondary Employment form. A paper form is also available. This will then be processed by the HR team; being sent to line managers for relevant comments and then on to a member of the executive team for authorisation.

3.2.4 Where an employee’s secondary employment hours have not been authorised and they submit an appeal, line managers are responsible for ensuring this is submitted to a principal officer for consideration.

3.2.5 Ensure any authorised secondary employment hours have been recorded on the electronic HR system.

 **3.3 All Employees**

3.3.1 Informing their line manager if they have worked excessive hours, in line with the Overtime Policy.

3.3.2 Requesting permission via the executive team if they have more than one job, so an informed judgement can be made in relation to the accumulative hours of work, and any other matters which may bring them into conflict with their CFRS employment. If permission is refused or removed, employees may appeal to a different principal officer if dissatisfied with the decision, explaining their reasons for appeal.

3.3.3 Informing their line manager if there are difficulties preventing them from taking adequate rest breaks because of any secondary employment they undertake.

3.3.4 Ensure they have completed a ‘Declaration of Secondary Employment Form’, whether they have secondary employment or not. Newly appointed employees are required to fill in the form as part of their pre-employment checks. All employees then have a responsibility to inform CFRS at any point should their situation change. This can be done using this [LINK] to access the ‘Declaration of Secondary Employment Form’.

3.4 To meet the WTR and Service policy, the worker may be faced with a choice on as to what contracts of work they can or cannot fulfil in order to remain within the legislation. Ideally this should be the worker’s choice but, if necessary, the Service will restrict or terminate Service contracts of employment where a mutual agreement cannot be reached to ensure adherence to the WTR and Service policy.

3.5 Individuals that do not understand the implications of secondary employment or how it may apply must seek advice from their line manager or the HR team.

## Health and Safety

4.1 There is a general responsibility for Cumbria Fire and Rescue Service to adhere to the Health and Safety at Work Act to protect, as far as is practicable, the health, safety and welfare at work of all employees.

4.2 Employees have a duty to take care of their health and safety and that of others that may be affected by their actions at work this includes customers, service users, those utilising the organisation’s services and the general public.

 4.3 Employees who drive under the Road Transport (Working Time/Tachograph) Regulations in non-Service employment are required by law to take very specific periods of rest during any period of work. Whilst driving a fire appliance does not fall within the remit of Tachograph Regulations, because it is an exempt vehicle, it would still count as non- compliant period of rest for an individual who is bound by the Tachograph Regulations in their non-Service employment role. The same would apply if the individual were acting as a crew member or indeed undertaking any work of any kind. Employees could therefore breach the regulations if they undertake any work during the required breaks.

4.4 In the event that existing employees are already subject to Tachograph regulations, or become subject to them during the course of their employment with the Service, they must declare this immediately to their line manager. Further investigation of their working pattern will need to be made to determine the extent of the impact on their obligations under these Regulations.

4.5 The Service has a duty of care to all employees and will need to consider the continued employment of individuals subject to the Tachograph Regulations once sufficient information is available.

4.6 On-call employees should ensure that where they are primarily employed as HGV drivers, they comply with the EU Drivers Hours Rules and the Working Time Regulations, they must make line managers aware if they are likely to breach their driving hours and take reasonable steps to ensure this does not happen.

## Training Requirements

5.1 Managers are responsible for monitoring compliance to this policy and must ensure they have the relevant skills, knowledge, information and guidance. Employees that do not understand any part of this policy or feel they require specific instruction to comply, they must bring this to the attention of their line manager or seek further information from the HR team.

## Compliance Monitoring

6.1 Hours declared during secondary employment will be added to an individual’s weekly totals to ensure that the individual complies with the WTD.

6.2 The Service will maintain a recording system to enable the organisation to monitor the working time of its employees. This will be maintained by line managers, to comply with the WTR, adequate records of actual hours worked under multiple contracts will be maintained. These will be available for inspection by the Health and Safety Executive (HSE), subject to an individual’s rights under the Data Protection Act.

 The following records will be maintained:

* Secondary Employment Forms/Register
* Working Time Opt Out register
* Overtime Monitoring Spreadsheet

 Records will be kept for a minimum of 3 years.

## Provision of Secondary Employment

7.1 For reasons of health, safety and the wellbeing of employees, the position of CFRS is that employees will be positively discouraged from working above the maximum weekly working limit. This is inclusive of time worked in additional posts or for another employer.

7.2 CFRS can control and monitor its employee’s working arrangements while carrying out duties and activities under its control as a primary employer, out with significant operational emergencies. To ensure individuals do not work above the maximum weekly working limit, inclusive of time worked for the Fire & Rescue Service and any other employer, it is important for the health, safety and wellbeing of its staff that systems are in place to establish and monitor any secondary employment arrangements that staff may have.

7.3 Part B – Occupational Health, Paragraph 8 of the NJC Scheme of Conditions of Service covers the prohibition of outside employment in respect of the health and safety arrangements to protect staff. It states that an employee (other than one on the Retained Duty System) shall not hold any other office or employment for gain or reward or carry on any trade or business without the express permission of the Fire and Rescue Authority, which may be granted subject to any restrictions or conditions the authority thinks fit.

7.4 Staff that undertake secondary employment should be familiar with the [**Standards of Dress Policy**](https://intranet.cumbria.gov.uk/Fire/policies/CFRS%20Policies%20%20Strategies/Standards%20of%20Dress%20Policy.docx)  and on no account will CFRS Uniform, PPE be worn or equipment utilised off duty or for any reason which is not related to the specific function of CFRS.

7.5 Staff undertaking secondary employment must not use the name, or CFRS brand in pursuance of secondary employment for personal interest or gain that negatively impacts the Service and its employees.

## Step by Step Guidance

**8.1 Pre-employment checks wholetime operational and corporate applicants**

8.1.1 For new employees the offer of employment will be subject to the satisfactory completion of pre-employment checks by the recruitment team. Applicants will not be allowed to commence employment before these are confirmed.

8.1.2 The recruitment team must ensure:

8.1.3 All secondary employment is declared by the candidate prior to appointment and that the candidate completes a Declaration of Secondary Employment Form which should then go through the approval process. If authorisation is not granted, an offer of employment should not be made to the candidate.

8.1.4 That there is no conflict of interest relating to existing employment regarding demands, shift patterns, early starts, and late finishes, that the existing role involves safety critical tasks or may bring the Service into disrepute. Other specific employment roles where hours may be restricted such as occupational driving or areas of work where the level or quality of service provided may be adversely affected. Where this may be in doubt, further advice should be sought from HR prior to making a formal offer of employment.

8.1.5 If the successful candidate has more than one job or works additional hours within the Service. CFRS reserves the right to monitor hours in line with the WTD, to ensure that their combined working hours do not exceed more than 48 hours a week on average. If the combined work hours exceed more than 48 hours on average, the individual must take measures to reduce their weekly commitments before a formal offer of employment is made.

**8.2 During employment**

8.2.1 Employees must:

8.2.2 Complete a ‘Declaration of Secondary Employment Form’ upon appointment to CFRS whether they do or do not undertake any secondary employment in order to maintain an accurate record of compliance with this policy. A paper form is also available where required.

8.2.3 Employees who propose to take up secondary employment during the course of their employment must seek authorisation from the executive team so that any implications for their role can be considered. The employee can do this by submitting a ‘Declaration of Secondary Employment Form’ to their line manager who will provide relevant comments on any possible implications of the secondary employment on the employee’s CFRS role, before sending this to the HR team. The HR team will then send the form to a member of the executive team for consideration.

8.2.4 Employees who are considering changes to their secondary employment must seek authorisation from the executive team as soon as possible and prior to increasing hours, changing shift patterns etc. The employee must complete a ‘Declaration of Secondary Employment Form’ to reflect the changes and submit this to their line manager. If there is a conflict of interest further advice can be sought from the HR team.

8.2.5 Where authorisation for secondary employment or secondary employment changes is not granted, employees may submit an appeal to this decision in writing to their line manager, stating their reasons, this will then be considered by a different principal officer.

**8.2.6 Managers must:**

8.2.7 Monitor the secondary employment demands of their direct reports to identify and address any practices or patterns of work, which may be a risk to employees, customers and or members of the public or have the potential to bring the Service into disrepute.

8.2.8 Any documentation and records are to be retained in accordance with CFRS Retention Guidelines and the General Data Protection Regulations. Details of secondary employment should be recorded on the electronic HR system and any forms submitted to the HR team for retention.

8.2.9 Provide relevant comments on any potential implications of the secondary employment request on any Declaration Form submitted by their direct reports, before submitting this to the HR team for processing. Managers must do the same for any appeals received.