

CONCURRENT OFFICE OR EMPLOYMENT PROTOCOL

Introduction

1. A coroner should conduct their personal and extrajudicial activities to minimise the risk of conflict with the obligations and performance of judicial office.
2. In accordance with s107 of the Coroners Act 2006 (“Coroners Act”), the chief coroner, after consulting with the Attorney-General, has developed a protocol specifying the scope for compatible concurrent office or employment while fulfilling the role of a coroner. Section 107 of the Coroners Act provides:

107 Concurrent office or employment

- (1) The chief coroner must, after consulting the Attorney-General, develop and publish a protocol specifying—
 - (a) the employment, or types of employment, that the Attorney-General considers to be compatible with being a coroner; and
 - (b) the offices, or types of offices, that the Attorney-General considers to be compatible with being a coroner.
- (2) The protocol may specify different employment or offices, or types of employment or types of offices, for relief coroners and other coroners.
- (3) A coroner may hold another judicial office but must not undertake any other paid employment or hold any non-judicial office (whether paid or not) unless that employment or office is of a type specified in the protocol as being compatible with being a coroner.

General Principles

3. Coroners should not be isolated from the communities they serve. Coroners are entitled to private and civic lives which are not disadvantaged by office. A coroner maintains the freedom of expression and association secured for all citizens.
4. On the other hand, a coroner’s conduct, both in and out of court, inevitably attracts closer public scrutiny than other members of the community. Coroners must therefore accept some restrictions on conduct and activities as a consequence of appointment.
5. In general, a coroner
 - 5.1 should ensure that his or her conduct in public and in private maintains public confidence in the integrity of the office of coroner and of the judiciary generally.
 - 5.2 must not hold any employment or office which gives or may give the appearance that the coroner’s impartiality is compromised. Judicial impartiality and accountability are essential to maintaining public confidence in the judiciary, the coronial process, and the rule of law.

- 5.3 must ensure that any concurrent office or employment will not interfere with their proper performance of judicial duties. Judicial duties must take precedence over other employment or office holding activities.
6. Accordingly, a coroner must not undertake other paid employment or hold any non-judicial office unless that employment or office is of a type specified in this protocol as being compatible with being a coroner and the employment or office does not prevent the coroner from fulfilling their full-time judicial role.

Process

7. Prior to accepting any concurrent employment or office, a coroner must consult with the chief coroner to identify whether the position falls within an accepted category of employment under the protocol. With the chief coroner's approval, a coroner may then accept the concurrent employment or office without the direct approval of the Attorney General.
8. Where the chief coroner does not approve the employment in the first instance, a coroner must apply to the Attorney-General, by way of written letter, outlining the following information:
 - 8.1 What the position of employment or office is;
 - 8.2 Specifying the details of that employment or office, including any benefit or payment gained and any affiliation or purpose the organisation or company represents;
 - 8.3 Which category of the protocol the employment or office falls within.
9. Where a position is granted, the rules surrounding conflict of interest and recusal apply (in the event that a conflict or recusal situation arises due to the other employment or office) ensuring that a coroner's position is not compromised and impartiality is maintained.

Employment

10. The following types of employment are considered compatible with being a coroner:
 - 10.1 Employment in an organisation or company dedicated to the Arts, including but not limited to music, painting, literature and dance;
 - 10.2 Contracted or other employment for written publications (which might involve receipt of royalties or other payment);
 - 10.3 Contracted or other employment in any sporting, cultural and religious organisations or groups;
 - 10.4 Contracted teaching, lecturing or speaking to an organisation, conference or group;
 - 10.5 Receipt of payment and dividends from a business venture that was established prior to becoming a coroner;

- 10.6 Small scale business activities for his/her own personal purposes. For example, selling handcrafts or fruit locally.
11. A coroner may receive payment by way of sponsorship for any sporting or artistic pursuit provided that sponsorship does not give rise to possible perceptions of bias or interest (for example, sponsorship by a drug company).
12. A coroner may undertake concurrent office as a director (whether paid or not) if the chief coroner is satisfied that the office is compatible with judicial office.
13. A coroner should not provide legal services to anyone. In particular:
- 13.4 It is not appropriate for a coroner to provide legal or investment advice to charitable organisations.
- 13.5 It is not appropriate for a coroner to advocate or negotiate for a family member in a legal matter.
- 13.6 A coroner is not precluded from acting for himself or herself in legal matters but should not, in so acting, abuse the standing of judicial office to advance the interests of the coroner or the coroner's family.
14. The Attorney General reserves the right to decide whether the proposed concurrent employment is considered compatible with being a coroner.

Positions of Office

15. The following positions of office or service are considered compatible with being a coroner:
- 15.4 Membership/leadership in an club, society, charitable or civic organisation or trust;
- 15.5 Service on school boards;
- 15.6 Trustee of a family trust;
- 15.7 Chair/member of a non-profit organisation (providing the organisation does not exclude membership on the basis of religion, race, sex or national origins).
16. Involvement in any organisation is not appropriate where:
- 16.4 It is likely to be regularly involved in contested proceedings before the courts;
- 16.5 Its finances are unsound;
- 16.6 The standing of judicial office could be used to solicit funds for any purpose including fund-raising activities;
- 16.7 The organisation discriminates on the basis of race, sex, religion or national origins; or
- 16.8 The objectives of the organisation include law reform or political change.
17. The Attorney General reserves the right to decide whether the office is considered compatible with being a coroner.

Note: These are examples only and each case must be considered on its own facts.

Example 1

Coroner A has a contractual agreement for services with a theatre company. The company performs for profit and as a part of the contractual agreement Coroner A is paid for completing her contractual obligations. The concurrent employment does not touch the legal sphere, nor could it be perceived as inconsistent with judicial office. If a conflict of interest does arise, the Recusal Guideline applies.

Example 2

Coroner B is a trustee of a charitable trust that provides accommodation and other services primarily for people recovering from mental illness and others in the community with identified need for support. Although the trust operates in the medical sphere, the position is compatible with being a coroner as it does not restrict the coroner's ability to complete her judicial responsibilities. The coroner must not provide legal advice to the Trust. If a conflict of interest does arise, the Recusal Guideline applies.

Example 3

Coroner C was involved in successful businesses prior to becoming a coroner. He may continue to receive payment for his business enterprise despite his position as a judicial officer. The continued payment does not reflect badly on the integrity of the coroner. If a conflict of interest does arise, the Recusal Guideline applies.