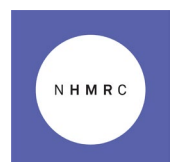




Conditions of Engagement Policy

Version control

| Version (Number) | Date approved | Brief description of change |
|------------------|---------------|---|
| Version 2.0 | 17/9/2024 | Updated to reference changes made to <i>Australian Public Service Commissioner's Directions 2022</i> and <i>Public Service Regulations 2023</i> |
| Version 1.0 | 2017 | Updated to reference NHMRC Enterprise Agreement 2016-2019 |





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1. Purpose

1.1 Introduction

- 1.1.1 Subsection 22(6) of the *Public Service Act 1999* (PS Act) enables an Agency Head to impose conditions upon the engagement of an Australian Public Service (APS) employee. Each of these conditions is separate and failure to meet any one of these conditions may result in the termination of employment.
- 1.1.2 This policy sets the standard conditions of engagement that are to be applied to all new APS employees engaged by the National Health and Medical Research Council (NHMRC).

1.2 Scope

- 1.2.1 This Policy applies to all employees employed under the PS Act.

2. Definitions

| Term | Definition |
|---|---|
| Agency Head | means NHMRC's Chief Executive Officer (CEO) as defined under the PS Act |
| Classification | means an approved classification level as set out in the <i>Australian Public Service Classification Rules 2000</i> (the Rules) |
| Delegate | means the relevant person or position to whom the CEO has delegated power to make decisions in line with the Human Resource Delegations and Authorisations. |
| Directions | mean the <i>Australian Public Service Commissioner's Directions 2022</i> |
| Manager | means the person who has responsibility for overseeing, monitoring, managing, directing and supervising an employee |
| Non-ongoing employee | means an employee who is engaged on a temporary basis, with a specified end date or on an intermittent or irregular basis |
| Ongoing employee | means an employee who does not have a specified date of cessation |
| Redundancy Benefit Period (Restriction Period) | means the period in which an employee, who has received a redundancy benefit, cannot be re-employed within the APS. The period will depend on the amount of the redundancy benefit and the length of service for the individual |
| Regulations | means the <i>Public Service Regulations 2023</i> |



3. Principles

1. All employees must be engaged with NHMRC through a written employment offer (offer) which sets out the conditions of engagement. The engagement of employees is made subject to the conditions of employment notified in the offer. This includes periods of probation, where applicable.
2. The standard conditions of employment should not be varied unless approved in writing by the relevant Delegate. Managers are to consult with NHMRC's Recruitment team, prior to making any verbal or written offer of engagement.
3. If an employment condition is not notified in the written offer, there is no power to impose an additional condition after engagement.
4. The offer must be signed by the prospective new employee before commencement of employment.
5. Subsection 44(1) of the Directions requires Agency Heads to ensure that all new APS employees are engaged on probation. Waiving of this requirement may be considered by the Delegate in exceptional circumstances.
6. Once the initial probationary period has been completed, no further probation period can be applied. This includes where an employee transfers at level or is promoted. The performance of these employees is to be monitored in accordance with NHMRC's Performance and Development Policy.
7. Prior to commencement of employment, all prospective NHMRC employees must:
 - a. provide evidence of their:
 - i. Australian citizenship, and
 - ii. any essential qualifications required for the position they have been offered, and
 - b. complete the:
 - i. relevant form to enable NHMRC to obtain an Australian Federal Police records check, and
 - ii. Pre-existing Medical Condition Declaration form.

Where any of these documents are not provided within the required time, employment may be terminated.

8. Any requirements for security clearances will be consistent with the Commonwealth's Protective Security Policy and practices as outlined in the *Australian Government Protective Security Policy Framework 2018*.
9. NHMRC is committed to ensuring an accessible and inclusive work environment to enable people with a disability, illness or injury to participate fully in all aspects of employment. NHMRC will do everything reasonably practicable to accommodate people who require workplace adjustments.
10. New employees will be provided with an induction program to enable and enhance their understanding of NHMRC, their role, performance and conduct requirements.
11. A person who is engaged to work at NHMRC will be paid at the minimum pay point of the salary range applicable to the classification, unless the CEO or Delegate approves payment at a higher salary pay point.



12. Where NHMRC engages a person eligible for the Supported Wages Scheme, they will be paid in accordance with their assessed capacity and the applicable salary percentage.
13. A person who receives a redundancy benefit from an APS agency or the Australian Parliamentary Service, and is still within their redundancy benefit period, is restricted from engagement as an employee within NHMRC. Managers are to contact the Recruitment Team if they are contemplating employing a person who has received a redundancy benefit to determine their eligibility for employment.

4. Conditions of employment

4.1 Citizenship

- 4.1.1 All NHMRC employees must be Australian citizens. Documentary evidence, such as an Australian birth certificate, Australian passport, Australian citizenship certificate or other relevant documentation, must be provided to NHMRC prior to engagement.
- 4.1.2 In exceptional circumstances, and dependent on the needs of NHMRC, the CEO or Delegate may consider it appropriate to engage a non-Australian citizen. Exceptions may be considered where the skills or professional qualifications required to perform the duties are not available from any Australian citizen.
- 4.1.3 Where it is believed exceptional circumstances exist, Managers must consult with the Recruitment Team early in the recruitment process and before any offer of employment is made. A business case for the proposed engagement must be submitted to the CEO or Delegate to enable consideration for waiving the citizenship requirement.
- 4.1.4 The CEO or Delegate may consider it appropriate to conditionally engage non-citizens who are actively pursuing Australian citizenship.
- 4.1.5 In the event a non-Australian citizen is approved for engagement, they must hold and maintain appropriate work entitlements to be able to perform duties in the APS. This is a legal requirement under the Migration Act 1958 and applies regardless of whether the employee was notified of the requirement in the Notice.
- 4.1.6 In the event a person does not meet the citizenship or work entitlement requirements, NHMRC may terminate the employment of an APS employee in accordance with subsection 29(3)(f) of the PS Act.

4.2 Character and security clearances

- 4.2.1 An employee's continued employment, whether ongoing or non-ongoing, is subject to successfully meeting a character check in line with NHMRC's Security Policy. Information on completing this check will be provided to new employees as part of their notice of employment. Should an employee fail to meet this requirement, their employment may be terminated.
- 4.2.2 Some duties or positions within NHMRC may require the employee, whether ongoing or non-ongoing, to hold a security clearance at the appropriate level. Employment offers will be made on the condition that the employee is to obtain the required security clearance prior to the commencement of their employment. Should the security clearance not be obtained prior to the employee's commencement, the employment offer may be rescinded.



4.3 Health assessment

- 4.3.1 Under the Work Health and Safety Act 2011, NHMRC must provide a safe working environment and monitor the health and the conditions of the workplace to prevent injury or illness, including both physical and mental illness.
- 4.3.2 To enable NHMRC to provide a safe working environment, including any required workplace adjustments, new employees are required to complete a Pre-existing Medical Condition Declaration.
- 4.3.3 Where a new employee declares a pre-existing medical condition, they may be required to undertake a medical assessment with an independent medical practitioner. The purpose of a medical assessment is to:
- determine whether the employee is fit to perform the duties which they are employed to undertake
 - identify or confirm any pre-existing conditions or disability, and
 - recommend any workplace adjustments that may be required.
- 4.3.4 Subject to 4.3.3, should the employee fail to meet the medical fitness standards required to undertake the duties for which they have been employed, the employee's employment may be terminated.
- 4.3.5 A medical assessment is authorised under the PS Regulations (ss10 & 11).

4.4 Essential qualifications

- 4.4.1 Some duties in NHMRC require the employee to possess and maintain an appropriate qualification. Where a formal qualification is essential to performing duties, the employee will be required to provide documentary evidence of the relevant qualification before commencement.
- 4.4.2 If it is not possible to produce such evidence by the preferred commencement date, the person may be engaged with the requirement to meet this condition within a specified time but no later than 6 months after the commencement date.
- 4.4.3 Where the employee does not produce the required proof of their qualification their employment may be terminated.

4.5 Probation

- 4.5.1 Under the Directions, NHMRC is required to apply a period of probationary employment to employees on engagement to the APS. This applies whether the employment is ongoing or non-ongoing.
- 4.5.2 The period of probation is 6 months and any actions with respect to probation, including termination, must be taken within this period.
- 4.5.3 There may still be conditions of engagement that have to be met, even after the period of probation is completed. It is possible, therefore, for a person to have successfully completed their probation, but for their engagement to remain subject to other specific conditions such as a health assessment, character check or the satisfactory completion of an entry level training program.
- 4.5.4 The Delegate may waive probation only where they are satisfied there are reasonable circumstances to justify not engaging the employee on probation.
- 4.5.5 Where a probationary employee does not meet the required standards of performance, conduct and/or attendance, their employment may be terminated by the CEO or Delegate



on the grounds that they have failed to meet a condition of engagement. This may occur at any time during the probationary period.

- 4.5.6 Where a Manager is considering rating a probationary employee as requiring development or unsatisfactory in any of the assessment categories, they must contact NHMRC's Workforce Performance and Health team before completing the probation report and before the end of the probation period.
- 4.5.7 If an employee does not pass their probation, they are entitled to receive notice in accordance with minimum notice periods set by the *Fair Work Act 2009*, 117(3), when employment ends and have their unused accumulated annual leave hours paid out.

4.6 Restrictions on employment following redundancy

- 4.6.1 There are arrangements which limit the subsequent employment of people who have received a redundancy benefit from an APS agency or the Australian Parliamentary Service. The circumstances where the restrictions apply are set out in section 66 of the Directions.
- 4.6.2 The Redundancy Benefit Period (Restriction Period) will depend upon the level of the benefit received and the length of service of the individual.
- 4.6.3 If a Manager is contemplating employing a person who has received a redundancy benefit, the Manager must consult the Recruitment team for further advice before any recruitment selections are undertaken.
- 4.6.4 In limited and exceptional circumstances, a person may be employed before the redundancy benefit period has expired. A business case is to be submitted to the Delegate and the Recruitment team for consideration before offering a position in these circumstances.

4.7 Senior Executive Service (SES) employees

- 4.7.1 When filling SES positions, APS agencies have obligations under the PS Act, the Regulations and the Directions. This includes a requirement to seek approval from the Australian Public Service Commissioner before the commencement of any SES selection activities.
- 4.7.2 SES remuneration, terms and conditions can be determined by Agency Heads under section 24 of the PS Act. Employment arrangements for NHMRC's SES employees will be in accordance with the NHMRC Senior Executive Service Handbook, and any requirements outlined in the Public Sector Workplace Relations Policy and the APS Executive Remuneration Management Policy.

5. Responsibilities

5.1 Employees

5.1.1 Employees are responsible for:

- being aware of and complying with the requirements of their Notice of APS Employment instrument
- being aware of, and complying with, NHMRC policies and practices
- ensuring that they complete induction and probationary requirements to ensure they have all available information to support successful completion of their probationary period
- participating in two-way conversations with their Manager to enable guidance and enhance understanding of their position, as well as performance, conduct and attendance expectations, and



- participating in the probationary assessment and reporting process to appropriately consider suitability for continuing employment.

5.2 Managers

5.2.1 Managers are responsible for:

- informing new employees about the probation procedures when they commence their employment
- providing new employees with guidance, feedback, and an opportunity for two-way communications to enable appropriate performance, conduct and attendance
- defining what is expected of the probationer, identifying any learning and development requirements, providing assistance, monitoring and assessing work performance and conduct, and providing feedback
- providing accurate and comprehensive reporting, in a timely manner, on an employee's performance and conduct so that informed judgements about the employee's suitability for continued employment may be made
- maintaining documentary evidence to support their recommendation to the CEO or Delegate, including information on any poor performance or conduct identified and steps that were taken to try to improve the performance and/or conduct. For example, targeted learning and development (formal training), on-the-job training, feedback, performance of other duties, coaching, etc, and
- taking all reasonable steps to ensure that the information used in reports is accurate, up to date and complete. Care must be taken when the information is, or potentially may be, prejudicial to the employee.

5.3 Delegate

5.3.1 Delegates are responsible for:

- ensuring they have the delegation and/or authority to decide on engagement and probationary matters
- actively engaging with Managers and the PPS team to determine the facts of an employee's performance, conduct and attendance, and
- considering all probationary recommendations in a timely manner.

5.4 People, Property and Security

5.4.1 People, Property and Security (including the Recruitment team) is responsible for:

- policy development and updates in relation to this Policy, ensuring it remains current and relevant
- providing advice and guidance to employees, Managers and Delegates on employee engagement, probation, and performance and conduct matters,
- monitoring probation requirements and
- informing the employee, in writing, where the Delegate has determined their employment is to be terminated. monitor completion of probation requirements.

6. Further Information

6.1 Resources

Relevant Legislation

- *Public Service Act 1999*



- *Public Service Regulations 2023*
- *Australian Public Service Commissioner's Directions 2022*
- *Australian Public Service Classification Rules 2000*
- *Disability Discrimination Act 1995*
- *Australian Government Protective Security Policy Framework 2018*
- *Migration Act 1958*
- *Work Health and Safety Act 2011*
- *Privacy Act 1988*
- NHMRC Enterprise Agreement 2024-2027

Related documents

- Instrument for Delegations and Authorisations for Human Resource Matters
- Disclosure of Interests Policy
- Remuneration Policy
- Working Hours Policy
- Work Health and Safety Policy
- Workplace Conversations Policy
- Workplace Adjustments Policy
- Recruitment information package
- New starter Guide and Orientation Checklist

6.2 Contact

- People, Property and Security at recruitment@nhmrc.gov.au