

Senior Executive Service Handbook



Acknowledgement of Country

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We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

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1. Senior Executive Service

1.1 Introduction

This handbook provides an overview of senior executive service (SES) employment in the ACT Public Service (ACTPS) and provides a summary of the terms, conditions and entitlements that are prescribed in:

- the instrument of employment (the Executive contract);
- the Public Sector Management Act 19941 (PSM Act);
- the Public Sector Management Standards 2016 (PSM Standards) or other instruments made from time to time under the PSM Act;
- determinations made by the ACT Remuneration Tribunal under the Remuneration Tribunal Act 19952; and
- other enactments of the Australian Capital Territory (the Territory) as applicable.

SES members - also known as Executives - are employed under a single, service-wide contract system. This system consolidates employment arrangements for Executives and strengthens individual performance and accountability.

1.2 Legislative framework

The PSM Act provides the legislative framework for the use of contracts to employ Executives. It also sets out values, signature behaviours and general principles, including obligations and responsibilities.

The PSM Standards are made by the Head of Service, with the written approval of the Chief Minister. The PSM Standards support the PSM Act and set out conditions of employment, including the performance framework, classification structure, reengagement provisions and misconduct procedures.

1.3 Determinations of the ACT Remuneration Tribunal

The ACT Remuneration Tribunal is an independent body established under the *Remuneration Tribunal Act 1995* with jurisdiction to determine remuneration, allowances and other entitlements for ACTPS Executives. The Tribunal reviews the remuneration, allowances and entitlements for Executives annually, generally at its Autumn review, with determinations generally coming into effect on 1 July. Any person may make a written submission to the Tribunal prior to a review. While submissions will be accepted throughout the year, submissions will be called for 6 weeks prior to the Tribunal sitting.

To date, the Tribunal has made determinations covering salary rates, various employer provided benefits (or allowances in lieu of benefits), a salary packaging scheme, and relocation expenses for Executives engaged from interstate and overseas.

Territory law, Commonwealth law, and instruments of appointment prevail over Tribunal determinations to the extent of any inconsistency. Current determinations are available on the

¹ Legislation referred to in this handbook can be found on the ACT Legislation Register, accessible at <http://www.legislation.act.gov.au>

² Remuneration Tribunal determinations can be found on the Tribunal website, accessible at www.remunerationtribunal.act.gov.au/determinations

ACT Remuneration Tribunal website at
<https://www.remunerationtribunal.act.gov.au/determinations>.

1.4 The Executive contract

The Executive contract establishes the employment relationship between the Executive as an employee and the Territory as the employer. Unlike non-Executive ACTPS officers, Executives *do not* have tenure, and the duration of employment is governed by the terms of the contract. There are 2 classes of contract:

- 'long-term' contracts, which cannot exceed 5 years; and
- 'short-term' contracts, which cannot exceed 2 years.

Executive contracts provide details of the statutory employment terms (SETs), such as classification, assigned functions and length of employment.

Executive contracts executed under section 31 of the PSM Act must set out prescribed SETs that include all the following:

- each function assigned to the Executive;
- the administrative unit in which the Executive is engaged;
- the Executive's classification;
- the Executive's salary;
- the hours the Executive is engaged to work;
- the period the Executive is engaged to work; and
- any prescribed SETs.

1.5 Long-term contract

Under the PSM Act, a long-term contract for a SES position may be entered into following a *prescribed selection process*³ and can be for a duration of up to 5 years. Generally, officers of the ACTPS who accept a long-term Executive contract will not have a right of return to the non-Executive service at the end of the contract. However, section 19 of the PSM Standards provides that a long-term Executive may request the Head of Service to appoint them as an officer, prior to the end of their contract, in certain circumstances.

1.6 Short-term contract

- the nominal occupant of the Executive position is absent;
- a vacancy exists because the former nominal occupant has permanently left the position;
- there is a need to fill a position before a formal selection process can be conducted;
- there is a need to fill a position while a work value assessment to determine the classification of the position is undertaken; or
- there is a need to fill the position while a structural review determines the ongoing requirement of the position for the efficient and effective operation of the service.

³ A 'prescribed selection process' includes advertising the position to members of the community, undertaking a comparative assessment of applicants based on each applicant's claim against the selection criteria and completing a selection report [see section 27(1) of the PSM Act (Application of the merit and equity principle) and Part 2 of the PSM Standards (Selection process)].

A short-term amendment for an Executive with a long-term Executive contract in another position includes a provision to enable the Executive to revert to their long-term contract at the completion of the short-term amendment. This short-term amendment is achieved through a change in the statutory employment terms (SETs) of the Executive. In the case of a non-Executive temporarily filling an Executive position on a short-term contract, their employment status as a non-Executive is not affected by the Executive contract⁴. For example, a Senior Officer Grade A (SOGA) on a short-term Executive contract will revert to their SOGA position at the end of the Executive contract.

Under the PSM Act, the maximum period for a short-term contract is 2 years. A *prescribed selection process* is required where the Executive position is to be filled for 9 months or more. A prescribed selection process can also be used to fill positions for periods less than 9 months, but it is not a legislative requirement.

1.7 Offer of a contract

The offer of an Executive contract is made on behalf of the Territory by a letter of offer from the Head of Service (or delegate). The letter of offer is accompanied by a contract and an election form. A declaration of private interests proforma is also necessary for contracts exceeding 3 months. For new ACTPS employees, a criminal history record check form will also need to be completed prior to commencement. Business areas can informally notify a successful applicant prior to the letter of offer, noting that an offer is not formal until received in writing.

The offer should be accepted, or in-principle agreement notified. The accompanying documents are expected to be completed before the Executive commences.

1.8 Signatories to the contract

The parties who sign the contract are the Executive and the engager of the Executive on behalf of the Territory. For directorates, the engager is the Head of Service (or delegate). For public sector entities for which a territory law states that a statutory office holder or chief executive officer may employ staff, the engager is that statutory office holder or chief executive officer.

A contract is made once it is signed by both the engager and the Executive.

1.9 Tabling of Executive contracts

Pursuant to section 56 of the PSM Standards, lists of new long-term contracts containing the Executive's name, classification and, where relevant, additional salary under section 52 of the PSM Standards, must be tabled twice a year in the Legislative Assembly.

1.10 Contract variations

Under sections 33 to 36 of the PSM Act, there are a range of circumstances under which an Executive's SETs may or must be changed. Any change to an Executive's SETs must be made in writing by the Head of Service (or delegate).

SETs **must** be changed if any of the following apply:

- the Executive can no longer be engaged with the SETs and the Head of Service (or delegate) is able to give the Executive another suitable SES position; or

⁴ See section 81 of the PSM Standards 2016

- a prescribed circumstance (under the PSM Standards) applies to the Executive, including:
 - the Head of Service believes the Executive no longer meets the criteria to be an eligible person for their employment (see section 30 of the PSM Standards);
 - the engager plans to undertake, or undertakes, a misconduct procedure in relation to the Executive's alleged misconduct and is satisfied it is not in the interest of the service for the Executive to be suspended nor stay engaged in the same Executive position (see section 68 of the PSM Standards);
 - the Head of Service believes the Executive cannot exercise their functions due to a non-compensable physical or mental condition but is able to give the Executive a suitable SES position (see section 34 of the PSM Standards);
 - the engager believes the Executive failed to meet their performance expectations but is satisfied the Executive has taken action to be able to meet their performance expectations and the engager is satisfied it is in the interests of the service to change their SETs (see section 45 of the PSM Standards); or
 - a SES position evaluation (referred to as either job-size assessment or work value assessment) finds the Executive's position responsibilities have increased and recommends the Executive's classification be increased within the same Executive classification band (see section 67 of the PSM Standards).

SETs **may** be changed under section 35 of the PSM Act if any of the following apply:

- the Executive, in writing, asks for the change and the Head of Service (or delegate) is satisfied the request is reasonable; or
- the Head of Service (or delegate) is satisfied the change is required for the efficient and effective management of the service; or
- the Executive is selected for another SES position in accordance with a selection process.

The Head of Service may make any of the following changes to an Executive's SETs without consulting the Executive:

- assign a new function to the Executive;
- end the assignment of a function to the Executive;
- change the administrative unit in which the Executive is engaged; or
- increase the Executive's salary.

However, the Head of Service (or delegate) may not reduce the Executive's salary or change the hours or period the Executive is engaged to work without consulting the Executive.

1.11 Extension of a contract

If the initial long-term contract was for a period of less than 5 years, it is possible to extend the long-term contract provided:

- the total period does not exceed 5 years; and
- the position maintains the same work value level; and
- the gazettal of the role anticipated the possibility of extension (either by offering a role for a duration of up to 5 years, or by offering a role of less than 5 years but with the possibility of extension).

If the gazette provided for the possibility, the initial contract may be extended more than once within the 5-year limit.

Short-term contracts can be extended up to a maximum period of 2 years. To extend beyond 6 months, applications for the original contract must have been sought in the gazette. To extend beyond 9 months, a full merit process must have been undertaken.

1.12 Reengagement

At the expiration of an existing long-term contract, a new contract may be offered to the Executive without a recruitment process provided the classification is the same. Section 55 of the PSM Standards provides that the merit and equity principle does not apply to a second or subsequent engagement of an Executive to perform the duties of the same position if the subsequent engagement commences immediately after the end of the previous engagement.

There is a requirement for the Head of Service to certify that they are satisfied that during the Executive's current engagement, the Executive has met all expectations set out in the Executive's approved performance agreement. This certification would follow a recommendation by the relevant director-general.

It is recommended that, before the reengagement of an Executive by the Head of Service, a comprehensive performance assessment be carried out by a panel, preferably 6 to 12 months before the expiry of the Executive's current contract. This will enable sufficient time for a decision to be made about the reengagement with a view to advising the Executive of the outcome at least 6 months before their current contract ceases. If the Executive is not to be reengaged, the Head of Service (or delegate) must advise the Executive in writing of their intention not to reengage at least 3 months before the day the Executive's contract ends.

It is appropriate that the performance assessment panel include the relevant director-general or delegate and an Executive from another directorate. While there are no prescribed assessment requirements, it is appropriate that as part of their assessment the panel provide the Executive with the opportunity to outline their achievements and continued work performance against the Executive capabilities.

Upon the Head of Service agreeing that the Executive has met all performance expectations, a new long-term contract will be issued to the Executive for a term not exceeding 5 years.

There is no limit to the number of times an Executive can be reengaged.

1.13 SES structure

In the ACTPS, the SES structure is made up of Band 1, 2, 3 and 4 executives. Each band has 4 levels. The classification is determined by the Head of Service and must consider any independent position evaluation.

The levels are:

Executive classification band 1	Executive classification band 2	Executive classification band 3	Executive classification band 4
Level 1.1	Level 2.1	Level 3.1	Level 4.1
Level 1.2	Level 2.2	Level 3.2	Level 4.2
Level 1.3	Level 2.3	Level 3.3	Level 4.3
Level 1.4	Level 2.4	Level 3.4	Level 4.4 (Head of Service)

1.14 Helpful links

The following list includes tools to assist Executives:

- ACTPS Executive Induction is at <https://www.cmtedd.act.gov.au/employment-framework/for-executives/actps-executive-induction>.
- ACTPS Employment Portal at <https://www.cmtedd.act.gov.au/employment-framework/home>.
- Manager Toolkit is accessible at <https://www.cmtedd.act.gov.au/employment-framework/managers-And-supervisors/managers-toolkit>.
- Risk Management Tools are available at: <https://actgovernment.sharepoint.com/sites/extranet-ACTIA/SitePages/Risk-Management-Tools.aspx>
- Leave approval is accessible at [HR21](#).
- Use of ICT and Social Media is accessible at [Acceptable use of ICT Resources Policy](#) and [Social Media Policy Guidelines](#).

Any further information you require can be provided by your directorate's human resources area.

2. General Conditions of Employment

2.1 Remuneration

The ACT Remuneration Tribunal (the Tribunal) determines the remuneration for Executives. The Tribunal reviews Executive remuneration annually, with determinations ordinarily coming into force on 1 July each year. The determinations are available at www.remunerationtribunal.act.gov.au/determinations.

2.2 Additional salary

On 23 December 2021, amendments were made to the PSM Standards that removed Executives' entitlements to an employer-provided vehicle or a payment in lieu of a vehicle. The benefit was replaced with additional salary that is equivalent to the amount the Executive was formerly eligible for payment in lieu of a vehicle.

Following the decision to replace vehicle entitlements with additional salary, the Tribunal determined consequential amendments to remove the related fringe benefit tax payment of \$7,500 per year. The amount is incorporated into the remuneration determination of the Tribunal, and no longer separately referenced by the Tribunal.

Section 52 of the PSM Standards outlines where salary above base salary may apply in certain circumstances.

2.3 Allowances and employer provided benefits

The Tribunal has jurisdiction to determine allowances and other entitlements to the extent that an allowance or entitlement of a particular kind is not paid or granted under a law of the Territory or the Commonwealth.

The Tribunal has determined various employer provided benefits and a salary packaging scheme.

2.4 Superannuation

For members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or Executives with a preserved or deferred benefit in one of these schemes, the employer superannuation contributions will be paid to that scheme.

If Executives are not members of CSS or PSS, they may elect to join Aware Super (the default scheme for the ACT Government) or have employer superannuation contributions directed to a superannuation fund nominated by the Executive (choice of fund), provided that the fund complies with all relevant superannuation and taxation legislation.

In choosing a superannuation fund, it is the Executive's responsibility to meet any employee requirements of the fund. Executives may wish to seek independent professional advice in relation to their superannuation before making any arrangements.

2.5 Salary packaging

Executives may participate in salary packaging arrangements subject to the conditions prescribed in the salary packaging policies and guidelines issued by the Head of Service. Payroll Services administers the salary packaging for all ACTPS staff.

In accordance with the [Salary Packaging Policy](#) and [Salary Packaging Manual](#), Executives are strongly encouraged to obtain independent financial advice before participating in the salary packaging scheme. Information about the scheme may be obtained from the relevant directorate's Human Resources area or from the Payroll Services salary packaging team at salarypackaging@act.gov.au.

2.6 Relocation costs

If an Executive is recruited from outside the ACT, whether on a long-term or short-term contract, and moves to the ACT or the surrounding area to take up employment, the Executive may be entitled to an allowance to **assist** in the payment of **some** of the costs associated with the move.

The allowance is in the form of reimbursement of expenses on production of receipts or other acceptable evidence of expenditure. It includes reasonable removal costs and costs of travel, accommodation, and meals.

The ACT Remuneration Tribunal determines relocation provisions, including the maximum amount to be reimbursed to Executives and the type of costs that may be reimbursed. Executives should refer to the latest Tribunal determinations and contact their directorate executive contact officer to confirm their entitlements and to make arrangements to claim them. The determinations are available at www.remunerationtribunal.act.gov.au/determinations.

2.7 Leave

Section 63 of the PSM Standards provides that the leave entitlements for Executives are the same as for non-Executives as provided in the current ACT Public Service Administrative and Related Classifications Enterprise Agreement (EA)⁵. It is recommended Executives familiarise themselves with the leave entitlements in the EA.

Executives should apply to the Head of Service (or delegate) for leave. Approved leave needs to be entered into the HR21 system. Directors-general should notify their relevant minister(s) of their intention to take leave before applying for leave.

It should be noted that any period of leave does not extend the contract end date.

⁵ Section 63(2) provides that a SES member is not entitled to annual leave loading. At the time of drafting, the current agreement is [ACT Public Service Administrative and Related Classifications Enterprise Agreement 2023-2026](#).

3. General Obligations

3.1 Values, principles, and conduct

In performing their duties, all ACTPS employees - including Executives - must comply with the public sector values, principles and conduct set out in the PSM Act.

Section 7 of the PSM Act sets out the public sector values: Respect, Integrity, Collaboration, and Innovation.

Section 8 of the PSM Act provides that Executives must do their job in accordance with the best practice principle, the merit and equity principle, and the closing the gap principle.

Further information about the merit and equity principle is available in the ACTPS Recruitment Policy and Guidelines:

https://www.cmtedd.act.gov.au/_data/assets/pdf_file/0009/1758141/ACTPS-Recruitment-Policy-and-Guidelines.pdf.

Further information about the closing the gap principle is available here:

<https://actgovernment.sharepoint.com/sites/intranet-ClosingTheGapCulturalCapability>.

Senior Executive Service members should be familiar with Ngunnawal knowledge systems, governance structures and lived experience as central to good public administration, as well as the [ACT Aboriginal and Torres Strait Islander Agreement 2019-2028](#) and the [National Closing the Gap Agreement](#).

Section 9 of the PSM Act sets out the conduct requirements to which Executives must adhere. In this section, from 1 July 2026, failing to act in a way that is consistent with the *closing the gap principle* may be considered misconduct. A breach of section 9 of the PSM Act may constitute grounds for suspension or termination of employment (see Part 5 of PSM Standards and part 5 of this Handbook for further information).

The ACTPS Code of Conduct provides further guidance on an SES member's obligations under sections 7, 8 and 9 of the PSM Act.

3.2 Executive capabilities

The ACTPS Shared Capability Framework (the Capability Framework) has been developed to describe the skills, knowledge and behaviour that can universally be expected of every ACT public servant at different organisational levels in every workplace across the service.

Executive Capabilities are incorporated into the ACTPS Shared Capability Framework to drive realisation of strategic priorities, organisational outcomes, and stewardship of the service. The Executive Capabilities can be found on the ACT Government website at

<https://www.cmtedd.act.gov.au/employment-framework/performance-framework/actps-shared-capability>.

3.3 Performance management

It is a requirement of section 44 of the PSM Standards that within 3 months of their engagement, an Executive must give the engager a draft performance agreement setting out the Executive's performance expectations. The engager must approve the performance agreement or, after consulting with the Executive, amend and approve the performance agreement. The performance agreement is useful in monitoring the performance and progress of government business and is an essential component in the process for improving

performance and accountability in the Service. A performance agreement is specifically developed to assist in the assessment of how Executives have met their performance expectations, delivered legal obligations and how they have performed against the ACTPS values, principles, and conduct included in the PSM Act. It also assists in the assessment of their performance in their role and provides an opportunity to better understand an Executive's achievements against strategic priorities and organisational plans.

At a minimum, performance agreements should be reviewed at the beginning of each financial year to reflect changes to budget outcomes. However, performance agreements may be reviewed from time to time depending on operational and organisational changes.

The performance agreement templates are available from your directorate's human resources team. The [ACTPS Performance Development](#) page available on the Employment Portal offers guidance on conducting performance discussions. It includes specific advice tailored for Executives. Executives should familiarise themselves with the material available on this page, paying particular attention to the guide titled '[Leading Performance and Development: A Guide for ACTPS Executives](#)'.

3.4 Underperformance

Section 45 of the PSM Standards sets out the minimum requirements for conducting an under-performance process for an Executive. The engager must inform the Executive of the reasons why the engager believes the Executive has failed to meet one or more of the agreed performance expectations. If appropriate, the engager must also ask the Executive to demonstrate how they have met the performance expectations. If the Executive does not meet the performance expectation within a stated period, the Executive's SETs may be changed, or their employment may be ended.

When undertaking an underperformance process, it is important that performance is measured and assessed against the ACTPS values and executive capabilities, as well as the Executive's performance agreement and position description.

3.5 Disclosure of Private Interests

Both inside and outside the ACTPS, decisions made by Executives should be, and be perceived to be, professional, impartial and beyond reproach. Executives need to be aware that their decisions are likely to be subject to both internal and external scrutiny. Maintaining public confidence in the ACTPS is crucial to good government.

Executives are required, under section 46 of the PSM Standards, to disclose to their engager financial or other interests if the interests could conflict, or could reasonably be perceived to conflict, with the Executive's engagement in the service.

All Executives are required to complete a [Disclosure of Private Interests \(DPI\) form](#) containing their personal and financial interests on commencement. The DPI should be given to the Executive's respective director-general and an electronic copy be sent to One Gov Recruitment and Information Services for storage on their personnel file. For a director-general, this statement should be provided to the relevant minister(s) for information and forwarded to the Head of Service. It will be stored securely and confidentially by the Office of Industrial Relations and Workforce Strategy in the Chief Minister, Treasury and Economic Development Directorate (CMTEDD).

Disclosures must be updated every 12 months or as soon as possible after any relevant facts requiring a change come to the Executive's notice.

Further information is available on the [OneGov Service Centre SharePoint site](#).

Executives must also adhere to the ACTPS Conflict of Interest Policy which advises all ACT public servants of their responsibility to declare and manage their conflicts of interest; whether they be perceived, potential or actual. This policy is available on the ACTPS employment portal.

3.6 Second jobs

Under section 244 of the PSM Act and section 108 of the PSM Standards, prior written approval must be obtained prior to engaging or continuing in other employment or professional practices. In the case of directors-general, written approval must be sought from the Head of Service. In the case of Executives, written approval must be sought from the relevant director-general. Further information is available in the [Second Jobs and Volunteering Policy](#).

3.7 Media responsibilities

From time to time, Executives are required to make official comments to the media or at public events. It is important that any whole-of-government (WHoG) media responses are cleared by the relevant Communications and Engagement team and that any speaking notes for public appearances have been endorsed by the relevant director-general or appropriate delegate. Further information is available at the [ACT Government Communications SharePoint site](#).

4. SES Development

4.1 SES development programs

A range of targeted, contemporary Executive development initiatives are available for ACT Government SES officers, including:

- SES Induction
- Leadership development
- SES Career Development
- SES Speaker Series
- Executive coaching

The ACTPS also participates in a range of established development initiatives via external providers, such as ANZSOG (Australia and New Zealand School of Government) and IPAA (Institute of Public Administration Australia). To find out more about the ACT Government's corporate memberships for these organisations please contact the Executive Leadership & Talent team by email: ExecutiveTalent@act.gov.au.

4.2 Handover periods

Simultaneous contracts cannot be issued to more than one Executive for the same position due to the potential conflict in exercising the position's functions at the same time. For this reason, two Executives must not be under contract in the same position for a handover period.

Executives are expected to arrange a handover meeting or handover notes prior to the commencement of the incoming Executive and the exit of the outgoing Executive. Approval may be given in exceptional circumstances for a minimal overlap only. If such an arrangement is approved, a different executive position number must be sought and agreed from the Head of Service for the overlap period. The Executives must ensure they do not simultaneously exercise the same functions for the duration of the overlap period.

5. SES Misconduct

5.1 Misconduct

Misconduct means a failure to comply with section 9 (public sector conduct) of the PSM Act. If the Head of Service (or delegate) receives an allegation or becomes aware that an Executive has acted in a way that may be misconduct under the PSM Act, the Head of Service (or delegate) must investigate the allegation in accordance with the misconduct policy or ask the Public Sector Standards Commissioner to investigate the misconduct. [Guidelines to the Misconduct Process](#) (Part 12: Process for Executives). Further details on misconduct procedures can be found in Part 5 of the PSM Standards.

5.2 Suspension

The Head of Service (or delegate) may suspend an Executive until the end of a misconduct investigation if satisfied that it is in the interests of the service. The Executive will be provided with a written notice of suspension containing the reason for the suspension and the expiration or review date.

The suspension may be with or without pay, or the Executive may be transferred to other duties. While it would normally be expected that a suspension would be without pay, the employer may have regard to the reasons for the suspension and the potential for financial hardship. Further details on suspension can be found in section 47 of the PSM Standards.

5.3 Disciplinary action

If an Executive is found to have engaged in misconduct, the Head of Service (or delegate) may counsel the Executive, give the Executive a warning, place conditions on the Executive's continuing employment, deduct an amount from the Executive's salary, change the Executive's contract or end the Executive's engagement. Further details on disciplinary action can be found in section 48 of the PSM Standards.

5.4 Grievance and discipline resolution

Provisions in the PSM Act relating to grievances and appeals *do not* apply to Executives (i.e. there are no prescribed processes in the PSM Act or any subordinate legislation). The provisions set out in the ACT Public Service Administrative and Related Classifications Enterprise Agreement may provide guidance on processes that may be applied to assist in the investigation of misconduct investigations. This should be considered on a case-by-case basis.

Most issues in relation to the workplace can be resolved through regular communication or through advice (e.g. the relevant human resources area). However, there may be some instances where an Executive may prefer to seek an informal review.

The first option is to seek a review of the matter by the relevant director-general. The second is to seek a review by the Head of Service. The final avenue is an independent review by another, agreed person such as a director-general from another directorate or a person not employed in the ACTPS.

Such an independent review would focus on realistic outcomes and resolution through adoption of recommendations. There are no decision-making powers associated with such a review.

6. Non-renewal or Termination of Contract

6.1 Termination by an SES member

An Executive may terminate their long-term contract by resigning at any time and giving 8 weeks' notice in writing. An Executive is not required to give reasons in the notice. In some circumstances it may be possible for the Executive to reach agreement with the relevant director-general for a shorter notice period to apply. There is no provision for any payment to be made in lieu of notice where the termination is at the initiative of the employee.

On resigning, Executives are entitled to be paid out any outstanding salary, and any accrued annual leave and long service leave entitlements.

Annual leave and long service leave payments are calculated on cash salary and do not include any employer provided benefits or cash in lieu of such benefits.

6.2 Termination by the employer

Under section 38 of the PSM Act, the Head of Service (or delegate) may end the Executive's engagement, on behalf of the Territory, in accordance with any prescribed requirement or prescribed notice period:

- under section 41 (Loss of eligibility); or
- under section 42 (Invalidity retirement); or
- if a misconduct procedure finds the disciplinary action to be taken is to end the Executive's engagement; or
- if the engager loses confidence in the Executive's ability to exercise the functions which the Executive has been engaged to exercise; or
- if the Executive's position is no longer required for the efficient and effective operation of the service—if the engager is unable to give the Executive another suitable Executive position; or
- if the engager considers it is in the interest of the service for the Executive's engagement to be ended.

6.3 Termination benefits

If the Head of Service (or delegate) ends an Executive's engagement under sections 38 (d), (e) or (f) of the PSM Act (loss of confidence, changed operational requirements or interest of the service), the Executive must be paid the greater of:

- an amount equivalent to 2 weeks of the Executive's salary for every year of relevant service but not more than an amount equivalent to 44 weeks of the Executive's salary; and
- an amount equivalent to 6 months of the Executive's salary.

6.4 Non-renewal of contract

Under section 55 of the PSM Standards, where an Executive is not to be re-engaged at the end of a long-term contract, if the Head of Service does not provide a minimum of 3 months' written notice, a payment must be made in lieu of that notice. This notice requirement applies to a decision not to re-engage any Executive on a long-term contract, regardless of the length of that long term contract. It also applies to an Executive who was re-engaged under section 55A of the PSM Standards.

Section 55 of the PSM Standards outlines the circumstances in which a payment must be made if the required notice has not been given. Section 55 also outlines the circumstances in which this payment is not required, for example if the Executive has accepted another position in the public sector or is entitled to a special benefit or redundancy type payment.

6.5 Financial and career counselling

Where an Executive’s long-term contract is terminated early, or being considered for early termination, due to operational reasons, there is scope to provide, with regard to all the circumstances, additional support including:

- supplementation of accredited financial counselling up to the maximum identified in the template enterprise agreement for non-Executive staff; and
- supplementation of accredited career/outplacement counselling up to a maximum of \$5,000. These may be billed to the directorate.

Approval Authority

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