



Secure Workforce Conversion Policy

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ISSUED BY:

WORKFORCE CAPABILITY
AND GOVERNANCE, CMTEDD

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Purpose

1. The ACT Government is committed to providing secure, ongoing employment in the ACT Public Sector (ACTPS). As part of this commitment, the ACT Government has established a secure workforce conversion process (the conversion process) to provide an avenue for temporary and casual employees to convert to permanent employment. The conversion process is a joint endeavour of both ACT unions and the ACT Government.
2. The Territory's enterprise agreements include embedded provisions which promote permanent employment through conversion. These provisions complement other provisions dealing with the minimisation of casual and temporary employment, privatisation and outsourcing.
3. The ACTPS Secure Workforce Conversion Policy (the policy) incorporates the casual conversion requirements outlined in Division 4A of the *Fair Work Act 2009* and goes beyond these requirements by providing additional grounds for conversion, and more frequent opportunities for casual and other non-ongoing employees to be considered for casual conversion.
4. The conversion process reviews the current use of insecure work across the ACTPS to identify positions that are currently filled on a temporary or casual basis and assess whether there is a reasonable expectation this insecure work will continue.
5. This policy outlines the considerations and processes to apply when considering whether a position should be converted to a more secure form of employment. The role of the conversion process is to consider these positions and make recommendations to the Head of Service for conversion to permanency without a further merit process. Clause B12 of the enterprise agreement common terms facilitates this process.

Application

6. This policy applies to all ACT Government directorates and public sector bodies in relation to employees covered by an ACTPS enterprise agreement.

Principles

7. Temporary or casual forms of employment in the ACTPS should only be utilised when permanent employment is not viable or appropriate, for example where:
 - a. assistance of a temporary nature is required, including backfill for a permanent officer absent on leave, or for discrete projects, where no other officer is available with the expertise, skills or qualifications required for the duties to be performed;
 - b. the work is of a seasonal, ad hoc or irregular "on demand" nature; or
 - c. the position is part of an entry level program in accordance with common clause C6, or equivalent clause, of the enterprise agreements.
8. An assessment must be done on a case-by-case basis to assess whether an employee can be offered a permanent position. Factors that should be considered include:
 - a. how many times previously the funding has been renewed;
 - b. how likely it is that the funding will be renewed;

- c. the time period that the funding is for;
- d. how likely it is that the employee can continue their pattern of employment without significant adjustment;
- e. how likely it is that the employee's skillset and experience can be utilised in other similar roles across the ACTPS; and
- f. consistency with enterprise agreements.

Non ongoing funding is not in itself a barrier to permanency.

9. The ACT Government's preference for employment is to engage staff on a permanent basis. The conversion process will provide a recommendation to the Head of Service that a position will be converted to a permanent position, if supported by an assessment. The conversion of temporary or casual employees to permanent employment will only occur with the consent of the employee concerned.
10. Where the conversion process results in a recommendation that a position be converted to a more permanent form of engagement and this is accepted by the Head of Service, a merit process is not necessary to appoint existing employees in circumstances where their initial employment was subject to a form of merit process. This is the preferred method to convert employees, rather than creating further insecurity for casual and temporary employees by requiring an additional merit process.
11. In certain circumstances where permanent employment is not appropriate it may still be possible to create more security by offering longer temporary contracts. The provisions in the enterprise agreements which allow for seasonal employment reflect such circumstances.

Procedure

12. The conversion process is outlined in the paragraphs below.

Identifying positions and regular patterns of work

13. Positions will be identified and assessed every three months, with the possibility of out of session submissions. The conversion process involves the receipt of statistical reports relating to positions which are currently filled on a temporary or casual basis across the ACTPS.
14. In addition to the identification and assessment every three months, directorates and public sector bodies will review data on a fortnightly basis to ensure that all casual employees receive correspondence within 21 days of their 12-month anniversary as required under section 66B of the *Fair Work Act 2009*.
15. Each directorate and public sector body will assess each position in the following order:
 - a. total employment greater or equal to 5 years; then
 - b. total employment greater or equal to 3 years, but less than 5 years; then
 - c. total employment greater or equal to 2 years, but less than 3 years; and
 - d. total employment greater or equal to 1 year, but less than 2 years; and possibly
 - e. other cohorts as determined.

16. When assessing each position, directorates and public sector bodies will have particular reference to casually employed staff who have reached their 12-month anniversary with the ACTPS. Casually employed staff who have reached their 12-month anniversary of service with the ACTPS are to be particularly assessed under the consideration outlined at clause 18 below. This assessment is to be repeated annually for every ACTPS employee who continues to be casually employed. Casual employees who have been offered conversion to a more permanent form of employment will not be re-assessed until their next 12-month anniversary as a casual employee.
17. The reason for each position being either temporary or casual will be classified as one of the following:
 - a. nominal occupant on transfer/higher duties;
 - b. nominal occupant on leave;
 - c. expected vacancy/nominal occupant leaving role;
 - d. fixed term project/funding;
 - e. apprenticeship or similar entry level program; or
 - f. other reasons.
18. When considering whether a position may be appropriate for a higher level of employment security, directorates and public sector bodies must give due regard to whether the casual and/or temporary employee currently occupying the position meets the requirements of the position. This includes consideration of:
 - a. the regularity of the pattern of work hours of the employee, especially during the most recent 6 months and whether these regular hours could continue as a permanent employee without significant changes;
 - b. whether there is a continuing need for the employee to be employed in their current role, or in a role which is substantially the same, and that ongoing funding for the role can reasonably be expected to continue;
 - c. whether the employee could be readily redeployed into other areas of the ACTPS if currently in temporary employment;
 - d. whether the employment of the employee was subject to a merit process;
 - e. the length of time the employee has occupied the position and other positions in the ACTPS; and
 - f. whether the employee has satisfactorily met the performance objectives of the role during their employment.
19. The items for consideration listed at paragraph 18 will guide directorates and public sector bodies when considering which positions may be appropriate for conversion to higher levels of employment security. It is not an exhaustive list and it is possible to recommend the position for conversion to permanent without meeting each of the criteria.

20. The assessment of each position carried out will by its nature be against the current position. However, the employee's work patterns within the ACTPS will be considered, not just the work undertaken in the current position.
 - a. For example, total employment is not just that completed in an employee's current position – it is time with the ACTPS in employment in various positions. Circumstances where employees have been employed on several consecutive temporary contracts may mask work demands that should be met through permanent employment.
21. Every three months representatives of unions and representatives of the directorates and public sector bodies will consult on the assessments and any recommendations for conversion as guided by this policy.
22. Following these assessments, the conversion process may result in a recommendation to the Head of Service that position(s) be converted.

Conversion

23. Upon receipt of a recommendation arising from the conversion process which outlines the considerations made under the terms of this policy, the Head of Service will determine whether to convert a position or group of positions to permanent employment.
24. Where the position or group of positions are currently occupied and the Head of Service is satisfied the relevant employees meet the requirements of the position, the employees may be offered appointment at their substantive level of classification without a further merit process, provided all the other requirements for appointment under section 68 of the *Public Sector Management Act 1994* are met. For appointment as an officer, these include:
 - a. the person is an Australian citizen or a permanent resident of Australia; and
 - b. that the person is suitable for appointment having regard to:
 - i. verification of the person's identity;
 - ii. whether the person has any prior criminal convictions;
 - iii. the previous employment record of the person;
 - iv. the need for suitable references in support of the person's appointment; and
 - v. verification of the person's educational qualifications required for the appointment.
25. Where the outcome of the decision is to convert the relevant employee to permanent employment, written notification will be provided to the employee of:
 - a. the terms and conditions of the offer (e.g. full-time or part-time, days and hours of work, pay, location of the employment and any other changes to entitlements);
 - b. the days and hours of work stated under the above point should reflect the regular and systematic nature of the employment, unless otherwise agreed;
 - c. whether the appointment will be subject to probation, and if so the period of the probation. It would not be expected that a temporary or eligible casual employee

who is converted to permanent employment under this mechanism would be subject to probation where they have been performing the same role satisfactorily for a sufficient period, except in exceptional circumstances; and

- d. the timeframe within which they are to respond to the offer of appointment.
26. An employee cannot be converted to permanent employment unless they accept the terms and conditions of the offer of appointment as a permanent officer, within the timeframe specified in the written notification.
 27. Where the conversion process has resulted in recommendations to the Head of Service about a group of positions where some, but not all positions can be made permanent and there are more employees than positions, a merit process will be conducted. The merit process will be restricted to the relevant employees and will be conducted using a Joint Selection Committee, in accordance with the relevant enterprise agreement, to determine the employees to be appointed. Employees not appointed to a permanent position will continue in their temporary contracts and be placed on a merit list if suitable.
 28. Where, following receipt of a recommendation to convert a position or group of positions through the conversion process, the Head of Service determines not to appoint the relevant employee(s), the Head of Service will provide written reasons for the decision. Notwithstanding the operation of this policy, a casual employee may make a request of the employing directorate or public sector body that their casual employment be converted to permanent under section 66F of the *Fair Work Act 2009*.
 29. Shared Services HR will maintain data on:
 - a. employees who are assessed and not offered conversion;
 - b. employees who are assessed, offered and accept conversion;
 - c. employees who do not accept an offer of conversion; and
 - d. the number of conversions and appointments made under this policy.

Responsibilities

30. The operation of the policy is the responsibility of the Workforce Capability and Governance (WCAG) division, Chief Ministers, Treasury and Economic Development directorate. The WCAG division schedules the quarterly secure workforce conversion consultation and distributes available data to directorates where this is held by Shared Services. The WCAG division provides the recommendations of the secure workforce conversion process to the Head of Service.
31. Directorates and public sector bodies are responsible for assessing their casual and temporary employees on quarterly basis with a view to ascertaining whether those employees should be converted to more secure employment under this policy. In addition to the identification and assessment every three months, directorates and public sector bodies are responsible for reviewing the employment status of their casual employees on a fortnightly basis to ensure that all casual employees receive correspondence within 21 days of their 12-month anniversary as required under section 66B of the *Fair Work Act 2009*.
32. Shared Services HR captures and stores the data that is produced by the directorates and public sector bodies as considered by the secure workforce conversion meetings.

Consultation

33. This policy was developed in consultation with the unions.

References

34. The key principles of this policy are aligned with the following authorised sources:

- a. [ACTPS Enterprise Agreements](#)
- b. [Casual Employees – Fact Sheet Understanding Casual Employment](#)
- c. [Casual Employees - Fair Work Ombudsman Casual Employment Information Statement](#)
- d. [Secure Workforce Conversion - Overview](#)
- e. [Public Sector Management Act 1994](#)
- f. [Fair Work Act 2009](#)

Further Information

35. For further information on this policy, please contact the Secure Employment team, Whole of Government Industrial Relations and Public Sector Employment branch, Workforce Capability & Governance division at the Chief Minister, Treasury and Economic Development directorate.

Review

36. This policy is due for review 3 years from the last issued or reviewed date, or earlier where there are changes that affect the operation of the policy.

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Approval Authority

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On behalf of the Head of Service

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