

ATTRACTION AND RETENTION INCENTIVES POLICY

Purpose

1. This policy sets out the mandatory guidelines for the use and approval of Attraction and Retention Incentives (ARInS).

Application

2. This policy contains a set of whole of government instructions issued by the Head of Service under the *Public Sector Management Act 1994* which binds all employees and officers engaged under that Act.

Principles

3. ACTPS Directorates/Agencies have a responsibility to ensure each ARIn:
 - a. complies with the terms of the relevant enterprise agreement;
 - b. can be justified based on relevant market comparators;
 - c. is properly approved;
 - d. is reviewed annually (at a minimum); and
 - e. is consistent with the guidance set out in this policy.
4. An ARIn is not an ongoing entitlement. The provision of an ARIn, even one that is implemented immediately upon commencement as part of a recruitment selection process, does not entitle the recipient to the benefits of the ARIn on a continuing basis.
5. Generally an ARIn will be paid as additional salary, but it can also include other non-pecuniary benefits.
6. Subject to the terms of this policy, the decision to create, vary or cease an ARIn rests with the Director-General of the relevant Directorate/Agency.
7. Before consideration can be given to an ARIn being offered, the substantive classification must be one contained in the relevant enterprise agreement and cannot be at an Executive level.
8. If the classification is assessed as being incorrect, the position should be reclassified. The position description and/or organisational structure of the business unit should be critically examined to assess if the duties of the role can be adjusted to mitigate the need for the ARIn.

Creating an ARIn for a New Employee

9. A recruitment selection process may incorporate an ARIn as follows:
 - a. advertise the position at a higher value, comprising the agreement rate of pay plus an identified ARIn amount or an additional condition of employment;
 - i. in these circumstances, pre-approval of the ARIn by the Head of Service, following a submission from the Director-General is required prior to advertising; and
 - ii. if/when the ARIn is implemented, a second submission to the Head of Service is not required; or
 - b. advertise the position at the rate of pay set out in the relevant enterprise agreement, and state that an ARIn may be available to the right applicant;

- i. in these circumstances pre-approval of the ARIn is not required, but if one is ultimately proposed to be offered to an employee, it would require approval by the Head of Service, following a submission from the Director-General.

NB: The approach b) is not recommended, as a better field of applicants may be attracted when a position is advertised with a higher identified salary and/or condition of employment.

10. Where a position is advertised with an ARIn included, the total package (excluding superannuation) should be disclosed and disaggregated to show:
 - a. the relevant enterprise agreement rate; and
 - b. the content of the ARIn, which is reviewable under the terms of this policy.
11. Applicants should be made aware the ARIn:
 - a. is reviewable every twelve months (at a minimum);
 - b. may be terminated, or have its value adjusted (either up or down); and
 - c. must continue to meet the eligibility criteria, including consideration of relevant market rates and/or changes to the operational requirements of the business unit.
12. Once in place, the ARIn is subject to the review arrangements set out in the ARIn framework.

Creating an ARIn for an Existing Employee

13. The Director-General may opt to implement an ARIn for an existing employee. In such circumstances a submission to the Head of Service is required.
14. A formal offer to the employee should not be made until the Head of Service submission process has been completed and the endorsement of the Head of Service received.
15. Once in place, the ARIn is subject to the ongoing review requirements set out in the ARIn framework.

Group Block Approvals

16. The Director-General may opt to implement the same ARIn for an identified group of positions which have the same classification and role.
17. Pragmatically, rather than provide approvals for multiple ARIns which contain the same terms and conditions, the Head of Service may provide a Group Block Approval for these ARIns. In such circumstances a submission to the Head of Service which addresses how the group of positions satisfy the eligibility criteria in the framework is required.
18. If the Head of Service endorses the proposal, the Director-General is entitled to enter into subsequent individual ARIns with the same terms with employees who fill positions referred to in the scope of the proposal. This may be current or prospective positions. The Director-General is not required to make further submissions to the Head of Service before entering into an individual ARIn with an employee covered by the scope of the Group Block Approval.
19. Once in place, the individual ARIns struck in accordance with the Group Block Approval are subject to the review arrangements in the ARIn framework. All individual ARIns made pursuant to a Group Block Approval may be reviewed at a common time, notwithstanding they may have commenced at different times.
20. A range of outcomes could arise from such reviews, including the following:
 - a. *Individual circumstances change:* An individual ARIn ceases on the basis the employee no longer satisfies the ARIn eligibility criteria (e.g. a medical practitioner that loses their registration).

- b. *Employee moves out of a role covered by Group Block Approval:* An individual ARIn ceases on the basis the employee is no longer in a position covered by the group proposal.
- c. *Role covered by Group Block Approval no longer eligible for an ARIn:* An individual ARIn ceases on the basis that the position covered by the Group Block Approval no longer satisfies the ARIn eligibility criteria. In such circumstances, all ARIns made pursuant to the same Group Block Approval will also be ceased (for example, where a group of Physiotherapist positions previously met the ARIn criteria, but no longer do so).
- d. *ARIn holder under a Group Block Approval has additional circumstances which warrant different benefits to the Group Block Approval:* An individual ARIn approved under a Group Block Approval may be varied separately from the other ARIns made pursuant to same Group Block Approval. This would be in circumstances where, following a review, a particular employee within the group justifies a different set of benefits than the rest of the group. In this case the ARIn ceases to be within the scope of the Group Block Approval.
- e. *The positions covered by a Group Block Approval require a variation of the conditions of their ARIns:* ARIns made under a Group Block Approval may be varied. This would be in circumstances where, following a review, it is determined that the role that all employees covered by the Group Block Approval perform justifies a variation to the benefits they receive in their ARIns.

ARIn Reviews

21. To ensure the position and the employee continue to meet the ARIn eligibility criteria contained in the enterprise agreement, a review must be conducted at least annually from the date the ARIn is signed (no less, but more regularly if required).
22. In carrying out a review the Director-General must ensure that sufficient information is gathered to assess whether the ARIn continues to meet the ARIn eligibility criteria contained in the enterprise agreement. The review must consider:
 - a. if the role is in high demand and the remuneration package offered is competitive;
 - b. whether the position continues to be critical to the operation of the directorate or business unit; including an assessment of the difficulty and cost associated with recruiting to the position in comparison to continuing to provide an ARIn;
 - c. evidence of the distinct and necessary skill set, qualifications and/or specialised experience required to perform the requirements of the role; and
 - d. whether the employee who occupies the position continues to possess the requisite skills, qualifications or experience.

Consultation with the Employee during an ARIn Review

23. The employee party to the ARIn must be consulted during the review process. In these consultations the employee may invite a union or support person to assist.
24. Where the employee is on long term leave (for example workers compensation, Maternity Leave or Personal Leave) reasonable attempts should be made to consult with the employee.
25. The mere fact that an employee is out of the workplace on leave does not preclude this consultation from occurring. Alternate means of communication may be adopted (e.g. by correspondence).
26. The employee's particular circumstances, including any possible negative impact consultation may have on them, should be considered when determining whether contact should be made, and if so, the most appropriate means of communication.

27. If particular concerns exist in relation to consultation with an employee who is on leave because of illness or injury it may be appropriate to liaise with their case manager (if any) before making contact.

28. In some cases it may also be necessary to seek GSO advice.

Head of Service Submissions

29. Following a review a submission to the Head of Service is required. There are two types of submissions, depending on the circumstances.

Comprehensive submission

30. The Director-General is required to provide a Comprehensive Submission to the Head of Service where:

- a. three years has elapsed since the last Comprehensive Submission;
- b. a position is advertised at a higher value than the substantive classification (i.e. comprising the agreement rate of pay plus the ARIn) (note this uses a different form (see Paragraph 34);
- c. a new ARIn is proposed for an existing employee;
- d. a new Group Block Approval is sought for an identified group of positions;
- e. following review it is determined that an individual ARIn or Group Block Approval should be varied; or
- f. following review, it is found that the ARIn eligibility criteria are no longer met.

31. Comprehensive Submissions must:

- a. address the requirements of the enterprise agreement (see Paragraph 22);
- b. assess whether the substantive role is correctly classified;
- c. assess whether the position's job description and/or organisational structure of the business unit can be adjusted to mitigate the need for the ARIn; and
- d. compare and provide evidence that the role and/or occupant justifies the additional remuneration and/or conditions proposed (e.g. market rate information).

32. Market rate information from remuneration or salary survey firms invariably identifies a broad range of salaries and packaging arrangements for many ACTPS roles. The purpose of obtaining market rate information is to set the boundaries within which the ARIn rate is to be struck. The relative position where the ARIn rests within a range of salary rates described by market rate information is a decision for the Director-General and which should be clearly explained in the Head of Service Submission.

33. The Comprehensive Submission must be completed using this [form](#).

34. Subject to Paragraph 30 a Continuation Submission is not required if the Director-General makes a Comprehensive Submission.

Continuation submission

35. The Director-General is required to provide a Continuation Submission to the Head of Service where:
 - a. following review, an individual ARIn or Group Block Approval should continue in the same terms; or
 - b. an employee party to an ARIn temporarily vacates the position, and approval is sought for the employee acting in the vacated position to receive the ARIn.
36. The Continuation Submission must contain a declaration from the Director-General that he/she considers that both the position, and the employee to which the ARIn relates continue to meet the ARIn eligibility criteria.
37. The Continuation Submission must be completed using this [form](#).
38. Subject to Paragraph 25 a Comprehensive Submission is not required if the Director-General makes a Continuation Submission.

Submission to the Head of Service When Advertising with Rate that includes an ARIn

39. When a recruitment selection process is proposed to include an ARIN, the submission to the Head of Service must address two issues:
 - a. the circumstances of the recruitment selection process (i.e. why an ARIn is necessary to be included in the advertised rate); and
 - b. the reasons in support of the ARIn itself (i.e. why the position meets the ARIn eligibility criteria).
40. With respect to the circumstances of the recruitment selection process, the content of the submission to the Head of Service should:
 - a. demonstrate the position (or a similar position) has recently been advertised without an ARIn and did not attract a suitable field; or
 - b. provide evidence that advertising at the enterprise agreement rate will not attract a suitable field.
41. The advertisement should not proceed, nor should an offer to the prospective employee be made, until the submission to the Head of Service has been completed and the endorsement of the Head of Service received. For clarity this means that selection panels should not negotiate starting salaries or other conditions of service which would require an ARIn without the approval of the Director-General and a submission to the Head of Service.
42. The Advertising With an ARIn Submission Form must be completed using this [form](#).
43. A Comprehensive Submission is not required if the Director-General makes a Continuation Submission.

Duration of ARIns

44. Each ARIn must contain an end date which is no later than 15 months after commencement.
45. For an ARIn to continue, the eligibility requirements set out in the EA must continue to be met.
46. If an ARIn is required for a specified project, the estimated period of the project should be specified in the ARIn, with review(s) scheduled in accordance with this policy and/or prior to its completion.

ARIns of Less Than 12 Month's Duration

47. Following a Comprehensive Submission, an ARIn may be struck for a term of less than 12 months.

48. The ARIn will cease automatically on the end date.
49. The review provisions of this Policy do not apply in this circumstance.
50. The ARIn cannot be varied, extended or continued.

Cessation and Notice Periods

51. If, following review, the position/employee to which the ARIn is provided is found to no longer meet the eligibility criteria in the ARIn framework, the ARIn will be ceased.
52. If, following review, it is determined that the ARIn continues to meet the eligibility criteria and the recipient works in the same position for which the ARIn was originally provided, the value of the ARIn may be adjusted (up or down) or left the same.
53. A period of 90 days written notice must be provided where the ARIn is varied or ceased. A shorter period may be agreed between the Director-General and the employee.
54. The notice period of cessation may cause the ARIn to run over 12 months duration. For example:
 - a. if a review is completed and notice of cessation given at the 8 month mark, the ARIn would cease at the 11 month mark; but
 - b. if a review is completed and notice of cessation given at the 13 month mark, the ARIn would cease at the 16 month mark.
55. All ARIns will automatically cease after their stated expiration date plus any notice period unless Shared Services is advised of the outcome of its annual review.
 - a. To facilitate notice to the employee in these circumstances, Shared Services will provide notice of the impending cessation of the ARIn to each ARIn recipient approximately 3 weeks prior to its stated expiry date.
 - b. This notice will not be issued where Shared Services has received the appropriate forms and the Head of Service Submission process is complete.
56. ARIns will also cease to operate for any of the following reasons:
 - a. the employee vacates the position to which the ARIn applies, including when the employee agrees to go unattached or is temporarily transferred to another position;
 - b. the position to which the ARIn applies is transferred to another Directorate/Agency as a result of government/management initiated changes, unless the gaining Directorate/ Agency determines, following a review, that the position and the occupant continue to meet the eligibility criteria; or
 - c. the enterprise agreement is replaced by a further enterprise agreement, unless that agreement deems that the ARIn will continue.
57. ARIns may also cease if as a finding arising from a misconduct matter the Delegate determines in accordance with the Enterprise Agreement that the sanction to be applied is termination of the ARIn.

Time Extensions to Complete Reviews

58. During 2015-16 the Office of the Deputy Director-General, Workforce Capability and Governance, CMTEDD on behalf of the Head of Service has extended to directorates additional time to complete ARIn reviews. This is in part to recognise that the new policy and ARIn processes were being developed and tested.
59. Directorates should note that from 1 July 2016 similar extensions will only be provided in exceptional circumstances.

Acting Arrangements

60. Where a person acts in a position (with or without Higher Duties Allowance) where an ARIn is in place, it is not automatic that the terms of the ARIn will apply.

61. In such circumstances, each case should be considered on its merits, and is subject to the approval of the Head of Service.

Union Consultation Requirements

62. If the proposed ARIn will replace or reduce an employment condition of the relevant enterprise agreement, the relevant union with coverage of the position to which the ARIn will be applied must be consulted about the proposed change.



Bronwen Overton-Clarke
Commissioner for Public Administration
on behalf of Kathy Leigh, Head of Service

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