

Secondments and Temporary Assignments

Contents

Authority and Application	1
Overview	2
Relevant provisions of the VPS Agreement.....	2
Supplementary Guidance Information	2
1. Prioritisation of mobility	2
2. Definitions.....	3
3. Secondments and temporary internal assignments.....	4
4. Giving effect to secondments and temporary internal assignments	4
5. Classification level of secondments and temporary internal assignments	5
6. The duration of a secondment or a temporary assignment	6
7. Reducing the period of a secondment or temporary internal assignment	7
8. Accommodating a secondment or a temporary internal assignment.....	8
9. Managing Employee performance and conduct during a secondment or a temporary internal assignment	8
10. Communications during a secondment or a temporary internal assignment.....	9
11. Transfer of leave entitlements during an external secondment.....	9
12. Taking leave during a secondment or a temporary internal assignment	9
13. Impact on continuity of service.....	9
Making decisions under this policy.....	9
Dispute resolution	10
Further Information.....	10
Related policies or documents	10

Authority and Application

Section 20(1), section 28, section 31 and section 31A of the *Public Administration Act 2004* (Vic) outline the powers of Public Service body heads with respect to employment and transfer.

Clause 15.2, clause 17.3 and clause 35.3 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement), apply to Victorian Public Service (VPS) Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

This common policy relates to movement of VPS Employees within and across Departments/Agencies to broaden their expertise and skill set and to facilitate deployment to priority projects or programs across the VPS. These opportunities may arise through a temporary internal assignment to other or different duties within their Department or Agency, an internal secondment to another position within their Department or Agency or external secondment to another Department or Agency. This Policy should be read in conjunction with the Mobility Principles and Payment Policy. This Policy, in conjunction with the Mobility Principles and Payment Policy, supports implementation of the public sector employment principles outlined in clause 8 of PA Act.

This policy establishes the principles for secondments and temporary assignments within the VPS, while not precluding such arrangements, this Policy does not seek to regulate the arrangements for employees undertaking assignments in the broader public or private sectors.

Relevant provisions of the VPS Agreement

Clause 15.1 and 15.2. Mobility Principles

The mobility principles in clause 15 of the Agreement provide a range of specific measures Employers may implement to promote greater workforce mobility over the life of the Agreement, including:

- A better approach to secondments, and enhanced promotion of and opportunities for secondments, job sharing and other reprioritisation of skills to ensure the right expertise informs policy and strategy development.

Clause 17.3. Use of Fixed Term Employment

In other than exceptional or unforeseen circumstances, fixed term appointments to a specific position will be for a maximum of three years, subject to clause 55 (Parental Leave).

This clause is to be read in conjunction with the amendments to the *Fair Work Act 2009* (Cth) that apply a limit to the use of fixed term contracts for the same role beyond two years (including extensions and renewals) or consecutive contracts including where the contract provides for renewal more than once (even where the total period is less than two years), subject to various exceptions. These provisions came into operation on 6 December 2023. (See Employment Categories and Secure Employment Common Policy). Further guidance on the implementation of these arrangements in the VPS was distributed to Departments on 7 December 2023.

Clause 35.3. Higher Duties allowance

Outlines that a higher duties allowance is payable where an Employee is required to undertake all or part of the duties of a higher classified position (including a position classified at a higher Value Range) for:

- (i) a period longer than five consecutive working days; or
- (ii) where the Employee works in the higher classified position on a regular and systematic basis.

Supplementary Guidance Information

1. Prioritisation of mobility

- 1.1. Clause 15 of the Agreement acknowledges that the work required of a modern career public service is not static but always changing and that embracing changing priorities is essential to providing secure, flexible employment in the public service.
- 1.2. Employees should be encouraged and supported to gain relevant, diverse and evolving skills and experience across the public service. Employers must interpret and apply this policy consistently with the mobility principles outlined in clause 15 of the Agreement.

2. Definitions

- 2.1. **Home organisation:** the organisation that an Employee is moving from or has moved from.
- 2.2. **Receiving organisation:** the organisation that an Employee is moving to or has moved to.
- 2.3. **Temporary internal assignment:** where an Employee is temporarily performing additional or different duties within the same Department or Agency, generally for a period of not more than six months, while the Employee's substantive position remains unchanged.
- 2.4. **Internal secondment:** the temporary movement of an Employee to a different position within the same Department or Agency, generally for a period of more than six months, as a result of recruitment or via recruitment exemption (such as an exemption from advertising).
- 2.5. **External secondment:** the temporary movement of an Employee from their home organisation to another position, either at the same or different classification level or value range, that is in another VPS Department or Agency. Where an Employee makes a request to undertake a secondment with an organisation outside the VPS, the Employee may be required to apply for leave without pay and permission to seek outside employment from the home organisation.
- 2.6. **Higher duties:** is not an employment category, but an entitlement that may apply as a result of an assignment or internal secondment to a higher classified position (including a position classified at a higher value range), where the Employee's substantive classification remains unchanged.
- 2.7. **Permanent move within Department / Agency:** the permanent move of an Employee to a different or new position within the same VPS Department or Agency, either at the same or a different classification level or value range, as a result of applying for an advertised vacancy, redeployment, organisational restructure or movement under the *Public Administration Act 2004* (Vic) (PA Act).
- 2.8. **Permanent move within VPS:** the permanent movement of an Employee to a different or new position within a different VPS Department or Agency as a result of applying for an advertised vacancy, redeployment, organisational restructure or movement under the PA Act. A transfer of personnel process provides that the Employee's continuity of employment is maintained under the PA Act.
- 2.9. **Redeployment Period:** the period within which an Employee who has been declared as surplus to requirements by their home/substantive Department/Agency (Redeployee) is provided assistance to find an alternative ongoing position within the VPS. The Redeployment Period must be for a minimum period of three months, unless otherwise agreed between the redeployee and the Department/Agency.
- 2.10. **Unattached:** where an Employee is no longer attached to a substantive position. Where this process occurs with respect to a secondment as described under the Policy, it requires agreement between the Employee and Employer, and active engagement with the Employee

to ensure that they understand and accept unattaching from their substantive position. The Employee remains the responsibility of their previous substantive area, even though they no longer hold a substantive position within that area.

3. Secondments and temporary internal assignments

- 3.1. An internal or external secondment may occur at the initiative of the Employer or an Employee, where an Employee is directly assigned to a position within the home organisation or a receiving organisation, and this assignment occurs with the mutual agreement of all parties.
- 3.2. An internal or external secondment may be utilised for a variety of circumstances, including but not limited, to:
 - 3.2.1. obtaining Employees for a short-term or defined task
 - 3.2.2. securing the services of Employees with specialised or technical skills, or lived experience, for specified input into a task
 - 3.2.3. supporting and enhancing professional development opportunities for Employees; or
 - 3.2.4. support changing government priorities or surge functions.
- 3.3. Where an Employee is offered an external secondment opportunity, their release to take up the secondment will be subject to an agreement between the Employee, the home organisation, and the receiving organisation, including regarding the duration of the secondment.
- 3.4. A secondment may be offered to a fixed term employee for a period not greater than the end date of their existing contract. Where a proposed secondment exceeds the current employment contract duration, it will not be a secondment but rather a new fixed term contract and will supersede any previous employment arrangements. Employers must ensure that any fixed term appointments are consistent with clause 17.3 of the Agreement and the fixed term contract limitations under the *Fair Work Act 2009* (Cth) (FW Act) (see also the Employment Categories and Secure Employment Policy). Where a secondment gives rise to a new fixed term contract, and the contract does not meet fixed term contract limitations or exceptions, Employers will be required to convert the fixed-term role to ongoing employment.
- 3.5. A temporary internal assignment may be offered to Employees as a development opportunity. However, managers should aim to share these opportunities fairly amongst Employees. If it becomes apparent that the temporary internal assignment or secondment is likely to extend beyond six months, Departments/Agencies should use their judgement to consider whether advertising the extended vacancy is appropriate, in line with merit-based selection principles and Jobs and Skills Exchange (JSE) recruitment policies.
- 3.6. Nothing in this Common Policy diminishes the powers of a public service body head assigning duties to an Employee in the public service under section 31A of the PA Act or to otherwise transfer an Employee to duties in another public service body or in a public entity in accordance with section 28 of the PA Act.

4. Giving effect to secondments and temporary internal assignments

- 4.1. In giving effect to an internal or external secondment or temporary internal assignment by the initiation of a fixed term contract for its duration, Employers should be mindful of the changes to the *Fair Work Act 2009* (FW Act), which took effect from 6 December 2023.

- 4.2. These amendments attempt to reduce the prevalence of fixed-term contracts of employment by applying a limit on the use of fixed term contracts for the same role beyond two years (including extensions or renewals) or consecutive contracts, including where the contract provides for renewal more than once (even where the total period is less than two years), subject to various exceptions.
- 4.3. These amendments will apply where fixed term contracts are used to give effect to secondments or temporary internal assignments, and those fixed term contracts are for the same role beyond two years (including extensions or renewals) or consecutive contracts, including where the contract provides for renewal more than once (even where the total period is less than two years). In these circumstances, the receiving organisation or program area may (subject to applicable exemptions) be compelled to make an offer of ongoing employment to an Employee who was undertaking a secondment or temporary internal assignment. This will be the case notwithstanding that the intent of the fixed term contract was to enable the temporary movement of an Employee across or within organisations and/or to temporarily assign different duties to an Employee. Subject to relevant exemptions, the obligation to convert the fixed term role to an ongoing role would apply regardless of whether the temporary duties provided were at the same or higher classification than the Employee's substantive position.
- 4.4. To ensure that secondments and temporary internal assignments operate as temporary Employee movements and/or temporary assignments of alternative duties, as intended under this Policy, it is recommended that Employers refrain from using fixed term contracts to give effect to such arrangements and consider alternative options including entering into a formal written secondment agreement between Employers or some other mechanism to evidence the arrangements.
- 4.5. At a minimum, it is expected that any such secondment agreement will outline the secondment details, the duration of the secondment and the date that the Employee will return to their substantive position in the home organisation/program area, any requirements for unattachment and the arrangements for the temporary transfer of leave and other accrued entitlements.
- 4.6. Employers may also elect to utilise existing powers and delegations under the PA Act, which govern the transfer and assignment of public service employees, including:
- 4.6.1. transfer of an Employee to duties in another public service body on terms and conditions of employment that are no less favourable overall for an agreed period (s28 of the PA Act), or
- 4.6.2. assigning an Employee to duties consistent with their employment classification, skills and capabilities within the public service body (s31A of the PA Act).
- 4.7. Where such powers are utilised, at the conclusion of the secondment or temporary assignment the same powers can be used to transfer or assign the Employee back to the home organisation/substantive program area. Alternatively, the home organisation and receiving organisation may agree to a permanent transfer under section 28 of the PA Act (see section 6 below).

5. Classification level of secondments and temporary internal assignments

- 5.1. A secondment or temporary internal assignment may result in an Employee being assigned duties at their substantive classification or at a higher classification level or value range than their substantive classification. Arrangements regarding classification level of secondments must be agreed to prior to the commencement of the secondment.

- 5.2. Where an Employee undertakes a secondment or internal temporary assignment, the Employee will remain employed at their substantive VPS classification level in their home organisation/substantive program area.
- 5.3. Where an employee undertakes an internal secondment or internal temporary assignment at a higher classification than their substantive classification, they may receive a higher duties allowance for the performance of duties at the assigned higher classification or value range in accordance with clause 35.3 of the Agreement.
- 5.4. With the exception of action taken because of an Employee's incapacity to undertake their duties, misconduct or unsatisfactory performance (or in accordance with any express power under an Act or enterprise agreement), an Employee cannot be seconded or temporarily assigned to a lower classified role without their consent.
- 5.5. Where an Employee undertakes an external secondment to another VPS Employer, the Employee is temporarily transferred to the position, either at the same or different classification within the receiving organisation. The terms and conditions, including policies, applicable to the position in the receiving organisation will become the Employee's terms and conditions for the duration of the external secondment. The receiving organisation will be the relevant Employer for the duration of the secondment, unless otherwise amended.

6. The duration of a secondment or a temporary assignment

- 6.1. The duration of an external secondment must be agreed between the home organisation, the receiving organisation and the Employee.
- 6.2. The duration of a temporary internal assignment or internal secondment must be agreed between the Employee, the Employee's substantive program area and the receiving program area. Where an Employee is temporarily assigned to additional or different duties (temporary internal assignment), that assignment should not extend beyond six months. If a temporary internal assignment needs to be extended beyond six months, it will be treated as an internal secondment and may be subject to recruitment policy requirements.
- 6.3. The receiving organisation and Employee may seek the agreement of the home organisation to extend the secondment beyond the period agreed under 6.1, subject to the total secondment period being no greater than three years.
- 6.4. An internal or external secondment would not normally exceed three years in duration (including the initial secondment period and any extensions) other than in exceptional or unforeseen circumstances, which may include:
 - 6.4.1. Unexpected resourcing needs
 - 6.4.2. Replacement Employees backfilling parental leave arrangements in accordance with clause 17.3(c) of the Agreement.
- 6.5. The home organisation and receiving organisation may agree to the permanent transfer of an Employee where it is deemed appropriate in accordance with section 28 of the PA Act, including in circumstances where a secondment extension request would result in an Employee being seconded to the receiving organisation for a period greater than three years. That extension may be granted where the receiving organisation agrees to the permanent transfer of the Employee and at the conclusion of the secondment, the Employee would remain the responsibility of the receiving organisation.
- 6.6. Internal and external secondments with a duration of 12 months and under will not require an Employee to unattach from their substantive position.

- 6.7. Where an internal or external secondment is proposed to extend beyond 12 months, whether by extension or from commencement, the substantive program area/home organisation may agree to the secondment provided that the ongoing Employee agrees to unattach from their substantive position with the home organisation or substantive area. In these circumstances, unattaching is to occur prior to the commencement of the secondment or the extension of the secondment.
- 6.8. An Employee will not be required to unattach from their substantive role where they are assigned to a role in accordance with processes described under the Mobility Principles and Payment Policy.
- 6.9. An Employee unattaching from a position under this Policy will occur only where it is agreed to by both the Employer and the Employee.
- 6.10. Unattaching from a position should only be considered by a substantive program area/home organisation where the initial secondment duration proposed is more than 12 months and/or the secondment is proposed to be extended beyond 12 months and/or when an employee has been on secondment for more than 12 months (including where the duration of the initial secondment and any extensions has exceeded three years). Unattaching may also be considered in exceptional circumstances, including where backfill of a position is not reasonably achievable or where other internal mobility options or options for temporarily filling the role or duties have been exhausted.
- 6.11. Unless there has been a permanent transfer in accordance with section 6.5, where an Employee agrees to unattach from their substantive position in order to undertake or extend an internal or external secondment, the Employee will remain the responsibility of their home organisation and/or substantive work-area at the conclusion of their secondment. The Employee's substantive work area will retain the responsibility for assigning the Employee to a position or duties other than their pre-secondment or pre-temporary assignment position, that are commensurate with their classification, skills and capabilities.
- 6.12. After making reasonable attempts to find alternate duties, if no suitable position or duties are available for the Employee, the Employee may be identified as surplus to the organisation's requirements and a redeployment process will commence. The Employee's substantive organisation and/or substantive work area is responsible for managing the Redeployment Period.
- 6.13. Where it is agreed that an Employee will partake in a secondment or temporary assignment on the condition that they unattach from their substantive position, this agreement should be recorded in writing and placed on the Employee's personnel file.
- 6.14. It is also recommended the Employee be required to acknowledge they are aware they may be declared surplus to requirements, and subject to a Redeployment Period, in the event there is no suitable position or duties available for the Employee upon their return to their home Employer or substantive program area.
- 6.15. In all other circumstances the Employee will return to their substantive position at the agreed conclusion of their internal or external secondment, or a comparable role if the substantive position no longer exists.

7. Reducing the period of a secondment or temporary internal assignment

- 7.1. The duration of an external secondment may be reduced or terminated with the agreement of the home organisation, receiving organisation and the Employee. The duration of an internal

secondment or temporary internal assignment may be reduced with the agreement of the Employee, the Employee's substantive program area and the receiving area.

- 7.2. An internal secondment or temporary internal assignment may be terminated prior to its scheduled end, where it is reasonable to do so, or on request by the Employee. Without limiting the circumstances where early termination may occur, this may include operational reasons, a change in resources or the Employee's conduct or poor work performance.
- 7.3. An Employee's request for early resumption of their substantive position during a period of internal or external secondment or temporary internal assignment will be considered by the substantive program area/home organisation, taking into account the workplace's ability to accommodate the request, including any arrangements made to backfill the Employee's position and any special circumstances relating to the Employee, including concerns regarding their health and wellbeing.

8. Accommodating a secondment or a temporary internal assignment

- 8.1. Where an Employee has been offered or is deployed to an internal or external secondment or temporary internal assignment, the home organisation or the Employee's substantive program area should consider the following factors when determining if a secondment or a temporary internal assignment can be reasonably accommodated:
 - 8.1.1. nature and practicality of the request
 - 8.1.2. the impact on the workplace and business including service delivery, efficiency and productivity
 - 8.1.3. Employee resourcing needs and the effect of the proposed secondment or temporary internal assignment on the team and workload
 - 8.1.4. potential professional development benefits to the Employee by undertaking the secondment or temporary internal assignment
 - 8.1.5. mobility principles outlined in clause 15 of the Agreement
- 8.2. An Employee's request for a secondment, secondment extension or temporary internal assignment must not be unreasonably refused.
- 8.3. If an Employee's request for an internal or external secondment, secondment extension or temporary internal assignment is refused by the home organisation or the Employee's substantive area, the reasons should be discussed with the Employee and communicated in writing within a reasonable timeframe.

9. Managing Employee performance and conduct during a secondment or a temporary internal assignment

- 9.1. The receiving organisation or receiving program area is responsible for an Employee's Performance and Development Plan while an Employee is on a secondment or a temporary assignment. However, the Performance Development and Progression common policy makes it clear that performance reviews should take into account all of the roles performed during that period to ensure the performance review is meaningful. This process may require input and involvement from multiple managers across VPS Employers.
- 9.2. The home organisation of a seconded Employee should be made aware of any progression payments received by the Employee, as they will carry over to the home organisation once the Employee returns.

- 9.3.** Any conduct or performance management issues that may arise while an Employee is on secondment or temporary internal assignment are the responsibility of the receiving organisation or receiving program area in the first instance. Notwithstanding this section, as per section 6, an internal secondment or temporary internal assignment may be terminated prior to its scheduled end where there are concerns by the receiving area regarding the Employee's conduct or poor work performance.
- 9.4.** Any specific conduct or performance issues which arise during an employee's period of secondment or temporary internal assignment should be discussed with the employee's line manager in the home organisation/substantive program area in a timely manner before the employee's period of secondment or temporary internal assignment ends and they are due to return to the home organisation/substantive program area.

10. Communications during a secondment or a temporary internal assignment

- 10.1.** It is recommended the home organisation or substantive program area maintains contact with the Employee about any decision to introduce a major change likely to have a significant impact on the Employee.
- 10.2.** In the case of a machinery of government change or an organisational restructure at the Employee's home organisation, Employees on secondment or on a temporary internal assignment should receive the same degree of consultation, information and advice as all affected Employees.

11. Transfer of leave entitlements during an external secondment

- 11.1.** An Employee's leave entitlements including annual leave, personal leave and long service leave accrued at their home organisation will transfer to the receiving organisation while the Employee is on an external secondment. Similarly, any leave entitlements accrued but not yet taken while on external secondment will be transferred back to the home organisation once the Employee returns.

12. Taking leave during a secondment or a temporary internal assignment

- 12.1.** It is the responsibility of the receiving organisation/area to manage leave requests made by Employees during a secondment or temporary internal assignment.
- 12.2.** The Employee must communicate leave requests to their home organisation/substantive program area in situations where the duration of the leave will exceed the duration of the secondment/temporary internal assignment.

13. Impact on continuity of service

- 13.1.** An external secondment of an Employee to a fixed term position in another public service body does not constitute a break in an Employee's continuity of service, termination or resignation of their employment from their home organisation.

Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an Employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an Employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

Dispute resolution

An Employee who is directly affected by a decision made or action taken pursuant to clause 15.2, 17.3 or 35.3 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 13 of the Agreement.

Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

Related policies or documents

VPS Agreement Common Policies

- Mobility Principles and Payment
- Other Leave
- Review of Action
- Redeployment
- Employment Categories and Secure Employment

All policies in the VPS Enterprise Agreement common policies collection can be found at <https://www.vic.gov.au/common-policies-victorian-public-service-enterprise-agreement>

Authorised by Industrial Relations Victoria:

Key Details	Date
Version	Final As Approved (with updates following FWA amendments effective 6 December 2023)
Date	January 2024

If you print and store this document, you may be looking at an obsolete version. Always check the latest version of this document on the intranet.