



ACT
Government

Unattachment Policy

Office of Industrial Relations and
Workforce Strategy

Chief Minister, Treasury and Economic Development Directorate (CMTEDD)

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Unattachment Policy

Introduction / Purpose

1. The purpose of the Unattachment Policy (the policy) is to outline the process for managing unattached officers in the ACTPS.
2. 'Unattachment' in the ACT Public Sector (ACTPS) is a process under the *Public Sector Management Act 1994* (PSM Act) which severs the link between an officer and their nominal office or position of employment. The unattached officer's employment relationship remains in place, however they are placed in an unattached position number and their previous position number becomes nominally vacant.
3. Upon becoming unattached, the officer's entitlements and conditions of service remain unaffected. As far as practicable, the officer continues to exercise the relevant job functions at the same classification level that they had immediately before unattachment, unless they are on leave, on a temporary transfer within another position, or at such time that they are permanently transferred/redeployed into a new position at level or permanently vacate the role (through promotion, retirement etc).

Application

4. This policy contains a set of whole-of-government guidelines issued by the Head of Service and applies to all officers engaged under the *Public Sector Management Act 1994* (PSM Act).
5. This policy applies to permanent officers appointed under the PSM Act only. It does not apply to temporary employees, casual workers, executive officers or contractors of the ACTPS.
6. All directorates and agencies are expected to adhere to the overall intent of this policy. However, directorates and agencies may put in place their own policy and procedural documents which recognise differences in their operating environments and organisational structures. For the purposes of this policy, any reference to directorates also denotes agency responsibilities.

Key Legislative Provisions

7. The term 'office' is defined under section 23 of the PSM Act. An office:
 - a. must belong to a specific administrative unit, such as a directorate;
 - b. must be at a particular classification¹; and
 - c. can either be full-time or part-time.
8. The *Legislation Act 2001* also defines 'office' to include position. As such, the terms 'position' and 'office' may be used interchangeably.

¹ Classification, for an office, under the Dictionary of the PSM Act means:

- a. if a classification in an industrial instrument that applies to the office - the classification; or
- b. in any other case—a prescribed classification under Part 3.10 of the Public Sector Management Standards (PSM Standards) 2006.

9. Division 5.9 of the PSM Act provides direction on unattachment processes. Generally, the head of service (or delegate) may, with the written consent of an officer, state in writing that the officer will become unattached on a particular day. In considering the unattachment of an officer, the delegate should consider their ability to place the permanent officer in another vacant position at the equivalent classification.
10. When an officer becomes unattached, this allows the directorate to fill the office permanently. This is considered essential in certain circumstances; particularly where permanent placements allow the directorate to function efficiently due to their operational requirements.
11. Please note that the enterprise agreement, Division 5.2 (reclassification of office), Division 5.7 (training office) and section 115 and 123 (reduction in classification or medical retirement) of the PSM Act provide direction where unattachment may occur in a process without requiring consent from the employee.

Principles

12. In accordance with the public sector principles set out in section 8 of the PSM Act, unattachment arrangements must be exercised in a fair and non-discriminatory manner.
13. The PSM Act and ACTPS Enterprise Agreements outline the various processes for unattachment and the circumstances in which it can occur. Circumstances where an officer may become unattached include:

PSM Act Provisions (see Attachment A)

- a. their office is reclassified to a higher classification (Div 5.2, section 61(1) of the PSM Act);
- b. a medical assessment by an authorised doctor has determined that they are incapacitated and cannot perform the functions required of their position, resulting in the delegate declaring them to be unattached on medical grounds (section 115 of the PSM Act);
- c. a medical redeployment process is being undertaken and their Director- General/Chief Executive Officer has declared, in consultation with the head of service (or delegate), the officer to be unattached at a lower classification (section 123 (2)(a)(ii) of the PSM Act);
- d. the officer has completed their required training for a training office (Div 5.7, section 106(2) of the PSM Act), and there is no vacant related office for the officer;
- e. there is otherwise written consent between the head of service (or delegate) and officer for the officer to become unattached (Div 5.9, section 114 of the PSM Act) for reasons including, but not limited to:
 - i. the officer is planning to be absent or will be absent for a significant period of time (generally longer than 12 months) or has uncertainty around their return to work for example:
 - taking leave, including Other Leave and Grandparental Leave;
 - taking a combination of consecutive leave types prior to retirement;
 - undergoing long-term staff development;
 - temporary transfer/acting opportunities; or
 - being seconded to another employer.

Enterprise Agreement Provisions (see Attachment B)

- f. they are permanently transferred to a lower classification level following an underperformance process (clause H2.17.4 of the relevant 2023-2026 enterprise agreement/ clause H4.17.4 of the relevant 2021-2022 enterprise agreement) and no position/vacancy at the lower level is available;
- g. they are permanently transferred to a lower classification level following a misconduct investigation (clause G9.2.3 of the relevant 2023-2026 enterprise agreement/ clause H11.2.3 of the relevant 2021-2022 enterprise agreement) and no position/vacancy at the lower level is available.

Circumstances where unattachment should be considered

- 14. Prior to approving an application for an officer to be absent from their office for an extended period of time (generally longer than 2 years), for whatever reason, the directorate should first have discussions with the officer on the possibility of becoming unattached from their permanent position. The reason for this is to minimise operational disruptions and avoid a domino effect of insecure work for other employees.
- 15. Approval by the directorate for an officer to be absent from their office for an extended period of time (generally longer than 12 months) may be conditional upon the officer consenting to become unattached from their permanent position.
- 16. Whilst officers are encouraged to broaden their experience across the ACTPS by applying for temporary vacancies within and outside their work areas, longer term periods of absence for over 12 months may contribute to the operational disruptions of their work area and unattachment should be considered as part of the transfer approval process.
- 17. Directorates should actively manage the approval process for officers who are expected to be absent from the workplace for an extended period of time. Requests to approve extensions of cumulative temporary transfers should be documented and reviewed when the officer has been absent for more than 12 months, and if appropriate, made conditional upon consent to unattachment.

Procedure

- 18. A [Declaration of Unattachment form](#) must be completed by managers who are arranging for an officer to become unattached from their office.
- 19. The relevant delegate may approve the application where it is determined that the application meets the relevant requirements in accordance with the unattachment provisions.
- 20. Once approved, the officer receives an email that includes the Declaration of Unattachment agreement. The officer is responsible for consenting to the unattachment by signing the agreement where consent is required. There are instances where consent is not required from an employee, for example a reclassification process in accordance with section 65(1)(a) or section 115 of the PSM Act, and this may be noted on the form.
- 21. Where relevant, this agreement is attached to the Declaration of Unattachment form, which is sent to Payroll Services for processing.
- 22. The delegate and the directorate HR area should consider the unattached officer for any suitable vacant positions and transfer the unattached officer into a suitable vacant position at the earliest opportunity where the employee returns to their unattached position.

23. **Attachment A** outlines the various situations where an officer can become unattached and the processes that may follow.
24. **The Unattachment Officer Communications Guidance Material** outlines the various template letters that can be used in the unattachment process depending on the relevant circumstances.

Administrative arrangements for unattached officers

25. By declaring unattachment, the directorate is committing to finding a suitable office at level for the unattached officer at the relevant time.
26. Under section 114(3) of the PSM Act, unless otherwise agreed between the head of service and the unattached officer, the unattached officer must:
 - a. be included in the administrative unit where they occupied an office immediately prior to becoming unattached;
 - b. have the classification of the office that they occupied immediately prior to becoming unattached; and
 - c. have the hours of attendance of the office that they accrued immediately prior to becoming unattached.
27. The head of service and unattached officer could also agree for the officer to be included in a different administrative unit, following consultation between the Director-General of the receiving administrative unit and head of service.
28. Under section 65(2) of the PSM Act, if the head of service changes the office occupied by the officer to a higher classification, the office becomes vacant and the officer occupying the office also immediately becomes unattached.
29. A [Second Jobs Application form](#) under section 244 of the PSM Act and section 108 of the PSM Standards 2016 may need to be completed if applicable (i.e. where the officer has chosen to be made unattached due to long term leave to engage in other employment opportunities). Please refer to the [Second Jobs and Volunteering Policy](#) available on the ACTPS Employment Portal for further information.
30. If the officer is continuing to perform their work-related duties while being unattached, they are entitled to be paid a salary at the applicable rate of their classification prior to unattachment until they are transferred (temporarily or permanently) or promoted to another office or resign/retire from the ACTPS.
31. An unattached officer also retains all the entitlements they had immediately before the unattachment. Entitlements includes paid annual leave, long service leave, any flextime balances and any necessary allowances. Where possible, an unattached officer should be provided with an opportunity to exhaust their flextime balances before becoming unattached.
32. Directorates may require specific divisions or branches to take responsibility for the placement of the officer. This should be resolved at the directorate level if possible. For example, this could include officers who have a specialised set of skills or accreditations, such as in the teaching or medical-related fields.

Appointment as unattached officer

33. Under section 116 of the PSM Act, and in accordance with section 41 of the PSM Standards 2016, a person may be appointed as an unattached officer under section 68(1) of the PSM Act (Appointment to a vacant office) if the head of service states, in writing:

- a. the administrative unit in which the person will be included;
 - b. a classification for the person, having regard to the functions to be exercised and the person's qualifications; and
 - c. the hours of attendance for the person.
34. A former officer of the ACTPS may also be reappointed as an unattached officer under section 117 of the PSM Act. The unattached officer is included in the administrative unit in which they were employed by immediately before unattachment and retains the classification and hours of the office they previously held.
35. A former officer may also be reappointed as an unattached officer under section 136 (Reappointment of officer if unsuccessful election candidate) and section 137 (Reappointment of officer after quashing etc of conviction) of the PSM Act.

Where consent has not been provided

36. In the circumstances where an officer is required to provide consent to unattachment, however does not consent to become unattached, the head of service may consider alternative options in regard to the arrangements for the officer, including (but not limited to):
- a. withholding or rescinding approval for the temporary transfer, or extensions to the transfer, of the officer and requiring them to return to their office (for example, where the officer transfers to another directorate or is seconded to another employer for over 12 months); or
 - b. withholding or rescinding approval for leave, or extensions of leave, of the officer and requiring them to return to their office.

Placing unattached officers into suitable positions

37. Placement of an unattached officer in a permanent position depends upon the availability of a suitable vacancy as well as the skills and experience of the officer. The decision to place an unattached officer into a suitable vacancy is not subject to appeal.
38. If a permanent position is not available, an unattached officer will be placed in temporary roles until a permanent position becomes available.
39. For administrative purposes, an unattached position number is created and maintained for the unattached officer. The officer can be held against their unattached position number for a period of time (generally 3 to 6 months) until an alternative suitable permanent or long-term temporary position is identified. It is preferable that a permanent placement is found for unattached officers as soon as possible. If necessary, the officer can be placed in more than one temporary role until a suitable permanent position has been identified.
40. The directorate should actively monitor potential and upcoming vacant positions and assess whether it would be appropriate to place the unattached officer into those positions before a recruitment process commences. The directorate should work and consult with the employee to find a suitable vacant position.
41. Unattached officers who return to duty from a period of long term leave should also be found a suitable vacant position at the earliest opportunity and transferred into a position within 3 to 6 months of their return. The officer will remain in their unattached position number until such time the transfer into a permanent position occurs.

42. Unattached officers returning to work after a period of unpaid parental leave should be provided with the opportunity to return to their pre-parental leave position. If the position no longer exists, a similar and suitable vacant position at level must be provided to the officer (section 84 of the *Fair Work Act 2009*).
43. In the event that there has been a genuine attempt at locating a suitable vacant position and all placement opportunities are exhausted, the unattached officer may be regarded as a potentially excess officer. If this occurs, redeployment and redundancy provisions under section L of the relevant enterprise agreement may apply.

Responsibilities

Officer

44. The officer is responsible for:
 - a. understanding and considering the implications of becoming unattached prior to making their decision, including understanding that:
 - i. they will have an unattachment position number assigned to them
 - ii. they retain all their staff entitlements immediately as before the unattachment occurred;
 - iii. the directorate will actively work on identifying suitable positions for them at the equivalent classification at the relevant time; and
 - iv. in the event that all placement opportunities are exhausted, they may be regarded as a potentially excess officer, in which case redeployment and redundancy provisions under section L of the relevant enterprise agreement may apply.
 - b. having open discussions with their manager (and delegate if relevant) regarding the reasons for their unattachment, such as for secondment or career development opportunities; and
 - c. actively work with their directorate to apply for suitable vacant positions identified on their behalf within and outside of their area.

Manager and Directorate

45. The manager and the home directorate are responsible for:
 - a. having the overall accountability for placing the unattached officer into an identified, suitable and vacant position at the officer's nominal level without a further merit selection process under Division 5.6 of the PSM Act (though the process may vary between areas);
 - b. if the officer is returning to duty, ensuring that suitable vacant positions for them are identified and made available at the earliest opportunity, or within 3 to 6 months of their return;
 - c. planning for the permanent placement of unattached officers by monitoring any actual and potential vacancies across the dates for when the officer is on leave and expected to return to duty;
 - d. actively managing the unattachment process with a view of minimising the number of unattached officers at any given point in time;
 - e. in accordance with section 113 of the PSM Act, keeping any appropriate records of their unattached officers including the functions for which they were engaged for; and

- f. carefully considering the consequences of making an officer unattached and their ability to find a placement for the officer at some point in the future, such as being satisfied that they will be able to place the officer in another vacant position.

Consultation

46. This policy was developed in consultation with People Forum, Unions and the ACT Government Solicitors' Office.

References

47. The key principles of this Policy are aligned with the following authorised sources:
 - a. [Public Sector Management Act 1994](#)
 - b. [Public Sector Management Standards 2006](#)
 - c. [Public Sector Management Standards 2016](#)
 - d. [Fair Work Act 2009](#)
 - e. [ACTPS Enterprise Agreements](#)
 - f. [Medical Redeployment \(Non-Compensable\) Policy](#)
 - g. [Excess Officer Policy](#)
 - h. [Second Jobs and Volunteering Policy](#)

Further Information

48. For further information on this policy, please contact the Office of Industrial Relations at eba@act.gov.au.

Review

49. 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

This policy is approved by

Executive Group Manager

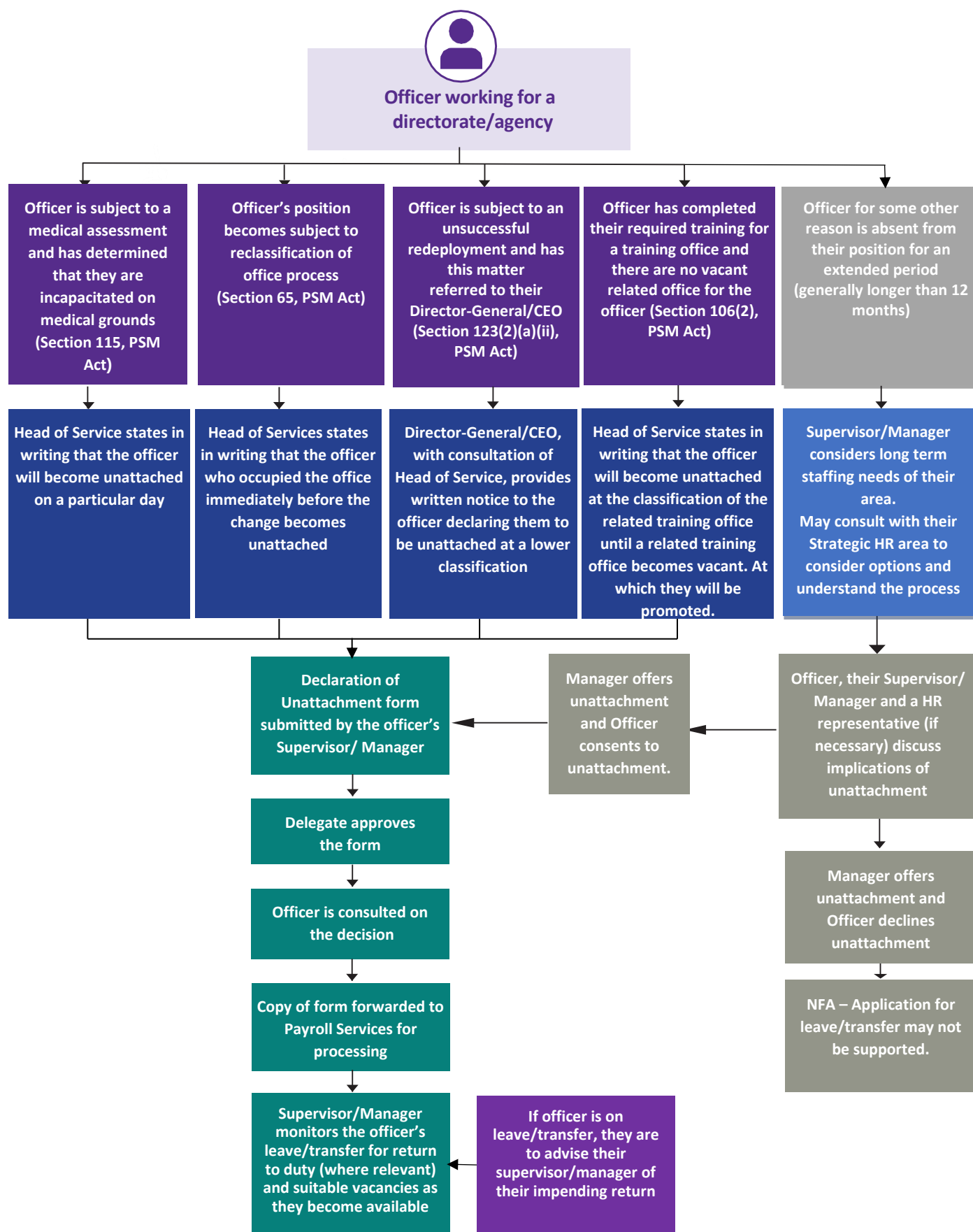
Office of Industrial Relations and Workforce Strategy

Chief Minister, Treasury and Economic Development Directorate

On behalf of the Head of Service

22 December 2024

Attachment A – Summary of Unattachment Process – PSM Act



Attachment B – Summary of Unattachment Process – Enterprise Agreement

