

MOBILITY PRINCIPLES AND PAYMENT

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Authority and Application

Clause 15 and 16 of the *Victorian Public Service Enterprise Agreement 2020* (the Agreement), applies to Victorian Public Service (VPS) Departments and Agencies (Employers) and their Employees covered by the Agreement.

Overview

Clause 15 of the Agreement sets out mobility principles which will be operationalised over the life of the Agreement, through changed workplace practices, modes of work and service delivery.

Clause 16 of the Agreement sets out an Employee's entitlement to be paid an annual mobility payment.

Clause 15 and 16 of the Agreement establishes the principles for mobility 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 – Mobility Principles

Clause 16 – Mobility Payment

Supplementary Guidance Information

1. Prioritising workforce mobility

- 1.1. Clause 15 of the Agreement sets out the following mobility principles that are aimed at promoting workforce mobility across the VPS:
 - 1.1.1. The work required of a modern career public service is not static but always changing, due to factors such as new government priorities, population growth, the pace and scale of technological advancement, changing community service delivery expectations and the need to respond to evolving complex public policy problems or crises
 - 1.1.2. Embracing changing priorities is essential to providing secure, flexible employment in the public service. Within the framework of secure employment (clause 17 of the Agreement) and flexibility (clause 8 of the Agreement), the importance of ensuring that VPS Employees can be responsively deployed to support changing government priorities is acknowledged
 - 1.1.3. Victoria's public service is a professional public service and is a career path of choice. VPS employment careers can go beyond a fixed role with a specific Employer in a single location. VPS Employees are encouraged to gain relevant, diverse and evolving skills and experience across the public service, appropriate for facilitating delivery of government's priorities as they change over time
- 1.2. The mobility payment recognises the inclusion in the Agreement of a range of specific measures that Employers may implement to promote greater workforce mobility over the life of the Agreement. In particular, there is agreement:
 - 1.2.1. to the principles of mobility and acknowledgement that all other clauses in the Agreement will be interpreted and applied consistently with these mobility principles
 - 1.2.2. that mobility may manifest over the life of the Agreement in a range of specific ways, listed in clause 15 of the Agreement
 - 1.2.3. that major change processes must have regard to these agreed principles (see clause 11.6(c)(ii) of the Agreement), and
 - 1.2.4. to new arrangements where an Employer wishes to change an Employee's usual place or places of work on a temporary or permanent basis.
- 1.3. While the mobility principles aim to facilitate improved workforce mobility in a range of specific ways, the payment of the mobility allowance is not dependent on any of these individual actions occurring. Payment is made in recognition of the inclusion of mobility provisions which will facilitate these changes occurring over the life of the Agreement, where Employers elect to implement them.

- 1.4. Clause 15 of the Agreement provides the framework for the Employer to pursue a range of changed workplace practices, modes of work and service delivery, subject to the appropriate protections outlined in clause 15.3 of the Agreement.
- 1.5. Employment decisions made under this Policy must be in accordance with the Victorian Public Sector employment principles contained in section 8 of the *Public Administration Act 2004* (PA Act).
- 1.6. Nothing contained in this Policy varies or alters the requirement of Employers to consult with Employees under clause 11 of the Agreement in the event of major change likely to have a significant effect on Employees or where there is an obligation to consult with or consider Employee alternative proposals in accordance with clause 19 of the Agreement where there is a proposed change to an Employee's usual place or places of work.

2. Definitions

- 2.1. **Workforce mobility:** the movement of Employees within and between VPS Departments and Agencies, at the initiative of an Employee or Employer, including situations where mobility across the VPS is required to meet surge requirements or changing government priorities. Workforce mobility may occur through a range of mechanisms, including temporary internal assignments, internal and external secondments, or transfers under the *Public Administration Act 2004* (Vic) (PA Act).
- 2.2. **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.
- 2.3. **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 transfer via recruitment exemption (such as an exemption from advertising).
- 2.4. **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.
- 2.5. **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 PA Act.
- 2.6. **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.
- 2.7. **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.

- 2.8. Unattached:** where an Employee is no longer attached to a substantive position. Where this process occurs with respect to a secondment, 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. Interaction with the requirements of the *Public Administration Act 2004*

- 3.1.** Section 28 of the PA Act gives a public service body head the power to transfer an employee to duties in another public service body or in a public entity on terms and conditions of employment that are no less favourable overall. A transfer under this section may be permanent or for a fixed term.
- 3.2.** Section 31A of the PA Act provides that a public service body Head may assign to an employee in the public service body duties consistent with their employment classification, skills and capabilities.
- 3.3.** In 2008, the PA Act was amended to ensure that the heads of public service bodies have clear and adequate powers to¹:
- 3.3.1.** assign work to employees that is different to the work that they were hired to do
 - 3.3.2.** transfer employees from one position to another both within and between departments and agencies
 - 3.3.3.** determine the appropriate remuneration to be paid to employees
 - 3.3.4.** modernise the way in which the movement of employees in the public sector is managed by giving the heads of public service bodies, and employees, more flexibility in initiating such movements
 - 3.3.5.** assign employees to new or different duties, or to perform their normal duties at a different location, recognising that in relation to the assignment of new or different duties, it is critical that heads of public service bodies have clear powers to do so, particularly in emergency situations
- 3.4.** Section 8 of the PA Act outlines a set of public sector employment principles. Under this provision, Employers must establish employment processes that will ensure that:
- 3.4.1.** Employees are treated fairly and reasonably
 - 3.4.2.** employment decisions are based on merit
 - 3.4.3.** equal employment opportunity is provided
 - 3.4.4.** human rights as set out in the Charter of Human Rights and Responsibilities are upheld
 - 3.4.5.** Employees have a reasonable avenue of redress against unfair or unreasonable treatment
 - 3.4.6.** the development of a career public service is fostered

¹ See second reading speech of Hon J.M.Madden MP (Minister for Planning) from 13 November 2008.

- 3.5. Section 62 of the PA Act requires the Victorian Public Sector Commission to issue binding standards concerning the application of the employment principles outlined at section 8 of the PA Act.
- 3.6. Mobility as contemplated by the Agreement and in this Policy must be considered within this framework and be consistent with these objectives.

4. Promotion and recognition of mobility within the service

- 4.1. Employees should be encouraged to gain relevant, diverse and evolving skills and experience across the public service in acknowledgement that a capable and mobile workforce is important to ensure the VPS can be responsively deployed to support changing government priorities and meet workforce surge demands.
- 4.2. Workforce mobility measures are not intended to adversely affect Employees' overall employment security within the VPS or otherwise disadvantage Employees in their employment. Workforce mobility measures will be regarded favourably and not place that Employee at a disadvantage for the purposes of performance development and progression (see clause 15.3(d) of the Agreement).
- 4.3. 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. In developing performance and development plans, individual managers and Employees may consider whether any specific mobility measures could assist an Employee to realise their career goals.

5. Workforce planning and appropriate resource management

- 5.1. Government priorities will always evolve and change over time. In fiscally constrained environments it is imperative that Employers are able to utilise their resources to respond to shifting priorities, adapt to changing operational environments and meet fluctuating work demands, while maintaining a healthy and safe work environment. Where possible, Employers should proactively anticipate and identify ongoing and future workforce needs as part of their business-as-usual operations. Opportunities for Employees to be responsively deployed to support changing government priorities or key functions should be explored where feasible.
- 5.2. Where vacancies arise the Department/Agency should first undertake an assessment as to whether the tasks associated with that role continue to be required and, if so, whether it is reasonable to expect that Employees within the organisation will have the appropriate capability and capacity to undertake the required work including, where relevant, the necessary lived experience to properly undertake the role.
- 5.3. Employers may consider whether internal vacancies can reasonably be filled by assigning current Department/Agency Employees to the role *prior* to considering whether the roles should be filled by advertising in accordance with usual recruitment practices. Prioritising current Employees for internal roles (instead of advertising on the Jobs and Skills Exchange (JSE) or externally) may occur in a range of circumstances. This includes, but is not limited to, where vacancies arise due to creating new business-as-usual roles, organisational restructures and redesign as a result of changing government priorities, and when new priority tasks or functions are assigned to the Department or Agency.
- 5.4. Unless exceptional circumstances arise, Employers will seek, where possible, to assign current Employees within the Department/Agency to such roles *prior* to the organisation considering whether the roles need to be advertised. Exceptional circumstances which may warrant such roles being directly advertised on the JSE may include:

- 5.4.1. situations where previous attempts to fill a same or similar vacancy internally has been unsuccessful within the last three months, or
 - 5.4.2. where workforce planning indicates it is not reasonable to expect that Employees within the organisation will have the appropriate capabilities and/or capacity to undertake the required work, or
 - 5.4.3. where doing so would create significant operational or service delivery issues in other areas, or
 - 5.4.4. where the new roles or functions are identified special measure roles targeting priority diversity cohorts.
- 5.5. This internal workforce planning process will occur prior to advertising remaining vacancies on the JSE. It is only once vacancies are determined to be not suitable for internal mobility that they should be advertised on the JSE and the JSE Recruitment Policy and Robust Assessment Guidelines will then apply.
- 5.6. This process and the process described at section 6 applies to managing vacancies that have arisen due to shifting government and organisational priorities. Where individual vacancies arise in an organisation, which are not due to broader changes in government or organisational priorities or where the new roles or functions include identified special measure roles targeting priority diversity cohorts, the Department/Agency may consider adopting this process prior to advertising, though are not obligated to do so and may proceed to advertising the vacant roles without undertaking this process.

6. Assigning Employees to vacant roles within a Department or Agency

- 6.1. Employees may be assigned to vacancies within their Department/Agency, which are commensurate with an Employee's classification, skills and capabilities, without otherwise impacting on an Employee's employment security. Where an Employee is assigned to a role through this process, they will not be required to unattach from their substantive role. However, there may be occasions where, following consultation with an Employee (and in accordance with usual recruitment practices), the Employee is substantively appointed to a new role through this process.
- 6.2. Before seeking to identify candidates for assignment to an internal vacancy, the Department/Agency should first determine the essential skill requirements for the work to be performed, including the skills that are essential upon commencement as distinguished from skills that can be developed over time through training or experience in the role.
- 6.3. Details of the vacant role may then be provided to current Employees within the relevant identified business areas who are employed at the same classification level as the vacant role and/or via an expression of interest process across the broader Department/Agency. Employees will be invited to provide a statement about their interest in, and suitability for, the role, as well as their resumé. This will assist with the application of the Robust Assessment Guidelines. Employees may also be invited to further discussions with the relevant business area regarding the opportunity and the required work.
- 6.4. An Employee identified as having suitable capability and capacity to undertake the work, following this internal assessment, may be assigned to the vacant position. If more than one Employee is identified as having suitable capability and capacity, a decision regarding assignment will be made in line with usual merit-based selection practices.
- 6.5. If a suitable internal candidate is not sourced through this process, then the Department/Agency may consider assigning an Employee to the vacancy consistent with

section 31A of the PA Act. This will occur when the Department/Agency has made an assessment that a current Employee has the necessary essential skills and capacity required to undertake the work upon commencement and capacity to develop the remaining skills while working in the position.

- 6.6.** Where workload issues are identified in roles vacated but not backfilled by Employees mobilised in accordance with this policy then those issues will be managed in accordance with the Workload Management common policy.
- 6.7.** Where there is a vacancy due to changing work priorities, and the Department/Agency makes an assessment that the role is not likely to be able to be filled by any current at-level Employees or the internal assessment does not identify any suitable candidates, the position will be filled via standard recruitment practices, consistent with the JSE Recruitment Policy.

7. Transferring Employees to vacant roles in another Department or Agency

- 7.1.** There may be circumstances where, in order to meet surge functions or changing government priorities, Employers need to transfer Employees from one Department/Agency to vacant roles in another. Where possible and appropriate in the circumstances, Employers will first give consideration to whether a transfer of Employees can be achieved through a voluntary Employee process.
- 7.2.** Where transferring Employees to vacant roles in another Department or Agency is considered necessary to meet surge demand or changing government priorities, the employing Department/Agency will engage with Industrial Relations Victoria and the JSE to develop a suitable process of transfer. The Community and Public Sector Union (CPSU) will be consulted on any such process prior to implementation.

8. Eligibility for mobility payment

- 8.1.** The payments outlined in clause 16 of the Agreement, will be paid to all Employees employed as at 1 July of the year in question regardless of how long the Employee is employed during that year (see table below for specific eligibility scenarios).
- 8.2.** The table below outlines eligibility for the mobility allowance in some specific employment scenarios:

Employment Scenario		Eligibility	Applicable Rate
1	Full or part-time (ongoing or fixed term) Employee employed on 1 July Note: If the Employee is not employed on 1 July in the year the entitlement falls due, they are not entitled to the mobility payment for the relevant year	Yes	Substantive Grade and Value Range Pro-rata for part-time Employees based on the number of ordinary hours worked as at 1 July
2	Casual Employee, engaged on 1 July	Yes	Substantive Grade and Value Range Pro rata based on the previous 12 months work pattern. Where a casual Employee has been employed for less than 12 months, the mobility payment is pro-rata based on the hours worked during the period the casual Employee has been Employed.

Employment Scenario		Eligibility	Applicable Rate
3	New Employees who commence in the VPS on or between 2 July in the year following when the payment falls due up to 30 June of the following year	No	N/A
4	Employees on internal or external secondment or temporary assignment where the Employee has been assigned (even for a defined period of time) to a higher classification within the VPS	Yes	Higher Grade and Value Range
5	Employees undertaking an internal or external secondment or temporary assignment where the Employee substantive classification remains unchanged (and the Employee is in receipt of a higher duties allowance)	Yes	Substantive Grade and Value Range
6	Employees receiving salary maintenance under the Redeployment Policy on 1 July	Yes	Mobility payment based on the classification level of the salary maintenance
7	Employee on <u>paid</u> leave on 1 July	Yes	Substantive Grade and Value Range
8	Employee on <u>unpaid</u> leave, other than during the first 52 weeks of parental leave, on 1 July	Yes, on a pro-rata basis	<p>Substantive Grade and Value Range (pro-rata)</p> <p>Pro-rata based on the duration of the unpaid leave taken by the Employee</p> <p>For example, an Employee on unpaid leave for 12 months would get no payment, an Employee on unpaid leave for 9 months would get 1/4 of the total payment, an Employee on unpaid leave for 1 week would get 51/52 of the payment.</p> <p>An Employer may exercise discretion to pay the Employee their full mobility payment, regardless of them taking unpaid leave. Examples where the Employer may exercise its discretion are:</p> <ul style="list-style-type: none"> • absences of unpaid short-term personal/carers leave for unforeseen illness or injury beyond the Employee's control; • long-term personal/carers leave due to chronic or serious illness or injury;

Employment Scenario		Eligibility	Applicable Rate
			<ul style="list-style-type: none"> compassionate grounds as approved by the appropriate Delegate.
9	Employees within the first 52 weeks of parental leave (paid and unpaid) as at 1 July	Yes	Substantive Grade and Value Range
10	Employees receiving Workcover or accident make up pay on 1 July	Yes	Substantive Grade and Value Range

9. Rate of payment

- 9.1. An eligible Employee is entitled to receive the amount described in clause 16 of the Agreement applicable to their substantive classification on 1 July of the year in question, pro-rata for part-time and casual Employees.
- 9.2. The pro-rata amount for part-time and casual Employees is based on:
- 9.2.1. For part-time Employees - the number of ordinary hours worked between 1 July of the preceding year and 30 June of the year of payment.
- 9.2.2. For casual Employees – the average hours worked over the previous 12 months. Where a casual Employee has been employed for less than 12 months, the mobility payment is pro-rata based on the hours worked during the period the casual Employee has been employed.
- 9.3. Where the Employee is working in a different position than their substantive position, whether the Employee is eligible to be paid the mobility payment equivalent to the higher classified position will depend on the arrangements entered into between the Employer and Employee to give effect to this arrangement. Where an Employee's classification is altered, even if for a defined period of time, for example, where the employee has been transferred to a higher classification for the period of an internal or external secondment and is paid at the higher classification, the payment will be made at the higher classification provided this arrangement was in operation on 1 July of the relevant year. Where the Employee's substantive classification is not altered, for example, where the Employee is performing an internal temporary assignment and being paid a higher duties allowance for a short term backfill assignment, the mobility payment will be made at the Employee's substantive classification (even where this arrangement was in place on 1 July).
- 9.4. The mobility payment will be made to eligible Employees as soon as reasonably practicable after 1 July of the year in which the payment falls due.

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 or 16 of the Agreement 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

- Usual Place or Places of Work
- Performance Development and Progression
- Secondments and Temporary Assignments
- Workload Management

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:

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