**Probation**

**Background**

Under the *Public Service Act 1999*, Agency Heads may apply a period of probationary employment to new employees, whether ongoing or non-ongoing. They also have discretion relating to the manner in which probation is managed.

While the *PS Act* does not prescribe any minimum or maximum period of probation, requirements of the *Fair Work Act 2009* relating to unfair or unlawful dismissal provide useful guidance as to what constitutes a reasonable period of probation. This information has been considered in developing this policy.

New employees are advised of the conditions of engagement (including probation) at the time of formalising the employment contract. Managers should remind new employees about the probation procedures when they commence their employment.

**What is probation?**

Probation is close supervision and monitoring of an employee's work performance during the initial period of employment. It is an integral component of effective performance management. It allows a manager to identify relevant strengths and weaknesses in an employee's performance, to provide constructive feedback and to take any necessary remedial action.

Appropriate action to address weaknesses identified during the probationary period assists employees to improve their performance. Where this improvement does not happen, underperforming employees may have their employment terminated. Over the longer term, such action can save resources otherwise required for supervision, counselling, training and management of underperforming people.

Proper induction complements probationary procedures by providing new employees with an understanding and appreciation of the requirements of their jobs and the standard of work expected, as well as the goals, functions and values of their agency and the APS as a whole. The role of the supervisor is critical.

**Does probation apply after promotion or transfer?**

No not if the initial probation period has been completed. A probation period applies when an employee first joins the APS, as a condition of engagement. That is, their engagement is conditional upon the satisfactory completion of a probationary period, and their employment may be terminated during the probationary period for unsatisfactory performance without recourse to the unfair dismissal provisions of the Fair Work Act 2009.

Probation does not apply to ongoing APS employees who move to the Institute from another APS agency or to employees who are promoted or reassigned duties within the Institute once the initial probation period has been completed.

The performance of these employees should be monitored in accordance with the Institute's current Performance Communication Policy.

**What if the promotion or transfer is during the period of probation?**

Where it is decided to transfer or promote a person on probation, either within the agency or from another agency, any decision regarding the continuity or otherwise of the period of probation should be clearly conveyed to the employee as soon as possible.

Whether a period of probation continues when an employee moves during their period of probation may be dependent upon whether the wording of the original notice is sufficiently flexible to allow for the possibility.

If the Director decides that the full period of probation need not be served, the employee should be advised that the period of probation has been satisfactorily concluded.

**How does probation work at the AIHW?**

**Length of probationary period**

Given the complexity of most work at the Institute, the probation period is 6 months with provision for extension for up to an additional 6 months. New employees who have worked at the Institute previously may apply to have the probation period shortened or waived.

The probationary period may be extended by the manager in consultation with the Manager, People Unit. Possible reasons for extension include lengthy absences preventing an assessment of performance; or allowing sufficient time for requested performance improvements or skills to be developed.

**Formal procedures to follow**

Managers should provide the employee with verbal feedback on their performance after three months.

At five months the manager should complete a formal probation report, requiring comments on conduct and work performance. Managers should show the completed report to the employee, and provide constructive feedback and advice on any improvement required. The probation report should hold no surprises for the employee and is essentially a reiteration of previous feedback. The completed report should be returned to the People Unit for filing or further action as appropriate.

Where an employee is either not performing their work responsibilities, or is not performing them to a satisfactory standard, it is good practice to raise this with the employee as soon as it becomes apparent. The manager and employee should jointly implement strategies to address the underperformance trialing the strategies for no less than four weeks. This process must be documented by the manager. At the end of the four week period where there has been no or insufficient improvement in the employee’s performance, the manager, after consultation with the Head of People Unit and the Group Head, may decide to make a written recommendation to the Director to terminate the employment of the probationer.

**Outcome of satisfactory completion of probation**

*Ongoing employees* who satisfactorily complete the probation period will continue indefinitely in their position at the Institute.

*Non-ongoing employees* who satisfactorily completed the probation period will continue in their position at the Institute for the duration of their contract of engagement.

Outcomes of unsatisfactory performance or conduct during the probation period

There are two options for employees who do not satisfactorily complete the probation period:

* The Director may terminate the engagement; or
* The employee may be reassigned to other duties within the Institute, if it appears that s/he may be able to perform satisfactorily with a different type of work. Such reassignment may be at the same classification level or at a reduced level. This could occur only if other work was available.

Recommendations to terminate employment or reassign duties must be made well before the expiration of the probationary period. Managers should make recommendations through the Manager, People Unit, in sufficient time for the termination to take place before the end of the probationary period.

**Underlying principles to be followed**

Equity, effectiveness and accountability underpin induction and probation. For natural justice reasons, it is essential for managers to provide new employees with guidance, feedback, counselling and an opportunity to respond to comments on their performance.

All employees are covered by the **AIHW Enterprise Agreement** (download from [AIHW Conditions of employment](https://www.aihw.gov.au/about-us/careers/conditions-of-employment)) and if they feel they have been treated unfairly, they are entitled to request that the procedures for **dispute prevention and settlement** and/or **review of employment actions**, as outlined in the Enterprise Agreement, be followed.

Further information on conditions of employment and probation can be found on the [Australian Public Service Commission’s](http://www.apsc.gov.au/working-in-the-aps/conditions-of-engagement/probation) website.