

Human Resources Policy

Probation

Policy Number: B2 (QH-POL-197)

Publication date: June 2020

Purpose: To outline the probation requirements during employment in Queensland Health.

Application: This policy applies to all appointments in Queensland Health.

Delegation: The 'delegate' is as listed in the relevant Department of Health Human Resource (HR) Delegations Manual, or Hospital and Health Services Human Resource (HR) Delegations Manual, as amended from time to time.

Legislative or other authority:

- *Hospital and Health Boards Act 2011*
- Hospital and Health Boards Regulation 2012
- *Human Rights Act 2019*
- *Industrial Relations Act 2016*
- *Public Service Act 2008*
- PSC Directive 01/17 Conversion of casual employees to permanent employment
- PSC Directive 08/17 Temporary employment
- Building, Engineering and Maintenance Services Employees (Queensland Government) Award – State 2016
- Health Practitioners' and Dental Officers Award – State 2015
- Hospital and Health Service General Employees (Queensland Health) Award – State 2015
- Nurses and Midwives (Queensland Health) Award – State 2015
- Queensland Public Service Officers and Other Employees Award – State 2015
- Queensland Health Building, Engineering and Maintenance Services Certified Agreement (No 6) 2016

Related policy or documents:

- Performance and Development HR Policy G9 (QH-POL-189)

Policy subject:

1	Requirement for and purpose of probation.....	2
2	Probationary periods	2
3	Written notification of probation	3
4	Performance and development (PAD)	3
5	Conversion of an employee to permanent status	3
6	Outcomes of probation	4
7	Confirmation of appointment	4
8	Extension of probation – Public Service Officers only	4



9	Termination of employment during the probationary period.....	4
	Definitions:.....	5
	History:	5
Attachment One	Legislative probation frameworks	

1 Requirement for and purpose of probation

Employees who are appointed to Queensland Health are to undertake a period of probation appropriate to the appointment unless the employee is exempt from the requirements of this policy.

The purpose of a probationary period is to provide a period of orientation and training, and an opportunity to assess the employee's aptitude and capacity to perform in the role.

An employee on probation has been appointed although their employment is not yet confirmed.

2 Probationary periods

The following legislative probation frameworks apply in Queensland Health:

- The *Industrial Relations Act 2016* automatically applies a probation period to health service employees*.
- The *Public Service Act 2008* provides chief executives with discretion to apply a probation period to public service officers*.

*Refer to definitions

Attachment one contains an overview of the two legislative frameworks.

Queensland Health has applied a longer probation period for some categories of employees, having regard to the nature and circumstances of the roles within these occupational groups. The probation periods nominated for each employment category within Queensland Health are outlined below:

Occupational category	Duration of probation
Corporate office public service officers (permanent employees only)	3 months
Health service employees – administrative and operational streams	3 months
Health service employees – professional, technical, dental, and health practitioner streams	6 months
Building, engineering and maintenance services employees	3 months
Enrolled nurses and assistants in nursing	3 months
Registered nurses and midwives	6 months

Medical officers with private practice and Medical superintendents with private practice	12 months
Resident medical officers	Not applicable to RMOs as they are appointed for a 12 month engagement
Senior medical officers	6 months
Visiting medical officers	In accordance with their letter of offer and contract of employment

3 Written notification of probation

The period of probation is to be stated in the appointment letter received by the employee prior to their commencement. If the duration of the probation period is longer than that stated in an industrial instrument, the period must be agreed in writing by the employee prior to the employee's commencement (otherwise the general probationary period of three months applies).

Public service officers only

The letter is also to state that the probationary period may be extended (and the time frame of any extension which is to be not more than three months) if the outcomes are not achieved. A verbal statement that a period of probation is to be extended is not sufficient and does not comply with legislation.

4 Performance and development (PAD)

During the probation period, employees must be provided with clear role expectations, continued guidance, documented feedback and support. This is generally undertaken through the performance and development planning process.

If deficiencies are identified in the employee's conduct, work performance or behaviour during the probation period, corrective action should be undertaken in a timely manner, including relevant employee development and training.

If a manager has concerns about the performance and/or conduct of an employee during the probationary period, consultation should occur with their local human resources (HR) unit as early as possible once concerns have been identified.

Ongoing evaluation and feedback should occur during the probationary period between the manager and employee to identify if the expected outcomes of the role are being achieved. Where there are performance or conduct issues the employee must be advised of where their performance is not meeting expectations and be provided natural justice.

5 Conversion of an employee to permanent status

A casual or temporary employee who is converted to permanent status, in accordance with PSC Directive 01/17 Conversion of casual employees or PSC Directive 08/17 Temporary employment, could be subject to a probationary period following conversion. However, given that the employee has performed the required service with the Department of Health (the Department)/Hospital and Health Service (HHS), and in the case of a temporary employee their merit has been considered, it would not be expected that the Department/HHS would use probation other than in exceptional circumstances.

6 Outcomes of probation

The possible outcomes of probation include:

- confirmation of appointment
- extension of the probationary period (for public service officers only)
- termination of employment.

7 Confirmation of appointment

On successful completion of probation, the employee's appointment is deemed to be confirmed. Managers should advise the employee of their successful completion, complete the Probation Notification Advice form and return it to their local Payroll Services (refer to QHEPS (PARIS) for HR forms).

8 Extension of probation – Public service officers only

If the employee is engaged under the Public Service Act, the delegate may extend the period of probation once only if the employee has been assessed as not meeting the expected performance outcomes or conduct requirements of their role within the agreed probation period. Other grounds for extension may include long periods of leave taken during the probation period or factors beyond the employee's control which have hindered the ability to adequately assess the employee during the agreed probation period (e.g. disruption to work or personal circumstances).

For a delegate to extend a period of probation, the employee must have been advised (in their letter of appointment) prior to their commencement of the possibility of probation being extended for a period of up to three months. The employee must have agreed to the terms of probation prior to their commencement in the role.

If an extension period is warranted, the delegate is to notify the employee in writing before the end of the probationary period. Any consideration of extension should not come as a surprise to the employee. The extension is to be for a reasonable period based on the nature of the role and the circumstances that warrant the extension of probation (not more than three months).

Once an employee has been advised of the extension in writing, the manager is to complete the Probation Notification Advice form advising of the extension to probation, and return it to their local Payroll Services (refer to QHEPS (PARIS) for HR forms).

If the probationary period is extended in accordance with the Public Service Act, this will not automatically exclude the employee from the unfair dismissal provisions contained within the Industrial Relations Act.

9 Termination of employment during the probationary period

The delegate may terminate the employment of an employee within the probation period, where the employee has been assessed as not meeting the expected performance outcomes or conduct requirements of their role and provided the employee has been afforded natural justice prior to the decision being made.

Where consideration is being given to not confirming employment through probation, delegates should consult with their local HR unit as early as possible once concerns have been identified, preferably at least four weeks prior to the probation end date.

The delegate is to notify the employee in writing prior to the completion of the probationary period.

If an employee's engagement is terminated during the probationary period, the Queensland Industrial Relations Commission lacks jurisdiction to deal with the matter. However, an employee may lodge a general protections (adverse action) claim (pursuant to section 282 of the Industrial Relations Act) with the Queensland Industrial Relations Commission.

Further, if an employee's engagement is terminated during the probationary period, the notice provisions of the relevant award will be enlivened (generally two weeks).

Definitions:

Appointment letter	A letter offering employment to a prospective employee. In the case of permanent positions, the letter is to outline the terms of probation applying to the role.
Confirmation of appointment	The process used to end a probation period and confirm an employee's permanent status in the workforce.
Health service employee	A health service employee is an employee appointed under the <i>Hospital and Health Boards Act 2011</i> . Generally, a health service employee works a 38 hour week. For clarification, please contact your local HR team.
Merit	The extent to which an individual has abilities, aptitude, skills, qualifications, knowledge, experience and personal qualities relevant to carry out the role in question.
Natural justice	Natural justice has two rules: <ul style="list-style-type: none"> • Rule against bias: decision-makers are to be objective, free of bias, and have no personal interest in the matter being decided. • Hearing rule: an individual is to be informed of the substance of an allegation/s against them and have the opportunity to present their case prior to a decision being made.
Probation	A set period of time during which the employer assesses the suitability of the employee.
Public service officer	Public service officers are employees engaged permanently, normally working at the Department of Health, appointed under the <i>Public Service Act 2008</i> . Generally, a public service officer works a 36.25 hour week. For clarification, please contact your local HR team.

History:

June 2020	<ul style="list-style-type: none"> • Policy application amended as a result of changes to the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019.
January 2020	<ul style="list-style-type: none"> • Policy: <ul style="list-style-type: none"> – formatted as part of the HR Policy review – updated to include reference to the <i>Human Rights Act 2019</i>.

June 2019	<ul style="list-style-type: none"> • Policy: <ul style="list-style-type: none"> – formatted as part of the HR Policy review – amended to update references and naming conventions – updated to reflect differences between the <i>Public Service Act 2008</i> and the <i>Industrial Relations Act 2016</i>.
August 2009	<ul style="list-style-type: none"> • Amended to include MORPPs and MSRPPs in section 7.2
March 2009	<ul style="list-style-type: none"> • Amended to reference health practitioner stream in section 7.2.
July 2008	<ul style="list-style-type: none"> • Amended to reflect Public Service Act 2008.
April 2008	<ul style="list-style-type: none"> • Developed as a result of the HR Policy Framework consolidation project as an introduction document.
Previous	<ul style="list-style-type: none"> • IRM 1.0-3 Probation

Public Sector Act 2022
applies on 1 March 2023

UNDER REVIEW

Managing the risk of psychosocial hazards at work
Code of Practice 2022
applies 1 April 2023

Attachment One – Legislative probation frameworks

The following information is provided as the minimum mandatory standard practice, procedure or process to enable satisfactory compliance with this Queensland Health HR policy.

Local guidelines/procedures may be developed to facilitate implementation of this policy. Any local guidelines/procedures must be consistent with this policy and standard practice and ensure employee entitlements continue to be met.

1 Differences between the two legislative probation frameworks in Queensland Health

Instrument	Public Service Act 2008 (s126)	Industrial Relations Act 2016 (s315)
Application	<ul style="list-style-type: none"> Initial appointment as a permanent public service officer. Probationary period is at discretion of delegate. The Director-General has the discretion to waive a probationary period. 	<ul style="list-style-type: none"> All new employees, i.e. permanent, temporary or casual Automatic application of probationary period.
	<ul style="list-style-type: none"> Applies once upon permanent public service employment. Re-deployment, transfer or promotion, both within or across agencies, does not trigger a new probation period. A person who has been employed other than as a permanent public service officer (e.g. a temporary or casual public service or health service employee) can have a probation period under the Public Service Act applied to them upon appointment as a permanent public service officer. 	<ul style="list-style-type: none"> Applies to engagement with each employing agency, e.g. a temporary employee with Metro North Hospital and Health Service subsequently obtains temporary employment with West Moreton Hospital and Health Service – probation periods apply to each period of employment. <p><i>Note: Once a person is a permanent health service employee, re-deployment, transfer or promotion, both within or across agencies, does not trigger a new probation period.</i></p>
Length of probation	<ul style="list-style-type: none"> 3 months* 	<ul style="list-style-type: none"> 3 months* (unless employee and employer agree in writing that a shorter period or no period applies)
	<p>*A longer probation period can be applied under either Act provided it is:</p> <ul style="list-style-type: none"> agreed in writing prior to commencement; and reasonable, having regard to the nature and circumstances of the employment. <p>Agreement to a longer probation period can be a condition of the offer of employment. (Refer to the duration of probation table under section 2 of the policy for the occupational categories in Queensland Health requiring a longer probation period)</p>	
Extension (i.e. after employee commences work)	<p>Delegate can extend, once only, provided extension period is reasonable, having regard to the nature and circumstances of the employment.</p>	<p>Notwithstanding provisions in modern awards, there is no capacity to extend a probationary period for a health service employee.</p> <p>For example, a temporary employee engaged as a health practitioner, who has served six month's service at Metro South Hospital and Health Service (MSHHS), cannot have their probationary period extended by MSHHS.</p>