

# Human Resources Policy

## Conversion of Temporary Employees to Permanent Status

**Policy Number:** B52 (QH-POL-119)

**Publication date:** September 2017

**Purpose:** To outline the specific circumstances for the conversion of temporary employment to permanent status when a temporary employee has a continuous connection to a role over time.

**Application:** This policy applies to full-time and part-time temporary employees, working for:

- the Department of Health
- non-prescribed Hospital and Health Services
- prescribed Hospital and Health Services.

This policy does not apply to casual employees, resident medical officers, health executive and senior executive service employees on fixed term contracts, independent contractors or agency employees.

**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:

- *Public Service Act 2008*
- Public Service Regulation 2008
- Health Practitioners and Dental Officers (Queensland Health) Certified Agreement (No. 2) 2016
- Queensland Public Health Sector Certified Agreement (No.9) 2016 (EB9)
- PSC Directive 15/13 Recruitment and Selection
- PSC Directive 03/17 Appeals
- PSC Directive 08/17 – Temporary Employment

### Related policy or documents:

- Temporary Employment Directive FAQs – Public Service Commission
- Recruitment and Selection HR Policy B1 (QH-POL-212)
- Employment Screening HR Policy B40 (QH-POL-122)
- Employee complaints HR Policy E12 (QH-POL-140)

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## 1 Policy statement

Queensland Health is committed to the appropriate use of temporary employment and the conversion requirements of temporary employees to permanent status when appropriate, as provided for in Public Service Commission (PSC) Directive 08/17 – Temporary Employment and s149 of the *Public Service Act 2008* (PS Act).

### 1.1 Appropriate use of temporary employment

Temporary employment is a means of resourcing Queensland Health's business needs. Under this policy Queensland Health may convert eligible temporary employees to permanent status when appropriate. Queensland Health is not bound to manufacture a pattern of employment aimed at creating eligibility for conversion.

While permanent employment is the preferred form of engagement for employees within Queensland Health, temporary employment may be used, but not limited to the following circumstances:

- temporary and/or urgent demand for particular skills for a period limited by time, whether or not the time has been fixed
- the evolution of a tenured role during which knowledge and skill requirements are expected to undergo a period of transition
- fluctuating service delivery needs or temporary increases in workload
- roles which are funded for a specified period with no reasonable anticipated or known renewal of funding
- temporary filling of a vacant role prior to the approval of a tenured appointment
- temporary vacancies arising from the temporary reassignment or secondment of employees
- unexpected/unplanned illness
- long term illness
- unplanned leave when a permanent reliever cannot be justified (permanent relief staff is the preferred mode of relief staffing and is to be used whenever possible)
- fixed term for specified projects and/or for a specified period of time
- in the event of organisational change
- employees undertaking an accredited fixed term course of study
- employment of a graduate nurse pending the availability of a permanent position
- backfill when a legitimate recruitment process is occurring.

PSC Directive 08/17 and the PS Act require Queensland Health to review the status of a temporary employee after the completion of two years of continuous service in the same role with the aim of converting them to permanent status when the role is ongoing. If it is reasonably foreseeable that a role (which is essentially the same) may be required on an ongoing basis to resource other projects, the Hospital and Health Service (HHS)/Department of Health (Department) is to adopt a risk management approach and convert the temporary employee. If the end of the project signifies the end of available work, or the availability of ongoing work is unpredictable, then conversion may not be feasible.

### 1.2 Review of temporary employment status

In order to determine the appropriateness of converting the employee to permanent status, a review is to be undertaken by the HHS/Department on all temporary employees who have completed:

- two years of service and
- this service is in the same role or a similar position.

When reviewing temporary employees, no distinction is made between temporary full-time and temporary part-time status.

The HHS/Department must notify the employee when they start a review of the temporary employee's status. The notification must be in writing and include:

- a) the name and contact details of the HHS/Department contact for the review
- b) the date by which the decision must be made
- c) that the employee or their representative may choose to provide a written submission for consideration during the review process
- d) that if the HHS/Department delegate does not make a decision within 28 calendar days after the date the temporary employee became eligible for review, the delegate is taken to have decided not to convert the temporary employee, as provided by section 149(4) of the PS Act; and
- e) that a temporary employee may appeal a decision not to convert them to permanent employment, as provided for in sections 196(e) and 197 of the PS Act, and the timeframe for an appeal.

When reviewing the status of a temporary employee's employment and deciding whether their employment is to be converted to permanent, the HHS/Department delegate must consider the following criteria:

- a) whether there is a continuing need for the person to be employed in the role, or a role which is substantially the same, and the role is likely to be ongoing and
- b) the merit of the temporary employee for the role by applying the merit criteria outlined in section 28 of the PS Act.

A temporary employee should have their employment converted to permanent unless there are genuine operational reasons not to do so or the temporary employee does not consent.

When the decision is not to convert the temporary employee to permanent status, a written notification is to be provided to the employee and include the reasons for non-conversion.

When the role is deemed to be ongoing and the review does not result in the employee being converted to permanent status, further reviews are to be undertaken at the completion of each additional twelve month period. This is the minimum review period.

The conversion of temporary employee to permanent status form, available on QHEPS, may be used to provide written notification as required above.

### Definitions:

Base-grade/entry-level	AO1 - AO2, OO1 - OO2, OO3 (trade equivalent non-supervisory ), TO1 - TO2, PO1 - PO2, assistants in nursing, enrolled nurses and nursing officer grade 5, HBEA12 and HBEA10 or any other level of a specific stream or classification structure, provided the base superannuation salary of that classification level (not including loading or allowances) does not exceed the equivalent of AO5(4) of the Queensland Public Service and Other Employees Award – State 2015
Permanent status	Appointed with tenure as a permanent employee of Queensland Health.
Same position	A role within Queensland Health with the same position number, classification number, role description and responsibilities.
Same role	Includes a role which has the same or substantially the same capability requirements, either at level or at a higher classification (e.g. a payroll

	officer may provide a service to different client groups), or a role with a generic role description involving a range of duties (e.g. rotation through financial and payroll processing duties under a generic entry-level role description).
Similar role	A role within Queensland Health with substantially like duties and responsibilities in which the employee is required to use a common set of underlying skills in both roles. The role has the same classification level, but has a different position number and/or title.
Temporary employee	A person appointed to meet temporary circumstances existing within the organisation. Reference to relevant Awards and Agreements is to be made to ensure adherence to specific provisions.

### History:

September 2017	<ul style="list-style-type: none"> <li>• Policy: <ul style="list-style-type: none"> <li>– amended to update references and naming conventions</li> <li>– updated as part of the HR Policy review</li> <li>– amended to apply the provisions of PSC Directive 08/17 – Temporary Employment.</li> </ul> </li> </ul>
May 2014	<ul style="list-style-type: none"> <li>• Policy formatted as part of the HR Policy Simplification project.</li> <li>• Policy amended to: <ul style="list-style-type: none"> <li>– update references and naming conventions</li> <li>– amend clause 1.1 to reflect two year period of continuous service in line with Directive 20/10</li> </ul> </li> </ul>
September 2009	<ul style="list-style-type: none"> <li>• New policy developed to apply the provisions of Directive 15/08 – Temporary Employment.</li> </ul>

## Attachment One - Application of conversion process

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 schedule and ensure employee entitlements continue to be met.

This policy applies to temporary employees when all of the following circumstances have been met:

- The employee has performed the same position, same role or a similar role for a continuous period of two years
- During the previous two year period in the same role or similar role, provided the breaks in employment does not exceed a total of three months in the previous two year period.
- The employee has been assessed as meeting the agreed performance objectives of the job in question.

The date of the appointment to permanent status under this policy is to be effective from the date of approval of the appointment by the delegate.

Conversion of a temporary employee to permanent status may only occur with the consent of the employee.

### 1 Same position

Performing the same position constitutes continuous service for the purposes of determining a temporary employee's eligibility for conversion to permanent status.

### 2 Same role

Performing a role in another unit of Queensland Health may constitute continuous service however this needs to be considered on a case-by-case basis - contact your local HR unit for guidance. For example, over the period of temporary employment, a payroll officer may provide service to different client groups. This is generally regarded as the same role, provided there is a common set of duties and underlying skills used in both roles.

Rotation through a range of duties within a generic role description also constitutes service in the same role. For example, a payroll officer may be required to rotate financial and payroll processing duties through a variety of roles that are essentially the same. This constitutes continuous service for the purposes of determining a temporary employee's eligibility for conversion to permanent status, provided there is a common set of duties and underlying skills used in both roles.

### 3 Similar role

Performing duties at a higher classification level and being remunerated at the higher level may constitute a break in employment for the purposes of determining a temporary employee's eligibility for conversion to permanent status. Performing duties at a higher classification level is not considered to be a break in service if the role being relieved in is a similar role with a common set of duties and underlying skills, i.e. the relieving role is relevant to (but at a higher level than) the role for which the temporary employee has been engaged.

For example, a temporary payroll officer may be required to relieve as a payroll team leader. While

this role is not the same position, if the team leader role uses a common set of duties and underlying skills to the payroll officer role in which the temporary employee is engaged, performing relieving duties at the higher level is not to constitute a break in employment for the purposes of determining eligibility for conversion under this policy.

If the relieving role is not considered to be a similar role when compared to the role in which the temporary employee is engaged, then (if the period is greater than three months) it constitutes a break in employment for the purposes of assessing a temporary employee's eligibility for conversion to permanent status.

#### **4 Conversion to permanent status**

As a result of being converted to permanent status under this policy, the employee is not appointed to a position permanently, but is appointed as an employee of Queensland Health on a permanent basis. For example, a temporary payroll officer who is converted to permanent status under the provisions of this policy is not to be permanently appointed to a payroll officer position, but is to have permanency as an employee of Queensland Health.

Upon conversion to permanent status, the employee is to be appointed at the classification level at which they were employed under their temporary engagement. Furthermore, the employee is to be given permanent status on the remuneration that they were entitled to as a temporary employee.

#### **5 Eligible service for part-time employees**

Eligible service for part-time employees is determined by the passage of time (two calendar years). Therefore, temporary part-time employees do not need to accumulate hours equivalent to a full-time employee for a review to be undertaken and this policy applied.

#### **6 Criminal history check**

An employee cannot be appointed permanently without having undertaken the requisite criminal history check. It is the responsibility of the line manager to confirm a criminal history check has been undertaken on the employee during their period of temporary employment. Reference is to be made to the Employment Screening HR Policy B40.

#### **7 Employee initiated review**

A temporary employee may notify Queensland Health of its requirement to commence the review and that the employee would like to be converted to permanent employment.

The notification may be made by the employee or the employee's representative.

Notice may be given at any time provided it is not more than three months before the review must be undertaken.

#### **8 Appeal process**

It is recommended that an employee who claims they are eligible to be converted to permanent status under this policy is to discuss the matter with their local human resources manager. When agreement cannot be reached, the employee may appeal on the grounds of:

- the failure of the HHS/Department to conduct a mandatory review of their employment status in accordance with the provisions of this policy  
or

- a decision of the HHS/Department delegate not to convert the employee to permanent status at level in accordance with the provisions of this policy.

Reviews commenced before 1 July 2017 are to be finalised in accordance with the provisions of the PSC Directive 20/10 Temporary employment (superseded).

Human Rights Act 2019 applies  
UNDER REVIEW  
Public Sector Act 2022  
applies on 1 March 2023  
Managing the risk of psychosocial hazards at work  
Code of Practice 2022  
applies 1 April 2023