

Frequently asked questions

Workforce mobility (Directive 03/25)

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Introduction

The following frequently asked questions (FAQs) have been developed to supplement the [Workforce mobility directive](#) (the directive). The FAQs do not replace the directive. The directive must be considered for workforce mobility in the Queensland public sector.

Workforce mobility

1. What is the difference between secondment and mobility arrangement?

	Mobility arrangement	Secondment
Provision of <i>Public Sector Act 2022</i>	Section 82	Section 160
Application	Applies to the public sector	Limited to public service
Movement	Into, out of, and within the public sector	Within and between public service entities
Person's consent	Required	Not required
Use	Project work Surge workforces Professional or career development Temporary resourcing needs	Project work Surge workforce Professional or career development Temporary resourcing needs

2. When should a public service entity use secondment vs mobility arrangement?

It will depend on the circumstances of each arrangement. The secondment provisions of section 160 of the *Public Sector Act 2022* (the Act) may only be used to second a public **service** employee within the entity or to another public **service** entity.

Circumstances where a public service entity may consider using mobility arrangement (rather than secondment):

- Where there is no vacant position for the employee to be placed into in the host public **service** entity
- To maintain an employee's higher remuneration where appropriate, where the role in the host entity is remunerated lower than the employee's role in home entity
- When an employee is performing **work for** (rather than within) the host public **service** entity
- To facilitate temporary movement to or from a public **sector** entity or another entity outside of the public sector.

3. What is the meaning of public service entity and public sector entity for workforce mobility?

The difference between a public service entity and a public sector entity in the context of the *Public Sector Act 2022* is provided on [The Queensland Public Sector Act](#) webpage under Public sector versus Public service.

4. Does the directive provide requirements specific only for secondment?

No. The Workforce mobility directive (the directive) provides principles and considerations for workforce mobility generally, including secondment. However, the directive does not provide requirements specific only for secondment under section 160 of the Act. The Act does not require a directive to be made for the purpose of setting directions on the use of secondments, and it is intended that public service entities will continue to manage and document secondments in accordance with existing practice.

5. When is it appropriate to use non-permanent employment or leave without pay as a mechanism to facilitate workforce mobility?

Where a person on a mobility arrangement or secondment moves between entities and is paid by the host entity, in most instances this can be processed in the payroll system using mobility movement codes.

Alternatively, leave without pay and non-permanent employment may be considered as a different way of releasing or engaging a person to facilitate workforce mobility that is unable to be facilitated under a mobility arrangement or secondment. An example of when this may occur is workforce mobility involving an external entity (an entity outside of the Queensland public sector) for a significant duration. The secondment and mobility arrangement provisions should be explored first and determined to be unsuitable for the specific circumstance and entities involved, before using non-permanent employment or leave without pay.

Mobility arrangements – general questions

6. How is a mobility arrangement different from a work performance arrangement / interchange arrangement?

Mobility arrangements under section 82 of the Act replaced interchange arrangements and work performance arrangements under the former *Public Service Act 2008* on 1 March 2023. From this date, any pre-existing work performance or interchange arrangements were taken to be mobility arrangements under section 82 of the Act.

Please be aware that this does not change other legislation which may provide for specific work performance arrangements (or similar) for particular entities to use in particular circumstances. For example, some legislation enables portfolio departments to loan employees on work performance arrangements to a board or other entity. This operates separately to the mobility arrangements provision under the Act.

7. What does 'performing work for' and 'performing work within' mean for a mobility arrangement?

Performing work for means the person remains in the home entity with a temporary change of duties only, while they perform work for another part of the home entity or another entity (host entity). Previously called work performance arrangements. Usually this involves no change to applicable industrial instruments, remuneration or payroll arrangements. Costs may be recovered through an invoicing arrangement.

Performing work within means the person temporarily performs work within another part of the home entity, or another entity (host entity). The person may be assigned to a different position number or remain against their position number, however the person will physically relocate to the different team or entity where they are performing work. Previously called interchange arrangements. Entities may need to consider if changes are required to applicable industrial instruments, remuneration and payroll arrangements.

8. Does the Recruitment and selection directive apply to mobility arrangements?

It will depend on the circumstances of each mobility arrangement. Obligations under the Recruitment and selection directive must be complied with when filling a vacant position, however the advertising exemptions may apply to some mobility arrangements. For example, where a vacancy is proposed to be filled by a public sector employee at or below level via mobility arrangement, or where a vacancy is proposed to be filled for a period of up to six months (where not at level).

Alternatively, a mobility arrangement that does **not** involve proposing to fill a vacancy is exempt from the Recruitment and selection directive. For example, a person performing work for an entity while they remain in their position in the home entity, or a person performing work within an entity while they remain against their position of the home entity.

Entities to whom the Supporting employees affected by workplace change directive applies will also need to consider obligations under this directive for non-frontline AO3 to SO (or equivalent) vacancies that are proposed to be filled for 12 months or greater via mobility arrangement.

9. What is the minimum or maximum duration of a mobility arrangement?

There is no minimum or maximum duration of a mobility arrangement. However, where the duration extends for a significant period, for example greater than two years, consideration must be given to whether permanent employment is more appropriate, in accordance with clause 7.4(b)(i) of the directive and section 81 of the Act.

The duration of a mobility arrangement may also impact advertising obligations under the Recruitment and selection directive (see question above) and payroll arrangements.

10. Can a mobility arrangement be extended?

Yes, with the consent of all parties to the mobility arrangement (the person involved and the respective chief executives or appropriate office holder). This is confirmed in clause 9.13 of the directive. How the extension is documented is at the discretion of the parties to the mobility arrangement.

An extension to a mobility arrangement may impact advertising obligations under the Recruitment and selection directive.

11. What does continuity of employment mean in relation to a mobility arrangement?

A public sector employee's continuity of employment in their employing entity (the home entity) is not broken by a mobility arrangement. This means that during a mobility arrangement a public sector employee remains an employee of home entity, and the time spent performing work for or within a host entity will count towards the employee's increment levels and long service leave entitlements. It also means that the employee is entitled to return to the home entity at the conclusion of the mobility arrangement.

12. What type of entity can be party to a mobility arrangement?

This is addressed in clause 7.2(a) and (b) of the directive.

13. How is a mobility arrangement documented?

While it is not mandatory to use the Mobility arrangement template, the directive provides that it should be considered by the parties when developing the mobility arrangement.

Clause 9.8 of the directive lists the minimum requirements to be provided under a mobility arrangement.

Clauses 9.11 and 9.12 of the directive provide the process for documenting the mobility arrangement. This means that the details of the arrangement must be confirmed and agreed to in advance, however the directive provides some flexibility for signing of the agreement. For example, where it is not possible to sign the mobility arrangement prior to commencement due to urgent surge mobility to respond to a critical incident, the written agreement may be signed after commencement, so long as it aligns with the details agreed to by the employee and home and host entities.

14. Which entity's policies apply during a mobility arrangement?

This will depend on the circumstances of each mobility arrangement. A public sector employee's continuity of employment is not broken by a mobility arrangement, which means the home entity policies will continue to apply to a public sector employee unless additional or alternative policies are specified in the mobility arrangement. The home and host entities will develop the terms and conditions of a mobility arrangement, which may include different or additional policies that apply to the person for the duration of the mobility arrangement. Additionally, some of the host entity's policies may automatically apply at law to anyone in the host entity workplace, for example work health and safety policies.

The Mobility arrangement template issued by the Public Sector Commission provides standard terms and conditions relating to policies about conduct, behaviour and performance.

15. Are performance and development agreements required for employees on mobility arrangements?

It will depend on the circumstances of each mobility arrangement. Where the host entity is a public sector entity, the person's performance will be managed in accordance with the positive performance management principles set out under the Act and the Positive performance management directive. This may include completing a performance and development agreement depending on the length and nature of the mobility arrangement.

16. Who is responsible for the person's duty of care under the *Work Health and Safety Act 2011* (WHS Act) during a mobility arrangement?

Both the home and host entity have obligations under the WHS Act. The primary duty of care will be on the entity who has the day-to-day responsibility for the person's work, **while the person is working**.

The host entity must ensure that the person is properly inducted. This includes taking steps to ensure the person understands the host entity's workplace health and safety policies and other policies or procedures normally communicated to new employees. For example, the emergency evacuation procedures for the location at which the person will be working for the host entity during the mobility arrangement.

17. Which entity is responsible for workers compensation obligations during a mobility arrangement?

The home entity must maintain workers' compensation insurance for the person on a mobility arrangement, because they remain a worker of the home entity under the *Workers' Compensation and Rehabilitation Act 2003*.

The home entity could require that the host entity indemnify the home entity in respect of any workers' compensation claim made by the person for an injury sustained while performing work in the host entity. This would need to be provided in the mobility arrangement – as set out in Part B of the Mobility arrangements template.

Mobility arrangements - remuneration and entitlements

18. How much is a person paid on a mobility arrangement? What is the applicable industrial instrument?

This will depend on the circumstances of each mobility arrangement, however a public sector employee cannot be financially disadvantaged as a result of consenting to a mobility arrangement.

The person continues to be employed by the home entity for the duration of the mobility arrangement. Therefore, the person will continue to receive the conditions and entitlements of their role in the home entity unless the mobility arrangement provides that alternative conditions and entitlements apply during the mobility arrangement.

For industrial instrument employees, this means that the person will continue to be covered by the home entity's industrial instrument/s (and receive the associated

entitlements and conditions), unless the mobility arrangement applies a particular industrial instrument/s as if the person were employed by the host entity.

Factors to consider include:

- whether the person remains within the home entity and performs work for the host entity or relocates to perform work within the host entity
- whether the work to be performed under the mobility arrangement is at the same level or a higher level than the person's role in the home entity
- the percentage of time the person is performing work under the mobility arrangement
- any industrial instruments that apply to the person's role within the home entity and the host entity role
- any industrial instruments that apply to other employees in the team where a person is performing work within an entity
- whether the person will be financially disadvantaged compared to their home entity role as a result of the arrangement.

19. What does 'not financially disadvantaged' mean for an employee on a mobility arrangement?

Financial disadvantage for this purpose means an employee must continue to receive no less than the entitlements of the employee's role in the home entity for the duration of the mobility arrangement. Comparison of financial entitlements and conditions of other employees in the host entity is not relevant for this purpose.

It is the responsibility of the home entity to ensure their public sector employees are not financially disadvantaged while on a mobility arrangement.

Where the conditions and entitlements (other than remuneration) are the same between the home and host entity roles, comparison of remuneration could indicate whether an employee will be financially disadvantaged.

Where there are differences between other conditions and entitlements (e.g. leave accruals, allowances, hours of work, superannuation, fringe benefits tax and salary sacrificing benefits) it may be difficult to determine whether an employee will be financially disadvantaged. Additionally, there may be tax implications associated with these conditions and entitlements.

Sometimes, there is no simple way to compare the financial entitlements and conditions of an employee's role in the home entity, with the financial entitlements and conditions of a role in the host entity.

If in doubt about whether an employee could be financially disadvantaged by accepting a mobility arrangement, it is recommended the employee's conditions and entitlements of the home entity are maintained and the person remains on the home entity's payroll. Alternatively, a mobility arrangement may not be an appropriate mechanism if there is such a significant disparity of conditions between the home and host entity to confidently ensure no financial disadvantage.

If an industrial instrument employee believes that they have been financially disadvantaged as a result of consenting to a mobility arrangement, there may be various avenues through which the employee may raise these concerns. The employee should speak to their home entity about these options.

20. Which entity pays the person on a mobility arrangement?

This will depend on the circumstances of each mobility arrangement and must be specified in the mobility arrangement. A person may either be transferred to the host entity payroll (where this can be supported by the host entity) or remain on the home entity payroll. Where the employee remains on the home entity's payroll, the home entity may consider recovering the costs from the host entity via an invoicing arrangement. Factors to consider may include:

- Any change to the applicable industrial instrument for the person on the mobility arrangement
- Whether the person is performing work for or work within the host entity
- Whether the person is assigned to a vacant position in the host entity
- Whether the arrangement is between public sector entities or with an entity outside of the public sector
- The duration of the mobility arrangement
- Whether the home and host entity are participants in the central leave scheme.

21. What instructions have been provided to payroll providers about mobility arrangements?

The Public Sector Commission has engaged key public sector payroll providers during development of the directive. Payroll providers are encouraged to use movement codes to reflect mobility arrangements where people are moving between payroll providers, in and out of public sector entities. For example:

- 'Mobility arrangement in' code – this would mirror a 'secondment in' movement code, whereby an employee is set up on the payroll system of the host entity, receiving pay and accrual of leave entitlements for a temporary period, however they are not employed by the entity
- 'Mobility arrangement out' code – this would mirror a 'secondment out' movement code, whereby an employee remains on the payroll system of the home entity, with pay and accrual of entitlements temporarily placed on hold for the duration of the mobility arrangement.

22. How are directives issued by the Minister for Industrial Relations applied to mobility arrangements?

A public sector employee cannot be financially disadvantaged as a result of consenting to a mobility arrangement. Therefore, where a directive issued by the Minister for Industrial Relations applies to an employee on a mobility arrangement because the directive applies to their home entity (e.g. the Domestic travelling and relieving expenses directive), the employee is entitled to receive no less than they would have while working for the home entity.

23. How is leave managed during a mobility arrangement?

Leave arrangements will be different for each mobility arrangement. Factors to consider include:

- whether the person is performing work for or within the host entity
- any change to the applicable industrial instrument or remuneration
- whether the person is paid by the home or host entity payroll system
- the duration of the mobility arrangement
- whether the home and host entity are participants in the central leave scheme.

The mobility arrangement must include leave arrangements – refer to clause 9.8(k) of the directive for further information.

Where a person is performing **work for** a host entity, it is likely that leave will:

- be applied for in accordance with the home entity's policies
- be submitted to the home supervisor for consideration and approval in collaboration with the host supervisor
- leave entitlements will remain with home payroll.

Where a person is performing **work within** a host entity and is paid by the host entity payroll, it is likely that leave will:

- be transferred to host entity payroll upon commencement of mobility arrangement
- be applied for in accordance with the host entities policies
- be submitted to the host supervisor for consideration and approval
- be transferred back to the home entity at the conclusion of the mobility arrangement.

Leave will be accrued as per the industrial instruments applying to the home entity role, unless the mobility arrangement provides otherwise. If a greater accrual rate is applied during the mobility arrangement, the home entity should accept the accrued leave on completion of the arrangement.

24. How are accrued time balances managed if an employee moves to the host entity payroll and timesheet system?

A public sector employee should be supported to make reasonable attempts to reduce accrued time balances prior to the commencement of, and end of, a mobility arrangement, to avoid forfeit of accrued time.

Alternatively, the home and host entity may agree to provide additional conditions in the mobility arrangement agreeing to the transfer of accrued time at the commencement of, and/or end of, the mobility arrangement.

25. Can flexible work arrangements and workplace adjustments form part of a mobility arrangement?

Yes. Flexible work arrangements (FWA) and workplace adjustments may form part of the mobility arrangement as additional conditions (see clause 9.9 of the directive).

However, some existing FWAs and workplace adjustments may not be able to be accommodated during a mobility arrangement, or these arrangements and adjustments may need to be adapted depending on the circumstances of the mobility arrangement, the host entity and the employee.

It is therefore important that before entering into a mobility arrangement, a person's requirements are discussed to ensure all parties are satisfied with the working arrangements. The specific working arrangements that are agreed to must then be documented in the mobility arrangement.

Flexible work arrangements

During a mobility arrangement, an employee remains employed by their home entity. Accordingly, the chief executive of the home entity remains the employee's employer for the duration of the mobility arrangement. It is this chief executive (as the employer) who is responsible for approving a FWA, despite the employee performing work for or within another entity.

For an employee undertaking a mobility arrangement, requests for flexible work can be requested and implemented in the following ways:

- Flexible work under the *Industrial Relations Act 2016* (IR Act):
 - An existing FWA (as approved in accordance with the IR Act) could simply be included as a term of the mobility arrangement, provided the host entity chief executive agrees to the FWA continuing for the duration of the mobility arrangement. For example: *'For the duration of the mobility arrangement, employee x will work from home for 2 days per week and in the office 3 days per week in accordance with the FWA agreed to between employee x and home entity delegate y on xx date. It is agreed that these days will be flexible to accommodate for in-person meetings that may arise or personal needs'*. (note this would not amount to a subsequent decision on a FWA, it simply becomes a term of the mobility arrangement).
 - The employee can request flexible work, or request a change to their existing FWA, in accordance with the IR Act, which would need to be approved by the chief executive of the **home** entity (as the employer). Consultation should occur with the chief executive of the host entity, and once the FWA, or amended FWA, is approved, it can then be included as a term of the mobility arrangement.
- Flexible work as a term of the mobility arrangement:
 - The employee can discuss and agree to a flexible work arrangement with the chief executive of the **host** entity which would then form a term of the mobility arrangement (note this option would not be a request for flexible work under the IR Act – it would simply be a term of the mobility arrangement to facilitate a flexible work type arrangement which is agreed to by all parties).

It should be noted that where an employee makes a request for a FWA under the IR Act, and they are dissatisfied with the decision, they may be able to lodge a fair treatment appeal. The chief executive of the home entity would be the respondent in any appeal

related to the FWA, as they are the employee's employer and therefore responsible for any decisions made about an employee's FWA.

Workplace adjustments

Depending on the circumstances of the mobility arrangement, either the host entity, the home entity, or both will have a positive duty under anti-discrimination legislation to provide workplace or reasonable adjustments for people with disability, unless implementing the adjustments would cause unjustifiable hardship.

If a disability or illness arises during the mobility period, the employee should discuss their needs and any request for a workplace adjustment with the person who has the day-to-day oversight of the employee. A collaborative approach to adjustments may be required between the home and host entity.

26. How does the Critical incident entitlements and conditions directive interact with mobility arrangements?

The Critical incident entitlements and conditions directive applies to public service employees. If a person on a mobility arrangement continues to be a public service employee, the directive continues to operate in relation to their employment in the way it ordinarily would. The directive does not operate in relation to the employment of individuals who are not public service employees or are not public service employees at the time that the directive is activated in relation to their employment. However, a mobility arrangement may provide that the Critical incident entitlements and conditions directive, or a part of that directive applies to a person while they are on a mobility arrangement, as if they were a public service employee. This must be written into the mobility arrangement.

Mobility arrangements – temporary employment and employment reviews

27. Can a temporary employee be on a mobility arrangement?

Yes. Refer to questions 29 and 30 below for important considerations when engaging a temporary employee on a mobility arrangement. Additionally, the fact that an employee is employed on a temporary basis (and the reason for this) should be considered when deciding whether to release an employee to support workforce mobility, in addition to factors outlined in clause 7.5 of the directive.

28. What happens if a temporary employee is offered a mobility arrangement that goes beyond their end date?

A mobility arrangement with a temporary employee cannot extend past their home entity employment end date. A mobility arrangement does not change the employment relationship between an employee and their employer. If at any time during the mobility arrangement, the employee ceases to be employed by the home entity, the employee's mobility arrangement with the host entity automatically terminates on the date the employee ceases employment with the home entity.

29. What is the impact of a mobility arrangement on eligibility for review of non-permanent employment?

A mobility arrangement will not break a public sector employee's continuity of employment in the same public sector entity, for the purpose of eligibility for a non-permanent employment review in the home entity. The period that a non-permanent public sector employee performs work for or within a host entity counts towards their eligibility for review under sections 113 and 115 of the Act.

30. What is the impact of a mobility arrangement on review of acting or secondment at higher classification level?

The period that a public sector employee is on a mobility arrangement will not count towards their eligibility period for review of acting or secondment at higher classification level under sections 120 and 121 of the Act. This applies to both performing work for or within a host entity. Even if an employee continues to be paid at the higher duties rate by the home entity during a mobility arrangement, they will not be eligible because the employee is not performing the same role in the same entity, but rather a different role for a different entity (the host entity). Employers need to ensure that employees to whom this may impact are aware of these implications prior to consenting to a mobility arrangement.

Mobility arrangements – ceasing and managing concerns or performance/conduct matters

31. What avenues are available should a person be dissatisfied with a mobility arrangement?

A person undertaking a mobility arrangement should discuss any concerns and work constructively with both the home and host entity managers to seek a resolution in the first instance. Where the person remains dissatisfied, the concerns may be escalated in accordance with the home or host entity's complaints management framework or the directive relating to individual employee grievances (where that directive applies to the home or host entity). Noting however, that a home entity may be limited as to the actions that can be taken in relation to concerns about a host entity.

Depending on the circumstances, a public sector employee may be able to lodge a fair treatment appeal (however decisions relating to the recruitment or selection of a public sector employee are excluded from fair treatment appeals). For further information refer to the Appeals directive.

32. Can a person undertaking a mobility arrangement cease the arrangement before the agreed end date?

No. A mobility arrangement can only be ended prior to the nominated completion date by the person's chief executive or the chief executive (or appropriate office holder) of the other entity. However, clauses 10.3 and 10.4 of the directive outline actions a public sector employee may take if they are dissatisfied with the mobility arrangement, which may or may not result in the chief executive (or appropriate office holder) ceasing the mobility arrangement early.

33. How are performance or conduct matters managed during a mobility arrangement?

The approach will need to be considered on a case-by-case basis and should be discussed between the managers of the home and host entity.

Where the host entity is a public sector entity, the person's performance will be managed in accordance with the positive performance management principles set out under the Act and the Positive performance management directive. However, any decision to commence a structured process to manage unacceptable performance or conduct, or to take disciplinary action will usually be made and managed by the home entity, as the person's employer. This may result in the chief executive (or appropriate office holder) ceasing the mobility arrangement early. Alternatively, there may be circumstances where the chief executive of a home entity could delegate this responsibility to the chief executive of a host entity.

Where the Code of Conduct for the Queensland Public Service applies to the employee's home entity, it will continue to apply to the employee during the mobility arrangement unless the mobility arrangement specifies that the host entity's code of conduct or other standards of conduct applies.

34. Can a mobility arrangement be used to address an employee's unacceptable work performance or conduct?

As set out in the principles at clause 5.3 of the directive, workforce mobility is encouraged as a strategic workforce planning tool.

While reasons for entering into a mobility arrangement include providing professional development opportunities to employees and building capability, it is emphasised that a mobility arrangement should not be used as a way of circumventing performance management issues.

The principles of the directive at clause 5.4, highlight the responsibility of chief executives to act in a way that is compatible with the main purpose the Act. Consistent with this obligation, it is expected that mobility decisions are fair and promote effectiveness, efficiency and high performance.

Allowing unacceptable work performance or conduct to be addressed by moving an employee to another workplace through a mobility arrangement is regarded as inconsistent, not only with chief executives' responsibilities, but also with the intent of the directive.