**Template – NOTICE OF REVIEW - Fixed term temporary employment – at 2 years/subsequent years** *(Remove heading when finalising letter)*

*The purpose of this letter is to inform a fixed term temporary employee about the commencement of a review under the directive on fixed term temporary employment or acknowledge their notice of eligibility for a review. It is essential to provide employees with fairness, including adequate time to make submissions about their conversion. (Remove text box when finalising letter)*

«Title» «First\_Name» «Last\_Name»

***Email «Employee\_Email\_Address»***

Dear «First\_Name»

Key points:

1. You are eligible for a review of your fixed term temporary employment to determine if you should be converted to permanent employment. Your review eligibility date is: [DATE]
2. You may choose to provide information for me to consider for your possible conversion to permanent employment.
3. The review will be conducted in accordance with section 149B of the *Public Service Act 2008* (PS Act) and the Fixed term temporary employment directive 09/20.
4. You will be advised in writing within 28 calendar days after the review eligibility date. If a decision is not made within this timeframe, it is deemed that you will not be converted to permanent employment.

IF AGENCY IS NOTIFYING

You have been employed within the [AGENCY] as a fixed term temporary employee for a period of [INSERT TIMEFRAME ie. two years]. You are now eligible for a review under the the PS Act and the [Fixed term temporary employment directive 09/20](https://www.forgov.qld.gov.au/documents/directive/0920/fixed-term-temporary-employment) to determine whether your employment should be converted to permanent.

IF EMPLOYEE HAS NOTIFIED

I write in response to your [METHOD OF SUBMISSION] notifying that you are eligible for review to determine whether you will be converted from fixed term temporary to permanent employment at this time. Your review date is [ELIGIBILITY DATE] and future reviews will be due annually from this date.

Firstly, I would like to acknowledge your service, and recognise the role you have performed in the [TEAM NAME] team over this period.

You may choose to provide information for me to consider for your possible conversion to permanent employment, based on the following conditions.

The review will consider:

* whether there is a continuing need for you to be employed in your current role, or one that is substantially the same
* your merit for the role having regard to the merit principle in section 27 of the PS Act
* whether any requirements of an industrial instrument need to be complied with
* whether it is not viable or appropriate to convert you to permanent employment, having regard to any genuine operational requirements of the agency.

Your union or other representative may assist you in this process. To ensure your information is properly considered, please provide it to [CONTACT] on or before [DATE – AT LEAST SEVEN DAYS AFTER THE DATE OF THIS LETTER OR THE ELIGIBILITY DATE, WHICHEVER IS LATER]. The [Fixed term temporary employment directive 09/20](https://www.forgov.qld.gov.au/documents/directive/0920/fixed-term-temporary-employment) may assist [attach copy if not sending letter electronically].

Under the PS Act, a decision needs to be made within 28 days of your eligibility date. While I expect to make a decision within this timeframe, if I don’t, a decision will be taken to have been made that you will not be permanently appointed. You will be advised in writing of the outcome of your request, reasons for the decision and any appeal rights. I have included additional information about the process at the end of this letter.

[CONTACT NAME] has been assigned as the contact for the review. Should you have any questions regarding this letter, please contact [CONTACT NAME], by email at [EMAIL] or by telephone on [TELEPHONE NUMBER].

Yours sincerely

[DELEGATE NAME AND POSITION]

**Additional information**

**Decision making framework**

This review is conducted in accordance with the *Public Service Act 2008* (PS Act) and the Fixed term temporary employment directive 09/20. The PS Act is available at <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2008-038> and the directive is available at <https://www.forgov.qld.gov.au/documents/directive/0920/temporary-employment>.

**Eligibility for review–section 149, 149B**

To be eligible for a fixed term temporary to permanent employment review, you must

1. be a **fixed term temporary employee**
2. have been employed in the agency for either **one year or two years continuously** (including casual engagements)
3. have had **total breaks** in employment of **less than six weeks** in the previous year’s service **or 12 weeks** in the previous two years service.

**Conditions for fixed term temporary to permanent conversion – sections 149A,149B**

1. There is a **continuing need** for the fixed term temporary employee to be employed in the role in question or there is a continuing need for the fixed term temporary employee to be employed in a role which is the same or substantially the same.
2. **Merit** of the employee for the role has been established.
3. Any requirements of an industrial instrument are complied with in relation to the decision
4. The fixed term temporary employee should be converted to permanent unless it is **not viable or appropriate** having regard to the **genuine operational requirements** of the agency.

**Merit principle and merit criteria–sections 27, 28**

The **merit principle**

(1) The selection, under this Act, of an eligible person for an appointment or secondment as a public service employee must be based on merit alone (the merit principle).

(2) The merit principle applies subject to chapter 5, part 2, division 2 (Reappointment of particular election candidates).

(3) In this section—appointment does not include a transfer.

**Merit criteria**

In applying the merit principle to a person, the following must be taken into account—

(a) the extent to which the person has abilities, aptitude, skills, qualifications, knowledge, experience and personal qualities relevant to the carrying out of the duties in question

(b) if relevant—

(i) the way in which the person carried out any previous employment or occupational duties; and

(ii) the extent to which the person has potential for development.

**Continuously employed – section 149B(7A), Schedule 4 dictionary**

For working out how long the person has been continuously employed in the department—

(a) all periods of authorised leave are to be included and

(b) the person is to be regarded as continuously employed even if there are periods during which the person is not employed in the department, if the periods of non-employment in the department total 12 weeks or less in the 2 years occurring immediately before the time when the duration of the person’s continuous employment is being worked out.

***continuously employed***, in relation to a person employed in a department for a period, means the person is employed in the department—

(a) continuously as a fixed term temporary employee for the period or

(b) as a casual employee on a regular and systematic basis during the period or

(c) continuously as an employee mentioned in subparagraphs (i) and (ii) for the period.

**Permanent hours of work offered–Directive clause 7.4**

Unless there are exceptional circumstances, when deciding the hours of work to be offered when converting an employee under section 149B(3)(b), the chief executive should offer hours of work no less than the greater of the following amounts:

(a) the hours worked by the employee in the continuing role or role that is substantially the same, in the week immediately before the chief executive’s decision

(b) the average hours per week worked by the employee in the continuing role or role that is substantially the same, over the last two years**.**

**Where a decision is not made–sections 149A(5), 149B(7)**

If the decision maker does not make a decision within 28 calendar days after the eligibility date, the decision maker is taken to have decided not to convert the fixed term temporary employee to permanent.

**Appeal rights–sections 194(1)(e), 196(e)**

A fixed term temporary employee not converted to permanent employment following a review after two years continuous employment may appeal a decision not to convert. There is no appeal available for a review decision not to convert after one year of continuous employment.

Under section 194(1)(e)(ii), a fixed term temporary employee **may also appeal** an offer made under section 149B(3)(b) for conversion to permanent employment as a general employee on tenure or a public service officer in the circumstances where the hours of work per working week offered are less than the hours required to be offered by clause 7.4 of the Fixed term temporary employment directive.

There are procedural requirements, including time limits, under the *Industrial Relations Act 2016* that you must fulfil in order to appeal this decision.Further information is available in the Queensland Industrial Relations Commission’s public service appeals guide found at: <https://www.qirc.qld.gov.au/public-service-appeals> .

**Human rights**

Under the *Human Rights Act 2019*, decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive, to give proper consideration to human rights.

If you consider that a relevant human right has not been taken into account in making this decision, you may make a complaint using your agency’s process for making a human rights complaint. If you appeal a decision, you can include information about your human rights complaint.

Further information about your human rights is available: <https://www.qhrc.qld.gov.au/your-rights/human-rights-law>.