

APS Workforce Management Taskforce

Standard Secondment terms and conditions (MOPS)

Between the following parties (the “Parties”): the Secondee, the Employer, and the Host.

The Parties agree to the following terms and conditions for the Secondment of the Secondee from the Employer to the Host.

Agreement to the Secondment is given by the Parties signing the APS Workforce Management Taskforce Memorandum of Understanding.

1.0 Standard terms of Secondment

- 1.1. The Host requests the services which the Secondee can provide during the period of Secondment.
- 1.2. The Secondee remains an employee of the Employer throughout the Term and subject to the employment conditions of the Employer including the *Commonwealth Members of Parliament Staff Enterprise Agreement 2016-2019* (the “MOPS EA”) and any relevant determinations under the *Members of Parliament (Staff) Act 1984* (the “MOP(S) Act”) (the "Conditions").
- 1.3. Any variation to the Secondee's Conditions during the Term (other than any variation applied in accordance with the terms of the MOPS EA or pursuant to the MOP(S) Act) will be negotiated between the Secondee and the Employer, and, to the extent that any variation may affect the Secondment, the Host.
- 1.4. It is intended that the Secondment will commence at the Host’s place of business or another agreed location, between the dates agreed by the Parties. The term of Secondment may be extended with the mutual consent of the Parties.
- 1.5. Nothing in this agreement will construe, or have effect as construing, any relationship of employer and employee, or agency between the Host and the Secondee.

2.0 Remuneration or service fees and associated costs

- 2.1. The Employer (through Ministerial and Parliamentary Services (MaPS)) is responsible for and will continue to pay the Secondee’s total annual remuneration, inclusive of superannuation, agreed allowances and workers' compensation insurance coverage for the Term of the Secondment. The Secondee's remuneration will remain at their existing level. The Employer will not seek recovery of costs.
- 2.2. The Host will pay any travel, accommodation and meal costs associated with the Secondment, which must be approved in advance in accordance with the Conditions and associated policies and procedures.

3.0 Leave entitlements and notification

- 3.1. For the Term of the Secondment, the Secondee will be eligible to utilise any accrued leave entitlements subject to the Host’s business needs and approval from their Host supervisor. The Employer (through MaPS) will be responsible for administering any leave taken.
- 3.2. The Secondee’s leave entitlements will continue to accrue with the Employer.
- 3.3. The Secondee must forward approval for any utilisation of leave entitlements to the Employer to administer (through MaPS).

4.0 Codes of conduct, policies, procedures and practices

- 4.1. For the Term of the Secondment the Secondee will continue to abide by the requirements set out in the Codes of Conduct, Shared Behaviours, Values, policies, procedures and practices of the Employer..
- 4.2. During the Secondment, the Secondee must act in accordance with the APS Values, APS Employment Principles and the APS Code of Conduct and will also be required to abide by the requirements of the Host's policies, procedures, guidelines and practices.
- 4.3. If the Host becomes aware that the Secondee may have engaged in improper conduct, including conduct that may constitute failure to act in accordance with the APS Code of Conduct, they will notify the Employer as soon as possible. If appropriate, the Employer will conduct an investigation into the allegations and take appropriate action.
- 4.4. The Host will provide any assistance and information requested by the Employer for the purposes of an investigation undertaken in accordance with clause 4.3. The Employer will keep the Host informed of the progress and outcomes of the investigation.
- 4.5. In the case of suspected misconduct, the Host or Employer may immediately terminate the MOU. The Employer will decide whether further action will be taken in relation to suspected misconduct.

5.0 Performance Management and Salary Advancement

- 5.1. The Secondee will continue to undertake performance reviews and related performance based salary advancement and performance pay, or other contractually required performance or acquittal requirements, as per Conditions with the Employer.
- 5.2. The Employer may seek comment from the Host, and the Host may provide information to assist the Employer, when the Employer is determining performance ratings for the Secondee during the Secondment.

6.0 Training and Development

- 6.1. The Secondee and their Host supervisor will address any training needs in relation to the Secondment position. The Host agrees to pay for any approved training that the Secondee undertakes in relation to their Secondment position.

7.0 Applying for positions

- 7.1. Both the Host and the Employer recognise that the Secondee is entitled to apply for advertised positions in either organisation or externally during the Term of the Secondment.
- 7.2. If the Secondee chooses to apply for any positions with the Host during the Term, they would do so as an employee of the Employer.
- 7.3. If the Secondee is a successful applicant for another position, the Secondee will notify both the Host and the Employer in writing as soon as the Secondee is advised of their successful application.

8.0 Confidentiality

- 8.1. The Secondee will not discuss or disclose any confidential information, processes, materials, documents, costs, or secrets, related to any aspect of the business of the Employer, Host or other relevant organisations without the express agreement from those organisations.

- 8.2. The Secondee has a responsibility to consider the impact their personal interests or Employer's interests may have on their duties with the Host and identify and declare immediately if a conflict of interest (whether actual, perceived or potential) may exist.

9.0 Security

- 9.1. During the Term of the Secondment the Secondee must abide by the requirements set out in the Host's security plan, which is based on the principles outlined in the Protective Security Policy Framework. If required, prior to commencing Secondment with the Host the Secondee must successfully undergo a security clearance process to obtain and/or maintain a security clearance relevant to the role.

- 9.2. The Host will be responsible for costs associated with any security clearances required.

10.0 Copyright and Intellectual Property

- 10.1. Unless otherwise agreed in writing, all work produced by the Secondee in the course of their Secondment duties and activities and copyright in that work, shall belong to the Host and will remain so after the termination of the Secondment.

11.0 Insurance

- 11.1. During the Term of the Secondment, the Employer (through MaPS), as the ongoing employer of the Secondee, will continue to carry Worker's Compensation coverage for any compensable illness or injury sustained by the employee in accordance with the provisions of the *Safety, Rehabilitation and Compensation Act 1988*.

- 11.2. Each Party must, if requested by the other Party, promptly provide evidence of compliance with its insurance obligations under this clause.

12.0 Workplace Health and Safety (WHS)

- 12.1. The Host will have the primary duty of care in relation to the Secondee under the *Work Health and Safety Act 2011* (the "**WHS Act**") while the Secondee is on Host premises or whilst undertaking work elsewhere for the Host. However, the Employer retains overall responsibility under the WHS Act for the Secondee and should provide the Secondee with information about their WHS Act responsibilities to both the Host and the Employer whilst on Secondment.

- 12.2. The Host will provide local WHS procedures that support a healthy and safe work environment.

- 12.3. The Host and the Employer will cooperate in relation to relevant work health and safety matters, including but not limited to reporting incidents and any investigations under the WHS Act or other relevant laws.

- 12.4. The Host will provide reasonable workplace adjustments including air quality, lighting, provision of appropriate equipment and workstation to meet WHS obligations. Other WHS costs will be agreed in consultation with the Employer.

- 12.5. The Host will provide local case management support of any compensable illness/injury where requested to do so by the Employer.

13.0 Automatic termination of employment under the MOP(S) Act

- 13.1. Where the Secondee's employment is terminated under subsections 16(1), 16(2) or 23(1) of the MOP(S) Act:

- a. the Secondee must notify the Host supervisor as soon as practicable after receiving notice of the termination;
- b. the Secondment is terminated; and
- c. the Secondee must return to the Employer as soon as practicable.

14.0 Dispute Resolution

- 14.1. In the event of a dispute, the Parties will first try and resolve the dispute by negotiation. If negotiations fail, the Parties will resolve the dispute by mediation.

15.0 The Secondee's Responsibilities

- 15.1. The Secondee is required to:
 - Take day-to-day direction from the Host.
 - Follow all reasonable and lawful directions of the Host.
 - Act in accordance with all relevant laws (statutes, regulations and bylaws) relating to their Secondment with the Host, including any applicable health and safety legislation.
 - Act in accordance with the APS Code of Conduct, APS Values, APS Employment Principles, and the policies, procedures and practices of both the Host and the Employer. If there are apparent differences between the latter requirements, they will be identified and resolved in writing by all Parties; and, if unresolved, the requirements of the Host will prevail.
 - Complete all personal learning and work objectives as directed by their supervisor at the Host.
 - Take appropriate steps to ensure their own safety and to avoid harm to others, including bringing any health and safety issues in the work place to the Host's attention.
 - Keep in touch with their usual manager at the Employer on a regular basis.

16.0 The Host's Responsibilities

- 16.1. The Host will be responsible for:
 - Day-to-day direction of the Secondee.
 - The Secondee's induction into the organisation's business and providing them with the training and resources they need to perform the tasks required.
 - Establishing and communicating clear performance expectations to the Secondee and providing timely feedback.
 - Supervising the work of the Secondee and accepting professional responsibility for that work.
 - Arranging any security clearances required.
 - Discussing any concerns or difficulties related to the Secondment with the Secondee as soon as they arise.
 - Providing and maintaining a safe working environment that meets the requirements of the WHS Act.
 - Reporting to the Employer any WHS related incidents and investigations involving the Secondee.
 - Providing case management support during the Secondment for any compensable illness/injury where requested to do so by the Employer.

17.0 The Employer's Responsibilities

- 17.1. The Employer will be responsible for:

- Notifying the Host of any changes to the circumstances of the Seconded, including any disciplinary action or other matters that could impact on the Secondment.
- Notifying the Host of any special needs that the Seconded may have in carrying out their duties effectively and safely (including any work health and safety requirements).
- Warranting that, at the expiration of the Term, the Seconded will return to their substantive position within the Employer, unless otherwise agreed in writing between the Seconded and the Employer.
- Keeping the Seconded briefed on work-related activities and events occurring at the Employer during the Secondment (e.g. by extending invitations to meetings, providing information on internal policies, business planning process and social events etc.). This will include, where possible, continuing the Seconded's access to the Employer's email facilities.

18.0 Termination

- 18.1. The Host or Employer may terminate the Secondment by giving the other Parties written notice, as soon as practicable.