



## Portfolio agency employees assisting a Ministerial Office

### Allocation of personal employee positions

Under the *Members of Parliament (Staff) Act 1984* (MOP(S) Act), the Prime Minister allocates personal employee positions to a Minister (both the number and classification). Once allocated, the Minister can employ individuals in accordance with that allocation and the [Commonwealth Members of Parliament Staff Enterprise Agreement 2020-23](#).

The allocation of personal employee positions is solely a decision of the Prime Minister and Ministerial and Parliament Services (MaPS) administers the MOP(S) Act employment arrangements.

### Portfolio agency employees temporarily working in Ministerial offices

Following an election or appointment of a Minister, it is common for portfolio agencies to provide agency employees to support a newly established Ministerial office for short periods (i.e. up to 12 weeks). After this time agency employees should typically return to their agencies as by this time personal employees should have been engaged under the MOP(S) Act. Portfolio agency employees may also be used to support an established Ministerial Office for up to 12 weeks to cover personal employee absences (e.g. due to leave) or when an employee ceases employment at short notice.

During these periods, agency employees continue to be paid by their portfolio agency rather than being paid from the Minister's staffing allocation.

Departmental Liaison Officers are a separate arrangement. The information below does not apply to them.

### Time limits

The temporary provision of portfolio agency employees is not subject to legislation but rather operates as a long-standing convention. The expectation is that a maximum of 12 weeks of transitional support provides sufficient time for the Minister to source appropriate MOP(S) Act employees. However, the time period remains at the portfolio agency's discretion in consultation with their Minister.



## Status of portfolio agency employees

An agency employee assisting in a Ministerial Office remains an APS employee (i.e. not employed under the MOP(S) Act) and continues to be paid by their portfolio agency.

An agency employee remains bound by the APS Code of Conduct when they are assisting a Minister, which may be challenging for the employee when working within the political environment of a Ministerial Office.

It is recommended that where an arrangement is expected to exceed 12 weeks, agency employees be offered an ongoing or non-ongoing contract under the MOP(S) Act for assignments to ensure employees are bound by the [Ministerial Staff Code of Conduct](#), rather than the APS Code of Conduct. During their period employed under the MOP(S) Act, employees must be granted leave without pay from their agency<sup>1</sup>.

Engagements under the MOP(S) Act have no effect on the underlying APS employment and employees are expected to return to their agency once their MOP(S) Act employment ceases.

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<sup>1</sup> Subsection 67(1) of the *Australian Public Service Commissioner's Directions 2022*