

This Guideline will assist in achieving best practice when undertaking a probation process under the *Public Sector Employment and Management Act* (the Act). The Guideline is to be read in conjunction with section 32 of the Act and Employment Instruction Number 2 (Probation), but does not form part of the legislation.

1. Ongoing employment is subject to probation

Generally, an ongoing employee is subject to a period of probation on the commencement of his or her employment. The standard period of probation is 6 months but an alternative period of probation for certain groups of employees may be:

- determined by the Commissioner; or
- prescribed by a relevant award or enterprise agreement.

A Chief Executive Officer may employ an ongoing employee without probation. In determining whether to exercise this discretion, factors that should be considered include:

- the employee's prior work experience and performance; and
- the relevance of these to the duties to be performed.

2. The assessment process

In addition to any formal assessments prescribed under the agency policy to assess the employee's:

- ability to perform his or her assigned duties; and
- suitability to perform, or capability of efficiently performing his or her assigned duties;

informal feedback should occur during normal interaction between a supervisor and a probationary employee, and can be referred to in the formal assessments.

The timing of assessments should allow sufficient time for written notification of a Chief Executive Officer's intention to extend the period of probation, or to confirm or terminate the employee's employment, and the employee's response to occur within the period of probation.

3. Extension of probation

The initial probation period should generally be sufficient to determine whether an ongoing employee's employment should be confirmed. However, if this proves not to be the case (e.g. due to minor performance issues, training requirements, or



absence(s) from work precluding a full assessment), a Chief Executive Officer may extend an employee's probation period for a further period, not exceeding the length of the initial period (e.g. if the initial probation period was 6 months, the Chief Executive Office may extend the probation period for a further period of up to 6 months duration).

Where an extension occurs by operation of section 32(7) of the Act (i.e. statutory extension where a Chief Executive Officer has not taken action to confirm, extend or terminate probation at the end of the probation period), this should be confirmed in writing at the earliest opportunity.

During the extended period of probation a Chief Executive Officer should make a decision to confirm or terminate the employee's ongoing employment as soon as practicable (noting this can occur at any time).

4. Termination of ongoing employment during the extended probation period

If a Chief Executive Officer decides to terminate an employee's ongoing employment during the extended period of probation, the Chief Executive Officer should notify his or her intention to take the action at least 6 weeks before the end of the extended probation period.

The reason for this is that section 32(6) of the Act requires the termination of employment to occur within the probation period, noting that:

- the Chief Executive Officer must give the employee at least 14 days notice of his or her decision to terminate the employee's employment during which;
- the employee can seek a review by the Commissioner for Public Employment of the Chief Executive Officer's decision; and
- the Commissioner has 14 days, or such longer period as required, in which to review the Chief Executive Officer's decision.

5. Automatic confirmation of employment at the end of an extended probation period

If the Chief Executive Officer does not terminate the employee's employment before the end of the extended probation period the employee's ongoing employment is automatically confirmed by operation of the Act and the employee ceases to be on probation.



6. Support Persons

Employee requests for a support person to be present at probation assessments should be accommodated wherever possible. The support person is a person nominated by the employee, and may include his or her union organiser or delegate.

The role of the support person is to provide emotional support and act as a witness for the employee. If the support person fails to effectively perform his or her role (e.g. being disruptive), the agency may suspend the meeting and reschedule. In such cases, the employee may decide to nominate another support person.