



PROBATION

1 PURPOSE

The aim of this procedure is to outline the provisions regarding probation for new employees.

2 INTRODUCTION

The Crime and Misconduct Commission's (CMC) *Achievement and Capability Planning* system is designed to complement these probationary provisions with respect to assessing a new employee's suitability for continued employment.

3 APPLICABILITY

This procedure applies to:

- assistant commissioners engaged under s.244(1) of the *Crime and Misconduct Act 2001* (the Act)
- senior officers employed under s.245(1) of the Act
- employees engaged under s.254(1) of the Act.

This procedure does not apply to temporary and casual employees; employees on secondment to the CMC; or police officers who have been seconded to the CMC under s.255(1) of the Act.

4 DEFINITIONS

For the purposes of this procedure the following definitions apply:

The Act	<i>Crime and Misconduct Act 2001</i>
Delegate	A holder of a position that has been delegated certain decision making authority by the Commission (see <i>Human Resource Delegations</i> for a list of positions)
Manager	An employee who supervises and/or manages the work and output of another individual who reports to them
Functional area head	Assistant Commissioner; Executive General Manager; Director Witness Protection and Operations Support. This term may also refer to the Chairperson for the Executive and the Director, Office of the Commission
Oversight delegate	The oversight delegate has an 'executive manager' level human resource delegation (see register of <i>Human Resource Delegations</i> for a list of positions)

5 PROCEDURE

5.1 Probationary period

Within four weeks of commencement of employment, the employee and their manager complete the *Achievement and Capability Planning* (ACP) form for the probationary period.



The employee's achievements against agreed role deliverables, success indicators and capability development requirements are then progressively assessed and documented.

Probationary employees receive regular and balanced feedback from their managers and additional support is provided where required.

Two formal reviews are conducted at the:

- midpoint – three months after commencement of employment and
- endpoint – at least four weeks prior to the expiration of the probation period.

5.2 Short-term performance improvement activities

Where an employee's performance is assessed as less than satisfactory, the manager carries out short-term performance improvement activities during the probation period using the ACP to guide and document the activity.

Where it remains apparent that the employee is not suitable for the role at the conclusion of the short-term performance improvement activity, the manager may decide to terminate employment at any time within the probation period, with the giving of notice (refer Option 3 under clause 5.4; and CMC policy – *Termination of Employment*).

5.3 Right of response

Where a manager and employee do not reach agreement, or the employee feels aggrieved by the administrative process or decision making by their manager, the employee may submit a written 'right of response' to the oversight delegate (see clause 5.5 - *Oversight delegate*).

A probationary employee can submit a written right of response to the oversight delegate at any time during the probationary period.

A right of response is reviewed by the oversight delegate and finalised within four weeks from the date it is received.

All right of response requests are dealt with fairly and impartially in accordance with the principles of natural justice (procedural fairness) and reasonable adjustment.

5.4 At least four weeks prior to expiration of the probationary period

Option 1: Recommendation to confirm appointment

The delegate undertakes to confirm the probationary employee's appointment where the employee's manager has assessed their achievements as being satisfactory.

Confirmation of an appointment may not be withheld if role relevant training is still to be completed and the probationary employee is otherwise performing at a satisfactory level.

At the end of the probation period, if a decision has not been made about a probationary employee's continued employment, their appointment will be deemed to have been confirmed.

An employee's appointment shall be deemed to have commenced on the date the employee commenced work at the CMC, regardless of the probation period.



Option 2: Recommendation to extend probationary period

Where the employee is assessed as having the potential to be successful in the role, but has not met all of the agreed requirements, the employee's manager may recommend extending their probation period.

The total of the initial and extended probation periods must not exceed 12 months.

Option 3: Recommendation to terminate employment

A manager can recommend the termination of the probationary employee's employment where they have been assessed as not meeting requirements and:

- short-term improvement activities have been conducted and
- the manager provided the employee with sufficient additional relevant support.

Step 1

The probationary employee is informed in writing of the proposed termination and the reasons proposed to terminate their employment.

The employee is provided with an opportunity to respond to the proposed termination of their employment through a right of response process conducted by the oversight delegate as outlined above in 5.3 – *Right of response*.

Step 2

The employee submits their written response to the oversight delegate within 14 days from being informed of the proposed termination of their employment.

Step 3

The oversight delegate conducts a review and makes a written recommendation to:

- the relevant delegate for their approval as outlined in clause 7 – *Responsibilities and authorities*, where the oversight delegate is also the relevant functional area head; or
- the functional area head for endorsing and then forwarding to the relevant delegate for their approval, where the oversight delegate is not the relevant functional area head.

The oversight delegate's review process includes consultation with the Human Resources Manager and the functional area head.

The probationary employee is given a copy of the written recommendation.

Where the period of probation expires within the right of response review period, the probationary period is extended for a further 21 calendar days.

Where employment is terminated, the employee shall not become eligible for a severance payment. The employee shall not institute any proceedings for damages, compensation or other relief whatsoever in the event that their employment is terminated during, or at the expiration of, the probation period.

5.5 Oversight delegate

The role of the oversight delegate includes:

- overseeing the probation process within their work unit/functional area
- ensuring consistency, equity and fairness across the work unit/functional area
- ensuring appropriate assessment and decision making by managers
- monitoring capability development needs and activities
- reviewing employee rights of response and
- managing recognition and reward.



6 RECORDS

The following records are to be retained:

Record	By Whom (Position)	Retention Period
Finalised probation ACPs generated at the end of a probation period	Human Resources Manager	In accordance with CMC <i>Retention & Disposal Schedule</i>
All documentation relating to confirmation of employment, extension of probation, and termination of employment	Human Resources Section	In accordance with CMC <i>Retention & Disposal Schedule</i>

7 RESPONSIBILITIES AND AUTHORITIES

The Chairperson has the delegation to terminate with one month's notice, the employment of a probationary employee engaged under s.244 and s.245 of the Act as a senior officer or assistant commissioner (on SES contract).

The Chairperson has the delegation to terminate with or without notice, the employment of a probationary employee engaged under s.254 of the Act at the senior executive (SES) classification level or below, on the recommendation of the relevant functional area head.

The Executive General Manager, Strategy and Services, has the delegation to approve the extension of a period of probation on the recommendation of the relevant functional area head.

The Oversight Delegate has an 'executive manager' delegation with the authority to review written right of response requests and to make recommendations to the relevant functional area head.

The Human Resources Manager has the delegation to approve the confirmation of employment of a probationary employee, on certification by the relevant functional area head.

The Chairperson has the discretion to depart from this procedure in exceptional circumstances.

8 LEGISLATION

Crime and Misconduct Act 2001

Crime and Misconduct Commission Employees Award – State 2006

Industrial Relations Act 1999

9 REFERENCES

CMC Policies and Procedures

- *Probation*
- *Achievement and Capability Planning*
- *Learning and Development*
- *Staff Recognition*
- *Managing Diminished Performance*
- *Discipline*
- *Termination of Employment*



- *Human Resource Delegations*

Information Sheets

- *Assessing your capability development needs*
- *Achievement and capability planning cycle*

10 METADATA

Author's name:	Jayne Cush
Author's position:	Principal Human Resource Consultant
Approver's name:	Edith Mendelle
Approver's position:	Executive General Manager
Date approved:	28 September 2011
Suggested review date:	September 2013
File Path:	AD-05-0403: 11/106075