



**NSW Police Force**

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# **Misconduct Transfer Procedures for Administrative Employees**

**Professional Standards Command**

# Misconduct Transfer Procedures for Administrative Employees

## Essential Summary

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- This document outlines the procedures required to be undertaken when an administrative employee is the subject of a misconduct transfer (assignment to a different role) as a result of proven misconduct pursuant to s69(4)(f) of the *Government Sector Employment Act 2013 (the Act)*.
- The document describes the responsibilities of the region, police area command, police district, directorate or specialist command involved in the transfer process.

## Document Control Sheet

### Document Properties

Title	Misconduct Transfer Procedures for Administrative Employees
Subject	Procedures to be undertaken when the Delegate is making a decision in relation to a misconduct transfer (assignment to a different role)
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### Modification History

Version #	Version approval date	Author/Position	Summary of changes
1	May 2015	Administrative Officer Conduct Unit, PSC	Disciplinary Transfer Procedures for Administrative Officers - original document.
1.1	January 2021	PSC	Document updated with new Information, Protective Marker – Information Management Marker
2	August 2021	Administrative Officer Conduct Unit, PSC	Procedures title change replacing Officers with Employees and reflected throughout the document Procedures title and document language change from Disciplinary to Misconduct, consistent with Misconduct Management Framework and the GSE Act Change throughout procedures position to role Essential summary - <i>Police Act 1990</i> added as relevant legislation, additional commentary Terminology – add definitions of delegate and administrative employee Delegation – delete named officers holding the delegation to maintain currency Updated to meet NSWPF standards Minor technical changes

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## 1. Purpose

The purpose of this document is to outline transfer procedures relative to proven misconduct of relevant employees and to clarify the responsibilities of commands and business units involved in the misconduct transfer of a relevant employee in these circumstances.

Throughout the misconduct process the Administrative Officer Conduct Unit (**AOCU**) will be in contact with the relevant employee and their commander/manager. The Delegate's initial determination to transfer a relevant employee will be communicated to both the relevant employee and their commander/manager in writing.

These guidelines come into effect after:

- the relevant employee has been afforded the opportunity to respond in writing to the delegate's initial determination to impose assigning the employee to a different role; and
- the delegate has decided to proceed with assigning the relevant employee to a different role pursuant to s69(4)(f) of the *Government Sector Employment Act 2013 (the Act)*, as a result of proven misconduct.

## 2. Scope

This document is for the use of commanders/business managers and the AOCU.

The document provides an outline of:

- terminology
- Commissioner's delegation in relation to administrative employee misconduct management
- responsibilities of the commander, region business manager, police area/district manager
- responsibilities of the AOCU.

### 3. Procedures

#### 3.1 Terminology

Term	Definition
Transfer	The reassignment of a relevant employee from their substantive role to a different role
Administrative Employee	Means a member of the NSW Police Force other than a police officer, as defined in the <i>Police Act 1990</i>
Relevant Employee	Administrative employee subject of a misconduct investigation and/or action pursuant to s69(4) of the <i>Government Sector Employment Act 2013</i>
Misconduct	Misconduct is defined in section 69 (1) of the <i>Government Sector Employment Act 2013</i>
Initial Determination	The opinion of the delegate as to whether misconduct has occurred and proposed action pursuant to s69(4) of the <i>Government Sector Employment Act 2013</i>
The Delegate	An officer authorised to exercise the Commissioner's legislated authority
Business Manager	Region, district, police or corporate level business manager or position identified by a corporate level commander/director
Final Decision	The delegate's final decision as to the action to be taken to address proven misconduct pursuant to s69(4) of the <i>Government Sector Employment Act 2013</i>

#### 3.2 Delegation of Commissioner's authority

The NSW Police Force Commissioner has delegated the functions under the *Government Sector Employment Act 2013* and the *Government Sector Employment (NSW Police Force) Rules 2017 (the Rules)* in respect to the management and determination of misconduct allegations to various officers, as detailed in the related instrument of delegation. The functions are mostly exercised by a delegated officer within the Professional Standards Command (**PSC**).

The delegate may take action against a relevant employee under section 69(4) of the Act. This includes the decision to assign a relevant employee to a different role following a proven finding of misconduct or conviction for a serious offence.

### 3.3 Misconduct Transfer

When the delegate is satisfied that a relevant employee has engaged in misconduct or has been convicted of a serious offence (an offence punishable by imprisonment of 12 months or more), management action may be taken pursuant to s69(4) of the Act as follows:

- (a) *terminate the employment of the employee (without giving the employee an opportunity to resign),*
- (b) *terminate the employment of the employee (after giving the employee an opportunity to resign),*
- (c) *impose a fine on the employee (which may be deducted from the remuneration payable to the employee),*
- (d) *reduce the remuneration payable to the employee,*
- (e) *reduce the classification or grade of the employee,*
- (f) *assign the employee to a different role,***
- (g) *caution or reprimand the employee.*

These procedures relate to the delegate's decision to impose an assignment to a different role under s69(4)(f) of the Act.

## 4. Process

Where a relevant employee has a proven finding of misconduct or has been convicted of a serious offence, the delegate may determine that the most appropriate outcome is to assign the employee to a different role (ie. transfer).

When the delegate arrives at that determination, this is communicated to the Manager, AOCU, PSC.

The Manager, AOCU will contact the relevant commander/business manager requesting they identify a suitable role to which the relevant employee could be assigned at the same grade (unless the decision also includes a reduction in grade), preferably within the same region/command/business unit or locale.

### 4.1 Business Manager's Responsibilities

#### 4.1.1 Identifying a Different Role for Transfer

The commander/business manager is responsible for identifying and nominating a suitable role in consultation with the region commander, region business manager or corporate level commander/director. Agreement must be reached between the

commander/business manager and region commander or corporate level commander/director to the relevant employee being assigned to the nominated role.

If there is no suitable role within the region/command, suitable roles in other regions/commands may be considered. The negotiations in relation to the proposed transfer with another region/command are the responsibility of the employees' commander/business manager.

Human Resources, Placement Services may be able to assist in identifying vacant roles (at grade) pre-advertisement, which may be suitable.

It is the responsibility of the region business manager and/or the police area/district manager or corporate level commander/director to discuss the transfer of a relevant employee with the relevant employee's current commander/manager and the receiving commander/manager and to confirm both commands agree to the transfer.

Where agreement has been reached for the transfer of a relevant employee, formal notification will be undertaken by the delegate to the relevant employee and involved parties.

All such discussions and negotiations must remain confidential; however, information can be released on a need to know basis to other individuals or commands that may be dealing with the transfer negotiations.

The relevant employee is not to be advised of the transfer until formally notified in writing by the delegate offering the relevant employee the reassigned role.

Relevant employees with proven misconduct matters are not entitled to transfer entitlements under clause 4.10(f) of the *Crown Employees (Transferred Employee Compensation) Award 2009* unless approved by the Commissioner or his delegate.

#### 4.1.2 Notification to the Administrative Officer Conduct Unit

When a suitable position has been identified and confirmed with the current and receiving commanders/business managers, the relevant employee's commander / business manager is required to supply the Manager, AOCU with the following information in order to affect the transfer:

1. SAP Code that the relevant employee substantively holds
2. SAP Code of the role into which the relevant employee is to be reassigned
3. Date the transfer is to take effect.



The letter from the delegate to the relevant employee should contain the particulars of the proposed transfer including:

- role description
- location
- who the relevant employee will be reporting to
- the date the transfer is to take effect

#### 4.1.3 Lateral Transfer

Where it is proposed to transfer the relevant employee to a SAP role substantively held by another employee and either:

- move the other employee into the role substantively held by the relevant employee (ie. swap the two people into their respective roles)

or

- move the other employee into a different role in order to affect the transfer

It is the responsibility of the commander/business manager to discuss that proposal with the other employee and their commander/business manager in confidence, and ultimately to confirm the lateral transfer in writing to that employee after the relevant employee has been informed of the transfer by the delegate.

The opportunity to undertake a lateral transfer is at the discretion of the employee. No lateral transfer is to be undertaken without the full agreement of the employee and their commander/business manager.

Transfer entitlements are to be given to employees who agree to a lateral transfer in order to affect a misconduct transfer of a relevant employee.

When an agreement is reached between all the parties (excluding the relevant employee), the commander/business manager must notify the Manager AOCU, who will advise the delegate.

#### 4.1.4 No suitable transfer role

On occasion no suitable role may be identified due to the relevant employee's specific skill set or being in a regional location. If no suitable role can be identified into which a relevant employee can be transferred, the commander/business manager must notify the Manager AOCU, who will advise the delegate.

The delegate may then consider other action pursuant to section 69(4) of the Act, including, if necessary, termination of employment.

#### 4.1.5 Professional Standards Command responsibilities

Where a suitable role has been identified to transfer the relevant employee, the following persons will be provided written notification by the delegate of the final decision:

- relevant employee (misconduct transfer or other action) via hand delivery, internal mail or personal email
- relevant employee's current commander/business manager (misconduct transfer or other action) via email or internal mail
- relevant employee's receiving commander/business manager (misconduct transfer) via email or internal mail
- Manager, Payroll Operations, Shared Services (if applicable) advised of the misconduct transfer and relevant employees details ie. name, serial number, current SAP number, new SAP number, role, current location, transfer location and date of transfer.
- Manager, Payroll Operations, Shared Services (if applicable) advised of lateral transfer and employee's details ie. name, serial number, current SAP number, new SAP number, role, current location, transfer location and date of transfer.
- Industrial Advocate, Public Service Association (if applicable) via email.

Should no suitable role be identified, the delegate may consider other options available and will inform the parties involved in the misconduct matter of the final decision.

## Appendix 1 – Request to Payroll Operations - Misconduct Transfer (assigned to a different role)

Manager  
Payroll Operations  
Shared Services  
Level 5A, NSW Police Headquarters  
1 Charles Street  
Parramatta NSW 2150  
Via email: [Ps-pstl@police.nsw.gov.au](mailto:Ps-pstl@police.nsw.gov.au)

M21-0xx  
XX:xx

### Notification of Final Decision (misconduct process)

(name - relevant employee & Serial Number)

As a consequence of proven findings of misconduct resulting from a misconduct process conducted pursuant to the *Government Sector Employment Act 2013* and *Government Sector Employment (NSWPF) Rules 2017* in respect of (name of relevant employee), I have decided to assign the employee to a different role.

(Name of relevant employee) is currently attached to ..... PAC/PD performing the role of (position), SAP Code.....

The employee is to be assigned to ..... PAC/PD performing the role of (position), SAP code.....

The transfer date is XX/XX/202X.

I would appreciate you taking the necessary steps to affect that transfer.

It would also be appreciated if (name of relevant employee) personnel records could be updated to reflect the reason for the transfer and that this documentation be placed on (name of relevant employee) e'P' - personnel file.

There are no changes to (name of relevant employee) pay or conditions involved with this transfer. Should you have any queries relating to this matter, please contact (name), Case Manager, Administrative Officer Conduct Unit on (02) 9355 84... or E/N 48...

Yours sincerely

(Name)  
Commissioners delegate  
Professional Standards Command  
XX/XX/202X

## Appendix 2 – Request to Payroll Operations - Lateral Transfer

Manager  
Payroll Operations  
Shared Services  
Level 5A, NSW Police Headquarters  
1 Charles Street  
Parramatta NSW 2150  
Via email: [Ps-pstl@police.nsw.gov.au](mailto:Ps-pstl@police.nsw.gov.au)

M21-0XX  
XX:xx

### Lateral Transfer of (name - relevant employee & Serial Number)

As a consequence of proven findings of misconduct resulting from a misconduct process concerning (name of relevant employee) in which I determined she/he was to be assigned to a different role/location, from (role) at ..... PAC/PD to (role) at .....PAC/PD, it was necessary to arrange for (name of the other employee), the substantive (role) at ..... PAC/PD to be transferred to ..... PAC/PD, thereby effecting a direct swap of the two employees.

(name of the other employee), (role), ..... PAC/PD, SAP code XXXX..... has agreed to a lateral transfer at the same grade and pay into the role of (role), ..... PAC/PD, SAP code XXX.

The transfer date is XX/XX/202X

I would appreciate you taking the necessary steps to affect that transfer.

This lateral transfer should not affect the pay or conditions of (name of the other employee)

Should you have any queries relating to this matter, please contact (name), Case Manager, Administrative Officer Conduct Unit on (02) 9355 84... or E/N 48....

Yours sincerely

(Name)  
Commissioners delegate  
Professional Standards Command  
XX/XX/202X