

Unsatisfactory attendance and non-performance of duties

POL-G-056

Version 1.1 18 September 2020

Contents

1. Title	3
2. Introduction	3
3. Scope.....	3
4. Principles or guidelines	3
5. Definition of terms.....	5
6. Definition of responsibilities.....	5
7. References	6
8. Implementation	6

ID	POL-G-056
Version	1.1
Version date	18 September 2020
Type	General operational
Approval dates	Approved by Executive Management Group 6 October 2020
File	17/1334; 19/1244
Availability	Public and all staff
Keywords	Unsatisfactory attendance, non-performance of duties, abandonment of employment, hours of work, ordinary hours, working patterns, bandwidth, ordinary span of work hours, standard hours, flextime.
Responsible officer	HR Manager
History	2001-5 SC-027 (June 2006) SC-027 (April 2012)
Review date	September 2022
Related documents	<i>Enterprise Agreement 2017–2020</i> Code of Conduct guidelines and procedures Performance management guide for staff Performance management guide for managers
Contact	National Museum of Australia GPO Box 1901 CANBERRA ACT 2601 Tel: (02) 6208 5000 Email: information@nma.gov.au Website: www.nma.gov.au

1. Title

Unsatisfactory attendance and non-performance of duties

2. Introduction

The National Museum of Australia (the Museum) is a major cultural institution charged with researching, collecting, preserving and exhibiting historical material of the Australian nation. The Museum focuses on the three interrelated areas of Aboriginal and Torres Strait Islander history and culture, Australia's history and society since European settlement in 1788 and the interaction of people with the environment.

Established in 1980, the Museum is a publicly funded institution governed as a statutory authority in the Commonwealth Arts portfolio. The Museum's building on Acton Peninsula, Canberra opened in March 2001.

3. Scope

3.1 Description

The policy covers the actions which can be taken when issues of unsatisfactory attendance and/or non-performance of duties are identified.

3.2 Purpose

This policy provides details of how to address unsatisfactory attendance and/or non-performance of duties (abandonment of employment).

3.3 Rationale

This policy seeks to address loss of productivity due to unsatisfactory attendance and/or non-performance of duties.

4. Principles or guidelines

An employee who is unable to attend for duty on a particular day and who does not have prior approval for the absence must phone by no later than 10am and directly notify their supervisor or a more senior manager (unless alternative arrangements have been agreed, such as a text message, email etc or arrangements for rostered staff) of the general nature of the absence, and the anticipated duration, unless exceptional circumstances prevent such a notification (EA 4.09). Employees should get approval well in advance for planned leave, such as annual and long-service leave. If the supervisor or manager is not available during business hours, a message can be left on the supervisor or manager's voicemail or with a colleague.

Supervisors must notify Human Resources (HR) as soon as possible after it becomes apparent that an employee is absent from duty without approval. If an employee is absent without explanation, supervisors must take reasonable steps to ascertain the reason for the absence. If a supervisor does not have personal contact details for the employee, the HR Team will not provide those contact details, but HR may contact absent staff members on behalf of the relevant supervisor or manager. Generally, HR must be notified of an unexplained absence as soon as practicable. HR will then exercise discretion about whether to stop the employee's pay and/or take other reasonable steps to determine the employee's whereabouts and reason for absence (EA 4.10).

APS 1 to APS6 employees will not have access to flextime if the manager considers that the employee's attendance is unsatisfactory and/or the attendance does not meet business requirements and/or the employee is misusing the arrangements (EA 4.02(6)). Advice must be sought from HR before making a decision to cease an employee's access to flextime (EA 4.10). Access may be restored when the manager is satisfied with the employee's attendance.

For all employees, the pattern by which an employee works ordinary hours of work is as agreed between the employee and his or her supervisor or, in the absence of agreement (EA 4.03):

- For a full time employee — 8:30 am to 12:30 pm and 1:30 pm to 4:55 pm (including reasonable additional hours for Executive Level employees); and
- For a part-time employee — the hours agreed in the part-time work agreement or decided by the Director for a management-initiated part-time position.

Note: The National Employment Standards (NES) provided for by section 65 of the *Fair Work Act 2009* include a right for certain employees to make a written request for flexible working arrangements (such as changes in hours of work). The Museum can only refuse a request on reasonable business grounds. For advice on what may constitute a reasonable business ground, contact HR.

Supervisors must keep a note of all discussions with employees about unsatisfactory attendance. Supervisors must advise their manager and HR if they have had such a discussion with an employee and are of the view it could lead to further action (for examples potential Code of Conduct or non-performance of duties).

After checking the employee has not notified someone else of their absence, the manager or HR must make and document all reasonable attempts to ascertain the reasons for the employee's failure to return to work or undertake his/her duties. This may be in the form of contact by telephone, mobile phone, email or private channels in social media, or contact through other people such as work colleagues, family members or treating medical practitioners. In doing so staff must at all times be aware of privacy considerations and be careful not to disclose an employee's personal information contrary to the Australian Privacy Principles.

Mental health issues may affect the appropriate approach, including in relation to making contact. Ultimately, if the employee is not contactable, a letter will be sent by registered and ordinary mail to the employee's home address requesting the employee contact the Museum as soon as possible. The manager or HR should give the APS employee a warning of the consequences of not resuming duties and a reasonable opportunity to explain the continued absence or to return to duty, prior to making any decision as to whether termination of employment is warranted. These actions must also be documented.

HR will attempt to establish reasons for the absence and, where appropriate, direct the employee to return to work immediately or at another time considered reasonable given the employee's circumstances. HR will consider any underlying issues behind the employee's unexplained absence such as mental health issues. Where no contact is made, or contact is made but paid leave is not available or granted, HR will suspend the employee's pay (EA 4.10).

In the event of a dispute in relation to the application of the Enterprise Agreement provisions then the dispute settlement procedures will apply (EA 6.03). Under Section 33 of the *Public Service Act 1999* and Part 5 of the *Public Service Regulations 1999*, an employee is entitled to seek a review of an action which relates to their APS employment. This includes a failure or refusal to act, unless the action is exempt from review. Section 352 of the *Fair Work Act 2009* prohibits termination of employment where an employee is temporally absent from work because of illness or injury of a kind prescribed by Regulation 3.01 of the *Fair Work Regulations 2009*.

5. Definition of terms

Non-performance of duties (abandonment of employment)

Includes situations where an employee has been:

- absent from work without approval
- on an unauthorised absence
- granted leave, but has not returned to work at the end of a period of approved leave and a further period of leave has not been approved
- engaging in attendance which does not meet business requirements.

Unsatisfactory attendance

Includes situations where an employee has been:

- absent from work without approval
- on unauthorised absence
- granted leave, but has not returned to work at the end of a period of approved leave and a further period of leave has not been approved
- attending work in a manner which does not meet business requirements
- not attending work in a pattern agreed with their manager (where the pattern is not agreed, an employee must work 8:30 am to 12:30 pm and 1:30 pm to 4:55 pm or the hours in a part-time work agreement)
- in a flex debit of more than 10 hours on one or more occasions
- not attending work in standard hours or part-time work hours, where there is no agreement with the manager to work another pattern of hours.

6. Definition of responsibilities

Supervisors

Must:

- Discuss and agree with an employee the pattern of hours the employee is required to work their ordinary hours. If there is no agreement (including flexible arrangements agreed under the NES), direct a full-time employee to work standard hours or direct a part-time employee to work the hours in their part-time work agreement (EA 4.03).
- Notify HR as soon as possible after it becomes apparent that an employee is absent from duty without approval.
- Document all communication with the employee regarding issues with their attendance.
- Address unsatisfactory attendance issues as soon as possible after they arise, including under performance management arrangements.

Employees

Must:

- Unless exceptional circumstances apply (EA 4.09), phone before 10 am (unless alternative arrangements have been agreed, such as a text message, email etc. *or arrangements for rostered staff*) and directly advise their supervisor, more senior manager or, if they are not available, HR of their absence, the general nature of the absence and the anticipated duration.
- Seek prior approval for all leave which is scheduled, for example annual leave.
- Seek and obtain approval for unscheduled absences as soon as practicable (i.e. while on leave by logging into <https://login.ccsc.gov.au/my.policy> or on return to the office).
- Seek their supervisor's agreement to the pattern of hours they are required to work before commencing a revised or new pattern of work. In the absence of agreement, work standard hours or agreed part-time work hours (EA 4.03).

Managers

Must:

- After consultation with HR, consider if access to flextime should be withdrawn if an employee’s attendance is unsatisfactory and/or the attendance does not meet business requirements and/or the employee is misusing the arrangements (EA 4.02(6)). Where considering this, the manager must notify the employee of their intention in writing and give them an opportunity to respond.
- Document all communication with the employee regarding issues with their attendance.
- Deal with absences which are not approved as part of performance management arrangements.
- Notify Human Resources as soon as possible after it becomes apparent that an employee is absent from duty without approval (EA 4.10).

Human Resources

Must:

- At the request of the supervisor or manager, and if appropriate, contact employees absent from the workplace.
- Where appropriate, cease an employee’s pay where leave has not been approved (EA 4.10).
- Document all communication with an employee regarding issues with their attendance.
- Where appropriate, issue a formal warning of potential consequences and a direction to an employee regarding issues with attendance.

7. References

National Museum of Australia Enterprise Agreement 2017–2020
Public Service Act 1999
Fair Work Act 2009
Fair Work Regulation 2009

8. Implementation

8.1 Coverage

APS employees

8.2 Other related policies

Review of actions guideline
 Code of Conduct guidelines and procedures
 Performance management guide for staff
 Performance management guide for managers

8.3 Exclusions

Labour hire employees

8.4 Superseded policies

This policy supersedes:

Former policy/ies title	Version number	Version date	Executive approval date
Unsatisfactory attendance	2.2 (SC-027)	April 2012	April 2012

8.5 Monitoring

This policy will be reviewed on commencement of a new Enterprise Agreement.