



Directive on Career Transition for Executives

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Directive on Career Transition for Executives

1. Effective date

1.1 This directive takes effect on July 16, 2007.

1.2 It replaces the following:

- [Executive Employment Transition Policy](#), dated September 1, 1992.

2. Application

2.1 This directive applies to the core public administration as defined in section 11 of the [Financial Administration Act](#) unless excluded through specific acts, regulations or orders in council.

2.2 Specifically, this directive applies to excluded employees or excluded positions in the following groups and levels:

- Executive (EX) group, levels 01 to 05
- Defence Scientific Service (DS) group, levels 7A, 7B, and 8
- Medical Officers (MD-MOF) group, levels 04 and 05
- Medical Specialist (MD-MSP) group, level 03

2.3 For the purpose of this directive:

- "executive" refers to employees appointed to the groups and levels listed above.
- "executive position" refers to positions classified in the groups and levels listed above.

2.4 This directive does not apply to executives who are employed on a term basis, or as a casual worker.

2.5 This directive is not to be used in situations of demotion and/or termination of employment for unsatisfactory performance, discipline, or for demotion and/or termination of employment for reasons other than discipline (e.g. medical incapacity).

2.6 This directive is not to be used in situations where an executive voluntarily ceases his or her employment by reason of resignation or planned retirement.

2.7 This directive does not apply to executives who cease their employment while on Special Deployment assignments.

2.8 Executives who are on leave without pay when their position is declared surplus are to be treated in accordance with [Appendix B-1: Executives on Leave Without Pay in a Career Transition Situation](#).

2.9 A part-time executive receives salary and non-salary elements under this directive prorated to the number of hours they work per week as indicated in the letter of appointment.

3. Context

3.1 The sound management of executive career transition is an essential component in the effective management of a department and the cost-effective, efficient delivery of government policies, programs and services.

3.2 This directive describes actions departments and executives take to facilitate the career transition of an executive in situations of lack of work, discontinuance of a function, or the transfer of work or a function outside those portions of the federal public administration named in Schedule I, IV or V to the [Financial Administration Act](#).

3.3 This directive is issued pursuant to a delegation of the Treasury Board to the Chief Human Resources Officer (CHRO) of the Treasury Board Secretariat (TBS) authorized by s. 6(4.1) of the [Financial Administration Act](#).

3.4 This directive is to be read in conjunction with the:

- *Policy on the Management of Executives*,
- *Directive on Executive Compensation*, and
- *Directive on the Performance Management Program (PMP) for Executives*.

3.5 Treasury Board has delegated authority to the Chief Human Resources Officer (CHRO) of the Treasury Board Secretariat (TBS) to make technical amendments to this directive.

4. Definitions

4.1 Definitions to be used in the interpretation of this directive are attached as Appendix A.

5. Requirements

5.1 Only the deputy head can negotiate and authorize a career transition agreement.

5.2 Departments are responsible for:

- declaring positions surplus due to lack of work, discontinuance of a function or the transfer of work or a function outside those portions of the federal public administration named in Schedule I, IV or V to the [Financial Administration Act](#).
- giving the executive notice in writing of his or her surplus status,
- informing the executive of the options available,
- assisting executives, who wish to remain in the core public administration, to find alternative employment in accordance with [Appendix B: Instructions for Surplus Situations in Career Transitions](#),
- making every reasonable effort to place the executive within his or her own organization,
- notifying the Public Service Commission (PSC) of the executive's surplus status, and lay off date, if the executive chooses to pursue further employment in the core public administration,
- consulting with the Office of the Chief Human Resources Officer (OCHRO) of the Treasury Board Secretariat (TBS) on the development of the career transition agreement when an executive chooses not to pursue further employment in the core public administration,
- negotiating career transition agreements with executives choosing not to pursue further employment in the core public administration, within the limits specified in Appendix C: *Instructions for Developing the Career Transition Agreement*,
- deleting the surplus position once it is vacant,
- ensuring no additional expenditures are incurred in the performance of the duties of the deleted position, and
- funding career transition agreements from within existing operating budgets.

5.3 Executives in career transition are responsible for:

- considering options presented for remaining or leaving the core public administration if their position is declared surplus,
- diligently searching for employment opportunities if declared surplus and wishing to pursue further employment in the core public administration, and
- negotiating and signing the career transition agreement.

6. Monitoring and Reporting Requirements

Monitoring and reporting requirements are as described in section 6.3 of the *Policy on the Management of Executives*.

7. Consequences

Consequences for non-compliance with this directive or inconsistency in its application are described in section 7 of the *Policy on the Management of Executives*.

8. Roles and Responsibilities of Other Government Organizations

Note: This section identifies other significant departments in this area. In and of itself, it does not confer any authority.

The Public Service Commission (PSC) administers the Priority Referral System and refers executives who wish to remain in the core public administration, to positions for which they are potentially qualified for the essential qualifications.

9. References

9.1 Other Relevant Legislation/Regulations

- [Public Service Employment Act](#)
- [Public Service Labour Relations Act](#)

9.2 Related Policy Instruments/Publications

- [Values and Ethics Code for the Public Service](#)
- [Guidelines for Demotion/Termination of Employment for Unsatisfactory Performance](#)
- [Guidelines for Discipline](#)
- [Guidelines for Termination of Employment and Demotion for Reasons Other Than Discipline \(medical incapacity\)](#)
- [Superannuation Administration Manual](#)
- [Treasury Board Travel Directive](#)
- Sample Letter of Notification for Surplus Situation
- Sample Career Transition Agreement for Employees Leaving the Core Public Administration

10. Enquiries

Please direct enquiries about this directive to your departmental headquarters. For interpretation of this directive, departmental

headquarters should contact:

Executive Management Policies
Office of the Chief Human Resources Officer
Ottawa, Ontario
K1A 0R5
E-mail: EMP-PGCS@tbs-sct.gc.ca
Fax: 613-943-5205

Appendix A - Definitions

alternative delivery initiative (*diversification des modes d'exécution*)

the transfer of any work, undertaking or business of the core public administration to any body or corporation that is a separate agency or that is outside the core public administration.

continuous employment (*emploi continu*)

one or more periods of service in the public service, as defined in the [Public Service Superannuation Act](#), with allowable breaks only as provided for in the terms and conditions of employment applicable to the employee.

demotion (*rétrogradation*)

the placement of an employee in a position that has a lower maximum rate of pay than the maximum rate of pay applicable to the employee's former position for reasons of discipline, unsatisfactory performance and reasons other than breaches of discipline or misconduct.

deployment (*mutation*)

the movement of an employee from one position to another position made pursuant to the [Public Service Employment Act](#).

deputy head (*administrateur général*)

for purposes of Schedule I of the [Financial Administration Act](#), the deputy minister, and for purposes of Schedule IV, the chief executive officer or the person who occupies such a position.

executive (*cadre supérieur*)

An employee appointed to the Executive Group (EX 01 to EX 05 levels), including director, director general, assistant deputy minister or equivalent. For purposes of this directive, employees who are classified in the following groups and levels are considered to be executive equivalents: Defence Scientific Service (DS) Group, levels 7A, 7B and 8, Medical Officer (MD-MOF) Group, levels 4 and 5, and Medical Specialist (MD-MSP) Group, level 3.

executive group, EX group (*groupe de la direction, Groupe EX*)

the occupational group as defined in the [Canada Gazette, Part 1, March 27, 1999](#).

lay-off (*mise en disponibilité*)

the termination of employment in the core public administration pursuant to the [Public Service Employment Act](#).

lower classification level (*niveau de classification inférieur*)

position with a lower maximum rate of pay than the previous position to which the employee is assigned to perform the duties, i.e. a difference of \$1.00 or more for annual rates and \$0.01 or more for hourly rates.

lump sum performance award (*prime au rendement*)

a performance award for the achievement of Key Commitments (at-risk pay and bonus).

negotiated transition agreement (*entente négociée de transition*)

in cases of lay-off, a cash only or a cash and non-cash incentive offered to an employee in return for the employee's resignation.

notice period (*période de préavis*)

the period commencing with the formal notification of the executive's surplus situation and the actual termination date of employment.

retirement (*retraite*)

the voluntary separation of an employee entitling the employee to benefits under the [Public Service Superannuation Act](#).

salary (*salaire*)

the fixed recurring portion of an employee's cash compensation received for the performance of the regular duties of a position, exclusive of allowances, performance awards or other compensation or gratuities.

salary maintenance (*maintien du traitement*)

the treatment under the *Directive on Career Transition for Executives* given to the total compensation of an executive who is appointed to a position with a lower salary maximum while on surplus status,

or,

the treatment under the *Directive on Executive Compensation* given to the total compensation of an executive who is appointed to an executive position which has a lower salary maximum than the salary the employee received in the former position.

salary protection for executives (*protection salariale pour les cadres supérieurs*)

the treatment given to the total compensation of an employee whose position has been reclassified or converted to a level with a lower salary maximum.

secondment (*détachement*)

an arrangement where an employee makes a lateral or downward move to another department to temporarily perform the functions of an existing position or to take on a special project, after which he or she returns to the home department. A secondment cannot change tenure or be a promotion.

separation (*cessation d'emploi*)

a severance of the relationship between employer and employee, whether voluntary (e.g. resignation) or involuntary (e.g. owing to illness, accident, disability, discharge or termination for disciplinary reasons).

substantive position (*poste d'attache*)

the position to which an employee has been appointed or deployed, or from which an employee is being appointed or deployed within the public service, in accordance with the [Public Service Employment Act](#).

surplus status (*statut d'employé excédentaire*)

an indeterminate employee is in surplus status from the date he or she is declared surplus or notified that his or her position will become surplus, until:

- the date of lay-off,
- he or she is indeterminately appointed or deployed to another position,
- his or her surplus status is rescinded, or
- the employee resigns.

Appendix B - Instructions for Surplus Situations in Career Transitions

These instructions are to be used when it becomes evident that a position will be declared surplus due to lack of work, discontinuance of a function, or the transfer of work or a function outside those portions of the federal public administration named in Schedule I, IV or V to the [Financial Administration Act](#).

1. Notification of executive

1.1 The department notifies the executive in writing. The letter of notification must make the executive aware of:

- this directive and the options available,
- the cash and non-cash elements that can be offered to assist in transitioning to employment inside or outside the core public administration, and
- the timeframe the executive has to respond back to the department with his or her choice of option.

1.2 The executive is given sufficient time to consider his or her personal circumstances and to seek the information required to make this decision (i.e. financial and/or pension considerations, employment prospects, etc.).

1.3 Executives on Leave Without Pay (LWOP) are also notified in writing if their position is declared surplus during their period of LWOP. Instructions for executives whose position is declared surplus while they are on LWOP are contained in Appendix B-1.

2. Options for executives

Executives have two options:

Option 1. Leave the core public administration and seek employment elsewhere,

or

Option 2. Seek continuing employment in the core public administration.

2.1 Option 1. Executives leaving the core public administration to seek employment elsewhere

2.1.1 A career transition agreement is developed in accordance with Appendix C: *Instructions for Developing a Career Transition Agreement*.

2.1.2 The department negotiates the date of departure with the executive. The departure date should normally accommodate departmental operational requirements. As a minimum a period of one month is recommended.

2.1.3 A bridging agreement to accommodate additional service or to facilitate permanent employment outside the core public administration can be negotiated as follows:

- A period of leave without pay can be authorized to allow an executive who does not meet the age and service criteria under the [Public Service Superannuation Act](#) to accumulate additional service for pension qualification. An executive can only contribute to the pension plan for a total of 5 years in a career, while on leave without pay for personal reasons.
- An assignment to another employment sector in accordance with the [Policy on Interchange Canada](#) can be authorized. See Appendix B-2.

2.2 Option 2. Executives wishing to seek continued employment inside the core public administration.

2.2.1 The department declares the executive surplus and gives him or her formal written notice with the dates of the beginning and end of the surplus period clearly noted.

2.2.2 The department notifies the Public Service Commission of the executive's surplus status immediately.

2.2.3 For an executive from EX-01 to EX-03, the Public Service Commission endeavours to find alternative employment at the

same level in a department or agency governed by the [Public Service Employment Act](#). OCHRO takes the same steps for an executive at the EX-04 and EX-05 levels. Placement at a lower level is also possible.

2.2.4 If the executive accepts an appointment to a position with a lower maximum salary, he or she will become subject to Salary Maintenance and other compensation treatments as outlined in the *Directive on Executive Compensation*.

2.2.5 If the executive changes his or her decision and decides to leave the core public administration during the surplus period, the department can negotiate a Career Transition Agreement, taking into account the time already spent in surplus status. In such cases, the executive resigns (is not laid off) and is not entitled to one year of priority for appointment.

2.2.6 Executives who wish to continue their core public administration employment but are unsuccessful at finding a new position are laid off on the date of lay off indicated in the notification letter.

2.2.7 Laid off executives are eligible to receive only their normal severance entitlement and a cash pay off of any accumulated but unused vacation leave credits. They may also be eligible for a lump sum performance award under the Performance Management Program if they have worked in their position for a sufficient period of time prior to termination of employment to conduct a meaningful evaluation.

2.2.8 Executives who are laid off may have one year of priority for reintegration to the core public administration in accordance with the [Public Service Employment Act](#).

Appendix B-1 - Executives on Leave Without Pay in a Career Transition Situation

Executives on leave without pay (LWOP), must be notified in writing if their position becomes surplus to requirements due to lack of work, discontinuance of a function, or the transfer of work or a function outside those portions of the federal public administration named in Schedule I, IV or V to the [Financial Administration Act](#), and provided with the following two options:

1. resign from the core public administration; or
2. seek continuing employment after the conclusion of their scheduled period of LWOP.

1. Resign from the Core Public Administration

The executive must inform the deputy head in writing that he or she will not seek further core public administration employment upon return from LWOP.

An executive terminated in this way is eligible for a career transition agreement developed in accordance with *Appendix C: Instructions for Developing a Transition Agreement* with the exception that he or she is not eligible to negotiate a lump sum payment in lieu of a notice period. The executive is not eligible for this lump sum since he or she is on LWOP and consequently is not drawing a salary. It is an inappropriate use of this directive to terminate the leave of the executive and reappoint him or her expressly for the purpose of providing this lump sum payment in lieu of the notice period.

The executive resigns and waives priority for appointment rights, if any. The executive is also eligible to receive any earned severance entitlements and a cash pay out of any accumulated but unused vacation leave credits.

2. Seek Continuing Employment

The executive informs the deputy head in writing that he or she will seek further core public administration employment upon returning from LWOP.

If there is an entitlement to a priority, the department notifies the Public Service Commission (PSC) of the executive's status as a surplus priority as soon as possible.

The PSC administers the matching and referral of priority executives to positions for which the executive may be qualified. The PSC and the department try to place the executive.

If unsuccessful in finding further employment after a one-year period, commencing on the date the employee returns from leave without pay and notifies the department that he or she is available for work, the executive will be laid off and will be eligible to receive only his or her earned severance entitlement and a cash pay out of any accumulated but unused vacation leave credits.

Employees who are laid off may have one year of priority for reintegration to the core public administration in accordance with the [Public Service Employment Act](#) (PSEA).

Note on Executives on Short-term Leave

It may be appropriate to provide pay in lieu of a notice period to an executive who becomes surplus at the end of the period of unpaid leave when the executive has departed on LWOP with a guarantee of return to the same position (e.g. on return from maternity leave, or when the approved period of leave is short and the executive's position was not staffed).

Note on Executives on LWOP to Work for International Organizations

Executives who accept assignments to further Canada's foreign policy objectives and/or to represent Canada at international organizations should be assured of support for reintegration to the core public administration upon their return to Canada. Good human resources planning should ensure reintegration of these executives at the end of such periods of LWOP. However, if this is impossible, the deputy head may offer the executive a lump sum in lieu of the formal notice period to a maximum of 26 weeks upon the executive's return to Canada in return for their resignation from the core public administration. This lump sum may be given only where there was a formal written agreement documenting the purpose of the leave and management's endorsement of the international assignment.

When an executive who is on LWOP to work with an international organization becomes surplus, and voluntarily decides not to return to a position within the core public administration at the end of the period of approved leave but to remain with that organization permanently, the executive will not be eligible for any period of paid notice or pay in lieu of notice at the end of the period of approved leave. Under these circumstances the employee would resign in accordance with PSEA section 63 and the normal entitlements applicable to a voluntary resignation apply.

Executives who wish to return to Canada and seek further employment in the core public administration are treated in accordance with option 2.

Appendix B-2 - Career Transition Assignments under Interchange Canada

For surplus executives not interested in pursuing further employment in the public service, departments may authorize a transition assignment to another employment sector under the [Policy on Interchange Canada](#).

Prior to the commencement of the Interchange Canada assignment, surplus executives must agree, in writing, to resign as of the lay off date of their core public administration employment and will be eligible only for their normal severance entitlement and pay out of unused accumulated vacation leave credits. They will not be eligible for any of the cash or non-cash elements that could be provided as part of a Career Transition Agreement.

Executives laid off while on Interchange Canada assignments are not eligible for priority consideration for reintegration into the core public administration.

Executives laid off while on Interchange Canada assignments may be eligible, at the deputy head's discretion, for a lump sum payment for their performance during their last year of employment. Instructions regarding this can be found in the *Directive on the Performance Management Program (PMP) for Executives*.

Appendix C - Instructions for Developing a Career Transition Agreement

1. Deputy heads negotiate Career Transition Agreements within the limitations prescribed in this directive.
2. Career Transition Agreements are to be negotiated only in the following two situations:
 - for executives who have chosen to leave the core public administration after their position has been declared surplus due to lack of work or discontinuance of a function; or
 - for executives who are included in the transfer of work or a function outside those portions of the federal public administration named in Schedule I, IV or V to the [Financial Administration Act](#).

There are two potential settlement packages, as follows:

- cash and non-cash settlements for those who will be seeking employment outside the core public administration; or
 - cash only settlement for those who will not be seeking employment outside the core public administration.
3. Career Transition Agreements are not to be negotiated in the following situations:
 - demotion and/or termination of employment for unsatisfactory performance, discipline, or for demotion and or termination of employment for reasons other than discipline (e.g. owing to illness, accident, or disability).
 - where an executive voluntarily ceases his or her employment by reason of resignation (other than for reasons described in the previous bullet) or planned retirement; or
 - where executives cease their employment while on or at the conclusion of special deployment assignments.

Cash and Non-cash Settlements (for those interested in seeking further employment outside of the core public administration)

These settlements are to be developed using any or all of the elements listed below:

Element Number	Description of Element	Considerations
	<p>A lump sum payment normally between 26 and 32 weeks of the executive's weekly rate of pay.</p> <p>Deputy head can authorize a lump sum payment to a maximum of 52 weeks of the executive's weekly rate of pay.</p>	<p>This is a payment in lieu of the executive continuing to work during a formal notice period. The following can be considered when determining the lump sum:</p> <ul style="list-style-type: none"> • personal or family circumstances;

1.	<p>maximum of 52 weeks of the executive's weekly rate of pay.</p> <p>In exceptional circumstances a lump sum payment exceeding 52 weeks of weekly pay can be offered to employees being <i>laid off</i>.</p>	<ul style="list-style-type: none"> • personal or family circumstances; • age; • experience; • length of service; • eligibility for an unreduced pension entitlement; • outside employment prospects.
2.	<p>A lump sum payment in lieu of lost benefits of up to 10% of annual salary to enable the executive to purchase comparable private insurance coverage for medical and dental expenses.</p>	<p>Determined based on the executive's individual circumstances.</p> <p>An executive who will be opting for an immediate annuity upon resignation and is therefore eligible for continuation of coverage under the retiree's medical and dental plans should receive a lesser benefit than an executive who does not have this option.</p>
3.	<p>A lump sum payment of up to 30% of annual salary to offset pension reduction.</p>	<p>Only available to executives between ages 50 and 54 who are eligible for an annual allowance under <i>the Public Service Superannuation Act</i> (PSSA).</p> <p>Departments should take into consideration the size of the pension reductions. An executive who would be subject to a reduction of 5% should not receive a 30% lump sum payment, whereas an executive subject to a greater reduction might receive a larger benefit.</p>
4.	<p>A lump sum payment of up to 15% of the executive's annual salary.</p>	<p>This amount is available when the executive foregoes financial counselling, job search benefits, outplacement counselling, training, travel, relocation benefits and all other non-cash elements.</p> <p>This amount cannot be provided in combination with a lump sum payment in lieu of lost benefits or a waiver of actuarial pension reductions.</p>
5.	<p>A waiver of actuarial pension reductions due to age and service.</p>	<p>Available under the Public Service Superannuation Plan to executives who are 55 or older and have a minimum of 10 years of full-time public service (or PSSA pensionable service) employment.</p> <p>Service under pension transfer agreements or periods of prior service other than public service that the executive is buying back are not to be included in the determination of eligibility based on service.</p> <p>Eligibility for this waiver and the administrative requirements of the related process are described in section 4.3.4 of the Superannuation Administration Manual.</p>
6.	<p>Outplacement counselling for executives seeking further employment outside the core public administration not to exceed 20% of the employee's salary. This 20% includes a training benefit up to \$7,000 to upgrade skills to enhance placement opportunities.</p>	<p>Executive should be involved in selection of the firm.</p> <p>Contract is to be between the department and the firm and is to be in accordance with contracting policy.</p>
7.	<p>Financial counselling to review the potential tax implications of any settlement amounts.</p>	<p>This is for the purpose of personal tax planning concerning the disposition of settlement, not to provide extensive long-term investment and estate planning counselling.</p> <p>Executive should be involved in selection of the firm.</p>

		Contract is to be between the department and the firm and is to be in accordance with contracting policy.
8.	Reasonable travel expenses within the provisions of the Treasury Board Travel Directive .	<p>May be negotiated under the following conditions:</p> <ul style="list-style-type: none"> • travel is pre-authorized and within agreed-to time limits; • travel is for interviews with non-core public administration employers who will not pay travel expense; • travel is incurred within one year of the termination date.
9.	Reasonable receipted relocation and realty expenses within the provisions of the NJC Relocation – IRP Directive .	<p>May be negotiated under the following conditions:</p> <ul style="list-style-type: none"> • to accept a firm offer with a non-core public administration employer if costs are not borne by new employer; • relocation is undertaken within one year; • limit and timeframes are specified in the transition agreement.