

Temporary portability arrangements

This operational advice provides PALM scheme employers (employers) with information and requirements in relation to requesting a temporary portability arrangement (TPA).

For the purposes of TPAs and this operational advice, there are two types of entities:

- PALM scheme employers - employers who brought the workers to Australia under an approved recruitment plan. They maintain responsibility for the worker and must continue to comply with their obligations under the PALM scheme deed and guidelines during the TPA placement
- Temporary portability arrangement host organisation (TPA host organisation) - this may be another PALM scheme employer or a host organisation.

What is a temporary portability arrangement?

A TPA is an unplanned, short-term arrangement to place a worker from their PALM scheme employer to a TPA host organisation, which may be another PALM scheme employer or host organisation.

Additionally, a TPA **must**:

- be initiated by the worker's employer
- be agreed to in writing by the worker
- be approved by the Department of Employment and Workplace Relations (the department) before commencement. The review and approval are typically undertaken by the employer's relationship manager
- not exceed a period of 6 weeks (unless approved in writing by the department)
- only be with one other TPA host organisation.

The **department** will consider a TPA for approval after all relevant PALM scheme deed and guidelines requirements are met. The department **will not initiate** a TPA on behalf of an employer or TPA host organisation. TPAs are the responsibility of the employer.

Requirements of a host organisation arrangement

An employer must enter into a host organisation arrangement (HOA) with the TPA host organisation. It does not matter if the TPA host organisation is another PALM scheme employer or a host organisation - both are considered a TPA host organisation for the purposes of a TPA.

A HOA is a legally binding, written arrangement between the employer and the TPA host organisation in relation to the provision of work to workers employed under the PALM scheme.

A HOA does not relieve the employer of their obligations under the PALM scheme deed and guidelines.

For the purposes of a TPA, a direct employer can enter into a TPA without breaching its obligations under the definition or clause 7.4(d) of the deed; that is, their employer 'type' will remain the same.

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What are the principles of a temporary portability arrangement?

- Under a TPA, the worker's employer does not change, even if the worker is placed with another PALM scheme employer or host organisation.
- The employer maintains responsibility for the worker and must continue to fully comply with all obligations under the PALM scheme deed and guidelines in relation to the worker.
- The worker must not be disadvantaged by the TPA, inclusive of pay, conditions and deductions.
- The employer must consult with the relevant worker(s) and genuinely consider any feedback provided by them **and** obtain their written consent prior to submitting a proposed TPA. Workers should be informed that the arrangement is subject to the department's approval.
- The worker must be suitable for the work they will be performing for the TPA host organisation.
- If a worker is remaining in their current accommodation, they must not incur additional transportation costs associated with travelling to the TPA host organisation worksite.

What are the employer's responsibilities?

Employers must:

- not charge the TPA host organisation any fee or request any payment in respect of the TPA
- maintain responsibility for the worker's welfare, wages, entitlements, and health insurance, and maintain accurate records demonstrating these requirements are being met
- enter a HOA with the TPA host organisation and provide a copy of the arrangement to the department if requested
- notify the department at least 2 weeks, where practical, prior to the start of the placement
- ensure that if there is a gap in the worker's placement with the employer and the TPA host organisation, it is no longer than 7 calendar days, noting that PALM scheme deed and guidelines requirements must still be met during any gap period, including minimum hours requirement and minimum net pay guarantee
- obtain and maintain all required accreditations, licenses, registrations, approvals and permits needed to place the worker on placement, including those required for a labour hire organisation if relevant
- facilitate ongoing discussion with the TPA host organisation in relation to workplace health and safety
- ensure that if the worker is moved to new accommodation for the purposes of their placement with the TPA host organisation, they **are not**
 - charged twice for accommodation (e.g., while they are living in the new accommodation)
 - charged at a higher rate than what has been approved in the accommodation plan
 - charged relocation costs associated with the temporary portability arrangement.

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- when seeking to move a worker to unapproved accommodation during the TPA, submit an updated accommodation plan to the department and obtain the department's approval in writing for the new accommodation before the placement with the TPA host organisation commences
- provide the worker with the following details if there is a change to existing arrangements
 - welfare and wellbeing support person
 - local amenities
 - host organisation details including direct supervisor
 - transport and accommodation details
 - details of role and duties.

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How to initiate a temporary portability arrangement?

- Discuss the arrangements with TPA host organisation to determine placement dates and enter into the HOA that outlines the terms.
- Consult with the worker/s and obtain their written consent regarding the TPA (subject to the department's approval).
- Notify the department of the TPA proposal by creating a 'new enquiry' in the department's IT system. The subject title must include 'Temporary portability arrangement' and the recruitment plan number.
- The enquiry must include all details to enable the department to assess the TPA proposal, including:
 - details of workers involved (may include multiple workers)
 - commencement and end dates of the arrangement
 - confirmation whether the workers accommodation and transport will change and details of new arrangements
 - business name, ABN and address of TPA host organisation
 - confirmation that the worker has been consulted and agreed to the TPA
 - any other information that is different from the approved recruitment plan (including any proposed changes to any Plans, offers of employment (OOEs), and risk assessments forming part of the approved recruitment) for the relevant worker(s).
- The relationship manager of the employer will review the TPA and request further information if required.
- When notification is received that the TPA has been agreed to, 'in principle' by the department the employer **must**:
 - submit a **change request** to the worker's recruitment plan via the department's IT system for approval
 - create a new placement group within the worker's recruitment plan
 - complete all required fields
 - start date and end date
 - accommodation and transport plans
 - placement risk assessment
 - welfare and wellbeing support person details
 - TPA host organisation details.
 - if the worker will be moving to 'unapproved' accommodation, a new accommodation plan **must** be submitted for approval prior to the commencement of the new placement
 - amend the end date in the current placement group to reflect the last working day prior to the TPA coming into effect
 - create a new placement group for when the worker is expected to return for the remaining duration of their stay.

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- The relationship manager will review the **change request** and request further information if required.
- Once approval notification is received the TPA can commence.

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Temporary portability arrangement process summary

