

## Transfers and members' rights

The PSA is inundated with requests from members to assist them with a transfer between workplaces. In response, the answers to frequently asked question may clarify uncertainties:

### Does an employee have a right to a transfer?

No legislation, including the *Labour Relations Act*, the *Basic Conditions of Employment Act*, and the *Public Service Act* or the Public Service Regulations makes provision for the right to be transferred. The various *Acts* only make provision for application for a vacant position where applicants must compete fairly for the post.

### Can a request for a transfer be referred to Councils or Labour Court as a dispute?

Bargaining councils do not have jurisdiction to hear disputes on transfers. In special circumstances, a section-158 application can be made to the Labour Court but is seldom successful. Courts regard the placement of an employee as a managerial prerogative that is implemented in accordance with the needs of the employer.

### What can the PSA do to assist a member with a transfer?

The PSA can only assist by bringing members who want to cross-transfer in contact by publishing their information on the PSA member portal (see *PSA magazine 1/2023* for full information or visit [www.psa.co.za](http://www.psa.co.za)), which can be accessed by any interested member. The onus is on members to contact each other and apply for a transfer through the proper channels.

### What is the process when an employee wants a transfer?

Departments will have their own individual processes and it is advised that members contact the Human Resources section to determine the process in the specific department.

### Who in the workplace has the right to approve a transfer?

Only the executive authority of the Department has the right to approve a transfer. Members must note that a direct supervisor or manager can only recommend a transfer but final approval can only be granted by the Head of Department or Director-General of the Department. The PSA is aware of instances where members have made relocation arrangements as they were under the impression that the supervisor or direct manager had approved the transfer. This resulted in loss of income and expenses for the members.

### **Under what circumstances can an employee request a transfer?**

Where an employee suffers from a specific health condition that is enhanced by the specific area where the employee resides and works, a full, detailed medical report with recommendation can be submitted with the application for a transfer. The employer must then investigate and consider the circumstances and provide the employee with an outcome. It must be noted that this still does not provide any rights and it will remain within the employer's discretion to approve the transfer.

Employees who want to join the PSA can visit the PSA's website ([www.psa.co.za](http://www.psa.co.za)), send an email to [ask@psa.co.za](mailto:ask@psa.co.za), or contact PSA Provincial Offices.

GENERAL MANAGER