

# Supporting employees affected by workplace change

Directive: 18/20

Effective date: 02/10/20

Supersedes: 17/16

## 1. Purpose

To establish a framework to give effect to the government's commitment to employment security where employees are displaced following workplace change.

## 2. Authorising provisions

This directive is made pursuant to sections 53 and 138 of the *Public Service Act 2008* (PS Act).

## 3. Application

- 3.1 Unless otherwise stated, this directive applies to tenured public service employees as defined in section 9 of the PS Act.
- 3.2 This directive applies to the following entities (each entity being an 'agency' for this directive) and their employees:
  - (a) departments
  - (b) public service offices listed in schedule 1 of the PS Act
  - (c) an entity declared to be a public service office under a regulation and where the regulation applies this directive to the entity (sections 22–23 of the PS Act).
- 3.3 This directive does not apply to a decision to convert an employee to permanent employment under the directives relating to fixed term temporary employment and casual employment. This means that the review of the status of a fixed term temporary or casual employee should occur without considering affected employees under this directive.
- 3.4 Section 52 of the PS Act outlines the relationship between a directive and industrial instrument including how to deal with inconsistencies.

## Directive

## 4. Principles

- 4.1 The government's commitment to employment security, as a key component of fairness for employees, is set out in the Employment Security Policy. Consistent with the policy, agencies and employees are responsible for pursuing best value service delivery through performance improvement and skills development strategies in preference to downsizing, restructuring or outsourcing.
- 4.2 Notwithstanding clause 4.1, the government acknowledges that workplace change may occur that impacts on staffing requirements, including as a result of external (e.g. Federal Government) initiatives. Where such change occurs:
  - (a) open and timely communication will underpin the actions of agencies and employees

- (b) priority of continuity of employment will be given to existing permanent employees
  - (c) temporary employees whose services are no longer required will be managed in accordance with the directive relating to temporary employment end of contract payments
  - (d) affected permanent employees will be actively supported to find suitable alternative employment, including through effective case management (see clause 8)
  - (e) affected permanent employees will actively participate in efforts to find suitable alternative employment
  - (f) agencies will notify the relevant employee organisation(s) of the change and workforce strategies for affected employees. The timing of such notification must be reasonable having regard to the scale and context of staffing impacts.
- 4.3 Implementation of workplace change strategies in accordance with this directive is the responsibility of the agency in which the change is occurring.
- 4.4 The provisions of this directive operate in addition to the provisions about workplace (organisational) change in relevant industrial instruments.
- 4.5 Under the *Human Rights Act 2019*, decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive to give proper consideration to human rights.

## 5. Governance arrangements

- 5.1 Where workplace change is being considered that is reasonably likely to result in the displacement of employees, agencies must consult early with the Public Service Commission (PSC) on the development of appropriate workforce strategies, including:
- (a) communication strategies for employees and their employee organisations
  - (b) where applicable, the potential scope and process for inviting and considering expressions of interest in voluntary redundancies (see clause 6)
  - (c) appropriate governance arrangements.
- 5.2 In determining the appropriate governance arrangements, the scale and scope of the potential workplace change must be considered, including:
- (a) the number of employees likely to be affected
  - (b) whether the change impacts a single, or multiple agencies
  - (c) the location of the potential change
  - (d) any other factors the agency(ies) or PSC consider relevant.
- 5.3 Governance arrangements for large scale and/or cross agency workplace change should include a forum involving affected agencies, the PSC, the agency responsible for public sector industrial relations and relevant employee organisations.

## 6. Actions following workplace change

- 6.1 Where workplace change results in permanent employees being displaced from a substantive (ongoing) role, agencies and affected employees must work cooperatively to transfer (or with the employee's consent, redeploy) the employee to a suitable alternative (ongoing) role.
- 6.2 Where a suitable alternative role cannot be immediately identified, the agency must notify the affected employee in writing that they will be registered for priority transfer (and/or redeployment) in accordance with this directive.
- 6.3 Notwithstanding clause 6.2, an agency will consider expressions of interest initiated by affected employees for a voluntary redundancy.



- 6.4 The agency may also invite employees to express interest in a voluntary redundancy where there is a reasonable basis for believing the cohort of affected employees would be interested in receiving such an invitation.
- 6.5 An expression of interest under clause 6.3, or an invitation to express interest under clause 6.4, does not oblige the agency to make an offer nor an affected employee to accept an offer.
- 6.6 An offer of a redundancy is on the terms provided for in the directive relating to early retirement, redundancy and retrenchment.

## 7. Registration process

- 7.1 Agencies must maintain a register of affected employees for priority transfer (and/or redeployment) to facilitate the placement of such employees into suitable alternative substantive roles.
- 7.2 Registering employees must advise whether they wish to be considered for transfers only or also for redeployment. Where an affected employee elects to be considered for redeployment they must specify the lowest classification level to which they consent to being redeployed.
- 7.3 The registration process must be jointly undertaken by the affected employee and their case manager (see clause 8), as soon as practical after the employee has been notified under clause 6.2.
- 7.4 When registering, an affected employee must:
  - (a) nominate between one and three role categories in which they have the most skills and experience
  - (b) attach a copy of their current resume, including details of at least one referee who can comment on their conduct and performance within the last 12 months
  - (c) advise of any preferred alternative employment locations (towns/cities). It is important to note that while such preferences will be considered, transfers (and/or redeployments) may occur (in accordance with clauses 9 and 10) to any location where a suitable alternative role becomes available.<sup>1</sup>

## 8. Actions to support employment security

- 8.1 Agencies and affected employees must work cooperatively in supporting employment security, as set out in the Employment Security Policy and this directive.
- 8.2 Prior to referral of a vacancy for service wide priority transfer, redeployment or secondment (see clause 9) or filling by other means, agencies must consider whether any of their affected (displaced) employees can be transferred, redeployed or seconded.
- 8.3 A case manager must be assigned to support an affected employee who has been displaced following workplace change. The case manager's role includes, but is not limited to:
  - (a) assisting the affected employee to understand and participate in the placement process, including, where needed, providing or facilitating support to prepare resumes and/or participate in selection activities
  - (b) identifying and facilitating appropriate training, re-training and development for the affected employee

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<sup>1</sup> Where an employee is transferred or redeployed to an alternative location, the directive relating to transfer and appointment expenses applies.



- (c) working with relevant managers to ensure the affected employee is provided with meaningful duties, including identifying, and where appropriate, facilitating temporary placements for the employee to develop experience/skills. This may include the releasing agency funding short-term placements
  - (d) working with the affected employee to identify and refer the affected employee for suitable alternative vacancies (see clause 9)
  - (e) assisting the affected employee to take appropriate action in response to feedback if the employee is unsuccessful after applying or being referred for a role.
- 8.4 An affected employee is responsible for participating in reasonable opportunities for retraining/development and transfer (and, if they have consented to it, redeployment). This includes, but is not limited to:
- (a) actively participating in the placement process
  - (b) working with their case manager to identify and undertake appropriate (re)training and development opportunities
  - (c) positively engaging in suitability assessments
  - (d) identifying, and where appropriate, applying for vacancies outside the referral process
  - (e) as appropriate, taking action in response to feedback from selection or referral processes.
- 8.5 The PSC will support effective case management through the provision of advice and support to agencies on the role and responsibilities of case managers and maintaining a database of referred vacancies (see clause 9).

## 9. Referral of vacancies for service-wide priority transfers, redeployment and longer term secondment

- 9.1 To support the placement of affected employees into suitable alternative roles, the Commission Chief Executive (CCE) will direct the referral of a class or classes of vacancies for service-wide priority transfers, redeployment or longer term secondments.
- 9.2 Vacancies referred under clause 9.1 will be distributed to all agencies for identification of possible matches with their registered employees prior to filling by any other means.
- 9.3 The CCE may approve the concurrent advertising of vacancies with referral only where there is a demonstrable adverse impact on the agency by delaying broader advertising.
- 9.4 Where a releasing agency identifies a possible match, they must refer the relevant employee/s by submitting a short statement outlining the reason for possible suitability to the receiving agency, along with the employee's resume.
- (a) A full-time employee may only be referred for a part-time vacancy with their consent.
  - (b) A part-time employee may be referred to a full-time vacancy. The employee may elect to maintain their current part-time percentage, or increase their part-time percentage or agree to a full-time role.
- 9.5 Unless otherwise determined by the CCE:
- (a) releasing agencies have seven calendar days in which to make referrals (the referral period)
  - (b) if no referrals have been made within the referral period, the receiving agency may proceed to fill by other means.
- 9.6 Under clause 9.5 the CCE, based on known or anticipated workforce change, may:
- (a) extend the referral period; and/or
  - (b) provide directions to the receiving agency about subsequent actions to fill if no appointment is made as a result of a referral (including limiting the advertising of a vacancy).



## 10. Suitability assessments

- 10.1 Where an affected employee is referred under clauses 8.2 or 9 a suitability assessment must be undertaken by the receiving agency. A representative of the releasing agency must be involved in the suitability assessment process.
- 10.2 Where a part-time employee, or a full-time employee who is currently working part-time (e.g. following parental leave), is referred for a role available on a full-time basis, the receiving agency must proceed with the suitability assessment, including considering what arrangements can be put in place to enable the employee to undertake the role part-time (e.g. job-sharing).
- 10.3 Unless exceptional circumstances exist the suitability assessment process should take no more than seven business days from referral of the possible match to advice of outcome.
- 10.4 Where an affected employee is assessed as suitable, a transfer or secondment (at level) direction, or a redeployment or secondment (to a lower level) offer is made, with date of effect specified.<sup>2</sup>
  - (a) The date of commencement of duty must be discussed between the employee and the receiving agency, taking into account, as applicable, approved leave and/or a current placement. Where an employee is not on leave, or undertaking a placement (e.g. a secondment) a commencement date of two calendar weeks will generally be considered appropriate.
  - (b) An affected employee may make a submission to the releasing agency that the transfer or secondment (at level) direction is unreasonable. This submission should be made within five business days of notification of the transfer direction. If the submission is accepted, the transfer or secondment direction is withdrawn. If the submission is not accepted, the transfer or secondment direction stands.<sup>3</sup>
  - (c) Notwithstanding clause 10.4(b), an affected employee may decline a transfer or secondment (at level) direction on one occasion only without having to demonstrate unreasonableness. In such cases, the employee remains on the register and eligible for further referrals.
  - (d) An affected employee who is placed on a secondment remains registered to enable them to continue to be considered for permanent (ongoing) roles.
  - (e) An affected employee's agreement to a redeployment/secondment to a lower level should be recorded in writing.
- 10.5 The recruiting manager must notify the affected employee and their case manager of the outcome of the suitability assessment within two business days of the assessment process being completed.
- 10.6 Where more than one affected employee is assessed as suitable, recommendations for appointment shall be on the basis of relative merit between the employees. Any unsuccessful employees (and their case manager) must be provided with constructive feedback by the recruiting manager to assist them in future referrals and applications.
- 10.7 Where the affected employee is assessed as unsuitable, a suitability report must be completed and discussed between the heads of human resources of the releasing and receiving agencies to ensure the requirements of this directive have been met.
- 10.8 Affected employees who are assessed as unsuitable must be provided with a copy of the suitability report and with constructive feedback by the recruiting manager to assist them in future referrals and applications. Unless otherwise agreed between the parties, feedback is to be provided within two business days of the suitability report being provided to the affected employee. Feedback must also be shared with the case manager to assist in the performance of their role (e.g. identifying developmental or training requirements).

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<sup>2</sup> Under the PS Act, a chief executive may direct a: transfer or secondment (at level); or a redeployment or secondment to a lower level, which may only occur with the employee's consent (see sections 120 and 133).

<sup>3</sup> See section 134 of the PS Act about the consequence of a refusing a transfer.

## 11. Case management review

- 11.1 If an affected employee has not been transferred (or redeployed) to a suitable alternative role within four months of being registered, a review must be undertaken on the actions taken to support their employment security.
- 11.2 The review must be jointly undertaken by the affected employee and their agency. An employee can also request that their industrial representative be party to the review.
- 11.3 The review must, at minimum, consider actions taken by the releasing agency and affected employee in accordance with clause 8.
- 11.4 Subject to clause 11.6, the review report must:
  - (a) set a further review period, generally four months
  - (b) identify actions to be taken by the releasing agency and employee during the further review period.
- 11.5 A copy of the review report must be provided to the affected employee (and if applicable, their industrial representative). The affected employee is entitled (but not required) to provide a written response to the report which, if provided, must be appended to the report.
- 11.6 Where following a review, the releasing agency is considering retrenchment (see clause 14), there is no requirement to set a further review period, nor to identify actions to be taken under clause 11.4.

## 12. Salary maintenance for transfer and redeployment

- 12.1 An affected employee who is transferred at level is to be paid their salary and any applicable allowances by the receiving agency from the date of duty.
- 12.2 An affected employee who is redeployed is to be paid by the receiving agency at the top pay point of their new classification level plus any applicable allowances.
- 12.3 In addition to salary arrangements under clause 12.2, the affected employee is entitled, for a period of 12 months following redeployment, to be paid the salary and allowances applicable to the substantive role which they held prior to redeployment. The releasing agency is to fund the difference between salary and allowances to be paid by the receiving agency and the salary and allowances the affected employee would have been entitled to if they had remained in their substantive position. The affected employee will receive salary increases determined by the applicable industrial instrument in the receiving agency.
- 12.4 An affected employee who redeploys under this directive and who, within two years of the redeployment, is subsequently promoted to:
  - (a) the classification level they held prior to redeployment, is entitled to be appointed at the increment level they held prior to redeployment
  - (b) a classification level lower than that which they held prior to redeployment, is entitled to negotiate the pay-point to which they are appointed.
- 12.5 For tenured senior executives and for senior officers who have been redeployed, the arrangements outlined in clause 12.3 are to include any applicable remuneration packaging arrangements specified in a current directive relating to senior executive employment conditions or senior officer employment conditions, as applicable.
- 12.6 Other than as provided for in clause 12.3, affected employees transferred or who accept a redeployment:
  - (a) across streams of a classification system; or
  - (b) to a role which is subject to different conditionswill be paid in accordance with the current directive relating to transfer within and between classification levels and systems and otherwise assume the employment conditions of the role.



## 13. Salary arrangements for secondments

- 13.1 Subject to clause 13.2, salary costs for an affected employee seconded (at level) in a temporary vacancy are to be met by the receiving agency.
- 13.2 Where an affected employee accepts a secondment at a salary level lower than their substantive level, the income difference will be paid by the releasing agency (i.e. as per clause 12.3). This provision includes differences in salary due to conditions established by award and certified agreement.
- 13.3 Salary maintenance paid during secondments will count towards the salary maintenance period referenced in clause 12.3, unless otherwise determined by the chief executive(s).

## 14. Retrenchment

- 14.1 The Employment Security Policy provides that a retrenchment (an involuntary redundancy) may only occur in exceptional circumstances and with the approval of the CCE.
- 14.2 If a releasing agency considers that exceptional circumstances exist, a submission must be made to the CCE and must include, as a minimum:
  - (a) the most recent review report (as per clause 11)
  - (b) any response of the affected employee to the review report.
- 14.3 The CCE may request any information they consider appropriate to enable the submission to be considered.
- 14.4 After considering the submission, the CCE may:
  - (a) decline the retrenchment. If the CCE declines the retrenchment, the releasing agency must continue to manage the affected employee in accordance with this directive, including setting a further review period and actions as per clause 11.4. The CCE may also require specific actions to be undertaken to support the affected employee, or
  - (b) approve the retrenchment. If the CCE approves the retrenchment, the releasing agency may proceed in accordance with the directive relating to early retirement, redundancy and retrenchment in consultation with the affected employee.

## 15. Records and reporting

- 15.1 Releasing agencies must maintain appropriate records of activities undertaken to support the placement of affected employees under this directive.
- 15.2 Agencies must conduct an annual self-assessment of their actions under this directive for the previous financial year, including the effectiveness of case management. A copy of the assessment must be provided to the PSC.<sup>4</sup>
- 15.3 Chief executives must otherwise report on the implementation of this directive as required by the CCE.
- 15.4 Records must be retained and disposed of in accordance with the Queensland State Archives' General Retention and Disposal Schedule for Administrative Records.

## 16. Transitional provisions

- 16.1 Other than as provided for in clause 16.2, the provisions of this directive commence from the effective date of this directive, including in relation to employees to whom the superseded Directive 17/16 has been applied.
- 16.2 Where an employee has been offered a voluntary redundancy under Directive 17/16, the offer remains valid and able to be accepted. If the offer is declined, the provisions of this directive takes effect from the date of decline.

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<sup>4</sup> The PSC will provide agencies with information on the timing and form of the assessment.



## 17. Appeals

17.1 An employee who is aggrieved by a decision to take, or not take, action under this directive may have a right of appeal in accordance with chapter 7 of the PS Act and the Appeals directive.

## 18. Definitions

Unless otherwise provided, the terms in this directive have the meaning prescribed in the PS Act.

**Affected employee** means a tenured employee who has been unable to be substantively allocated to a role following workplace change (i.e. a surplus employee). It does not include persons who need or are seeking alternative placements as a result of decisions under sections 178 (mental or physical incapacity) or 188 (discipline action) of the PS Act or following a transfer request.

**Agency**—see application section.

**Meaningful duties** means duties that are commensurate with the substantive classification level of the affected employee.

**Receiving agency** means an agency which has referred a vacancy and/or to which an affected employee is placed on a permanent or temporary basis and may be the same as the releasing agency.

**Redeploy** has the meaning prescribed in the PS Act, namely the employment of the employee, with their consent, at a lower classification level, on an ongoing (permanent) basis. Redeployment can have implications for the payment of leave, superannuation etc. An employee considering redeployment may wish to discuss the implications with their human resources areas.

**Referred vacancy** means a vacancy that is unable to be filled by an agency's own affected employees and has been referred for whole of service priority transfer, redeployment or secondment.

**Releasing agency** is the agency in which an affected employee holds tenure.

**Role categories** means the occupational groups used on Smart Jobs and Careers for advertising.

**Suitable alternative employment** means a role, at the employee's substantive classification level (or, with their consent, a lower level), that the employee is suitable for. Suitable alternative roles may be identified within the employee's existing work area, in other areas of their current agency or in other agencies across the public service.

**Suitability assessment** must (at minimum) include a review of the employee's resume, a conversation with the employee and a referee check (as per the recruitment and selection directive). The receiving agency is responsible for determining whether additional assessment strategies need to occur to reasonably enable a determination of the employee's suitability for the role.



**Suitable/suitability** is a merit based assessment under which an employee is considered suitable (meritorious) for a role if they have the skills and abilities necessary to meet the requirements of the role to a satisfactory level, given reasonable training, re-training and on-the-job experience, and are fit to undertake the role with reasonable adjustment, if required. In considering suitability, agencies must consider the transferability of an employee's existing skills and abilities to a new context.

**Suitability report** is a statement outlining the agency's assessment of the employee's suitability against the key attributes for the role. Where an employee is assessed as unsuitable, the suitability report must address why reasonable training, induction and on-the-job experience would not enable the employee to satisfactorily undertake the role.

**Workplace change** includes decisions that affect the services and programs an agency delivers, its workforce structures or establishment.

## 19. Related resources and reference materials

This material does not form part of the directive but may assist in the interpretation and application of the directive and should be considered by decision makers.

- Sections 25, 42, 46, 53, 55, 120, 133, 134, 138 and 178 of the PS Act are relevant provisions for supporting employees affected by workplace change.
- [Directives](#) on:
  - Early retirement, redundancy and retrenchment
  - Transfer and appointment expenses
  - Appeals
  - Recruitment and selection
- [Employment Security Policy](#)
- Organisational change provisions of relevant industrial instruments.
- [Superseded directives](#) 06/13, 06/12, 12/09, 4/99, 4/02, 31/99, 3/99, 4/98 and 20/97

