

DIRECTIVE No. 05/13

Commission Chief Executive Directive: Voluntary Medical Retirement

1 Purpose:

To establish a pilot scheme providing the conditions for and entitlements of public service employees who voluntarily retire for medical reasons.

2 Effective date: 31 May 2013

3 Legislative provision:

Sections 53(baa), 53(c) and 136 of the *Public Service Act 2008*.

4 Application:

This directive applies to permanent public service employees engaged under the *Public Service Act 2008* (PSA) and employed in the Department of Communities, Child Safety and Disability Services (DCCSDS).

Where an employee of DCCSDS, who is affected by this directive, holds more than one public service role the application of the directive is extended to their employing agency(ies), but only in respect of that employee.

It does not apply to employees engaged on a temporary, casual or contract basis.

5 Related information:

- Commission Chief Executive Guideline on Mental and Physical Incapacity

Directive:

6 Managing illness or injury impacting upon the performance of duties

- 6.1 The Queensland Government is committed to supporting public service employees who experience illness or injury to maintain their employment, including, where appropriate, through the application of reasonable adjustment.
- 6.2 It is recognised, however, that this aim may not always be feasible, achievable or in the best interests of the parties. This directive provides a framework for managing situations where an employee identifies that they cannot continue in their role because of illness or injury.
- 6.3 Processes under this directive should be implemented with appropriate sensitivity and respect.
- 6.4 Voluntary medical retirement is not an alternative to performance or conduct management.

7 Voluntary medical retirement request

- 7.1 A public service employee may apply for a voluntary medical retirement package in

accordance with the provisions of this directive, where they have medical evidence certifying that they have an injury or illness that prevents (or is reasonably likely to prevent) them from continuing in or returning to their substantive role.

- 7.2 The chief executive may accept medical evidence from the employee's treating medical practitioner and/or may request that independent medical evidence be provided.
- 7.3 An application under clause 7.1 must also state whether the employee holds more than one public service role. If so, the application must state the role titles, enclose a copy of the role description for all roles and must address the impact of the injury or illness on all roles. Where multiple roles exist, clause 8 applies.
- 7.4 In considering an application under clause 7.1, the chief executive must have regard to:
 - (a) the medical evidence, including the likely prospects of rehabilitation
 - (b) the ability to implement reasonable adjustment to support the continued employment of the employee
 - (c) the availability of other roles within the agency to which the employee may be able to be transferred or redeployed
 - (d) any other matters the chief executive considers relevant.
- 7.5 Where the chief executive supports an application under clause 7.1, a letter of offer outlining the voluntary medical retirement package must be sent to the employee. The letter of offer must:
 - (a) provide the employee with two weeks to advise of their decision. Unless an extension is agreed to by the chief executive, where no decision is advised within two weeks, the employee is deemed to have declined the offer.
 - (i) Any extension under clause 7.5(a) must be reasonable and take into account the interests of all parties in an early resolution.
 - (b) nominate a proposed separation date, however this date can be amended by mutual agreement. A nominated separation date should reflect that the department has medical evidence that the employee cannot continue in their role and that an early resolution is in the interests of all parties
 - (c) provide a copy of this directive.
- 7.6 Employees are responsible for seeking their own advice in relation to financial and taxation issues and superannuation entitlements associated with accepting a voluntary medical retirement package, including the type and number of medical reports necessary to meet Australian Tax office requirements for employment termination payments.
- 7.7 Where the chief executive does not support an application under clause 7.1, written advice, including reasons must be provided to the employee.

8 Employees with multiple roles

- 8.1 Where an employee holds multiple roles that are:
 - (a) substantially the same; and/or
 - (b) the nature of the illness or injury is such that it impacts on the employee's ability to continue in more than one / all of the roles,an application under clause 7.1 must be made simultaneously in relation to all relevant permanent roles.

- 8.2 Where an employee holds multiple roles:
- (a) within DCCSDS - the chief executive must consider the factors in clause 7.4 in relation to each role;
 - (b) in different agencies - the chief executive of DCCSDS must consult with the chief executive(s) of the other agency(ies) about any offer, including any transfer opportunities to maintain employment.
- 8.3 The chief executive(s) is/are responsible for determining whether any offer of a voluntary medical retirement package is contingent upon the employee separating from all public service roles.
- 8.4 Where an employee who holds multiple roles, and as a result of clause 8.2, is transferred such that their full-time equivalency equals or exceeds that of their combined roles, a voluntary medical retirement package may not be offered.
- 8.5 Where an employee who holds multiple roles, and as a result of clause 8.2, is offered an increase to their full-time equivalency in one role, such that it equals or exceeds that of the combined roles, a voluntary medical retirement package may not be offered.

9 Voluntary medical retirement package

- 9.1 A voluntary medical retirement package comprises the following:
- (a) accrued recreation leave;
 - (b) accrued long service leave for employees who have worked for at least five (5) years, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service;
 - (c) a severance payment of two weeks' full-time pay per full-time equivalent year of service and a proportionate amount for an incomplete year of service paid at the employee's substantive appointed level. The minimum payment is four weeks' pay, and the maximum is 52 weeks.
- 9.2 A chief executive may, in consultation with the Commission Chief Executive of the Public Service Commission, offer an incentive payment as part of the voluntary medical retirement package.
- 9.3 A voluntary medical retirement package and any incentive payment for employees working on a part-time basis (as at the date of proposed separation) is to be calculated on a pro-rata basis.

10 No re-engagement

- 10.1 A person who accepts a voluntary medical retirement package may not be re-engaged as a consultant, contractor, or employee in a Queensland Government entity.
- 10.2 Where a chief executive has made a decision under clause 8.3 that an employee with multiple part-time roles is not required to separate from all roles to receive a voluntary medical retirement package, the employee may continue in their existing role (or substantially similar role) but may not be otherwise engaged as a consultant, contractor, or employee in a Queensland Government entity.
- (a) A chief executive is responsible for determining if a role is substantially similar, having regard to whether the role uses the same skill sets as the existing role and whether it is or is not impacted on by the injury or illness which led to the voluntary medical retirement under clause 7.

11 Relationship with Chapter 5, Part 7 of the *Public Service Act 2008*

- 11.1 Voluntary medical retirement under this directive is a distinct and separate process from a medical assessment and subsequent decision under Chapter 5, Part 7 of the PSA.
- 11.2 Notwithstanding clause 11.1, an employee may make an application under clause 7.1 of this directive, where a direction has been made under s175 of the PSA but prior to a decision being made under s178 of the PSA.
- (a) To avoid any doubt, an employee is not eligible for a voluntary medical retirement package where a decision has been made under s178 of the PSA.
- 11.3 Where a chief executive makes a decision under clause 7.7 of this directive to not offer a voluntary medical retirement package or an employee declines an offer under s7.5 of this directive, the chief executive should consider what action, if any, should be taken under Chapter 5, Part 7 of the *Public Service Act 2008*.

12 Reporting

- 12.1 A chief executive must provide information about the implementation of this directive as requested by the Commission Chief Executive of the Public Service Commission.

13 Definitions

Medical evidence means medical evidence that the chief executive considers provides sufficient information, including at least one specialist medical opinion, about the employee's illness or injury, prospects for rehabilitation or adjustment and impact on the employee's ability to safely and effectively perform their current or other roles.

Multiple roles means multiple part-time roles or a combination of part-time and casual roles, provided that at least one role is a permanent role.

Service, for the purposes of determining the separation payment, means any period of service that has been recognised for the purposes of calculating long service leave. This includes the current period of employment and any previous periods of service recognised in accordance with the directive relating to recognition of previous service and employment.

Where an employee has previously received a severance payment¹, any recognised service to that date, will not count towards service when determining a separation payment under this directive.

¹ Including, but not limited to severance payments received for redundancy, retrenchment or voluntary separation program.