Government
of South Australia
Office of the Commissioner
for Public Sector Employment

MANAGEMENT OF EXCESS EMPLOYEES:

PRACTITIONERS' GUIDE

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Review Date: Following the approval of a replacement enterprise agreement for either of the following enterprise agreements *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* and *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017*

Who is this Guide for?

- This Guide was written for people who are case managing employees who are declared excess and covered by the *South Australian* Modern Public Sector Enterprise Agreement: Salaried 2017 and the *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017*. The employees who are designated as case managers may not necessarily be a Human Resource practitioner in an agency.
- This Guide is to be read in conjunction with the:
- *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017*
- *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017*
- *Commissioner's Determination and Guideline 7: Changes to Workforce Composition and Management of Excess Employees – Redeployment, Retraining and Redundancy*
- *Commissioner's Determination 2: Excess Employees - Income Maintenance*

CONTENTS

INTRODUCTION

'Redeployment' describes the process of transferring an employee who is excess to requirements into another role, duties or position.

The transfer or assignment of an excess employee may be at the employee's substantive remuneration level or at a lower remuneration level which may result in the application of income maintenance provisions in which case the income maintenance provisions will apply.

Agencies require flexibility to adopt case management practices best suited to the needs of their excess employees and the organisation's requirements.

To ensure consistency in case management practices across the public sector, agencies are encouraged to align organisation-specific documents, processes and resources with this Guide and to take into account suggestions and processes detailed in this Guide.

CASE MANAGEMENT PRINCIPLES

The effectiveness of case management practices can be increased if underpinned by the following broad principles:

1) **Joint responsibility** The agency should empower the employee to take control of their own career transition and the employee should proactively adopt a partnership approach with their case manager.
2) **Communication** Agree early upon the mechanisms and basis by which case management communication will be conducted, including what local mechanisms are available to employees to provide feedback and resolve issues.
3) **Support** Where practicable, support is to be tailored to the facts and circumstances of an employee's individual needs and focused on employee wellbeing, securing employment or developing skills for employment. This can include consideration of other factors such as family, disability and cultural matters.

RESPONSIBILITIES

Section 5(5) of the *Public Sector Act 2009* states that "public sector agencies are to treat … public sector employees fairly, justly and reasonably."

Clearly articulating the respective responsibilities of the employee and case manager can reduce ambiguity and strengthen cohesion in the partnership approach. As a guide, the employee and case manager can discuss the following responsibilities:

Employees:

- continue to present for work, accept duties, maintain performance, attend team meetings and participate in any other business unit activity;
- be responsible for their own career and take control of their transition including developing a Redeployment Plan and applying for jobs independent of the redeployment process;
- prepare and maintain an up to date resume, participate in suitability assessments in a positive manner and accept constructive feedback;
- comply with all other reasonable and lawful agency directions; and
- behave and conduct themselves in a manner consistent with the *Public Sector Act 2009* and the Code of Ethics for the South Australian Public Sector.

Managers:

- ensure consideration and management of any excess leave balances prior to declaration;
- provide the employee with duties commensurate with their substantive remuneration level until the employee is assigned or transferred to alternate duties;
- continue to manage and develop the employee, in line with agency performance discussions or formal performance development reviews;
- accommodate the employee's attendance at suitability assessments and training courses in work time;
- recognise opportunities for placement within your division or within the agency or the broader public sector;
- the requirements to consider any employee formally declared excess;
- in partnership with the case manager, ensure the employee's access to support services and career development funds. If the employee is in an occupational group where it is known that there are limited employment options available, identify the mechanisms and strategies that your agency may have already put in place to provide the employee with career development opportunities or alternative employment opportunities; maintain relevant communication with the employee and case manager throughout the employee's redeployment period;

- in the event that *bona fide* performance issues are identified through the suitability assessment or the referral process, take the responsibility for the appropriate management of performance issues; and
- identify and liaise with the case manager on any issues such as limitations due to disabilities or skills gaps which might impact on an employee's success in being placed into alternative duties/roles/positions at their substantive classification level.

Case managers:

- explain the redeployment processes, provide relevant information to the employee and the employee's manager;
- partner with, and empower, the employee to be responsible for their own career and take control of their transition, this may include:
    a) an employee identifying future planned leave arrangements, or
    b) where the employee has not taken their annual/recreation leave for a period of time, the employee's proposal to manage; and
    c) to be available to participate in the redeployment process;
- ensure the employee is considered for current and anticipated vacancies and that all parties involved understand their responsibilities including the Vacancy Hiring Managers;
- negotiate duties for the employee commensurate to their substantive remuneration level;
- ensure a performance appraisal process or management process is in place when the employee is assigned or transferred to alternate duties in another public sector agency;
- liaise with the employee to identify and facilitate access to training and development;
- work with the employee's manager and human resources (in the employee's home agency) to ensure that any obstacles preventing the successful placement of the employee are considered and addressed;
- comply with the case management processes set out in the relevant enterprise agreement.

Agency vacancy hiring managers:

- comply with any reasonable request from case managers to hold roles from being advertised;
- reasonably consider any excess employee's skills and abilities and potential to transition into a vacancy with or without appropriate support or training;
- provide written reasons to the case manager why the excess employee cannot (with or without appropriate support and training) be placed into a vacancy;
- provide constructive feedback to the employee and case manager if the employee is not suitable.

KEY ACTIONS

Both enterprise agreements require agencies and case managers to undertake key processes and active case management. To assist case managers in understanding some of these key processes, separate attachments have been prepared illustrating the processes involved for agencies and employees. In addition, templates have also been prepared to assist agencies and case managers fulfil their obligations under the relevant enterprise agreements. A complete list of these templates is provided at the end of this Practitioners' Guide.

As a minimum, your key actions as a case manager of an excess employee are:

- being aware of and ensure compliance in accordance with the relevant Enterprise Agreement in regards to all notification requirements such as entering the employee's details onto the Excess Employee Database within 2 weeks of the employee being formally declared excess, arranging salaried employee's access to I WORK FOR SA pre-publication vacancies and considering VSP offer requirements;

- meeting with the employee as soon as possible once they have been advised verbally by the Agency (e.g. Director and/or manager responsible for the decision) that they are excess;
- facilitating a conversation regarding the employee's recent change experience and ascertain the employee's preparedness for redeployment and retraining. The employee's level of understanding of the redeployment arrangements will inform your approach to educating the employee on relevant policies, processes and practices;
- conducting a formal case management review at the end of the first quarter of a redeployment period to ensure initial documented outcomes are still relevant and achievable. You should invite the employee to assess the effectiveness of their participation in the process and confirm whether identified development objectives are being achieved. You should conduct regular meetings prior to completion of the first quarter;
- continually assessing the excess employee's circumstances, collating relevant documents and undertaking other review actions to assist evidence-based decision making ;
- working with the employee to identify their current skillset to assist in the identification of suitable alternate roles or skill development areas. Opportunities for skill development should be a focus where the employee's current skillset is in an area which is no longer an area which the public sector works in;
- supporting the employee in obtaining current work referees and work reports to assist that employee to gain employment within the public sector;
- being responsible for preparing information on the case management strategies that have been implemented for the employee. This information will be required in reports to the Commissioner for Public Sector Employment.

Suggestions for case manager to consider in support of best practices.

As case manager (advocate, mediator, connector, information provider, supporter, conversation and option maker) in the complex field of redeployment, the following information is to encourage broader thinking, to better support and assist employees for successful transition:

- Build a trusting relationship with the employee. Meet face to face as often as practical. At least one face to face meeting should be held as soon as possible after the employee is notified they are excess to requirements.
- Explain that your role is to look after their best interests in addition to meeting the agency's needs.
- Acknowledge that you understand the process can create many emotions for some individuals, and that it is your role to support and provide choices, options and information during the process to assist them in making informed decisions for themselves.
- See the redeployment process from the perspective of all stakeholders.
- Recognise that as a case manager, if you are not able to provide assistance or support in all aspects of career transition (internal and external employment options[1]), then you should source appropriate support as early as possible.
- Demonstrate your commitment to supporting the employee. This assists employee wellbeing and may eliminate feelings such as being just a number at this transitional time, alone or on the outer and/or career ending.

[1] Where external employment options are being considered and the employee is eligible for an offer of a VSP, a case manager needs to be mindful of the criteria of a genuine redundancy payment set out in section 83-175 of the *Income Tax Assessment Act 1997*.

- Offer any services available within your agency, such as the Employee Assistance Program, to support the employee through the transition process.

Review, question and discuss the following:

a) are the current work plan arrangements effective i.e. is remaining in the home division or home agency the best option for the employee? Why/why not?

b) would a work placement in another division or agency (funded or unfunded) provide the employee a better opportunity (networking/diversifying skills/learning new skills/change of environment/building referees)?

c) Why/why not?

d) what other agencies employ the type of work this employee is skilled in or interested in transitioning too?

e) what would transitioning to other roles require and what can be put in place (training/course/placement) that might assist the employee?

f) what might be considered barriers to successful outcomes (perceived or real) and how to support and address these in a solution focused manner? Does the employee have an accurate self-awareness of their employability capabilities and their skills or how they are assessed or evaluated in the workplace from others' perspectives (referees)? What support can be provided to assist in developing these important employment areas if there are inconsistencies?

- Keep the employee up to date on all discussions regarding their transition with clear, concise and regular communication, preferably face to face whenever possible.
- Discuss alternative work plans with the employee's current manager to gain their approval and support, which means being able to clearly outline the benefits of undertaking any alternative determined direction.
- When requesting priority consideration for a potential suitable role, support best outcome by:

a) including the Human Resources Consultant and the Vacancy Hiring Manager in the request and if desired, include the 'Information for Vacancy Hiring Manager' form for process clarification;

b) including an overview of relevant or related employee skills, experience, knowledge to encourage and support a good first impression and perception of suitability.

- Develop a monitoring plan when a suitable placement is set up which could be a short or longer term contract. A work placement that is not successful can present a barrier (real or perceived) for the employee and the case manager in the future. Understanding and openly discussing concerns and issues with a solution focused proactive approach is part of the transition process.
- If *bona fide* performance issues are recognised during suitability assessment, which cannot be addressed and improved quickly it could continue to impact on successful assessments. As the case manager you should recommend to your own agency that this employee be notified as 'no longer excess to requirements' and performance managed in accordance with the *Commissioner's Guideline: Management of Unsatisfactory Performance (Including Misconduct)*.

Creating successful and positive outcomes requires consideration of the needs of the Vacancy Hiring Manager, the employee and the employee's home agency and may assist in the sustainability of those outcomes. It is worth considering how the employee or the Vacancy Hiring Manager would like to be informed and supported.

Experience of case management in the public sector suggests that early intensive work undertaken by a case manager results in a positive outcome for the public sector employee.

CASE FILE

An individual case file should be created and maintained for each employee who has been formally declared excess. This case file constitutes an official record of the agency's case management, decisions and actions and would generally contain:

a) the employee's details;

b) all communication to and from the employee;

c) all communication to and from the applicable union;

d) relevant agency documents e.g. Prior to Declaration template (or similar);

e) case notes;

f) information on all jobs the employee applies, or is submitted for. Include the documented outcomes of agency assessments of the employee's suitability and the employee's responses.

g) resumes;

h) career plans and position descriptions, including the employee's position description of the position/job that the employee was in immediately prior to being formally declared excess;

i) copies of vocational or functional assessments (if applicable);

j) copies of any employee performance management and assessments; and

k) a copy of the User Id and password for access to the pre-publication vacancies on I WORK FOR SA.

If an agency elects to engage an external case management service provider, the above list can be provided as a guide to the provider to ensure appropriate records management.

RETRAINING

A feature of redeployment includes retraining and agencies need to consider supporting and funding relevant training. Case managers should record all training and professional development activity provided to excess employees.

Training and skill development is a mutual responsibility and should be a continual focus for all public sector employees and their managers. Case managers should consider the following:

- plan and support the building and diversification of skills for alternative roles and opportunities for the employee;
- encourage an understanding of growth fields and government directions which is particularly important for regional or rural employees where opportunities may be limited;
- use the Redeployment Plan which is a practical tool that can help you work with the employee to identify realistic career transition objectives and relevant development activities;
- refer the employee to a professionally conducted vocational assessment which will objectively analyse an employee's current skillset, work capacity, vocational options and required training. Other retraining options may include work shadowing, on the job training and participation in relevant vocational education and training courses.

Where transition to alternative responsibilities is required, you will need to take into account any health, physical capacity and/or any special requirements.

VACANCY MANAGEMENT

Vacancy management processes within agencies need to ensure that employees who are excess to requirements have been actively considered for any vacancies within that agency.

The *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017,* requires agencies to consider and investigate a number of opportunities for placement of an employee who is excess to requirements. The case manager will be required to provide evidence that this has occurred.

Prior to loading vacancies for publication on the I WORK FOR SA site, agencies through their Human Resource area, are required to view the Excess Employee Database and compare the profiles of all excess employees with the requirements of the vacancy in their agency.

Practical examples of considering and referring an employee who is excess to requirements for placement opportunities includes but is not limited to:

- transferring or assigning the employee to a vacant role either in their home agency (that is the agency they are substantively employed in), or elsewhere in the public sector;
- providing access to, and consideration for, advertised vacancies on I WORK FOR SA ahead of other potential applicants;
- transferring or assigning the employee to roles or work assignments prior to the engagement or extension of contractors, consultants and temporary labour hire.

The *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* at Appendix 1 sets out the requirements relating to the merit based selection process. In summary an excess employee will not be requested to undergo a merit-based selection process.

As the case manager you will need to consider and propose time frames for a suitability assessment of an employee.

A meeting between the Vacancy Hiring Manager and employee should be arranged at a time which is suitable to all parties and as quickly as possible. This is not required to occur within the 96 hours pre-publication timeframes of holding the vacancy on the I WORK FOR SA site. If additional information or evidence of capabilities or role understanding is required a suitable timeframe should be provided.

I WORK FOR SA

I WORK FOR SA is the website that advertises vacant roles in the South Australian public sector.

Case managers have access to the pre-publication of vacancies 96 hours before they are published to allow:

- case managers to match excess employee skills to vacancies;
- salaried employees have the option to view vacant roles suitable for priority consideration in consultation with their case managers.

Case managers are responsible for organising access to the pre-publication of vacancy information for themselves and the employee.

When a vacancy on the I WORK FOR SA site is identified, the case manager needs to contact the agency advertising the relevant vacancy and request priority consideration for the employee ahead of other employees.

The case manager should ensure the employee has current work referees in place to support claims of capabilities, skills, experience and knowledge suitable for the role.

The agency advertising the vacancy is to ‘hold’ their vacancy from being advertised until the suitability of the excess employee has been assessed which should include the following:

- a meeting with the employee and the advertising agency representative arranged by the case manager and for some meetings, a case manager may choose to attend as a support person for the employee or to assess the employee’s skills for future skill development;

- the purpose of the meeting is to consider the employee's suitability. The employee is not required to undertake a merit selection process to be considered for the role;
- suitability is to be considered broadly by the agency advertising the vacancy. The employee should be assessed on the basis that they are capable of performing the full range of the required duties, with assistance, based on potential/future suitability given a reasonable period of time and level of training, rather than being declined on the basis they are not immediately job ready;
- if the agency advertising the vacancy confirms that the employee is suitable, the agency then proceeds with the normal employment contract administration processes and approvals required within their agency;
- if the agency advertising the vacancy does not accept the assessment of the employee's skills/skills gaps should be documented using the relevant template (depending upon which enterprise agreement covers the employee) which is to be provided to you (as the case manager) and the employee;
- the employee must be provided the reasons for the agency's assessment and afforded the opportunity to provide a response. The advertising agency is not to release the 'hold' on the vacancy, until this process is complete and without the case manager's agreement; and
- if the Vacancy Hiring Manager, case manager and the excess employee agree that the vacancy is not suitable for the employee, no further process needs to be undertaken.

DISPUTE REGARDING SUITABILITY

If a dispute regarding the excess employee's suitability cannot be resolved, parties should escalate the matter to the directors responsible for human resources within both agencies for advice. If agreement on suitability cannot be reached at the director level, the matter could be escalated to the respective chief executives (or agency heads).

For employees covered by the *South Australian Public Sector Wages Parity Enterprise Agreement: Weekly Paid 2017* this may require seeking advice from the Commissioner for Public Sector Employment.

The *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* has a detailed dispute process relating to an employee's suitability for a vacancy and the case manager will need to consider the options available to them to progress the dispute or grievance based on the facts and circumstances of each case.

RIGHT OF REVIEW

The rights of review or grievance of excess employees for excess employees will depend on the relevant category of employment and are provided either in legislation (e.g. Part 7 of the *Public Sector Act 2009*), industrial instrument or policy (e.g. HR Manual for employment under the *Health Care Act 2008*). In the first instance, excess employees should raise any concerns with their case manager or their agency's human resource area.

For employees who are covered by the *South Australian Modern Public Sector Enterprise Agreement: Salaried 2017* the enterprise agreement provides for dispute resolution processes to address a number of issues relating to case management activities. Case managers should ensure that where appropriate these processes are adopted and followed.

TEMPLATES AND ADDITIONAL INFORMATION

Reference	**"Salaried Templates"**
S1	Prior to Declaration – Agency Checklist
S2	Advice to the Commissioner for Public Sector Employment – Notification of Intention to Declare an Employee/s Excess to Requirements

Reference	“Salaried Templates”
S3	Declaration Letter
S4	Access to Pre-Publication of Vacancies on I Work For SA
S5	Redeployment Plan
S6	Manager’s/Line Supervisor’s Assessment Skills, Knowledge and Attributes of Employee
S7	Suitability Assessment and Assignment Template
S8	No longer excess letter
S-A	Dispute referral notice Commissioner for Public Sector Employment
SW-B	Notification of excess employee at 9 months
SW-C	Information for Vacancy Hiring Manager
Reference	**“Weekly Paid Templates”**
W1	Template letter – Calling for Expression of Interest
W2	Prior to Declaration Agency Checklist
W3	Declaration Letter – Weekly Paid
W4	Redeployment Plan
W5	Dispute Excess Employee Suitability
W6	Offer of Suitable Ongoing Role
SW-B	Notification of excess employee at 9 months
SW-C	Information for Vacancy Hiring Manager

Attachments to this Practitioners’ Guide include:

1. Information Document – Salaried Employees; and
2. Flow Chart – Weekly Paid Employees

ENQUIRIES

The Office of the Commissioner for Public Sector Employment can be contacted for further information on (08) 8226 2700 or publicsectorhr@sa.gov.au.