



# Attachment 3 – Classification Rules and Requirements

## **SA PUBLIC SECTOR DUTIES CLASSIFICATION PROCESS – RULES AND REQUIREMENTS**

The Classification Rules and Requirements form part of the Commissioner for Public Sector Employment Determination 5: Classification and Remuneration for Employees. Their purpose is to enable the correct classification of duties at the appropriate classification level, pursuant to section 49 Remuneration *Public Sector Act 2009* (“the PS Act”).

The Classification Rules and Requirements are to be applied to classification processes for the following occupational streams:

- Administrative Services
- Allied Health Professionals
- Operational Services
- Professional Officers
- Technical Grades Officers

Proper classification of duties requires two separate and sequential processes to be undertaken; firstly Fact Finding and then Comparative Assessment.

## FACT FINDING

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This requires the gathering of factual information on the duties - i.e. the actual work being undertaken or to be undertaken in the case of new work. The fundamental industrial underpinning of any classification (for remuneration) of the work value is an assessment of the actual work being undertaken at that time.

Reliance upon an existing statement of duties (job & person specification/role statement) may be misplaced; if it has not been updated or reviewed recently it may no longer accurately reflect the actual duties being undertaken. Equally, a new draft specification of duties prepared for the reclassification process may not reflect what is being undertaken or, importantly, what the agency as employer actually requires to be undertaken.

### Factors to be identified and considered

The following list of factors is not exhaustive, nor is it mandatory for any particular factor. It highlights factors which, once identified in the fact-finding process as set out below, will contribute to the comparative assessment process:

- Corporate, division and work unit objectives and the level and nature of the contribution of the duties
- Purpose, outcomes, activities of the duties
- Working environment
- Knowledge and skills required
- Level of responsibility to achieve the outcomes
- Nature of the accountability/reporting mechanisms to substantiate the outcome
- Organisation structure and reporting relationships
- Level of complexity in the actual duties
- Type of judgement exercised, level of autonomy and internal/external impact
- Nature and type of decisions an incumbent is authorised to make
- Clients and stakeholders and the nature of the interactions
- Effects of relevant legislation/policy on the duties
- Level of direction/supervision given to and by an incumbent
- Responsibility for managing programs and resources
- Quantifiable data associated with the duties
- The influence of the duties on policy formulation or determination



- Type and level of essential qualifications required

### Information to be gathered

- Evidence based statements of the nature of the actual duties as they are being carried out (or statements of the intended functions in the case of a new classification). These may be derived from documentary evidence or via interview (manager/employee/clients), in which case they need to be recorded, and need to be sufficiently clear, rigorous and comprehensive such that classification conclusions can be reliably drawn from them
- Summary statement of the purpose of the duties, as they relate to the efficient and effective operation of the public sector agency
- Succinct statements of the relevant work level definitions and/or work level characteristics which go to substantiate the attributed classification level
- Operational and functional statements of the contribution and the responsibilities (and delegated authorities as applicable) of the duties; in the context of the agency's corporate objectives and operations
- Up to date organisation chart showing reporting lines and management/supervisory reports, as applicable
- Where applicable, formally delegated budgetary/financial or other responsibilities
- Existing job and person specification (role statement) or new draft duties statement

## **COMPARATIVE ASSESSMENT**

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Following completion of the fact-finding exercise, a comparative assessment against the work level definitions for the relevant occupational stream needs to be undertaken.

The prerequisite for a valid and defensible classification is that the fact-finding process has identified all the relevant considerations that need to be taken into account. If this has been inadequately undertaken (that is flawed in fact) and the rules of natural justice thus not complied with, then on both counts the comparative assessment will likely be jeopardised from the outset.

In that context, it is for the agency (the employer) to specify which are the duties it requires and directs the employee to undertake, and not for the employee to determine.

Where the occupational stream incorporates definitions (e.g. Allied Health Professionals) these must be utilised and where supplementary material such as work level characteristics are provided (e.g. Administrative Services), these need to be taken into account. Where terms are not defined, the common meaning needs to be applied.

### **The objective**

The objective of this assessment is to classify the work value of the duties according to the comparative overall level of responsibility and the contribution they make to the public sector agency.

### **Classification criteria**

The first step is to identify/confirm in which occupational stream the duties fit (e.g. Professional Officer, Administrative Services).

The appropriate classification criteria will be contained in the classification criteria appendix to Determination 5: Classification and Remuneration for Employees (e.g. for Administrative Services) or in the relevant industrial instrument.

Comparison against work level definitions or criteria other than those set out as per the above or against other public sector (intra or inter agency) or private sector markets, is not valid.

### **Classification process**

This analysis and comparison process needs to be systematic, structured, and recorded. The evidence base against which comparison is made with individual work level definitions and the accompanying rationale for reaching a conclusion both need to be made explicit.

Comparison must be made against the published classification criteria for the particular occupational stream, and not against extraneous or external criteria. This is essential to preserve the integrity of the classification system, both in the interests of employer and employee and also, in the public interest, the utilisation of the classification of a set of duties as the means for appropriate remuneration.

Care needs to be taken to interpret the application of work level definitions. Some elements are mandatory but some are not. The objective is to arrive at a reasonable, well rounded classification judgement about the overall responsibilities and value of the contribution for the duties, that one person can reasonably be expected to carry out.

More than one classification level needs to be tested, and this made explicit, so that it is clear as to how the duties are *not* classified at a particular level. Moreover it is the duties that are being classified in the public interest and not a person/incumbent.

Any reclassification of duties must be as a result of significant work value change in the duties as a whole, not just components; significant work value change is the only legitimate ground for reclassification. Issues such as the following cannot be used as grounds for reclassification: perceived inequity or anomaly, and/or a performance management mechanism, either to retain a high performing employee or to encourage better performance.

### **Definition of a discipline**

For the purposes of classification, a *discipline* can be defined as “a set or system of rules and regulations”<sup>1</sup> and this, for example, is applicable to much of the work of the Administrative Services Stream, largely concerned as it is with the administration of legislation and regulations (e.g. procurement, workforce relations as but two examples of many) and the policy and programs of the government of the day.

This may be in contrast to much of the work within professional/technical disciplines, such as for the Allied Health Professional, Professional Officer and Technical Grades Streams, where within the classification process, “*discipline specific*” may have a discrete meaning and application. These differences need to be recognised and taken into account in a classification assessment.

### **Definitions of levels of direction**

The Classification Standards (refer to Attachment 2 of Determination 5) utilise the following definitions for establishing the level of direction given to the employee carrying out work at a particular classification level:

#### Close Direction

Employees working under close direction undertake a range of operational functions which are normally routine in nature, with limited responsibility for the final outcome. Only limited discretion is available in selecting the appropriate means of completing work assignments.

#### General Direction

Employees working under general direction undertake a range of operational functions and receive only general instruction for each work assignment. Discretion is normally available in selecting the appropriate means of completing assignments.

#### Limited Direction

Employees working under limited direction undertake a range of operational functions and receive only a clear statement of objectives for work assignments and will require little guidance during assignments.

The objective of this assessment is to classify the work value of the duties according to the comparative overall level of responsibility and the contribution they make to the public sector agency.

### **Assessment of professional and technical expertise**

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<sup>1</sup> Macquarie Dictionary



For the proper assessment of professional expertise, such as in the case of Allied Health Professional, Professional Officer or Technical Grades duties, HR staff will in most cases, understandably, not be qualified or competent to make such assessments. In some cases the line manager also may not be from the same profession.

Accordingly, wherever necessary the decision maker or the person preparing reasons and recommendation for decision will need to make prior, timely arrangements to ensure the requisite discipline specific expertise is brought to bear in the assessment process. This could include engaging a suitably qualified and experienced person from outside the agency. Also the Peer Assessment Panel, as set out in the work level definitions for Allied Health Professionals, is an example of this practice.

## RECLASSIFICATION

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### The ‘administrative decision’

Australian common law requires public officials to follow fair process in the making of administrative decisions, and to observe the requirements of natural justice or procedural fairness.

Section 49(3) of the PS Act provides that “*The remuneration level of an employee may be reclassified by the agency at the initiative of the agency or on application to the agency by the employee.*” The resulting decision constitutes an “*employment decision*” as defined by Section 3 of the PS Act. In the event that an incumbent employee is aggrieved by the resulting decision, it may be subject to review, either internal or possibly, external. This applies not just to an application by the employee, but also to a management-initiated reclassification request not subsequently approved by a delegate.

To be clear, in the proper exercise of administrative authority you are required to afford fair process in the making of employment decisions, including reclassification applications, even where that may appear inconvenient. The following checklist is provided to assist those undertaking reclassification exercises.

### Fair process checklist for reclassification applications

This guide is not exhaustive – it cannot anticipate every issue, but its application ought to circumvent many of the problems that can arise in these processes. It does not attempt to address the merits; however “*It is considered to be highly likely that a decision maker who follows a fair and proper procedure will make a fair and correct decision.*”<sup>2</sup>

The checklist is intended for use in the first instance by the person(s) undertaking the reclassification assessment and preparing reasons and recommendation for decision. It is also intended for use by the decision maker as a check against gross error in that assessment and preparation process prior to actually making a decision, and for use in any necessary subsequent conciliation process under section 60 of the PS Act. In the event that the matter goes to internal review under section 61 of the PS Act, the checklist could be used for the internal reviewer as a template against which to assess the procedural fairness of the decision-making process.

Clearly, all those involved in this process will need to have familiarised themselves beforehand with the rules of natural justice and procedural fairness, and the tests inherent in them.

**Bias, conflict, direction:** Have you, before undertaking a proper evidenced based assessment, already come to an expressed conclusion about the merits of the application? If so, you may have already given rise to a reasonable perception of bias and best remove yourself forthwith from the process. Likewise, do you potentially have an interest that could reasonably be concluded to be conflicted? Are you satisfied that you have not effectively been directed, in the making of recommendations or a decision – i.e. not been told by somebody else?

**Statutory power, authority and scope:** This an employment decision made under section 49 (3) of the PS Act. Does the proposed decision maker hold the necessary decision making delegation?

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<sup>2</sup> WA Ombudsman Guideline: Procedural Fairness (natural justice) May 2009

Timeliness: Fair process implies reasonable timeliness in decision making. The Classification Standards (and cl17 of the WPEA: Salaried 2014) implicitly anticipate completion and decision within three months, which is reasonable. Was the applicant given a written commitment to that effect on receipt of the application – or advised if this was not going to be possible, within that timeframe?

Compliance with determinative directions: Have the requirements of Commissioner's Determination 5: Classification and Remuneration of Employees, including those of the Classification Standards and/or relevant industrial instruments, been fully complied with? Have you read the Classification Rules and Requirements? In consideration of fair process these are 'relevant considerations'. Is there a detailed statement to that effect?

Evidence, fact finding: Have *all relevant matters* of fact been taken into account? Have you looked beyond the material/claims provided in the application; i.e. at the full range of work actually being undertaken? Have you interviewed the relevant people? Have you then considered looking outside the responses provided to you? Have you sought qualified third party advice for discipline or operational specific work outside your field of professional expertise, or that of line management? Have you taken into account (and referenced) relevant legislation, rules, regulation; and relevant policy, such as Treasurer's Instructions, Commissioner's Determinations and Guidelines; agency operating policy, manuals, standard operating procedures?

Comparative assessment: Have you conducted your appraisal against the full range of tests (relevant considerations) required by the Classification Standards and relevant industrial instrument? Have you made comparisons with more than one classification level? Have you taken a balanced, holistic and reasonable approach to your interpretation of these tests?

Perspective, balance: Have you applied your assessment to the whole of the work actually being undertaken (on the evidence), not just the claims for change in work value put forward in the application? Are these the duties the employer requires to be undertaken? Have you taken into account the possibility that the job, or significant responsibilities within it, may have been historically under classified (or over classified)? Or that under-classified elements or levels of actual responsibility may now contribute, in the sum of the parts, to the duties as a whole being characterised at a higher classification? Will your recommendation/decision, and reasons, withstand external scrutiny as a reasonable assessment – does it have 'an evident and intelligible justification'?

Write up: Have you set out an analysis of the documented evidence to support your conclusion against each relevant, applicable work level definition, and not just your conclusion?

Prior to decision: Fair process (the 'hearing rule') calls for the affected person to be advised prior to decision of the proposed recommendation/decision, given the analysis documentation (the 'pith and substance') to consider and given reasonable time to make a response. Inherently, this should be at the initiative of the prospective decision maker, not by way of request of the applicant. Was this done? If this was not done, was not possible, did you provide the reasons why? Upon request, was the person given reasonable access to the documentary evidence underpinning the analysis? For the purpose of acknowledging and considering any response, was the applicant personally met with by the decision maker and/or the preparing officer of the recommendation and reasons for



recommendation? Was the response of the applicant acknowledged and taken into account, as might be applicable, before finalisation of the decision? For instance, did it throw up relevant considerations not yet taken into account?

Record keeping: Were all interview notes, information sources, relevant documentation and emails etc retained, and in particular was this required of an external contractor where employed? Was the process record of all of the above maintained contemporaneously, dated and included in chronological order in the evidence of the assessment?

### **Level of responsibility**

As stated, it is fundamental that duties are assessed in terms of their comparative level of responsibility and value of their contribution to the agency's objectives. It follows that for a reclassification application to be successful, it must demonstrate on the basis of (assessable) evidence provided, that there has been a significant increase in the levels of responsibility required, equal to those of a higher level.

## **EMPLOYEE INITIATED RECLASSIFICATION APPLICATION**

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### **Required material**

An employee making application for reclassification is required to provide, to the best of their ability, the following material:

1. Appropriate agency application form in line with agency policy.
2. Summary statement of the purpose of the duties, as it relates to the efficient and effective operation of the public sector agency.
3. Statements of the relevant work level definitions and where appropriate, work level characteristics which go to substantiate the attributed classification level (utilising the relevant Classification Assessment Template).
4. Succinct operational and functional statements of the contribution and the responsibilities of the job, in the context of the agency's corporate objectives and operations, attributed to the appropriate work level definition and characteristic.
5. Material from the above to be summarised as a reasoned, well-rounded explanation of the claimed overall responsibilities and value of the corporate contribution.
6. Draft of the proposed new duties (not person) statement.
7. Up to date organisation chart showing reporting lines and management/supervisory reports, as applicable.
8. Existing job specification/role statement, including essential qualifications where required.

The above requirements ought to be no different for a line management-initiated reclassification application.

### **Role of HR**

Classification processes will be unfamiliar to almost all employees and many line managers. Clearly the Human Resource/People and Culture function of the agency has a public interest duty of care to assist both their employee and/or line manager in these tasks. As per the Fair Process Checklist and in order to avoid any possible perception of bias, this work needs to be undertaken by someone entirely separate to the forthcoming assessment process.

### **Classification Assessment Template**

The Classification Assessment Templates have been designed to accommodate both occupations where there are work level definitions and work level characteristics (e.g. Administrative Services) and those with standalone work level definitions (e.g. Allied Health Professionals). The Classification Assessment Template becomes the primary evidence base for the making of a classification decision and needs to be carefully and fully completed, and retained as an accountable record.



## Operative date

Where an employee makes application for reclassification to the chief executive or appropriate delegate in writing on a form approved by the public sector agency, and if that application is acceded to, the operative date for that application will be no earlier than the date of lodgement and no later than three (3) calendar months from the date of lodgement. This timeframe would also apply for the remuneration of an incumbent employee in a successful line management-initiated reclassification application made to the relevant delegate.

## Review

Where an employee is aggrieved by a reclassification decision, including where it results from a line management-initiated reclassification application, the employee may request a review of the decision pursuant to section 61 of the PS Act. In this context, section 60 requires the agency “*to endeavour to resolve its employees grievances by conciliation...*”. In the event that an employee is not satisfied with the outcome of an internal review, there is a right to external review under section 62 of the PS Act.