

Managing Excess Staff of the NSW Health Service

Summary This document sets out the policy and procedures on managing excess staff in the NSW Health Service.

Document type Policy Directive

Document number PD2012_021

Publication date 30 April 2012

Author branch Workplace Relations

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Review date 31 December 2019

Policy manual Not applicable

File number 08/7766-5

Previous reference N/A

Status Review

Functional group Personnel/Workforce - Industrial and Employee Relations

Applies to Local Health Districts, Board Governed Statutory Health Corporations, Chief Executive Governed Statutory Health Corporations, Specialty Network Governed Statutory Health Corporations, Affiliated Health Organisations, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, Ministry of Health

Audience All staff of the NSW Health Service

Secretary, NSW Health

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is mandatory for NSW Health and is a condition of subsidy for public health organisations.

Policy Directive



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Document Number PD2012_021

Publication date 30-Apr-2012

Functional Sub group Personnel/Workforce - Industrial and Employee Relations

Summary This document sets out the policy and procedures on managing excess staff in the NSW Health Service.

Replaces Doc. No. Managing Displaced Staff of the NSW Health Service [PD2007_085]

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Applies to Local Health Districts, Board Governed Statutory Health Corporations, Chief Executive Governed Statutory Health Corporations, Specialty Network Governed Statutory Health Corporations, Affiliated Health Organisations, Public Health System Support Division, Community Health Centres, Dental Schools and Clinics, NSW Ambulance Service, Public Health Units, Public Hospitals

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Distributed to Public Health System, Health Associations Unions, NSW Ambulance Service, Ministry of Health

Review date 30-Apr-2017

Policy Manual Not applicable

File No. 08/7766-5

Status Active

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

MANAGING EXCESS STAFF OF THE NSW HEALTH SERVICE

PURPOSE

This policy directive and attached procedures set out the ways in which excess staff of the NSW Health Service are managed in relation to redeployment and redundancy.

This policy directive and attached procedures are intended to:

- (a) convey to managers the steps and approach that they are required to follow when considering whether staff members are excess and when any such staff members have been declared excess; and
- (b) provide information and guidance to excess staff members as to the employer's current policy and intended approach to managing in relation to redeployment and redundancy.

Disclaimer

This Policy may be varied, withdrawn or replaced at any time without notice. This Policy is not intended to legally bind the New South Wales Government, the Crown in right of New South Wales, its officers, employees or agents or have contractual effect or form part of any legally enforceable employment contract of any public sector employee.

SCOPE

This policy applies to **permanent** staff members in the NSW Health Service and does not apply to the following:

- casual or temporary staff;
- exempt staff as specified under the Health Industry Status of Employment (State) Award;
- apprentices/trainees who fail to complete their apprenticeship or who are at the conclusion of their apprenticeship or within a short period thereafter;
- Health Executive Service Officers.

It is a condition of subsidy that non-declared affiliated health organisations comply (to the extent permitted by law) with this policy directive.

PROCESSES FOR MANAGING EXCESS STAFF

The processes for managing excess staff of the NSW Health Service are set out in the attached procedures as follows:

- Planning for restructures including consulting with staff and industrial organisations (Section 3)
- Declaring staff excess (Section 4)
- Offering voluntary redundancy (Section 5)
- The retention period for staff who elect redeployment (Section 6)
- Forced redundancy (Section 7)

- Case management and redeployment guidelines for staff who elect redeployment (Appendix 3).

Records of all stages of the processes for managing excess staff must be kept and must be stored securely.

IMPLEMENTATION

This policy will take effect from 30 April 2012.

Each organisation within the public health system is to follow the processes under this policy in relation to staff members in that Division of the NSW Health Service corresponding to the organisation.

Chief Executives of organisations in the public health system are authorised to exercise the functions of employer under this policy in relation to staff in the Division of the NSW Health Service corresponding to the organisation, subject to any conditions or limitations set out in this policy.

Human Resources Departments to:

- inform excess staff members about their options under this policy
- provide access to career transition assistance
- help excess staff members search for redeployment where they choose that option, including by providing case management for the duration of the retention period.

To facilitate this, the following must be in place:

- a case manager(s)
- an arrangement with Health Support Services for the prompt provision of estimates of employee entitlements
- appropriate career transition assistance, provided in-house, by a third party specialist, or through a combination of these.

Ministry of Health:

- provides policy advice to organisations within the public health system on the management of excess staff members
- co-ordinates reporting on excess staff members, redundancies and redeployment
- approves restructuring processes that will result in a significant number of staff members being declared excess, including any proposed voluntary redundancy program, or where financial assistance to fund redundancies is sought from the Ministry of Health

REVISION HISTORY

Version	Approved by	Amendment notes
November 1986 (PD2005_104)	Director-General	Displaced Employees – Managing. Previously circular 96/90.
October 2000 (PD2005_517)	Director-General	Displaced Employees – Managing. Previously circular 2000/78.
November 2007 (PD2007_085)	Director-General	Replaced previous policy documents PD2005_517 (Displaced Employees - Managing) and PD2005_104 (Displaced Employees - Managing)
April 2012 (PD2012_021)	Deputy Director-General, Governance Workforce and Corporate	This policy rescinds and replaces Policy Directive PD2007_085 Managing Displaced Staff of the NSW Health Service. The new policy introduces an offer of voluntary redundancy when staff are declared excess, a three month retention period for redeployment, three months' salary maintenance and if not redeployed at the expiry of the retention period, forced redundancy.

ATTACHMENTS

1. Managing Excess Staff of the NSW Health Service: Procedures.

Managing Excess Staff of the NSW Health Service



Issue date: April 2012

PD2012_021

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1. BACKGROUND

1.1 About this document

This section of the procedure document includes:

- An overview of the reasons why the policy and procedures were developed.
- An outline of the contents of the document and who should read what sections.

These procedures explain how excess staff members are managed in the NSW Health Service.

This policy directive and attached procedures is intended to:

- (a) convey to managers the steps and approach that they are required to follow when considering whether staff members are excess and when any such staff members have been declared excess; and
- (b) provide information and guidance to excess staff members as to the employer's current policy and intended approach to managing them in relation to redeployment and redundancy.

These procedures are supported by a number of templates.

Disclaimer

This Policy may be varied, withdrawn or replaced at any time without notice. This Policy is not intended to legally bind the NSW Health Service, the Crown in right of New South Wales, its officers, employees or agents or have contractual effect or form part of any legally enforceable employment contract of any public sector employee.

1.2 Key definitions

Affected staff: are staff members whose positions have been deleted, altered or relocated as a result of organisational change and who will become excess if they are not placed in a position within the new structure.

Chief Executive: means a Chief Executive (however called) of an organisation in the public health system.

Director-General: means the Director-General of the NSW Ministry of Health.

Division of the NSW Health Service: consists of the group of staff employed in or in connection with a Local Health District, a statutory health corporation, or a non-declared affiliated health organisation; or in connection with the provision of ambulance services; or in connection with public health organisations providing corporate and other health support services to those public health organisations.

Employer: means the Director-General or any person authorised to exercise the Director-General's functions of employer under these procedures in respect of staff of the NSW Health Service.

Chief Executives of organisations in the public health system are authorised to exercise the functions of employer under these procedures in relation to staff in the Division of the NSW Health Service corresponding to the organisation, subject to any conditions or limitations set out in these procedures.

Excess Staff: means members of staff of the NSW Health Service who are advised in writing that they no longer have a substantive position in the Division of the NSW Health Service in which they are employed and where no suitable vacant permanent or temporary positions are available. Once an excess staff member is appointed to a permanent position, that staff member is no longer considered excess.

Existing salary: is the rate of pay that applied to the excess staff member's deleted position. It includes allowances in the nature of salary and any award, incremental or Director-General determined increase to which the staff member would have been entitled. It does not include shift penalties. Allowances in the nature of salary are those allowances that are paid by the employer for a specific skill, duty or qualification which were permanently required as part of the deleted position. Disability, expense based and on call allowances are not included in a staff member's existing salary.

Home organisation: means the organisation within the public health system from which a staff member is declared excess.

Human Resources Manager: is the Manager for Human Resources (however called) with overall responsibility for Human Resources within an organisation in the public health system.

NSW Health Service: consists of those persons who are employed under Chapter 9, Part 1 of the *Health Services Act 1997* by the Government of New South Wales in the service of the Crown. For the purposes of these procedures, members of the Health Executive Service are excluded.

Public health system: includes local health districts, statutory health corporations, affiliated health organisations in respect of their recognised establishments or services, the Ambulance Service of NSW, Health Support Services, Health Infrastructure and any administrative unit or Division under the control of the Director-General or Health Administration Corporation in respect of which staff of the NSW Health Service are employed.

Recruiting organisation: means an organisation in the public health system that may recruit an excess staff member who has opted for redeployment.

Redeployment: means permanent placement in a suitable vacant permanent position in the NSW Health Service.

Suitable position: is a position where the excess staff member can meet the selection criteria for the position, or is likely to perform adequately in the position in a reasonable period of time, given access to appropriate training and support, and the position is of equivalent salary to the excess staff member's former substantive position (or lower, if the staff member consents); and the position is located within reasonable commuting distance, or at any other location agreed to by the excess staff member.

Voluntary redundancy program (VRP): A program, approved by the Director-General, in which expressions of interest in voluntary redundancies are sought from group of staff members.

1.3 Responsibilities

The employer is to:

- inform excess staff members about their options under these procedures, noting that the procedures may be varied, replaced or rescinded at any time and do not create individual contractual rights. Staff members may wish to seek advice from their Human Resources Manager or independent advisor in relation to processes the subject of this policy.
- provide access to career transition assistance.
- help excess staff search for redeployment, where they choose that option.

2. APPLICATION

2.1 Coverage

These procedures apply to **permanent** staff members in the NSW Health Service, and do not apply to the following:

- casual or temporary staff;
- exempt staff as specified under the Health Industry Status of Employment (State) Award;
- apprentices/trainees who fail to complete their apprenticeship or who are at the conclusion of their apprenticeship or within a short period thereafter;
- Health Executive Service Officers.

The Determination of Conditions of Subsidy requires (to the extent permitted by law) non-declared affiliated health organisations to comply with policy directives dealing with the terms and conditions of employment of staff employed in the NSW Health Service.

The Guidelines attached for Case Management and Redeployment ([Appendix 3](#)) form part of these procedures.

2.2 Transitional arrangements for salary maintained staff under PD2007_085

Staff who were formerly displaced and who have been redeployed into positions at a lower level and receiving salary maintenance under the provisions of Policy Directive PD2007_085 Managing Displaced Staff of the NSW Health Service as at 30 April 2012, will continue to be entitled to the salary maintenance provisions of that Policy

Directive, in line with the arrangements set out in [section 6.6](#) of this Policy and [Attachment 3](#) of the Guidelines for Case Management and Redeployment.

Provided that should the staff member be subsequently declared excess from any position after 30 April 2012, they will be treated as an excess staff member under the provisions of this policy.

3. RESTRUCTURES

3.1 Consultation

Organisations must consult with staff members and the relevant union(s) on the implementation of the organisational change and prior to any decision to seek expressions of interest in voluntary redundancy under [section 3.3](#) or to declare staff excess under [section 4](#). Nothing in these procedures precludes the rights of a party to refer the matter to the Industrial Relations Commission of NSW. Organisations are to advise the Ministry of Health of any significant industrial dispute(s) with respect to implementation.

3.2 Restructuring Plan

In cases where the restructure will significantly impact on whole units or groups of staff members, the employer will need to develop a restructuring plan. Prior to initiating a restructuring process that will result in a significant number of staff members being declared excess, the restructuring proposal must be submitted to the Ministry of Health for approval. Organisations undergoing significant organisational change, including any proposed voluntary redundancy program, or where financial assistance is sought, are required to obtain the approval of the Ministry of Health to proceed.

Organisations are not required to develop a restructuring plan for minor changes, such as where only a few staff members are likely to be affected or made offers of voluntary redundancy result.

When developing the restructuring plan, the employer will need to identify the:

- reason for the restructure;
- benefits or likely impact the restructure will have on services;
- number of staff members affected, including details on their classifications and locations;
- a timetable for implementation; including details of consultation with the industrial organisation/s and information sessions for staff;
- possible effects on Equal Employment Opportunity groups;
- the availability of counselling and vocational assessment services for staff members; and

- where possible, estimated number of staff members likely to be redeployed and the number of voluntary redundancy packages that may be offered.

The employer must retain the restructuring plan for audit/review purposes.

Any organisational change must focus on positions, not individual staff members. Unsatisfactory performance, or allegations of unsatisfactory or poor performance, are not grounds for abolishing positions and declaring staff members excess.

3.2.1 Relocation of staff members to vacant positions

When positions are no longer required at a particular metropolitan or rural location, organisations may need to relocate positions to alternative areas.

If a suitable position is no longer available at an affected staff member's current location, a Chief Executive may require that staff member to transfer to a location where there is a suitable vacant position at the same salary level as the previous position held, and for which they possess the required skills and qualifications. Where the work in the position at the new location is different from the staff member's former position, the organisation is to provide necessary support, including staff development or training, for the staff member to perform effectively in the position.

3.2.2 Relocation provisions

Staff members within the Greater Sydney metropolitan area (defined as the Central Coast to the north as far as Gosford, the area to the west as far as Mt Victoria and south as far as Wollongong) may be transferred to suitable vacant positions elsewhere in the metropolitan area. Staff members in regional NSW may be required to relocate where there are no suitable vacant positions in their current location. Staff members are not to be relocated if they have a valid reason for refusing a transfer. Relocation requiring relocation of residence may not be a viable option for some affected staff because of the adverse impact on their family situations or for other personal reasons and may be a valid reason for refusing a transfer.

Where the employer determines that a staff member is to transfer into a permanent position that requires relocation of residence and the staff member agrees to the transfer, relocation assistance as provided in [Section 6.6.3](#) of the Case Management and Redeployment Guidelines appearing as [Appendix 3](#) to these procedures, will apply.

3.3 Voluntary redundancy programs

Organisations may consider implementing a voluntary redundancy program (VRP) whereby expressions of interest in voluntary redundancy are sought before any staff members are declared excess.

Invitations to express interest in VR under a VRP can be confined to some or all staff members in a single business unit, a number of business units, or extend to the staff

of an entire organisation. A VRP may be implemented at any time, subject to the approval of the Director General.

VR offers accepted under a VRP must deliver a permanent, ongoing reduction in expenses; must contribute to a savings target or workforce planning objective, or reduce the number of staff members affected, or likely to be affected, by organisational change which will result in fewer positions; and result in the recipient of the VR leaving from a position made redundant while they held the position.

Notwithstanding a staff member's expression of interest meeting these criteria, VR offered under a VRP is offered entirely at the discretion of the organisation.

VR offers made as part of a VRP are not to be made in circumstances where acceptance would simply bring forward a reduction in expenses that was already certain, or could reasonably be predicted, or where the delivery of services would be adversely affected.

It is not necessary for a staff member to be declared excess prior to being offered VR under a VRP, nor are offers of VR restricted to those staff members who have returned an expression of interest. An organisation may make an offer to any staff member who has received an invitation seeking expressions of interest.

A VR offer made under a VRP is to be calculated in the same way as described in [section 5.2](#) Voluntary redundancy payments in these procedures.

Staff members have 14 calendar days from the date of a VR offer to accept or reject it provided that organisations will have discretion to grant an extension of up to seven calendar days to respond to an offer of voluntary redundancy where a staff member has made a case that warrants an extension and in this circumstance, an extension will not be unreasonably withheld. If the offer is sent to the staff member's postal address, then the 14 calendar day period, or such extended period as agreed by the organisation, is counted from the fourth working day after the offer was posted. Organisations should ensure that staff members are aware when VR offers are likely to be made and staff members should provide their employers with relevant contact details during that period to enable effective communication. In the absence of a response within 14 calendar days, or such extended period as agreed by the organisation, the staff member is assumed to have rejected the offer.

The staff member must exit the organisation within 14 calendar days from the date of accepting the offer, and from a position made redundant while the recipient held the position.

Temporary and casual staff, Health Executive Service officers, and excess staff members who will already have received a VR offer when they were declared excess in line with [section 4.3](#), are not eligible for a VR offer as part of a VRP.

Templates to call for expressions of interest and to make and accept an offer of VR as part of a VRP, are provided at [Appendix 1](#).

4. DECLARING A STAFF MEMBER EXCESS

During organisational change there are often affected staff members whose positions have been deleted, but who may yet be placed within the new structure.

Organisations are to inform those staff members in writing that they are affected, and that the staff member will be granted priority access to suitable vacancies across NSW Health, provided that:

- excess staff will have priority over affected staff
- affected staff will have priority within their current Health service over other affected staff from other Health Services.

Affected staff with priority status who wish to be considered for vacancies in Health Services other than their own will be expected to be actively engaged in identifying those opportunities.

These affected staff members are not to be declared excess until all suitable vacant positions within the new structure have been filled. Organisations must ensure that all placement processes associated with the organisational change, or the relevant phase of the organisational change, are completed before any residual staff members are declared excess.

Where there are suitable vacant positions in the new structure, organisations have the discretion to permanently transfer affected staff members to those positions under section 87 of the *Public Sector Employment and Management Act 2002* (and not declare the staff members excess).

Where there are not yet suitable vacant permanent positions, organisations may temporarily transfer affected staff members to suitable positions (and not declare the staff members excess). Temporary transfers are provided under section 86A and section 86 of the *Public Sector Employment and Management Act 2002*.

If a staff member is on a section 86A or section 86 temporary transfer at the time their substantive position is deleted, they are not to be declared excess until that temporary transfer has concluded.

A staff member is declared excess when they no longer have a substantive position and the employer determines that there are no other suitable vacant permanent or temporary positions in the organisation into which the staff member may be placed.

Where a staff member works in multiple assignments and their position in one assignment only is deleted, the staff member is declared excess from the assignment that is deleted.

A template letter for declaring a staff member excess is at [Appendix 2](#) to these procedures.

A staff member on approved “parental leave” cannot be declared excess while they are on leave. They may be made excess only when:

- they return from leave; and

- no vacant comparable position that the staff member is qualified for and is capable of performing is available.

“Parental leave” means leave provided for that purpose in the *Industrial Relations Act 1996* and any relevant industrial instrument.

A staff member on workers’ compensation may be declared excess when they no longer have a substantive position. Declaring the staff member excess must not be due to a staff member’s work-related injury or illness.

4.1 Exchanging Positions

The employer may also consider the possibility of permanently exchanging positions (position swaps) between excess staff who have declined voluntary redundancy and other staff who are not affected, but who have indicated that they would accept voluntary redundancy.

Organisations may also invite staff members to express interest in position swaps in conjunction with a VRP.

4.2 Options for excess staff members

Upon being declared excess, an excess staff member has two weeks to choose between two courses of action:

1. Accept an offer of voluntary redundancy and exit the NSW Health Service within two weeks of accepting the offer or at a time nominated by the employer. If voluntary redundancy is declined, it will not be offered again in relation to the same redundancy.
2. Decline the voluntary redundancy offer and pursue redeployment during a three month retention period. If an excess staff member:
 - (a) exits the NSW Health Service at any time after declining the offer of voluntary redundancy, including through resignation, they will receive a payment using the calculation described in [section 7.1](#) of these procedures, or
 - (b) is not redeployed by the conclusion of the retention period, they will be made forcibly redundant and receive a payment using the calculation described in [section 7.1](#) of these procedures.

Employers will have discretion to grant an extension of up to seven calendar days to respond to an offer of voluntary redundancy where a staff member has made a case that warrants an extension and in this circumstance, an extension will not be unreasonably withheld.

Employers should ensure that staff members are aware when VR offers are likely to be made and staff members should provide their employers with relevant contact details during that period to enable effective communication.

If an excess staff member fails to notify their employer of a course of action within the nominated two week timeframe, or such extended period as agreed by the employer, this will be taken as the choice to decline voluntary redundancy and pursue redeployment.

4.3 Voluntary redundancy

Upon declaring a staff member excess, the employer must provide an offer of voluntary redundancy as provided in [section 5](#) of these procedures.

The offer is to be estimated using the methodology described in [section 5.2](#) of these procedures. If an excess staff member declines this voluntary redundancy offer, it will not be offered again in relation to the same redundancy.

4.4 Notice of forced redundancy

Upon declaring a staff member excess, the employer must also provide the staff member with written notice of the intention to make the staff member forcibly redundant if:

- (a) the excess staff member refuses the offer of voluntary redundancy; and
- (b) the excess staff member is not redeployed by the conclusion of the three month retention period.

Upon being made forcibly redundant, the excess staff member will receive the payment described in [section 7.1](#) of these procedures.

4.5 Summary of written advice to be provided to staff members upon being declared excess

Upon declaring a staff member excess, the employer must immediately provide written advice that:

1. The staff member is excess as at the date of the written advice.
2. The staff member has two weeks from the date of the written advice to decide whether to:
 - (a) accept the offer of voluntary redundancy (provided with the advice) and leave the NSW Health Service within two weeks of acceptance (or at a time nominated by the employer); or
 - (b) decline the offer of voluntary redundancy and opt to pursue redeployment within the three month retention period.

Employers will have discretion to grant an extension of up to seven calendar days to respond to an offer of voluntary redundancy where a staff member has made a case that warrants an extension and in this circumstance, an extension will not be unreasonably withheld.

3. The employer will make the excess staff member forcibly redundant if the staff member has not left the NSW Health Service, or been redeployed, at the conclusion of the three month retention period.
4. If the excess staff member exits the NSW Health Service after declining the offer of voluntary redundancy and at any time during the retention period, or is made forcibly redundant at the end of the retention period, the excess staff member will receive a payment calculated using the methodology described in [section 7.1](#) of these procedures.

5. VOLUNTARY REDUNDANCY

Every excess staff member must be provided with an offer of voluntary redundancy when they are declared excess.

5.1 Approval

Chief Executives are responsible for approving the offer of voluntary redundancy to each excess staff member. However, prior to initiating a restructuring process that will result in a significant number of staff members being declared excess, the restructuring proposal must be submitted to the Ministry of Health for approval.

5.2 Voluntary redundancy payments

A voluntary redundancy is a voluntary termination payment to a permanent staff member. Where staff members accept voluntary redundancy, they are entitled to the following payments:

- four weeks notice or payment in lieu, plus
- for staff members aged 45 years and over with five or more years of completed service, an additional one weeks notice or payment in lieu, plus
- a severance payment at the rate of three weeks per year of continuous service with a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be on a quarterly basis
- the benefit allowable as a contributor to a retirement fund, plus
- pro rata annual leave loading for leave accumulated at the date of termination, plus
- the following incentive payments based on years of service:

Length of service	Additional payment
Less than one year	Two weeks pay
One year and less than two years	Four weeks pay
Two years and less than three years	Six weeks pay
Three or more years	Eight weeks pay

All continuous service in NSW public sector agencies in accordance with Schedule 3A of the *Public Sector Employment and Management Act 2002* is recognised for voluntary redundancy purposes provided no previous redundancy payment has been made for this service. This means that service is considered continuous if a break in service between engagements is less than two months.

Service with a Commonwealth or interstate agency is not recognised for the purposes of voluntary redundancy.

The severance payment is paid as follows:

1. The hourly rate of pay to apply to the severance payment is that applicable to the staff member's substantive position.
2. The hours per week to apply to the severance payment is as follows:
 - a. If the employee is full time at the time of the redundancy, full time hours; or
 - b. If the employee is part time at the time of the redundancy:
 - at the part time hours worked at the time of the redundancy; or
 - at the average full time equivalent hours worked over the previous up to 13 years, whichever is greater.

To determine if periods of leave without pay count as service in calculating the severance component, the long service leave principles apply. That is:

- staff with less than 10 years service - leave without pay will not be accepted as part of completed years of service;
- staff who have completed at least 10 years service - leave without pay for periods not exceeding six months taken after 1 January 1973 will be accepted as part of completed years of service.

If an excess staff member on workers compensation chooses voluntary redundancy, they exit the service pursuant to these procedures. It should be noted that acceptance of a redundancy payment does not, by itself, deny an injured staff member appropriate ongoing compensation where there is continuing incapacity to work.

5.3 Re-employment or re-engagement in the NSW Public Sector

Staff members who accept a voluntary redundancy cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by their severance payment and incentive payment, without first repaying the relevant proportion of their severance payment and incentive payment.

This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or staff members or principals of companies engaged in contracting to a public sector agency.

5.3.1 *Obligations of staff members*

Staff members accepting voluntary redundancy are required to sign an undertaking to refund to the employer that proportion of the severance payment and incentive payment applying to the period of re-employment should they be re-employed or re-engaged in any capacity (including employment in temporary, part-time or casual employment, as a consultant, contractor or subcontractor) in a NSW public sector agency within the period covered by the severance payment and the incentive payment.

The repayment covers the relevant proportion of the severance payment calculated on years of service and the additional payment of up to eight weeks pay - but excludes pay in lieu of notice.

5.3.2 *Responsibilities of employing organisations*

It is the responsibility of the new employing organisation to ensure that this requirement for repayment is met prior to commencement of employment.

Employers must ensure that:

- The selection panel, convenor or manager responsible for recruitment asks the prospective staff member questions regarding any previous public sector redundancy, retrenchment or termination payments. This must be done before any recommendation for permanent, temporary, part time, casual, contracting or consultancy engagement is submitted for approval.
- If repayment is required, such repayment is a condition of the offer of employment or engagement of the person as a consultant or contractor.
- Letters of appointment inform prospective staff members that non-disclosure of Government redundancy payments which would otherwise be required to be proportionally refunded will invalidate the appointment and may result in the appointment being annulled.

6. THE RETENTION PERIOD

Excess staff members who decline the voluntary redundancy offer are entitled to a three month retention period. During the retention period, excess staff members receive their existing salary while pursuing redeployment opportunities within the NSW Health Service.

6.1 Scope of the retention period

The retention period commences from the date on which the voluntary redundancy offer is declined by an excess staff member, or the voluntary redundancy offer closes without being accepted by an excess staff member.

The retention period runs for three calendar months. In exceptional circumstances only, an employer may seek approval from the Director-General to extend the retention period.

In the case of an excess staff member on workers compensation, consideration may need to be given to a retention period that takes into account any restrictions on the work the staff member can undertake as a result of the staff member's injury.

For example, an excess staff member who is on a Return to Work plan and who is restricted in the work they can perform, may be constrained in seeking redeployment to a suitable position during the three month retention period, depending on an assessment of whether that position can accommodate the Return to Work plan. The employer must assess this on a case-by-case basis and extend the retention period where appropriate.

6.2 Redeployment within the retention period

The purpose of the retention period is to allow excess staff members to pursue redeployment to a permanent position in the NSW Health Service. Excess staff members may be placed in any suitable vacancy without advertising. Section 116C of the *Health Services Act 1997* is the mechanism by which excess staff members may be redeployed.

During the retention period, excess staff members are to be provided with priority access to redeployment opportunities across the NSW Health Service. Where a potentially suitable position match is identified, excess staff members are entitled to priority assessment for vacancies before any other applicants. Where two or more excess staff members apply for the same vacant position, selection is based on merit between the excess staff members.

For detailed guidelines on redeployment position matching and the priority assessment process refer to [Appendix 3](#) Case Management and Redeployment Guidelines.

6.3 Temporary secondment or assignment within the retention period

During the retention period an excess staff member may choose to accept a temporary secondment or assignment under sections 86, 86A or 88 of the *Public Sector Employment and Management Act 2002*.

If this occurs and the excess staff member's retention period ends during the secondment or assignment, the staff member will continue to be employed for the remaining period of the secondment or assignment. When the secondment or assignment ends, if the excess staff member has not been redeployed or has not

secured an extension of the secondment or assignment, the excess staff member is then made forcibly redundant.

6.4 Case management and career transition assistance

Case managers are responsible for ensuring excess staff members are properly informed about their options; have access to career transition assistance; and are helped in the search for redeployment, where that is their choice.

Each organisation within the public health system must nominate at least one case manager.

Excess staff members who seek redeployment are entitled to priority access to redeployment opportunities within the NSW Health Service (see [Appendix 3](#) Case Management and Redeployment Guidelines).

Each organisation's case manager(s) have a critical part to play in identifying possible position matches within the NSW Health Service and assisting staff members to demonstrate their suitability for vacancies.

Where there is no in-house expertise in career transition counselling and skills development, organisations are to engage a qualified external provider to deliver these services.

As a transitional arrangement for the first 12 months following the commencement of the policy, the Ministry of Health will actively monitor case management provided by organisations.

Where the Ministry concludes that the case management for a staff member has not been provided consistent with the policy, the Ministry will recommend to the Director General that an extension of the retention period for that staff member be granted to enable that case management to occur.

6.5 Employment outside the NSW Health Service

While priority assessment is not available beyond the NSW Health Service, the employer is to take reasonable steps to offer support and assistance to excess staff members who express an interest in transferring to another NSW public sector agency.

Sections 86-88 of the *Public Sector Employment and Management Act 2002* contain mobility provisions, such as temporary staff transfers and employer-sponsored permanent transfers, to facilitate the movement of staff from the NSW Health Service to another NSW public sector agency.

An excess staff member who transfers to another public sector agency will be employed under the conditions of the relevant industrial instrument and policies of the receiving agency from the date of transfer.

6.6 Salary maintenance and priority assessment if placed in a position at a lower grade or salary

If an excess staff member is placed with their agreement in a position at a lower grade or salary, they are entitled to three calendar months' salary maintenance at their former salary.

If an excess staff member is redeployed to a position at a lower grade or salary they remain entitled to priority consideration until they acquire a permanent position at equivalent salary to their former position.

Transitional arrangements for salary maintenance staff under PD2007_085

Staff who were formerly displaced and have been redeployed into positions at a lower level and were receiving salary maintenance under the provisions of Policy Directive PD2007_085 Managing Displaced Staff of the NSW Health Service as at 30 April 2012, will continue to be entitled to the salary maintenance provisions of that Policy Directive in line with the arrangements set out in [Attachment 3](#) of the Guidelines for Case Management and Redeployment.

Provided that should the staff member be subsequently declared excess from any position after 30 April 2012, they will be treated as an excess staff member under the provisions of this policy.

6.6.1 Conditions Where Salary Maintenance May Not Apply

Salary maintenance does not necessarily extend to any special conditions which the staff member may have enjoyed in the former deleted position. Where relevant policies are applicable (eg Use of Motor Vehicles Within NSW Health - Policy Directive PD2007_029, as varied from time to time) these policies are to be followed.

If the staff member is redeployed to a position that has different conditions, then those conditions will apply from the date of commencement in the new position.

6.6.2 Payment of Overtime and Shift Penalties While on Salary Maintenance

Where an excess staff member is placed into a position that attracts overtime and/or shift penalties, the overtime and shift penalties when worked by the staff member are to be paid by the employer and will be paid at the rate of the staff member's maintained salary.

The above does not apply where the excess staff member's maintained salary already compensates the staff member for shift penalties and/or overtime (eg Health Managers Level 5 and above).

6.6.3 Part Time Employment and Salary Maintenance

Where a part time excess member is placed in a position at a lower grade or salary and requests to work a greater number of hours, the additional hours will be paid at the rate applicable to the lower graded position. However if the employer requests that the staff member work additional hours, the additional hours will be paid at the staff member's maintained salary rate. No part time excess staff member will be

required by the employer to increase their substantive hours in order to take up another position.

If over the previous six months the staff member has consistently worked a systematic and regular number of hours in excess of their contracted part time hours on appointment, those additional hours are to be averaged over the 12 month period and considered to be part of the existing part time hours of the staff member for the purposes of salary maintenance.

7. EXIT DURING THE RETENTION PERIOD AND AT FORCED REDUNDANCY

An excess staff member may exit the NSW Health Service at any time after refusing the voluntary redundancy offer and during the retention period,

An excess staff member is made forcibly redundant by the employer when all of the following conditions have been satisfied:

- (a) the staff member has been informed in writing that they are excess; and
- (b) the excess staff member has not accepted the offer of voluntary redundancy; and
- (c) the excess staff member has exhausted their three month retention period.

Two weeks prior to the expiry of the retention period (or of any temporary assignment under [section 6.3](#) of this Policy) the employer will provide the staff member with further written notice that the retention period is coming to an end, and that if at the conclusion of the retention period the employee remains excess, they will be made forcibly redundant.

7.1 Payments when exiting during the retention period and at forced redundancy

Upon exiting the NSW Health Service after refusing the offer of voluntary redundancy and at any time during the retention period, or upon being made forcibly redundant, an excess staff member is to receive a payment consistent with the statutory minimum payment as per the *NSW Employment Protection Regulation 2001*, plus an additional payment of four weeks salary if under the age of 45 or five weeks salary if aged 45 years or over.

The exit or forced redundancy payment is lower than the payment for voluntary redundancy and is to be calculated using the following methodology:

Length of continuous service	Redundancy pay	
	Under 45 years	45 years or more
Less than 1 year	Nil	Nil
1 year and more but less than 2 years	4 weeks	5 weeks
2 years and more but less than 3 years	7 weeks	8.75 weeks
3 years and more but less than 4 years	10 weeks	12.5 weeks
4 years and more but less than 5 years	12 weeks	15 weeks
5 years and more but less than 6 years	14 weeks	17.5 weeks
6 years or more	16 weeks	20 weeks
<i>plus</i>		
Additional payment	4 weeks	5 weeks

Redundancy payments will be based on the excess staff member's substantive rate of pay for the position deleted.

It should be noted that receipt of a forced redundancy payment does not, by itself, deny an injured staff member compensation where there is continuing incapacity to work.

7.2 Re-employment or re-engagement in the NSW Public Sector

Excess staff members who exit the service during the retention period or who are made forcibly redundant are subject to the restrictions on re-employment or re-engagement in the NSW Public Sector as described in [section 5.3](#) of these procedures.

8. LIST OF APPENDICES

[Appendix 1](#) Templates for calling expressions of interest and offering VR under a Voluntary Redundancy Program

[Appendix 2](#) Template letter for declaring a staff member excess

[Appendix 3](#) Case Management and Redeployment Guidelines

Appendix 1

Template for Invitation for Expressions of Interest in Voluntary Redundancy

In accordance with the policy for Managing Excess Staff of the NSW Health Service (PD2012_021), [Organisation/Work Unit] is inviting an expression of interest from eligible staff members who are interested in accepting a voluntary redundancy (VR).

An expression of interest form for this VR program is attached. If you are interested, please complete and forward to the [HR unit] by fax: (02) [fax number] or email [email address] by [DD Month YYYY]. Note that emailed expressions must include a signed and scanned copy of the expression of interest form.

Eligibility

All permanent staff members who hold a substantive position with [organisation/work unit] are eligible to apply. Temporary and casual staff, Health Executive Service officers, and excess staff members are not eligible for this VR program.

All expressions of interest will be considered by the [organisation review committee/HR unit/CE or Delegate] according to the following criteria [insert criteria].

It should be noted that the submission of an expression of interest does not automatically qualify a staff member to receive an offer of VR.

Voluntary redundancy payment

Staff members who are offered and accept a voluntary redundancy package receive the following payments:

- four weeks notice or payment in lieu, plus
- for staff members aged 45 years or over with five or more years of completed service, an additional one week's notice or payment in lieu, plus
- a severance payment at the rate of three weeks per year of continuous service up to a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be calculated on a quarterly basis, plus
- any benefit allowable as a contributor to a retirement fund, plus
- pro-rata annual leave loading for leave accrued at the date of termination, plus
- the following additional payments based on years of service:

Length of service	Additional payment
Less than one year	Two weeks pay
One year and less than two years	Four weeks pay
Two years and less than three years	Six weeks pay
Three or more years	Eight weeks pay

Voluntary redundancy conditions

A staff member who is made a VR offer under this program is subject to the following conditions:

- the offer must be accepted within 14 calendar days of it being made [**or such extended period up to 21 days as agreed by the organisation**]. In the absence of a response within 14 calendar days, or such extended period as agreed by the Health Service, the staff member is assumed to have rejected the offer
- a staff member who accepts the VR offer must leave the service within 14 calendar days of the acceptance date
- the acceptance of the VR offer cannot be conditional and cannot be rescinded
- a staff member who accepts a VR cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by their severance payment, without first repaying the relevant proportion of their payment. The repayment covers the relevant proportion of the severance payment (up to 39 weeks) and the additional payment of up to eight weeks but excludes the four/five weeks pay in lieu of notice. This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or employees or principals of companies engaged in contracting to a public sector agency.

Enquiries regarding this VR program can be directed to the [HR Manager/HR unit] on (02) [phone number] or email [email address]

[Organisation/Chief Executive or Delegate]

[Title]

[Date]

[Optional or if required by Organisation]	
Contact Officer:	[Contact Name]
Telephone:	(02) [phone number]
Email:	[email address]
References:	

Managing Excess Staff of the NSW Health Service



Expression of Interest in Voluntary Redundancy

PURPOSE

This form is for eligible staff members who wish to express interest in voluntary redundancy.

PERSONAL DETAILS

First Name	
Surname	
Employee number	
Contact number	

POSITION DETAILS

Substantive position title	
Substantive grade/level	
Business unit	
Staff member's signature	
Date	

CLOSING DATE: [DD Month YYYY]

Please return to:

[HR Unit/Team]
 [Postal Address}
 Fax No. (02) [fax number]

or

email (signed and scanned) to: [email address]

Offer of Voluntary Redundancy under a Voluntary Redundancy Program (Template)

[Staff member's address]

Dear [Staff member's name]

Thank you for your interest in the [organisation name]'s voluntary redundancy program.

I am writing to inform you that upon consideration of your expression of interest [organisation name] can now formally offer you voluntary redundancy. To accept this offer you must respond within 14 calendar days from the date of this letter ***for such extended period up to 21 days as agreed by the organisation*** by completing the attached Voluntary Redundancy Acceptance form.

If you accept this voluntary redundancy offer your last day of service will be the date that is within 14 calendar days from the acceptance date. Please note that if you decline this offer of voluntary redundancy further offers may not be made.

Voluntary redundancy payment

The voluntary redundancy comprises the following payments:

- four weeks notice or payment in lieu, plus
- for staff members aged 45 years and over and with five or more years of completed service, an additional one weeks notice or payment in lieu, plus
- a severance payment at the rate of three weeks per year of continuous service with a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be on a quarterly basis
- the benefit allowable as a contributor to a retirement fund, plus
- pro rata annual leave loading for leave accumulated at the date of termination, plus
- the following incentive payments based on years of service:

Length of service	Additional payment
Less than one year	Two weeks pay
One year and less than two years	Four weeks pay
Two years and less than three years	Six weeks pay
Three or more years	Eight weeks pay

A schedule estimating the value of your voluntary redundancy payment is attached.

Conditions of acceptance

The conditions of acceptance are as follows:

- This voluntary redundancy must be accepted by [DD Month YYYY (date that is 14 calendar days from the date of this letter [***or such extended period up to 21 days as agreed by the organisation,***)]].
- If you accept this voluntary redundancy offer you agree to leave the NSW Health Service by the date that is within 14 calendar days of the acceptance date.
- Your acceptance of the voluntary redundancy offer cannot be conditional and cannot be rescinded.
- If you accept a voluntary redundancy you cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by your severance payment, without first repaying the relevant proportion of your payment. The repayment covers the relevant proportion of the severance payment (up to 39 weeks) and the additional payment of up to eight weeks but excludes the four/five weeks pay in lieu of notice. This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or employees or principals of companies engaged in contracting to a public sector agency.

Next steps

Please complete the enclosed Voluntary Redundancy Acceptance form to either accept or decline the offer of voluntary redundancy.

Return the form to [HR Manager] by [DD Month YYYY (date that is 14 calendar days from the date of this letter, [***or such extended period up to 21 days as agreed by the organisation,***)]].

Note: if you do not respond within 14 calendar days (***or such extended period up to 21 days as agreed by the organisation***) from the date of this letter, this will be taken as the choice to decline voluntary redundancy. By declining this offer you understand that your position may still become redundant, at which point you would be declared an excess employee in accordance with the provisions of the Managing Excess Staff Policy (PD2012_021). Please check with the contact below if you need clarification regarding this issue.

Further information

Please contact [HR contact name] on [phone number] if you have any questions about your voluntary redundancy offer.

Yours faithfully

[Name]
[Department Head or Delegate]

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Enclosed:

1. Schedule of voluntary redundancy entitlements
2. Voluntary redundancy acceptance form
3. [any other relevant attachments]

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Voluntary Redundancy Acceptance Form

Staff member's name	
Employee number	

I declare that (please tick one of the following):

- I wish to accept the voluntary redundancy offer and voluntarily terminate my services with [Organisation/Work Unit]. I understand that by accepting this voluntary redundancy offer:
- I agree to leave the NSW Health Service within 14 calendar days of the date of acceptance.
 - I cannot place conditions on my acceptance or rescind it.
 - I cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by the severance payment without first repaying the relevant proportion of this payment. The repayment covers the relevant proportion of the severance payment (up to 39 weeks) and the additional payment of up to eight weeks but excludes the four/five weeks pay in lieu of notice. This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or employees or principals of companies engaged in contracting to a public sector agency.

OR

- I wish to decline the voluntary redundancy offer. I understand that by choosing this option my position may still become redundant at which point I would be declared an excess staff member in accordance with the provisions of the Managing Excess Staff of the NSW Health Service policy (PD2012_021) redundant even though I have declined the offer.

Staff member's signature	
Date	
Name of current supervisor	

Please return this form by [DD Month YYYY (must be 14 calendar days from date of letter **[or such extended period up to 21 days as agreed by the organisation]**), to:

[HR Director/Manager]

[postal address/email address/fax number]

Note that emailed acceptances must include a signed and scanned copy of the voluntary redundancy acceptance form

Appendix 2

Template Letter for Declaring a Staff Member Excess

Dear [Staff member's name]

I am writing to advise you that you no longer have a substantive position and are an excess staff member from the date of this letter. Attached is a copy of **PD2012_021 Managing Excess Staff of the NSW Health Service** which outlines the way in which excess staff member of the NSW Health Service are managed.

Please note this Policy may be varied, withdrawn or replaced at any time without notice. This Policy is not intended to legally bind the New South Wales Government, the Crown in right of New South Wales, its officers, employees or agents or have contractual effect or form part of any legally enforceable employment contract of any public sector employee.

As per the policy, you must choose whether to:

1. accept an offer of voluntary redundancy, **or**
2. pursue redeployment in the NSW Health Service.

Note: if you do not respond within 14 days [**or such extended period up to 21 days as agreed by the employer**] from the date of this letter, this will be taken as the choice to decline voluntary redundancy and pursue redeployment.

Further information on these options is outlined below.

Option 1: Voluntary redundancy

You are invited to accept an offer of voluntary redundancy. To accept or decline this offer, you must respond within fourteen days from the date of this letter [**or such extended period up to 21 days as agreed by the employer**] (i.e. by [**date**]) by completing the appropriate section of the attached *Excess Staff member Voluntary Redundancy or Redeployment Acceptance* form.

If you accept this voluntary redundancy offer, your last day of service will be the date that is 14 days from the acceptance date [**or any other date nominated by the organisation**]. Please note that if you decline this offer of voluntary redundancy, you will not receive any further offers in relation to the same redundancy.

The voluntary redundancy package comprises:

- four weeks notice or payment in lieu, plus
- for staff members aged 45 years and over with five or more years of completed service, an additional one weeks notice or payment in lieu, plus
- a severance payment at the rate of three weeks per year of continuous service with a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be on a quarterly basis

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- the benefit allowable as a contributor to a retirement fund, plus
- pro rata annual leave loading for leave accumulated at the date of termination, plus
- the following incentive payments based on years of service:

Length of service	Additional payment
Less than one year	Two weeks pay
One year and less than two years	Four weeks pay
Two years and less than three years	Six weeks pay
Three or more years	Eight weeks pay

A schedule estimating the value of your voluntary redundancy package is attached.

The conditions of acceptance are as follows:

- This voluntary redundancy must be accepted by [***date that is 14 days from receipt of this letter or such extended period up to 21 days as agreed by the employer***].
- Excess staff members who accept this voluntary redundancy must agree to leave the NSW Health Service by the date that is 14 days from the acceptance date [***or any other date nominated by the employer***] (i.e. your last day of service must be on or before [***the date that is 14 days from the acceptance date or any other date nominated by the employer***]).
- Staff members who accept a voluntary redundancy cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by their severance payment and incentive payment, without first repaying the relevant proportion of their severance payment and incentive payment. This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or staff members or principals of companies engaged in contracting to a public sector agency.

Option 2: Redeployment

You may elect to decline the voluntary redundancy offer and pursue redeployment across the NSW Health Service during a three calendar month retention period. To select this option, you must respond by completing the appropriate section of the attached *Excess Staff Member Voluntary Redundancy or Redeployment Acceptance Form* within 14 days from the date of this letter (i.e. by [***date that is 14 days from the date of this letter or such extended period up to 21 days as agreed by the employer***]). If you do not return the attached acceptance form, this will be taken as the choice to decline voluntary redundancy and pursue redeployment.

If you choose redeployment, you will be provided with:

- a three month retention period, commencing from the date you choose redeployment or the date the voluntary redundancy offer expires (i.e. on [***date that is 14 days or such extended period up to 21 days as agreed by the employer from the date of this letter***])
- priority consideration for redeployment to suitable positions within the NSW Health Service during the three month retention period
- assistance in pursuing redeployment, including career transition services.

For us to be able to support you in being redeployed, you must:

- submit an up to date resume to your case manager by [**date**] to allow you to be matched to suitable positions across the NSW Health Service;
- proactively participate in the redeployment process, including submitting applications within identified timeframes and attending and participating in priority assessment interviews.

If you have not been appointed to a permanent position at the conclusion of your three month retention period, you will be made forcibly redundant (subject to the provision below regarding temporary secondments) and receive the forced redundancy payment as per [section 7](#) of the procedures in *PD2012_021 Managing Excess Staff of the NSW Health Service*.

Temporary secondments

During the retention period you may choose to accept a temporary secondment or assignment within the NSW public sector under sections 86, 86A or 88 of the *Public Sector Employment and Management Act 2002*.

If this occurs and your retention period ends during the secondment or assignment, you will continue to be employed for the remaining period of the secondment or assignment. When the secondment or assignment ends, if you have not been redeployed or have not secured an extension of the secondment or assignment, you will then be made forcibly redundant.

Salary maintenance

If you choose to be matched to positions at lower salary grades, and are placed in such a position, you will be entitled to three calendar months' salary maintenance at your former salary.

Next Steps

Please complete the enclosed *Excess Staff Member Voluntary Redundancy or Redeployment Acceptance* form indicating whether you wish to accept the offer of voluntary redundancy or decline the offer of voluntary redundancy and pursue redeployment.

Please return the form to [**HR Manager's name**] by [**date that is 14 days from the date of this letter or such extended period up to 21 days as agreed by the organisation**].

Employee Assistance Program

[Insert details of employer's EAPs program].

Further information

Please contact [**employer's HR contact**] on [**phone number**] if you have any questions about your voluntary redundancy estimate.

Please contact [**employer's HR contact**] on [**phone number**] if you have any questions about the redeployment and redundancy processes.

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Yours sincerely

[Name]

[Position Title]

Enclosed:

1. **PD2012_021** *Managing Excess Staff of the NSW Health Service*
2. Voluntary redundancy entitlements (estimate)
3. Excess Staff Member Voluntary Redundancy or Redeployment Acceptance Form

Managing Excess Staff of the NSW Health Service



Excess Staff Member Voluntary Redundancy or Redeployment Acceptance Form

Name:	
Employee Number:	

I declare that (please tick one of the following):

- I wish to accept the voluntary redundancy offer and voluntarily terminate my services with [***name of organisation***] on [***last day of service***]. I understand that:
- I cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by the severance payment without first repaying the relevant proportion of this severance pay. The repayment covers the relevant proportion of the severance payment (up to 39 weeks) and the additional up to eight weeks incentive payment.

OR

- I wish to decline the voluntary redundancy offer and will pursue redeployment across the NSW Health Service. I understand that by choosing this option I will not be offered a further voluntary redundancy in relation to the same redundancy and that, if I am not redeployed by the expiration of my three month retention period, I will be made forcibly redundant. If I have accepted a temporary secondment or assignment under sections 86, 86A or 88 of the *Public Sector Employment and Management Act 2002* that goes beyond the end of the three month retention period, I understand that I may complete the temporary secondment or assignment, but if at the end of that temporary secondment or assignment I have not been redeployed or secured an extension of the secondment or assignment, I will be made forcibly redundant.

In choosing the option indicated above, I acknowledge that the *Managing Excess Staff Policy* does not legally bind the New South Wales Government, the Crown in right of New South Wales, its officers, employees or agents, or have contractual effect or form part of any legally enforceable employment contract to which I may be a party and may be varied, withdrawn or replaced at any time without notice and that this may affect the benefits available to me under the Policy.

Signature:	
Date:	
Name of current supervisor:	

Please return this form by [*date*] to:

[***HR Manager's name/Manager's name***]
[***Postal/email address***]

Appendix 3

CASE MANAGEMENT AND REDEPLOYMENT GUIDELINES**CONTENTS**

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1 INTRODUCTION

The Case Management and Redeployment Guidelines are provided to assist:

- employers manage excess staff members who choose to pursue redeployment
- excess staff members, case managers and recruiting organisations with the process for position matching, priority assessing and redeploying excess staff members.

2 COVERAGE

These Guidelines apply to excess staff members who choose to pursue redeployment, their home organisation and recruiting organisations in the NSW Health Service. The Guidelines may also be used to assist organisations within the public health system with their internal placement processes when undertaking organisational change.

3 SUMMARY OF CASE MANAGEMENT AND REDEPLOYMENT PROCESSES

1. An excess staff member declines the voluntary redundancy offer and chooses to pursue redeployment during the three month retention period.
2. The excess staff member is provided with ongoing case management by their home organisation.
3. The excess staff member pursues redeployment through the position matching and priority assessment process:
 - (a) The case manager and the excess staff member review potential suitable positions and decide upon a match.
 - (b) The case manager refers the excess staff member to the recruiting organisation.
 - (c) The recruiting organisation suspends advertising and undertakes priority assessment of the excess staff member.
 - (d) The recruiting organisation notifies the staff member's home organisation of outcome.
 - (e) If successful, the excess staff member is redeployed.
4. If the excess staff member has not exited the NSW Health Service or been redeployed at by the conclusion of the three month retention period, the staff member is made forcibly redundant.

Provided that, if the excess staff member has accepted a temporary secondment during the retention period and the excess staff member's retention period ends during the secondment or assignment, the staff member will continue to be employed for the remaining period of the secondment or assignment. When the secondment or assignment ends, if the excess staff member has not been redeployed or has not secured an extension of the secondment or assignment, the excess staff member is then made forcibly redundant without further notice.

5. *Transitional arrangements for salary maintenance staff under PD2007_085*

Arrangements for staff who were formerly displaced and who have been redeployed into positions at a lower level and were receiving salary maintenance under the provisions of Policy Directive PD2007_085 Managing Displaced Staff of the NSW Health Service as at 30 April 2012, shall be as set out in Attachment 3 to these Guidelines.

Provided that should the staff member be subsequently declared excess from any position after 30 April 2012, they will be treated as an excess staff member under the provisions of this policy.

4 ROLES IN CASE MANAGEMENT AND REDEPLOYMENT

4.1 Ministry of Health

- Provides policy advice to organisations within the public health system on the management of excess staff members.
- Co-ordinates reporting on excess staff members, redundancies and redeployment.
- Approves restructuring processes that will result in a significant number of staff members being declared excess, including any proposed voluntary redundancy program, or where financial assistance to fund redundancies is sought from the Ministry of Health.

4.2 Excess staff member's home organisation

- Is responsible for excess staff members throughout the retention period.
- Registers details of excess staff members seeking redeployment on the Redeployment Register at <http://internal3.health.nsw.gov.au/healthjobs/Default.cfm>. Access to the Register is restricted to the appropriate human resource staff approved by the Human Resources Manager (however called) of the relevant Division of the NSW Health Service.
- Provides case management assistance to excess staff members.
- Allows excess staff members to undertake position seeking activities during the retention period.
- Has an internal process that enables the redeployment of their own excess staff members.
- Releases excess staff members for temporary, trial or permanent placements.

4.3 Excess staff member

Participates in redeployment, including participating in the priority assessment process within appropriate timeframes.

4.4 Recruiting organisation

- Considers excess staff members for vacancies prior to advertising by checking the Redeployment Register.
- Suspends recruitment if a match is identified.
- Priority assesses matched excess staff members within designated timeframes as set out in [section 6.2](#) of these Guidelines.
- Makes fair assessments of excess staff members' ability to perform in positions.

5 CASE MANAGEMENT

Employers must provide case management services to excess staff members for the duration of the retention period. Employers must nominate at least one case manager who is responsible for managing their excess staff members.

Organisations undergoing large scale restructuring may consider establishing a Career Transition Unit to coordinate assistance for staff members. Alternatively, any organisation, regardless of size, may outsource case management to an appropriate qualified external provider.

Case managers are responsible for ensuring that excess staff members who pursue redeployment:

- are properly informed about their options and entitlements
- have access to career transition assistance
- are assisted in their search for redeployment opportunities.

5.1 Career transition assistance

Home organisations are responsible for providing career transition assistance to excess staff members for the duration of the retention period. Home organisations, in consultation with the excess staff member, are to develop an individual redeployment plan to assist the staff member to identify skills gaps, training requirements and redeployment opportunities. The redeployment plan is to include the use of appropriate services that will assist the staff member.

Where there is no in-house expertise in career transition counselling and skills development, organisations are to engage a qualified external provider to deliver these services.

5.2 Redeployment position matching

5.2.1 Preparation

The case manager (or external provider where applicable) is to meet with the excess staff member at the earliest opportunity to prepare a redeployment plan and assist the staff member prepare an up to date resumé. Familiarising themselves with the excess staff member's capabilities and experience will assist in identifying suitable position matching opportunities.

5.2.2 Position Matching

Case managers must:

- work with excess staff members to identify potential position matches suitable for redeployment
- assist excess staff members with the priority assessment process
- approve suitable position matches for excess staff members and contact the recruiting organisation to notify of a match
- monitor the progress of priority assessments
- monitor the progress of trial placements.

Further information on case management during redeployment position matching is provided in [section 6](#) of these Guidelines.

6 REDEPLOYMENT

Redeployment is the permanent placement of an excess staff member into a vacant permanent position in the NSW Health Service.

Excess staff members may be placed in any suitable position vacancy without advertising. Excess staff members are also entitled to priority assessment for eligible permanent and temporary positions before they are advertised and in preference to regular applicants.

Priority assessments determine whether an excess staff member:

- (a) meets the selection criteria for the position; or
- (b) is likely to perform adequately in the position in a reasonable period of time if provided with appropriate training and support.

The priority assessment process is different from merit selection. However, where more than one excess staff member is seeking redeployment to the same vacancy, selection is by competitive merit selection between those excess staff members.

Excess staff members are redeployed using section 116C of the *Health Services Act 1997*. For more information on these provisions, including appeals against section 116C transfers, refer to [Attachment 4](#) to these Guidelines.

6.1 Eligibility

All excess staff members who decline the offer of voluntary redundancy (VR) will have access to redeployment position matching and priority assessment during the retention period.

Redeployment position matching and priority assessment are not available to:

- excess staff members whose three month retention periods have expired (e.g. those on temporary secondment or assignment or in a trial placement whose retention periods have expired). These staff members remain eligible for temporary and permanent vacancies filled through standard processes.
- staff members in relation to whom action is underway to terminate their services (other than through forced redundancy).

6.2 Timeframes

Excess staff members who decline the offer of VR have three calendar months to pursue redeployment.

The three month retention period means that priority assessments are to be arranged, conducted and concluded as quickly as possible in order to maximise redeployment opportunities for excess staff members. However, this does not mean that priority assessments should be conducted without due care and attention.

It is recommended that each priority assessment takes no more than seven working days to complete.

Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7
Match made by COB.	Excess staff member contacted by recruiting organisation or referred to recruiting organisation by the case manager. Excess staff member asked to submit resumé and attend an interview.	Excess staff member submits resumé.		Priority assessment interview held. Referees contacted.	Priority assessment report prepared. Approvals and sign-off obtained.	Excess staff member informed of result and provided with priority assessment report.

6.2.1 *Strategies for managing timeframes*

The excess staff member, home organisation and recruiting organisation all play a role in ensuring that priority assessments are conducted within the appropriate timeframes.

Case managers should:

- ensure they are familiar with the excess staff member's capabilities and experience
- monitor each step of the process and follow up on position matching referrals and priority assessments as required.

Excess staff members should:

- start updating their resumé as soon as the position match is made so that it addresses the requirements of the position
- ensure their referees are alerted to the position match and are available to be contacted
- begin to prepare for the priority assessment interview.

Recruiting organisations should:

- ensure that position advertisements are complete, and that the contact officer is available to answer enquiries
- assume that a match will be made, convene a panel and prepare any additional assessment methods
- establish an internal process to ensure timely approval of priority assessment reports.

6.3 Redeployment position matching

6.3.1 *Making positions available for redeployment position matching*

All employers are required to make eligible positions available for redeployment matching. Contact officers must be available to answer queries from case managers and excess staff members as soon as the position is approved for filling.

6.3.2 *Identifying suitable matches*

The following criteria for identifying suitable position matches apply:

- the excess staff member can meet the selection criteria for the position, or
- the excess staff member is likely to perform adequately in the position in a reasonable period of time, given access to appropriate training and support, and
- the position is of equivalent salary to the excess staff member's former substantive position (or lower, if the staff member consents). Refer to [section 6.3.3](#) for guidance on salary matching.

- the position is within reasonable commuting distance, or at any other location agreed to by the excess staff member.

Suitable matches may be made in two ways:

- The case manager reviews positions across the public health system that may be matched to the excess staff member. The position description and any other relevant information should be obtained from the recruiting organisation's enquiries officer.
- Prior to advertising any vacant position, either internally or externally to the public health system, recruiting organisations are required to check the Redeployment Register to ascertain whether any excess staff member may be suitable for appointment to the position. Where a possible match is found the recruiting organisation is to contact the case manager for that excess staff member.

Where a position appears suitable, the case manager provides those position details to the excess staff member and discusses the suitability of the match. Every effort should be made to ensure the position is suitable before the match is made.

Unsuitable matches delay the process for the recruiting organisation. Where the case manager deems an excess staff member not suitable for the vacant position, the case manager should give clear reasons for the decision.

If a suitable position match is identified, the case manager is to notify the recruiting organisation by completing and sending the Matching Referral Form (see [Attachment 1](#) to these Guidelines). The staff member's current resumé, addressing the selection criteria for the position, should be included with the referral.

Where a staff member has been matched to a position, the recruiting organisation suspends advertising or further recruitment action until the priority assessment is finalised.

Where the employer determines that there is more than one excess staff member who is suitable for appointment to a vacant position, or where more than one excess staff member is seeking redeployment to the same vacancy, appointment will be based on merit between the excess staff members. Once an excess staff member has been permanently appointed, that staff member is no longer excess.

6.3.3 Salary matching

As a general principle, excess staff members are to be matched to positions of equivalent salary.

Equivalent salary is within 5% of the staff member's existing salary.

The maximum salary in the award classification salary range of the matched position must be within 5% of the maximum salary of the award classification salary range of the excess staff member's former substantive position.

This provision must not be used to circumvent the principles of merit selection or to effect indiscriminate promotions within a staff member's award.

6.3.4 Matching to positions below grade and salary maintenance

With their agreement an excess staff member may be matched to a position of lower grade or salary than their substantive grade or salary. If an excess staff member is placed in a position of lower grade or salary they are entitled to three months' salary maintenance at their existing salary. The salary maintenance 'top-up' is paid by the excess staff member's home organisation.

6.3.5 Matching to temporary positions

During the retention period, an excess staff member may choose to accept a temporary secondment (including a trial placement) or assignment under sections 86, 86A or 88 of the *Public Sector Employment and Management Act 2002*.

In this event, the excess staff member's three month retention period will continue to run during the secondment and if the three month retention period expires during the secondment, the staff member will remain employed for the period of the secondment. When the secondment ends, and if the excess staff member has not secured permanent redeployment, an extension of the secondment or a contiguous secondment, the excess staff member will be made forcibly redundant without further notice.

6.3.6 Part time positions and staff members

Where an excess staff member's position status is permanent full time, but the staff member is working in a part time capacity, the staff member can elect to be matched to permanent part time positions. Where the staff member is successful in priority assessment for, and accepts redeployment to, a part time position, they give up their right to full time entitlements.

A part time excess staff member may wish to be matched to full time positions, but retain their former (part time) working arrangement. It is up to the recruiting organisation to decide whether they can accommodate such an arrangement, considering operational requirements of the position and the possibility of flexible working arrangements.

Permanent part time excess staff members who:

- wish to be matched to full time positions and change their position status to full time

- wish to be matched to part time positions of more hours may do so, as long as the salary matching guide ([section 6.3.3](#) under these Guidelines) and the provisions for Part Time Employment and Salary Maintenance ([section 6.6.3](#) of the procedures) are observed.

6.3.7 Matching and the end of the retention period

At the conclusion of an excess staff member's retention period all unresolved matches and priority assessments are annulled. For practical purposes this will mean that potential matches should be made at least seven working days before the end of the retention period to provide sufficient time for the completion of the process and to avoid its annulment.

From the expiry of the retention period, excess staff members who have not been made forcibly redundant as they are on secondments (including trial placements) or assignments lose their entitlement to priority position matching and assessment. However, they remain eligible for temporary and permanent vacancies filled through standard recruitment processes.

6.4 The priority assessment

A priority assessment is different from standard merit recruitment. In a priority assessment, excess staff members are assessed for suitability for a position independent of other applicants and prior to or when the position is advertised. The assessment determines whether an excess staff member meets the selection criteria for the position or is likely to perform adequately in the position in a reasonable period of time (usually three months), given access to appropriate training and support.

Organisations may consider the full range of selection tools for priority assessments. It should be noted, however, that given the short timeframes in which priority assessments must be conducted, organisations need to consider the most efficient and effective selection methods available.

All priority assessments must, at a minimum, comprise:

1. an interview supported by a resumé
2. two referee checks.

6.4.1 Initiating the priority assessment

Once notified of a match, the recruiting organisation should, within one working day, contact the excess staff member and:

1. If not already provided, invite them to submit a resumé addressing the selection criteria by close of business the next working day. An excess staff member may, if they choose, submit an application addressing each selection criteria individually, but must do so within the nominated timeframe.

2. Invite them to attend a priority assessment interview on an agreed date that is within three working days of the contact. The excess staff member should be allowed reasonable time to prepare for the interview.

6.4.2 The resumé

Unlike standard merit selection, a resumé supplied for a priority assessment is not used to shortlist the applicant. It is used to support the priority assessment interview. Under no circumstances can the recruiting organisation 'cull' an excess staff member from the priority assessment process on the strength of a resumé alone.

In their resúmes, excess staff members should address the selection criteria for the position. The resumé must also contain the names and contact numbers of two referees. The excess staff member may need to modify or update their resumé each time they are matched to a position. Case managers can provide guidance to excess staff members with their resumé if required.

6.4.3 The interview

The recruiting organisation must conduct a priority assessment interview with the excess staff member.

Interview questions are based on the selection criteria as in a merit selection interview. The panel can prompt the excess staff member, rephrase questions or ask further questions during the interview where necessary to ensure a thorough assessment is made.

If it has not been done already, a selection panel should be convened immediately when a match is made. Ideally, priority assessment panels should consist of at least two members, one being the convenor. However, due to the time constraints on conducting priority assessments, the convenor only may interview an excess staff member. An independent panel member is not required but may be appropriate in some cases.

Where a panel is convened, every effort should be made for the panel to reflect merit selection guidelines (eg one male, one female), however, this may not be feasible due to time constraints.

6.4.4 Referee checks

For each priority assessment, excess staff members must provide two current referees. One referee should be a current or recent supervisor. Both referees are to be contacted by the convenor or panel as part of the general assessment process, not merely in the case where the excess staff member is to be recommended for the position. This should be done within one working day of the interview. The panel is to consider the referee report along with the interview and resumé in deciding on the suitability of the excess staff member for the position.

Referee comments should be summarised and included in the priority assessment report. The convenor should inform the referee that the staff member will receive a copy of the priority assessment report, and advise them that their comments, though not directly quoted, will be summarised and made available via the report.

6.4.5 The priority assessment report

The selection panel assesses the excess staff member's capabilities against the selection criteria as demonstrated through the staff member's resumé, interview, referee checks and performance in any other assessment method used.

The panel's assessment and recommendation are outlined on the Priority Assessment Report (see [Attachment 2](#) to these Guidelines). The report details how the excess staff member meets or does not meet each selection criteria and, in the latter case, whether the staff member is likely to perform adequately in the position in a reasonable period of time, given access to appropriate training and support. The report also includes an overall assessment as to whether or not the staff member is recommended for the position.

The priority assessment report is approved in line with the recruiting organisation's recruitment procedures and delegations relating to excess staff members.

6.4.6 Unsuccessful assessment

An unsuccessful priority assessment report must be forwarded to the excess staff member's case manager who will discuss the outcome with the excess staff member. Any concerns regarding the outcome should be discussed with the convenor within one working day of the report being received. It is recommended that the convenor contacts the excess staff member directly to explain why they are not recommended, and provide constructive feedback that explains:

- where the staff member has not demonstrated the ability to meet specific selection criteria immediately or within a reasonable period of time given access to appropriate training
- any selection criteria that the staff member demonstrated they met, and the staff member's strengths
- areas where the staff member might need additional training and development.

When the assessment is complete the recruiting organisation may proceed with recruitment to the position, subject to meeting the requirements of any directions from the Director-General on advertising vacancies.

6.4.7 Successful assessment

If the excess staff member is successful, and the excess staff member is recommended for appointment or a trial placement, the recruiting organisation

contacts the case manager to co-ordinate the placement (eg to determine the start date and arrange the transfer of payroll details and leave entitlements).

Appropriate pre-employment checks must be carried out in accordance with the organisation's usual procedures.

Where the position is below the excess staff member's substantive salary and the staff member is entitled to salary maintenance, the home organisation will pay the gap so that the staff member is paid at their maintained rate for the remainder of the three month salary maintenance period.

6.4.8 Trial placement

Recruiting organisations must make every effort to determine the excess staff member's suitability during the priority assessment and recommend permanent appointment in the first instance. Where there may be some doubt as to the excess staff member's ability to adequately perform in the role, recruiting organisations may offer the excess staff member a trial placement of three to six months. The purpose of the trial is to ensure an excess staff member is suitable and/or to provide training and experience that enables the excess staff member to perform in the position. Trial placements of over six months are generally not recommended.

During a trial placement, the recruiting organisation must provide the excess staff member with regular supervision, training and feedback on their progress. Recruiting organisations should make every effort to assist the staff member to address any concerns during the placement. Throughout the placement, recruiting organisations should keep records of any concerns raised regarding the staff member's suitability and efforts made to address them.

Case managers should maintain contact with the excess staff member and the recruiting organisation during the entire trial placement to monitor the staff member's performance and address any performance concerns, including determining whether the home organisation might provide any additional support.

At the conclusion of a successful trial placement, the staff member is appointed to the position.

Where the excess staff member has not been able to perform adequately in the position after a trial placement, the recruiting organisation completes another priority assessment report, providing reasons why the placement is not satisfactory. Where the staff member's retention period has expired, the staff member is made forcibly redundant by their home organisation without further notice.

6.5 Other considerations

6.5.1 *Matching to multiple positions*

Where there are multiple positions for an advertisement and fewer excess staff members are matched than there are positions, the recruiting organisation can post the positions for advertising. Standard recruitment then takes place for the unmatched positions, while priority assessments take place for the matched positions. At no stage can standard applicants be considered at the same time as the matched excess staff members. The priority assessments should be conducted before the closing date for standard applications, as per [section 6.2](#).

6.5.2 *Multiple excess staff members to same positions*

Where there are more excess staff members matched than there are positions, the recruiting organisation conducts a competitive merit assessment of the staff members.

6.6 Costs

6.6.1 *Travel costs*

The home organisation is to cover any reasonable travel costs incurred by excess staff members for the purposes of attending priority assessments.

6.6.2 *Training and development costs during trial placements*

During a trial placement, the recruiting organisation should provide reasonable training and support. The home organisation should consider, as part of its career transition provisions, any additional, reasonable assistance that may be provided during the trial placement to support the excess staff member's ability to perform adequately in the role.

6.6.3 *Relocation expenses*

Where an excess staff member, with the approval of the employer, agrees to be redeployed into a permanent position in the NSW Health Service which requires them to relocate their residence, the employer will provide the staff member with the following leave and reimbursement for the following expenses:

- (a) up to 5 days paid leave for the purpose of sourcing new accommodation, packing and preparing the removal of household effects, cleaning the vacated premises and settling into the new premises;
- (b) reimbursement for household removal expenses (this should be facilitated through Government providers MoveDynamics (Contract 409) see their website at <http://www.movedynamics.com.au>);

- (c) reimbursement for the staff member and one family member for the cost of personal transport for one return journey to the new location to source accommodation and reimbursement for the final journey to the new location;
- (d) If the staff member elects to use a private vehicle they will be paid a car allowance rate at the casual rate as prescribed in the Official Travel Policy (also, as per the Official Travel policy the private vehicle should be appropriately insured). The staff member may alternatively choose to travel by economy airfare, as long as the cost of the economy airfare does not exceed the cost of travelling by private vehicle. If a staff member still wishes to travel by air in these circumstances, the additional costs are to be borne by the staff member

These entitlements will not apply in the case of relocations within the Greater Sydney metropolitan area (defined as the Central Coast to the north as far as Gosford, the area to the west as far as Mt Victoria and to the south as far as Wollongong), unless otherwise approved by the Director-General or delegate.

Costs associated with relocation assistance are to be funded by the home organisation.

6.7 Employment outside the Public Health System

The employer is to take reasonable steps to offer support and assistance to excess staff members who express an interest in transferring to another NSW public sector agency.

Sections 86-88 of the *Public Sector Employment and Management Act 2002* contain mobility provisions, such as temporary staff transfers and employer sponsored permanent transfers, to facilitate the movement of staff within and between public sector agencies.

An excess staff member who permanently transfers to another public sector agency will be employed under the conditions of the relevant industrial instrument and policies of the receiving agency from the date of transfer, and will commence accruing rights and benefits accordingly from that date.

7 LIST OF ATTACHMENTS

Attachment 1	Redeployment Position Matching Referral Form
Attachment 2	Priority Assessment Report Template
Attachment 3	Transitional arrangements for staff receiving salary maintenance under PD2007_085
Attachment 4	Application of Section 116C of the <i>Health Services Act 1997</i>

Managing Excess Staff of the NSW Health Service



Attachment 1

Redeployment Position Matching Referral Form

(This form is to be sent to the recruiter for this position)

Position details	
Position title	
Classification/grade	
Location	
Position status (permanent or temporary; full time or part time)	
e-Recruitment reference number	
Position number (if known)	
Salary/salary range	\$
Excess staff member details	
Name	
Classification/grade	
Salary/salary range	\$
Current salary point	\$
Contact number(s)	
Email address	
Redeployment case manager details	
Name	
Contact number(s)	
Email	
Redeployment case manager checklist	
<input type="checkbox"/> Staff member is excess as per the policy Managing Excess Staff of the NSW Health Service	
<input type="checkbox"/> Staff member was assessed against ALL position information (selection criteria, location etc)	
<input type="checkbox"/> Position is within the appropriate salary range as per section 6.3.3 of the <i>Case Management and Redeployment Guidelines</i> .	

Managing Excess Staff of the NSW Health Service



Attachment 2

Priority Assessment Report Template

(This form is to be returned to the case manager of the excess staff member)

Position details

Position title	
Classification/grade	
Location	
Position status (permanent or temporary; full time or part time)	
e-Recruitment reference number	
Position number	

Excess staff member details

Name	
Home organisation	
Assessment date	
HR contact officer's details	

Assessment details

This report is sent to the case manager to discuss with their excess staff member. It may be used to help with future applications and interviews to increase redeployment opportunities. Comments must explain how the excess staff member does or does not meet the selection criteria for the position and/or the likelihood of them being able to perform adequately in the position in a reasonable period of time, given access to appropriate training and support.

Comments	
Selection Criteria	Met criteria/able to meet criteria? (yes or no)

Insert additional rows as required

Attachment 3

TRANSITIONAL ARRANGEMENTS FOR STAFF RECEIVING SALARY MAINTENANCE UNDER PD2007_085

Staff who were formerly displaced and have been redeployed into positions at a lower level and were receiving salary maintenance under the provisions of Policy Directive PD2007_085 Managing Displaced Staff of the NSW Health Service as at 30 April 2012, will continue to be entitled to the salary maintenance provisions of that Policy Directive, on the following bases:

- Salary maintenance will continue while ever NSW Health cannot permanently place the staff member in a position at their former level.
- Staff members who refuse a reasonable suitable position will forfeit their entitlement to salary maintenance and will be paid a salary commensurate with the permanent position they occupy.

Provided that should the staff member be subsequently declared excess from any position after 30 April 2012, they will be treated as an excess staff member under the provisions of this policy.

Reasonable suitable position

A “reasonable suitable position” is a position that:

- Has a salary above the staff member’s current position and can be up to 5% higher than their former position; and
- Is located within reasonable commuting distance from the staff member’s residence, or at any other location agreed to by the staff member. If a staff member agrees to be redeployed to a position that requires a relocation of residence, the relocation provisions of section 6.6.3 of [Appendix 3](#) of the policy applies.

The staff member must be able to meet the selection criteria for the position, or be likely to perform adequately in the position in a reasonable period of time, given access to appropriate training and support.

The ultimate aim is to permanently place the staff member in a position at their former level. However, positions at that level may not necessarily be available at first instance. A staff member may be placed in a reasonable and suitable position above their current position but below their former position and will then continue to receive salary maintenance to the (higher) former level. If a reasonable and suitable position at their former level subsequently becomes available then the staff member may be placed in that position. Priority of employment to positions at their former level will continue until the staff member returns to their former grade.

A staff member who refuses a placement to a reasonable suitable position and therefore no longer receives salary maintenance will retain priority for employment to positions at their former grade.

Three year salary maintained staff

Where staff have been salary maintained for three years and the three year salary maintenance period expires and NSW Health has not been able to place the staff member in a position at their former level, the staff member's salary will reduce to either the position they are permanently placed in, or to the salary applicable to Clerk Grade 10 (max), whichever is higher.

Where the salary of a staff member's current position is lower than Clerk Grade 10 (max) and they continue to receive salary maintenance to Clerk Grade 10 (max), NSW Health will continue to pursue placement in reasonable suitable positions with a salary up to Clerk Grade 10 (max).

If a staff member rejects a reasonable suitable position and therefore forfeits their right to salary maintenance, the staff member will be paid the salary applicable to the permanent position they occupy.

Priority of employment to positions at their former level will continue to apply after the expiration of the three year salary maintenance period.

Process for placements into reasonable suitable positions

Public health organisations and staff members will identify positions they consider to be reasonable and suitable, and public health organisations will discuss the proposed placement with the staff member in order to determine if it is reasonable and suitable for that employee.

Staff members will be required to be assessed for suitability against the position prior to any placement being finalised.

Should the staff member refuse to be assessed against the position they will be considered to have rejected the placement.

Staff members will be advised in writing by the public health organisation:

- that a reasonable and suitable position has been identified and the public health organisation intends on placing the staff member in the position
- that the staff member has one week to accept or reject the placement
- if the placement is rejected, salary maintenance will cease four weeks from the date of rejection

The staff member should commence in the new position as soon as practicable within a timeframe agreed between the public health organisation and the staff member.

If the staff member wishes to reject the placement and to appeal the placement on the basis that it is not a reasonable and suitable position, they must lodge an appeal with the Directed Transfer Committee.

The Committee will meet as required and will consist of the Director, Workplace Relations Branch, NSW Ministry of Health (the Convenor); the Human Resources Manager (however called) from the relevant public health organisation; a representative from the relevant industrial organisation and a nominee from an independent Division of the NSW Health Service.

The process will be as follows:

- The staff member must lodge the appeal with the Workplace Relations Branch, NSW Ministry of Health within seven days of the date of rejection, outlining the reasons for opposing the placement;
- The staff member must notify their employer in writing that they are lodging an appeal with the Committee;
- The employer must provide to the Workplace Relations Branch information on the background to the proposed placement and why it is believed suitable;
- The Committee will consider the appeal and advise the staff member and the employer of its decision on the appeal;
- Pending the outcome of any appeal, salary maintenance will continue to be paid;
- Where the appeal is not successful, the staff member will proceed to take up the placement or may alternatively decline the placement and retain the permanent position in which they were formerly placed, in which case they will forfeit salary maintenance and will be paid a salary commensurate with the permanent position they occupy;
- Where the placement proceeds, the staff member should commence in the new position as soon as practicable within a timeframe agreed between the public health organisation and the staff member.

Attachment 4

Application of Section 116C of the *Health Services Act 1997*

Section 116C of the *Health Services Act 1997* prescribes that the Director-General, on the ground of redundancy, may direct the transfer of a member of the NSW Health Service from one position in the NSW Health Service to another to which a staff member is to be transferred but only if the Director-General satisfies certain criteria.

If a staff member refuses such a transfer and the Director-General is satisfied that the staff member has no valid reason for refusing the transfer, the Director-General can dismiss the member from the NSW Health Service, subject to the resolution of any appeals by the staff member as specified below.

Chief Executives of organisations in the public health system are delegated with the authority to take action under s116C of the *Health Services Act 1997*.

No excess staff member will be dismissed for refusing a transfer where relocation of residence is required.

When deciding whether to utilise this provision for dismissal the individual circumstances of the excess staff member should be carefully considered. Factors that should be considered include:

- Have any other redeployment opportunities been refused by the staff member and what were the circumstances?
- What assistance has been provided to the excess staff member to facilitate redeployment?
- What are the staff member's reasons for refusing the redeployment opportunity?
- What is the likelihood of other redeployment opportunities arising in the near future?

Appeals against Section 116C Transfers

Lodging Appeals

Excess staff members who do not wish to accept a transfer under s116C, may apply for a review of the employer's decision by the Directed Transfer Review Committee.

Staff wishing to lodge an appeal against a transfer under s116C must:

- lodge their appeal with the Workplace Relations Branch, NSW Ministry of Health within 14 days of the formal advice of the proposed transfer;
- notify the employer in writing that they are lodging an application with the Committee; and
- provide the Committee with a current position description or copy of the advertisement to which the proposed transfer applies, a resume and reasons why they oppose the transfer.

The employer must:

- advise the excess staff member of the role of the Committee and the possible outcomes of the review;
- provide the excess staff member with work pending the review; and
- provide a detailed brief to the Committee outlining the background to and reasons for the transfer.

Committee Members

The Committee will meet as required and will consist of the Director, Workplace Relations Branch, NSW Ministry of Health (the Convenor); the Human Resources Manager (however called) from the relevant public health organisation; a representative from the relevant industrial organisation and a nominee from an independent Division of the NSW Health Service.

Committee Process

The Committee will review the circumstances surrounding the proposed transfer having regard to the selection criteria for the position and the staff member's reasons for declining the transfer. The Convenor may determine that additional information and/or committee members are required to assist in the Committee's deliberations.

Committee Recommendation

The Committee will recommend to the Director-General whether or not a staff member should be directed to transfer.

Direction to Transfer

Having considered the Committee's recommendation the Director-General will make a decision in accordance with s116C. The Director-General will notify the staff member and the relevant Division of the NSW Health Service in writing of the decision within ten working days of receiving the Committee's recommendation.

Section 83 of the Industrial Relations Act 1996

Nothing in s116C of the *Health Services Act 1997* affects the operation of Part 6 (unfair dismissals) of Chapter 2 of the *Industrial Relations Act 1996* or any other statutory right that a member of staff may have in relation to his or her dismissal from the NSW Health Service under s116C.