

# REDEPLOYMENT AND REDUNDANCY PROCEDURES

## Employment Instruction Number 14

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### 1. **Scope**

1.1. This Employment Instruction:

- a) is designed to assist Northern Territory Public Sector (NTPS) employees and agencies in understanding their rights and obligations in redeployment and redundancy situations, and to ensure that these situations are handled as sensitively, efficiently and effectively as possible;
- b) is issued in accordance with section 16 of the *Public Sector Employment and Management Act* (the Act);
- c) is to be read in conjunction with sections 41 to 43 of the Act;
- d) is to be read in conjunction with the redeployment and redundancy provisions and management of change provisions, where relevant, of applicable enterprise agreements; and
- e) applies where ongoing employees covered by an applicable enterprise agreement are declared to be potentially surplus to the requirements of an agency. This may come about, among other reasons, from the introduction of new technology, or changes in the nature, extent or organisation of the functions of the agency.

1.2. Employees must not be declared as potentially surplus as an alternative to implementing performance management processes in under-performance situations, or instigating inability or disciplinary processes where appropriate to do so.

1.3. For the purposes of this Employment Instruction a reference to “redeployee” is a reference to a potentially surplus employee (pending a section 43 declaration) or a surplus employee (following a section 43 declaration).

### 2. **Mutual responsibility for redeployment outcomes**

2.1. In addition to the specific responsibilities, the following general responsibilities will be observed at all stages of the redeployment process:

- a) The redeployee will:
  - maintain an up to date resume and provide a copy to the nominated case manager;
  - actively identify and apply for other suitable employment, and participate positively and constructively when referred to potentially suitable vacancies by the agency; and

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- actively participate in identified training options and other development opportunities.
- b) The agency will:
- ensure that the redeployee is provided with an appropriate level of assistance and case management;
  - actively monitor vacancies to identify other suitable employment and refer the redeployee, where necessary, to potentially suitable vacancies; and
  - assist in the identification of reasonable training and development opportunities to maximise the potential for redeployment.
- c) The Commissioner for Public Employment (Commissioner) will:
- monitor and assess agency handling of the redeployment process as necessary, and provide advice to the agency and redeployee regarding the process, upon request; and
  - maintain a central database of redeployees to maximise redeployment opportunities and for reporting purposes.

### **3. Declaration of employee as potentially surplus**

#### *3.1. Declaration notice*

- a) Prior to the Chief Executive Officer (CEO) declaring an employee as potentially surplus, the agency must contact the Commissioner and provide all relevant information, including actions taken to date to place the employee in other suitable employment.
- b) Where, following the receipt of advice and support from the Commissioner, the CEO decides to declare an employee as potentially surplus to agency requirements, the CEO must provide written notice to the employee (the declaration notice), including:
- the reasons for the declaration;
  - a copy of the redeployment and redundancy provisions from the applicable enterprise agreement;
  - information regarding the likelihood of the agency finding other suitable employment for the employee in a reasonable period;
  - the details of a suitably skilled agency contact nominated as the employee's case manager; and
  - arrangements for meeting with a nominated case manager to discuss the process further.

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- c) The CEO must provide a copy of the declaration notice to the Commissioner along with other employee information that the Commissioner may require from time to time.
  - d) If the CEO has been able to establish that the redeployee is a union member, the CEO must provide a copy of the declaration notice to the relevant union and invite the union to meet with an agency representative in relation to the situation.

### 3.2. *Case file/management*

The CEO must maintain a confidential case file for all relevant documentation relating to the case management of the redeployee.

### 3.3. *Case manager's meeting with redeployee*

The meeting between the case manager and redeployee must include an explanation of the:

- redeployment and redundancy provisions of the Act and the applicable enterprise agreement;
- potential redeployment possibilities, including those involving relocation, training, or transfer to a lower designation with salary maintenance;
- responsibilities and expectations of the redeployee, the agency and the Commissioner; and
- redeployee's review rights.

## **4. *Redeployment process***

### 4.1. *Overview*

The redeployment process provides an opportunity for the redeployee and the agency to find other suitable employment for the redeployee. Where other suitable employment is identified the redeployee will be transferred under section 35 or section 42 of the Act, noting that a transfer to a lower designation and salary requires the redeployee's consent.

### 4.2. *Monitoring vacancies*

- a) The case manager will ensure that all ongoing vacancies within the NTPS are monitored for redeployment purposes and that the redeployee is notified of, and is referred to or applies for vacancies (including, in appropriate circumstances, those at a lower designation) for which he or she may be suitable. Fixed-period vacancies must also be considered if there is a reasonable expectation that the vacancy will become ongoing, or could be used for training purposes. Where the redeployee fills a fixed-period vacancy, the case manager and redeployee must continue to monitor ongoing vacancies for other suitable employment. However, where the fixed-period

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vacancy is of 18 months duration or longer, subject to the home agency's approval, the redeployee may elect to have his or her redeployee status removed and redeployment will cease.

- b) Monitoring of vacancies for redeployees on leave is only required if the redeployee has asked to be notified of vacancies and has made appropriate arrangements.
- c) Agencies must consider their own redeployees for ongoing or fixed period vacancies prior to undertaking recruitment action.

#### 4.3. *Training*

- a) Where prospects of finding other suitable employment would be enhanced through additional skills or exposure to new areas of work, a relevant training program over a reasonable period may be arranged in consultation with the redeployee. The training program will be arranged by the redeployee's home agency, but does not have to be conducted within the home agency.
- b) Training is generally undertaken through structured "on the job" learning. Where on the job training is not feasible, the agency may consider a formal course of study as a means of up skilling the redeployee, provided this option is reasonable in the circumstances.

#### 4.4. *Suitability assessment of redeployees*

- a) Processes for assessing the suitability of redeployees for a vacancy at level in redeployment situations are set out below. These processes do not apply where the redeployee applies for a promotion, in which case the redeployee's suitability will be considered in accordance with the normal merit selection process.
- b) The suitability of redeployees for a vacancy at level must be assessed having regard to section 5D(2) of the Act, which must be considered in the context of reasonable training possibilities. That is, agencies must consider whether the redeployee would be suitable for the vacancy with a reasonable period of training. Further, in accordance with Employment Instruction Number 1 (Filling Vacancies), when initiating a transfer to other suitable employment, the CEO must take into account the redeployee's personal and family circumstances, and any relevant objections of the redeployee regarding the proposed transfer.
- c) While suitability must be demonstrated, the merit principle does not apply and the redeployee is given preferential treatment over other applicants that may have applied for the vacancy (noting that where more than one redeployee is being considered for a vacancy, the merit principle will apply between them).
- d) As part of any suitability assessment process, an agency may place the redeployee in a vacancy for a trial period of up to six months. The agency may transfer the redeployee to the vacancy on an ongoing basis at any time during the trial period if suitability is demonstrated. Alternatively, the trial period may

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be terminated at any time by mutual agreement (noting that if the agency conducting the trial is not the redeployee's substantive agency, it should liaise with the substantive agency regarding the timing of the termination of the trial). If suitability is not demonstrated the redeployee will resume duty in his or her substantive agency. If the notice of redundancy provisions of the relevant enterprise agreement have already been invoked prior to the commencement of the trial, the period of notice to which a redeployee is entitled will be extended by the period of time during which the redeployee was engaged in the trial.

- e) Where the redeployee is assessed as unsuitable for a vacancy the agency who conducted the assessment must:
- prior to advising the redeployee or any other applicants of the selection process outcome, forward a copy of all assessment documentation to the Commissioner for review of the assessment process and outcome;
  - only proceed in finalising the selection process following receipt of the Commissioner's review outcome; and
  - on finalisation of the selection process, provide the redeployee with a written explanation of why he or she is not considered suitable and invite the redeployee to meet with a member of the assessment panel to obtain feedback.
- f) The Commissioner will review all selection reports and associated information received from agencies relating to the assessment of the redeployee as unsuitable for a vacancy, to ensure that he or she is satisfied with the process and outcome. In conducting the review the Commissioner may seek further information as necessary.
- g) Following the review, the Commissioner will:
- if satisfied with the process and outcome, advise the agency accordingly, so that the agency can finalise the selection process for the vacancy; or
  - if not satisfied with the process and outcome, issue such directions to the CEO as he or she considers appropriate to resolve the matter.

*Note: In situations where two redeployees are being considered for a vacancy and one is considered suitable and the other unsuitable, the review process referred to above does not apply in relation to the redeployee assessed as unsuitable, however the redeployee retains his or her right of review as specified in clause 6 below.*

#### 4.5. CEO request that Commissioner exercise section 43 powers

- a) If other suitable employment has not been identified after four months of unsuccessful attempts at redeployment (or sooner if a poor prognosis is apparent), the CEO may write to the Commissioner requesting that he or she

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exercise the Commissioner powers under section 43 of the Act. The CEO must advise the redeployee in writing of the request.

- b) The Commissioner will review the request, and obtain any additional relevant information as necessary, and will then provide a direction to the CEO regarding appropriate action, which may include:
- further attempts at redeployment (including training);
  - transfer of the redeployee to an identified position under section 35 of the Act; or
  - that the redeployee be terminated, with the termination effected by way of voluntary retrenchment, or where the redeployee declines an offer of voluntary retrenchment, the period of notice of redundancy expiring before other suitable employment is identified.
- c) Prior to the Commissioner issuing a direction to the CEO, he or she will invite the redeployee to meet with a representative from OCPE to brief the redeployee on the matter and respond to any queries the redeployee may have.
- d) Where a redeployee declines an offer of voluntary retrenchment, with the result that he or she is given notice of redundancy, attempts at finding other suitable employment will continue during the notice period.

## **5. *Employee Representative***

Redeployees may nominate a representative for advice, support, guidance or representation at any time during the redeployment and redundancy process. The employee representative may be a union organiser or delegate, or such other person chosen by the redeployee.

## **6. *Right of Review***

A redeployee has a right of review in respect of actions and decisions relating to the redeployment and redundancy process under:

- a) his or her agency's internal complaints procedures;
- b) section 59 of the Act; and
- c) the dispute settling clause of the relevant Agreement.



**KEN SIMPSON**  
**Commissioner for Public Employment**

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