DETERMINATION 7:
MANAGEMENT OF EXCESS EMPLOYEES - REDEPLOYMENT, RETRAINING AND REDUNDANCY
The Guideline of the Commissioner for Public Sector Employment, *Management of Excess Employees*, will not apply to employees covered by this Determination.

The Determination 2 of the Commissioner for Public Sector Employment, *Excess Employees – Income Maintenance*, applies in respect of remuneration for excess employees employed under Part 7 of the *Public Sector Act 2009*.

**Who is covered by this Determination?**

See Section 1, Scope.

If employees are unsure whether the Determination applies to them, they should contact the Human Resource function within their agency.
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**1. SCOPE**

This Determination applies to:

- employment in the Public Service; and
- public sector employment outside the Public Service that is declared by another Act or the regulations under the *Public Sector Act 2009* (PS Act) to be employment to which Part 7 of the PS Act applies; and
- employment to which Part 7 of the PS Act otherwise applies; and
- employment outside of the Public Service to which the Commissioner for Public Sector Employment is empowered to make determinations pursuant to section 16 of the PS Act and regulation 9 of the *Public Sector Regulations 2010*.

Specifically, the Determination applies to employment outside of the Public Service as follows:

- employment to whom Part 7 of the PS Act applies by force of the provisions of a Notice of the Premier transferring them within the public sector;
- employment under the *Courts Administration Act 1993* – section 21B;
- employment to which Part 7 of the PS Act applies either in whole or in part by section 41 of the PS Act and regulation 13 of the *Public Sector Regulations 2010*; and
- agencies and employees covered by the *South Australian Public Sector Wages Parity Enterprise Agreement: Salaried 2014* but not otherwise covered by Part 7 of the PS Act (by way of regulation 9 of the *Public Sector Regulations 2010*).

This Determination does not apply to:

- employees employed on a casual basis and those employed pursuant to term/temporary contracts of employment and/or those absent from duty on leave without pay and who do not have a right of return to public sector employment to which this Determination applies on an ongoing basis.

This Determination must be read in conjunction with the *South Australian Public Sector Wages Parity Enterprise Agreement: Salaried 2014* (the Enterprise Agreement) which states, *inter alia*:

**Clause 1.5**

“The parties to this Enterprise Agreement acknowledge that issues of Government policy, service levels, Commissioner for Public Sector Employment (CPSE) Standards, Directions, Circulars, Guidelines, including as may be issued under the Public Sector Act 2009, Chief Executive determinations and resource allocation fall outside the parameters of this Enterprise Agreement. The employer parties undertake to, wherever possible, keep relevant employees informed of these issues.”

**Clause 8. Redeployment, Retraining and Redundancy**

8.1 “Subject to this clause and conditional on approval of this Enterprise Agreement, the parties acknowledge that this agreement is made and entered into on the basis that a new redeployment, retraining and redundancy scheme as detailed in Appendix 1 will be implemented to apply to agencies and employees covered by this Enterprise Agreement.

8.2 The parties to this Enterprise Agreement agree that a CPSE’s Determination in relation to Redeployment, Retraining and Redundancy will apply to the parties bound as defined in Clause 4 of this Enterprise Agreement. Where an agency is not usually bound by a CPSE Determination it will adopt that as policy to apply to employees to be covered by the proposed Agreement.”

This Determination does not effect matters covered by the Enterprise Agreement.

A copy of Appendix 1 of the Enterprise Agreement: Redeployment, Retraining and Redundancy is provided at Attachment A of this Determination.
2. CONSULTATION – CORE OBLIGATIONS

It is important that chief executives and agency heads understand the importance that consultation plays in the management of excess employees. Where this Determination refers to a consultative process to be undertaken by an agency, this must be consistent with the requirements of the PS Act and the Enterprise Agreement.

2.1 RELEVANT PROVISIONS OF THE PUBLIC SECTOR ACT 2009

Section 5(5) of the PS Act requires, inter alia, that public sector agencies are to consult public sector employees and public sector representative organisations on matters that affect public sector employment.

Section 3(1) of the PS Act defines that a “public sector representative organisation” (referred to as “employee associations”) means an association registered under the Fair Work Act 1994(SA) or the Workplace Relations Act 1996(Cth) (now Fair Work Act 2009(Cth) that represents the interests of public sector employees.

2.2 SOUTH AUSTRALIAN PUBLIC SECTOR WAGES PARITY ENTERPRISE AGREEMENT: SALARIED 2014

Clause 26 of the Enterprise Agreement details the consultative processes as follows:

“26.1 The parties commit to the following consultative principles.

26.1.1 Consultation involves the sharing of information and the exchange of views between employers and persons or bodies that must be consulted and the genuine opportunity for them to contribute effectively to any decision making process. This includes consultation with the applicable Union whose members are affected.

26.1.2 Employers and Agencies consult in good faith, not simply advise what will be done.

26.1.3 It is an accepted principle that effective workplace relationships can only be achieved if appropriate consultation between the parties occurs on a regular basis.

26.1.4 Workplace change that will affect a significant number of employees should not be implemented before appropriate consultation has occurred with employee representatives.

26.1.5 Employee representatives will be given the opportunity to adequately consult with the people they represent in the workplace, in relation to any proposed changes that may affect employees’ working conditions or the services employees provide.

26.2 In relation to significant issues of public sector wide reform, the CPSE will consult with the “SA Unions” (i.e. formerly known as the UTLC) in accordance with the above principles.”

3. DETERMINATION

3.1 PRIOR TO IMPLEMENTATION OF ORGANISATIONAL CHANGE THAT MAY RESULT IN EXCESS EMPLOYEES

When a chief executive or agency head contemplates or proposes organisational change that is likely to result in a reduction of roles, duties or positions which may result in employees becoming excess to requirements, the chief executive, agency head or delegate will have regard to this Determination and, where relevant, the requirements of the Enterprise Agreement.

Written consultation will include informing employees impacted by the contemplated or proposed organisational change and applicable employee associations of the following details, recognising that privacy principles should be applied as appropriate in relation to the identity of individual employees:

- the agency and relevant business unit(s), location(s), functions performed by the relevant employees;
- number of current full time equivalent roles/positions, employees and classifications;
- the overall composition of the workforce in the relevant agency, in particular characteristics such as temporary/term employment, casual employees, including contractors, howsoever labelled (i.e. including consultants and labour hire staff); and
- the number of full time equivalent roles/positions that are intended to be abolished as a consequence of the intended
organisational change and the number of employees who may potentially become excess to requirements.

The purpose of the written consultation is to provide a reasonable opportunity for employees and employee associations to respond to the intended organisational changes including suggesting, identifying and discussing options regarding the proposed change. Employees and employee associations will have a minimum of 10 working days to provide a response to the agency.

A chief executive, agency head or delegate will consider and respond to feedback and submissions received upon consultation.

### 3.1.1 WORKPLACES IN RURAL AND REGIONAL LOCALITY IN SOUTH AUSTRALIA

Where an agency proposes organisational change that will result in an employee who works/resides in a rural or regional locality in South Australia being declared excess, a chief executive, agency head or delegate must provide details of the proposed organisational change and affected employees to the Commissioner for Public Sector Employment prior to the implementation of the relevant organisational change. This information will in turn allow the Commissioner for Public Sector Employment to inform a relevant Minister(s) and the chief executives or agency heads in agencies which might be affected by the consequences of the intended organisational change and assist the South Australian public sector and Government to address the matter in a strategic, holistic way.

Suitable duties, as referred to in Section 5 of this Determination will also apply to excess employees located in regional or remote localities.

South Australian government departments and agencies use a consistent set of boundaries to define the 12 administrative regions in the state. A map of this area is available at [www.sa.gov.au](http://www.sa.gov.au). The regions that are described as rural and regional for the purposes of this Determination are those regions that are defined in the “Greater Adelaide area” and “Country Regions”. This definition is to be applied by agencies to determine if a workplace is in a rural or regional locality.

### 3.2 DECLARING AN EMPLOYEE EXCESS TO REQUIREMENTS

Prior to considering whether an employee is excess to requirements (and formally declaring them as excess), chief executives, agency heads or delegates will consider whether there are suitable alternative roles, duties or positions within the relevant agency that are available or likely to become available within a reasonable time and into which the employee could be transferred to, with or without the provision of additional training to the employee.

Prior to a chief executive, agency head or delegate declaring an employee/s as excess to requirements, they will undertake a written consultative process with:

- the employees impacted by the proposed change. The group of “employees impacted” is to be considered in the broadest terms having regard to the proposed change; and
- the applicable employee association/s whose members are affected.

The chief executive, agency head or delegate is to provide the criteria which are to be used to identify the employees who will be declared excess to requirements. The criteria are to be based on the following:

- a description of the continuing and/or changed functions, tasks, or roles;
- the number and classifications of required positions established;
- the number and classifications of new positions required (as applicable);
- skills, qualifications and experience match process; and
- any other factor specific to departmental requirements, for example geographical location.

The written consultative process will identify the proposed implementation date and a date by which responses are required.

The chief executive, agency head or delegate will consider and respond to the feedback and submissions received upon written consultation.

An employee will be declared as excess to the requirements of an agency where the duties assigned or allocated to them or the role or position at their substantive classification/remuneration level are/is no longer required and it is not practicable to transfer to and, where relevant assign the employee to other duties commensurate with their substantive remuneration level within a reasonable time (with or without the provision of additional training to the employee).
3.2.1 NOTIFICATION TO EMPLOYEES

An employee who is identified as being excess to requirements must be formally advised in writing of this status by the chief executive, agency head or delegate in the relevant agency. This notification will include a statement as to the reason(s) the employee has become excess to requirements and the employment and training arrangements potentially available to them. It will include an invitation to the employee to consider resignation upon appropriate payments in accordance with the procedures set out in this Determination and the Government policy relating to Targeted Voluntary Separation Packages in place from time to time.

An employee who is subsequently transferred to a substantive role, duties or position on an ongoing or term/temporary basis, with a term of no less than 12 months, is no longer excess to requirements and the employee will receive notification to this effect. Should the employee become excess a subsequent time, the chief executive, agency head or delegate will provide them with a new notification; and a 12 month redeployment period commences from the time of such new notification.

Example

An employee who was formally declared as excess and notified accordingly is transferred (either at their own initiative or that of agency management) to a substantive role on a term/temporary basis for a period of 18 months.

The employee must receive written notification from the relevant chief executive, agency head or delegate that the employee is no longer declared “excess to requirements”.

At the conclusion of the term of the contract, the employee may be again declared as excess to requirements provided it is not reasonably practicable to transfer the employee to an alternative role, duties or position commensurate with their substantive remuneration level within a reasonable time (with or without the provision of additional training to the employee).

3.2.2 EMPLOYEES DECLARED AS EXCESS TO REQUIREMENTS PRIOR TO THE COMMENCEMENT OF THIS DETERMINATION

For employees who were declared excess prior to the commencement of this Determination and who became excess as a consequence of organisational change, the redeployment period will commence no earlier than the date this Determination commenced. A chief executive, agency head or delegate must formally advise an employee as to the commencement of the redeployment period and provide information to them about the employment and training arrangements potentially available to them. This will include an invitation to the employee to consider resignation upon appropriate payments in accordance with the procedures set out in this Determination and the Government policy relating to Targeted Voluntary Separation Packages in place from time-to-time.

4. REDEPLOYMENT PERIOD

If, after 12 months from the date of receipt of written advice that an employee is excess to requirements, and that employee has been unsuccessful in gaining substantive employment (either employment on a funded/substantive ongoing or term/temporary basis with a term of no less than 12 months) in the South Australian public sector, then the employment of that employee may be terminated on the grounds they are excess to requirements.

4.1 DEFERMENT OF THE REDEPLOYMENT PERIOD

A chief executive, agency head or delegate will defer a redeployment period where an employee has been declared as excess (and formally notify employees accordingly), on the basis of them being absent from duty by reason of:

- parental leave; or
- defence reserve leave*; or
- where an employee is in receipt of weekly payments for a compensable workplace injury or illness and/or subject to a Rehabilitation and Return to Work Plan in respect of such injury or illness.

An excess employee may apply to the chief executive or agency head in the agency they are substantively employed to defer the redeployment period on the basis of exceptional personal circumstances and that chief executive or agency head will consider such application. A chief executive or agency head will seek the views of the Commissioner for Public Sector Employment in respect of any application by an excess employee for deferral of a redeployment period on the grounds of

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* Determination 7 of the Commissioner for Public Sector Employment

Management of Excess Employees – Redeployment, retraining and redundancy

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exceptional personal circumstances and will consider any view expressed by the Commissioner before exercising their
discretion in respect of the matter. Chief executives or agency heads are not to delegate this decision making function.

* Agencies are reminded of the employer obligations pursuant to the Commonwealth Defence Reserve Service (Protection) Act 2001.

4.2 IMPORTANT CONSIDERATIONS

The key features of the redeployment process are:

- Excess employees are to be assigned or allocated suitable duties.

- Chief executives, agency heads or delegates are to consider public sector employees employed on an ongoing basis who are declared excess to requirements and therefore require alternative duties, for transfer to vacant roles, duties, positions either in the agency they are substantively employed or elsewhere in the public sector. This will include access to advertisements of vacancies prior to publication of them in Jobs SA, (that is, during the pre-publication process). Access to this information may occur on behalf of the employee by the employee’s case manager.

- Chief executives, agency heads and delegates will consider transferring excess employees into suitable roles, duties, positions before the terms of employees employed on a term/temporary basis are extended or such employees are offered further employment on a term/temporary basis.

- The engagement of persons on a contract for services, howsoever labelled (i.e. contractors, consultants and labour hire staff) will be minimised and instead suitable excess employees will be transferred into roles, duties or positions where there is a suitable skills match. An employee will be considered as having a suitable skills match for a role, duties or position where such role, duties or position is at their classification level and the employee has relevant qualifications, skills and experience and is assessed as being capable of performing the relevant duties and functions including with provision of reasonable training.

- An excess employee will be deemed as suitable to be transferred to an alternative role, duties or position where there is a reasonable skill match between the employee and the role, duties or position, unless there is a bona fide reason(s) as to why the employee is unsuitable.

- If an employee is considered not to be a suitable skill match for an alternative role, duties or position identified as one to which the employee could be transferred to, the chief executive, agency head or delegate in the relevant agency will advise the employee in writing, as well as the person designated as their case manager setting out reasons.

- Excess employees who elect to attempt to secure alternative substantive public sector employment rather than resign upon a Voluntary Separation Package will receive assistance such as personal and career/vocational assessment and counselling, job search support and training.

- An excess employee will be provided with case management by the agency in which they were substantively employed at the time they became and, where relevant, declared excess to requirements.

- In agencies covered by Part 7 of the PS Act in its entirety, in order to terminate the employment of an employee on the basis they are excess to requirements of the agency pursuant to section 54(1)(a) of the PS Act, chief executives or delegates must comply with the obligations under sub-sections 54(2) and (3) of the PS Act. Namely they must:
  - make reasonable endeavours to find and fail to find other suitable duties in the agency or other public sector employment to which Part 7 applies, to which the employee may be assigned or transferred on conditions that maintain the employee’s substantive remuneration level (s54(2)); and
  - inform the Commissioner for Public Sector Employment of the grounds on which it is proposed to terminate the employment of the employee and the processes leading up to the proposal to terminate; and have considered any advice given by the Commissioner within 14 days as to the adequacy of the processes (s54(3));

by this Determination, agencies covered by Part 7 of the PS Act in its entirety will, in addition to any other obligations under this Determination and the obligations under section 54(2) of the PS Act, not terminate the employment of an employee unless they have made reasonable endeavours to find and fail to find other suitable duties in other public sector employment to which Part 7 does not apply; and

by this Determination, with respect to employees covered by Enterprise Agreement in employment not covered by Part 7 of the PS Act in its entirety or at all, in addition to any other requirement set out in this Determination, a chief executive, agency head or delegate will not terminate the employment of any employee unless they have made reasonable endeavours to find and fail to find other suitable duties in other public sector employment.
5. SUITABLE DUTIES INCLUDING SUITABLE SUBSTANTIVE FUNDED ROLES/DUTIES/ POSITIONS

The transfer of an excess employee to a suitable funded/substantive role/duties/position does not require the agreement of the employee.

Roles, duties or positions will be considered suitable even if the transfer of an employee to them would result in variation to existing starting and finishing times; distance from home to the workplace(s) (providing every effort is made so as not to require relocation of the employee’s household and due consideration is given to the employee’s personal circumstances); or, subject to this Determination, classification level.

The suitability of an employee to perform a role, duties or position (and be transferred to it) will be determined through an assessment of the employee’s skills and competencies against the requirements of the role, duties or position. Employees must be transferred to an available role, duties or position if they can perform the duties to a reasonable standard, within a reasonable period of time and with a reasonable level of training, education and/or other support.

A suitable role, duties or position may be at a lower classification/remuneration level than an employee’s current substantive classification level, providing the classification does not provide a salary of less than 75% of the employee’s substantive salary. Transfer of excess employees to duties, roles or positions with a lower classification/remuneration level should only be considered when other options provided for in the PS Act and this Determination have been exhausted.

6. RETRAINING AND OTHER SUPPORT

Taking into account the facts and circumstances of an individual employee, a chief executive, agency head or delegate will provide reasonable training and development opportunities to employees declared excess to assist them secure employment in a funded/substantive role, duties or position.

Training and development may include work shadowing, on the job training, vocational assessment (for career planning assistance) and skills development.

Further support may include:

- Counselling and support services;
- Retraining;
- Preparation of job applications;
- Interview coaching; and
- Time off to attend job interviews.

7. REPORTING AND MONITORING

The Commissioner for Public Sector Employment will establish a Committee that will review, monitor and report on agency strategies and maintain a database with the details of employees declared excess.

The Committee will report and advise the Commissioner for Public Sector Employment on the implementation of consistent and best practice including the placement of employees declared excess. The Committee will also:

- provide information sessions to agencies on the requirements for the identification and management of employees declared excess as detailed in this Determination; and
- as required, assist the Commissioner for Public Sector Employment to develop guidelines that support the implementation of matters detailed in this Determination.

Chief executives or agency heads must provide relevant information to the Commissioner for Public Sector Employment where a significant number of employees may be remaining excess for 12 months.

A chief executive or agency head must notify the relevant employee association/s and the Commissioner for Public Sector Employment at least three months prior to the expiration of the 12 month period for an individual employee if the chief
An executive or agency head has been unable to secure employment (either ongoing, or term/contract employment in a funded role of no less than 12 months) and is therefore considering retrenchment for an excess employee.

8. EMPLOYEES WHO BECOME EXCESS OTHER THAN AS A CONSEQUENCE OF ORGANISATIONAL CHANGE

Employees who become excess to requirements for reasons other than the consequence of *bona fide* organisational change (for example, for reasons of mental or physical incapacity; or where their substantive/funded role/duties/position is filled on an ongoing basis when they are absent from such role/duties/position) are to be the subject of active consideration by chief executives, agency heads or delegates for transfer of such employees into alternative roles, duties or positions and will be provided with reasonable training and development opportunities and other support as appropriate. Such excess employees will not be subject to a redeployment period and, it follows, their employment is not to be terminated on the grounds of them being excess to requirements.

An employee must not be declared excess as a measure to avoid management of unsatisfactory performance by the employee. Unsatisfactory performance (including misconduct) should be managed in accordance with the *Guideline of the Commissioner for Public Sector Employment – Management of Unsatisfactory Performance (Including Misconduct)* and, where relevant, other applicable industrial instrument/s or policies and procedures (i.e. SA Health (Health Care Act) Human Resources Manual).
Policy Statement

A modern public service works together with citizens, business and communities to deliver results for South Australia.1

- Public service employment and employees are high performing and adaptive to the evolving requirements of government and the public.
- As an employer of choice2, the public service provides opportunities and challenges to employees to adapt and develop; to deliver and serve; and to redeploy and retrain.
- This policy statement outlines how the SA Public Service will address “reasonable endeavours” as required by section 54 (2) of the Public Sector Act 2009 (i.e. to find suitable employment).
- Note: work injured employees who are not able to carry out their normal duties as a result of compensable injury and therefore require alternative duties as part of a Rehabilitation and return to Work Plan are to be given priority consideration ahead of excess employees.

Principles

1. The parties acknowledge the following principles that outline the core elements proposed for a redeployment, retraining and redundancy policy for the SA Public Sector. Implementation will be supported by a detailed practical Commissioner’s Determination on managing excess employees.

2. The parties acknowledge that this policy is not intended to cover performance-related matters and/or misconduct that are the subject of a specific Commissioner’s Guideline (Management of Unsatisfactory Performance (Including Misconduct)). This guideline will apply in the event that an employee declared excess declines to elect an option, participate in this process or refuses a reasonable alternative role.

3. The SA Public Sector is a dynamic workplace with diversity of skills, capabilities and employees. This policy recognises this diversity and the challenges that the wider economic environment will place on the:
   a. need for increased flexibility towards changing skills sets;
   b. the retention of existing skills and capabilities over time; and
   c. managing service delivery within available resources.

4. Public Sector agencies will manage workforce careers, training and redeployment to meet current and future service delivery and capability needs within the state public service and, wherever possible, limit the use of term contract and labour hire staff.

5. Public Sector employees will adapt and develop capabilities to meet changing needs and challenges and those who are engaged on an ongoing basis3 and become displaced as a result of restructuring (“declared excess employees”) will engage in opportunities for retraining and redeployment.

6. The Commissioner for Public Sector Employment (CPSE) will establish a Committee to review, monitor and report on agency strategies.

7. Where an agency undertakes a restructure/reorganisation it will consult with employees/employee associations and actively case-manage an employee declared excess (refer to “responsibilities section”).

8. An employee declared excess will be advised in writing to that effect: provided with access to and considered for vacancies and invited to consider voluntary separation with appropriate payments.

9. Where an employee declared excess has been unsuccessful in obtaining an alternative ongoing position in the SA Public Sector after 12 months (since written advice of being declared excess), they may be separated with a suitable payment.

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1 "A Modern Public Service – Building a Stronger South Australia" p.2
2 s.5(5) Public Sector Act 2009
3 s.45(2)(a) Public Sector Act 2009
10. An employee who is placed in an ongoing or term/contract employment of no less than 12 months must be formally advised that they are no longer an excess employee. The 12 month period will include the cumulative effect of extensions in the same funded position.

Responsibilities

11. Commissioner for Public Sector Employment will:
   a. establish a Committee to review, monitor and report on agency strategies;
   b. consult with relevant employee associations about the process for management of excess employees;
   c. consult with relevant employee associations before the conclusion of the initial 12 months to evaluate the implementation of the new guideline; and
   d. provide an electronic jobs vacancy facility (e.g. Jobs SA) to assist excess employees access suitable alternative roles in a more timely manner.

12. SA Public Sector agencies will:
   a. Ensure compliance with the Public Sector Act 2009 and other applicable legislation; with applicable industrial instruments (enterprise agreements and awards) made under the Fair Work Act 1994 and with relevant Commissioner's determinations or guidelines including:
      i. Consult with employees and employee associations about significant restructuring/reorganisation that is expected to result in fewer roles/positions.
      ii. Ensure that the use of term contract and labour hire staff is reduced wherever possible.
      iii. Ensure available roles and vacancies are promoted/advertised and support employees to be redeployed.
      iv. Actively case-manage excess employees to effectively assist in any transition to new roles including:
         1. providing access to vacancies and interview/active consideration for a role (which may occur at the same time as the role is being advertised) where an excess employee is identified for/applies for a vacancy and there is a skills and capabilities match;
         2. provide access to retraining support that may be available in accordance with terms and conditions specified from time to time, including arrangements that may apply to particular occupational groups, agencies or restructures; and
         3. adhere to voluntary separation arrangements\(^4\) and/or release of an employee.
   b. Where an employee has not been able to secure a new role by the end of the 12 month period and has declined consideration of an early voluntary separation package during that time, they may be separated with a suitable payment.
   c. The period for counting towards the 12 months as an excess employee commences at the date of the written advice to the employee that they are declared excess.
   d. An agency that proposes to activate separation of an excess employee at the end of a 12-month period must be satisfied that it has met the requirements of sub-sections 54 (2) and (3) of the Public Sector Act 2009.

13. Public Sector Excess Employees
   a. Are responsible for actively adapting and developing their skills including:
      i. Following receipt of written advice of being declared an excess employee, actively consider and indicate their preferred option: to either work to secure another ongoing role/position i.e. redeployment; seek the applicable case manager’s assistance; or seek an invitation for an early separation payment.
      ii. Co-operating with the current agency or an agency to which they may be assigned, participate in re/training opportunities and make every effort to adapt to and undertake the role/s or position/s identified or into which she/he is placed or assigned.

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\(^4\) Treasurer’s Budget Statement June 2014: TVSP 10 weeks plus 2 weeks payment per year of service to a maximum of 52 weeks.
iii. Work with an agency nominated person or external service provider who is allocated to assist with a restructure and/or redeployment, including counselling; skills and capability development; and consideration of opportunities within the public or private sectors.

iv. Must accept as quickly as possible and must not refuse assignment or placement into an alternative or another role/position that is a reasonable match with their skills and capabilities (incl. with training)\(^5\).

b. Continue to be subject to processes and requirements (legislative, policy and administrative) applicable to a public sector employee\(^6\).

14. Application of separation payments

a. An applicable voluntary separation arrangement must be offered to an excess employee if they haven’t been successful in gaining an alternative ongoing position within the first 3 months of being declared excess (date of written notice).

b. Where an employee declared excess identifies a preference for redeployment/retraining and declines the invitation to express interest in an early separation package in the first 3 months, then the quanta of any future invitation to accept a separation package will be reduced:

i. Redeployment period more than 3 months and up to 6 months 50% reduction;

ii. Redeployment period greater than 6 months and up to 9 months – 75% reduction.

A Chief Executive must notify the union/s, and at the same time the CPSE, at least three months prior the employee being due to reach the end of the 12 months of being excess.

Excess employees may be separated with a suitable package in the event that they are unable to be placed at the end of 12 months.

Where a significant number of employees are to be declared excess then the CPSE must be advised at the earliest opportunity.

This Appendix is to be read in conjunction with the Determination to be issued by the CPSE as referred to in Paragraph 1 above.

\(^5\) This is intended to be broadly considered: does the person have the skills and capabilities to perform the duties to a substantial extent (including with training). That is, there does not need to be a direct match with all of the requirements of the role/position.

\(^6\) This includes any review, appeal and/or performance management process/es that may apply to the employee or that may be utilised by an agency.