

Context

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Mobility Context

The *Government Sector Employment Act 2013* (GSE Act) and the *Government Sector Employment Rules 2014* (GSE Rules) provide a number of mobility provisions to support employees and employers as they respond to workforce needs and develop employee capabilities.

Mobility provides a way for employees to experience new areas of work, increase their knowledge, and develop new capabilities, and enables new ideas to be brought into a workplace. A highly skilled and mobile workforce supports an organisation to respond quickly and effectively to changing work priorities.

A summary of the GSE mobility provisions is provided in Appendix 1.

Based on an understanding of the agency and team workforce planning needs including short and longer term outcomes, employee capabilities, turnover rates and the diversity profile of the agency, a decision can be made to either fill a role using one of the mobility provisions outlined in Appendix 1, or to recruit additional employees.

Purpose

These guidelines provide policy guidance on the application of two key mobility provisions in the GSE Act - section 64 (Employee transfers and secondments between government sector agencies) and section 66 (Secondments of staff between government sector agencies and other relevant bodies).

These guidelines provide information in addition to the legislative provisions on transfers and secondments in the GSE Act, Regulation and Rules. The guidelines should therefore be read in conjunction with the legislative provisions. Part 6 of these guidelines includes links to the relevant provisions.

Information on mobility other than under GSE Act sections 64 and 66 is not provided in these guidelines. The following information is available online:

- Assignment to role and temporary assignment: [Assignment to Role Guidelines](#).
- Converting temporary and term employment to ongoing employment, and recruitment: [Recruitment and Selection Guide](#)

When would I use GSE Act sections 64 and 66?

Section 64 enables movement of non-executive and executive employees between government sector agencies. This includes movement between Public Service agencies. These movements may be time-limited (secondments) or indefinite (transfers).

Section 66 enables time-limited movement of non-executive and executive employees between a government sector agency (including a Public Service agency) and employers outside of the NSW government sector, i.e. a time-limited movement to a different state government, or the not-for-profit sector, or the private sector, or participation in the Leadership Academy. This is one way an employee may temporarily work in another sector without resigning from their government sector employment, and is most appropriately applied in situations where the secondment is mutually beneficial and is related to the employee's government sector employment, or is employer initiated.

Alternatively, situations may arise where an employee wants to work temporarily in another sector for their own reasons which are unrelated to their government sector employment, and the employer is supportive of the arrangement. In these situations, rather than engage in a section 66 secondment, it may be more appropriate for the employee to apply for leave without pay and secondary employment approval. Refer to the relevant award or industrial agreement for information on leave without pay.

Consultation

Consultation with the employee is required prior to an employer initiated transfer or secondment. Consultation is an important part of transfer and secondment decisions. It provides both the employee and the employer the opportunity to discuss the reasons for a movement and consider any concerns of either

party.

Consultation should include discussion of the employee's rights (if any) to return to the role they occupied prior to the secondment. Under the GSE Rules, at the end of a secondment a government sector employee has a right of return to the agency from which the employee was seconded. The role to which the employee is assigned must be at the same work level at which he or she was employed immediately before being seconded. The role should be a suitable one but need not be the one to which the employee was assigned immediately before being seconded.

In the case of both employer and employee initiated transfers or secondments, impacts on the employee that should be considered as part of any decision to transfer or second the employee include the employee's preferred career path, flexible working arrangements, caring responsibilities, and any financial impact, for example a change in access to shift work, allowances or overtime.

If, following consultation, an employee does not agree with an employer-initiated transfer or secondment, they may seek a review of the decision in accordance with Part 6 of the GSE Rules.

Temporary and term employees

Although not excluded from transfer or secondment by the GSE Act, temporary and term employees should not be transferred or seconded. This is because temporary employment is for a temporary purpose and therefore should be for a specific period of time in an agency, and term employment is employment for a specified period or for the duration of a specified task.

If the services of a temporary or term employee are required by a different agency, they should be employed as a temporary or term employee in the different agency, subject to the GSE Rules on temporary and term employment.

Public Service senior executives

Under the GSE Act, movement of Public Service senior executives between Public Service agencies can be effected either by an assignment (including a temporary assignment) or by a transfer or secondment under section 64. To support consistent application of the mobility provisions, the policy position is that movement of senior executives between Public Service agencies should be actioned as an assignment rather than as a transfer or secondment. These guidelines are written from this position. Information on assignment of Public Service senior executives is available in the Assignment to Role Guidelines.