

## Restructuring Policy and Procedures - NSW Ministry of Health

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Personnel/Workforce - Industrial and Employee Relations  
Personnel/Workforce - Recruitment and selection

**Summary** The policy and procedures set out the mandatory steps that apply when implementing a restructure in the NSW Ministry of Health.

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### 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This Policy Directive may be varied, withdrawn or replaced at any time.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.

## **RESTRUCTURING POLICY AND PROCEDURES - NSW MINISTRY OF HEALTH**

### **PURPOSE**

This policy sets out the procedures that apply in a restructure of a Division, Branch or Unit in the Ministry of Health and defines the responsibilities of managers and employees involved in the restructure.

The Ministry of Health is committed to an ongoing process of quality improvement to achieve best practice in all of the Ministry's functional areas. Organisational restructuring is a necessary component of this commitment.

### **MANDATORY REQUIREMENTS**

When it is necessary to implement a new structure in a Division, Branch or Unit, the procedures attached to this policy apply.

The restructuring procedures include the following principles:

- Restructuring proposals should reflect the broad objectives of Government policy to maximise the Ministry's effectiveness
- Employees will be consulted early in the restructuring process and before finalising a restructuring proposal
- Union representatives may participate in consultations on behalf of individuals or groups of members
- Principles of merit, equal opportunity, transparency and fairness will apply in developing and implementing restructures
- Managers, employees and their representative organisations will work co-operatively to minimise disruption to individuals and the work of the area affected, as far as possible
- Consultation and implementation should take place within appropriate timeframes, depending on the context and extent of the restructure
- Directors and Managers are responsible for developing and implementing structures
- The Human Resources Unit of Workplace Relations Branch is responsible for processing approved structural proposals, providing management and employees with advice on grading and structures and the administrative action associated with training, transfers, redeployment and voluntary redundancies.

### **IMPLEMENTATION**

#### **MANAGERIAL RESPONSIBILITIES**

In any restructure, managers have the following responsibilities:

- To develop restructuring proposals objectively
- To comply with these restructuring procedures
- To actively consult employees on options and proposals and to be flexible and receptive to suggestions, wherever possible
- Respect the confidentiality of information that employees provide regarding their personal or employment circumstances.

## EMPLOYEE RESPONSIBILITIES

In any restructure, employees have the following responsibilities:

- To attend and actively participate in consultative meetings or discussions held by managers regarding the restructure
- To comply with these restructuring procedures
- To actively pursue development or redeployment opportunities
- When declared excess, to actively participate in identifying appropriate positions for priority interviews.

## REVISION HISTORY

| Version                       | Approved by  | Amendment notes  |
|-------------------------------|--|--|
| November 2013<br>(PD2013_042) | Deputy Director-General<br>Governance,<br>Workforce and<br>Corporate | Replaces PD2011_050. Procedures revised.   |
| August 2011<br>(PD2011_050)   | Deputy Director-General<br>Health System Support                     | Replaces PD2011_039. Procedures revised.   |
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| January 2005<br>(PD2005_321)  | Director General   | PD2005_321 originally issued as Circular 2003-59. Replaced circular number 99/41 |

## ATTACHMENTS

1. Restructuring Procedures NSW Ministry of Health.

## Restructuring Procedures- NSW Ministry of Health



**Issue date:** November-2013

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## 1 BACKGROUND

### 1.1 About this document

This document sets out the procedures that apply to restructures in the Ministry of Health. They apply to a restructure of a Division, Branch or Unit.

### 1.2 Key definitions

The following definitions apply in this document:

|                            |  |
|----------------------------|--|
| <i>Restructure</i>         | Organisational change that affects a Division, Branch or Unit and results in changes to staffing. These changes may include the creation and deletion of positions, changes to the duties or grading of several positions, or employees becoming excess.   |
| <i>Major Restructure</i>   | Where a significant number of staff in a Division or Branch are affected or which is expected to result in Excess Employees.   |
| <i>Minor Restructure</i>   | Where only a few positions within the Division, Branch or Unit are affected and which will not result in excess employees.   |
| <i>Affected employee</i>   | a permanent employee, whose position has been deleted, altered or moved as a result of the organisational change and who will become excess if not placed in a position in the new structure.  |
| <i>Excess Employee</i>     | A permanent employee who has been declared excess when they no longer have a substantive position as defined in the Department of Premier and Cabinet Memorandum M2011-11 Managing Excess Employees.<br><a href="http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0007/135178/D2011-07_MEE_2011_Version_2_POL.pdf">http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0007/135178/D2011-07_MEE_2011_Version_2_POL.pdf</a>  |
| <i>Priority Assessment</i> | The process by which excess or affected employees are assessed for suitability for redeployment to a position before it is advertised and independent of applicants who otherwise apply. See Section 6.4 of Department of Premier and Cabinet Case Management and Redeployment Guidelines<br><a href="http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/125381/Case_Management_and_Redevelopment_Guidelines-D2011_009_v1.0.pdf">http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/125381/Case_Management_and_Redevelopment_Guidelines-D2011_009_v1.0.pdf</a> |
| <i>Redeployment</i>        | Means permanent placement into a funded position.  |

### 1.3 Legal framework

- *Department of Premier and Cabinet, Managing Excess Employees in the NSW Government Service, Memorandum M2011-11 Managing Excess Employees*  
[http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0007/135178/D2011-07\\_MEE\\_2011\\_Version\\_2\\_POL.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0007/135178/D2011-07_MEE_2011_Version_2_POL.pdf)
- *Public Sector Employment and Management Act, 2002*
- *Public Sector Employment and Management Regulation, 2009*
- *Grievance – Effective Workplace Resolution, Policy Directive PD2010\_007*  
[http://www.health.nsw.gov.au/policies/pd/2010/PD2010\\_007.html](http://www.health.nsw.gov.au/policies/pd/2010/PD2010_007.html)
- *Department of Premier & Cabinet, Personnel Handbook*

## 2. GENERAL MATTERS

### 2.1 Principles

In a major restructure the Director or Manager is required to liaise with the Associate Director, Human Resources (HR) so that implementation processes will be coordinated. This is particularly important where there are complex or multiple restructures occurring across the Ministry.

In a minor restructure the Director or Manager should advise HR about the nature of consultation with employees and the union(s), including any areas of concern that have not been resolved prior to the implementation proceeding. HR will manage the HR administration and policy process requirements to implement the restructure.

If the restructure is complex, implementation may need to be staged. Positions are generally filled by a top down approach.

Employees who are declared excess will be managed according to Memorandum *M2011-11 Managing Excess Employees*.

### 2.2 Approval and Position Descriptions

The Associate Director, HR will endorse and the Director General (or delegate) will approve the new structure. Approval will only be granted following consultation with relevant employees and unions.

Where a new position is proposed or a position is substantially changed, the Director/Manager must have a new position description prepared and evaluated using the Mercer job evaluation methodology. The position description is then submitted to Associate Director HR for consideration and endorsement.

### 2.3 Temporary Employees

Special arrangements may apply to Ministry Temporary Employees in restructures.

Temporary employees (up to max clerk grade 12) with more than 2 years continuous service may be considered for permanent appointment to a vacant position at grade (provided the interests of permanent employees are given priority).

Temporary employees (up to max clerk grade 12) with 12 months continuous service may apply for internal temporary positions at grade (provided the interests of permanent employees are given priority).

All temporary employees may apply for positions advertised externally.

### 2.4 Consultation and Advice to Employees

Consultation between management and employees and the relevant union(s) must occur before structures are varied and approved.

In a major restructure, a Consultation Committee may be established.

Consultation must be genuine, transparent and consider any issues raised.

### 3. PROCEDURES FOR FILLING POSITIONS

Every effort should be made to place current employees in the new structure through the procedures below.

#### 3.1 Stage One – Direct Appointments

Where there are none, or only minor changes to a position and no change in the classification or grading, the substantive incumbent of the position may be directly appointed to the new position, subject to satisfactory performance.

A position will not be considered to have changed simply because it has moved to another Division, Branch or Unit, has been renamed, or has moved to another geographical location. The significance of a change to the position will be determined by assessing the specific capabilities (knowledge, skill and ability) needed to do the job.

If there are more vacant suitable positions than affected employees within a grade or level, affected employees who meet the specific capabilities of a vacant position in the new structure may be directly appointed.

Such appointments can be made where there is a differential between current salary and the position of (as a guide) 5% or one grade.

The Director/Manager of the Division or Branch will determine direct appointments, in consultation with HR.

#### 3.2 Stage Two – Lateral Transfers (Appointments on Grade)

Where there are more affected employees than vacant positions within a grade in the new structure, an internal priority assessment process will occur.

Affected employees at the same grade and classification as the vacant position and who have the required specific capabilities for the vacant position must be considered for permanent appointment.

The priority assessment process is different from merit selection. Where more than one affected employee is seeking redeployment to the same vacancy, selection is by competitive merit selection between those employees.

The Director or their delegate will convene a panel to consider the affected employees against vacant positions at their grade and classification. The panel should include a minimum of two members whose grade must be higher than the level of the vacant position. The panel will decide on the merit process to be consistently applied to all affected employees. (See section 5, *Public Sector Employment and Management Regulation 2009*)

<http://www.legislation.nsw.gov.au/viewtop/inforce/subordleg+428+2009+cd+0+N/?dg=Regulation+s%20under%20Public%20Sector%20Employment%20and%20Management%20Act%202002%20No%2043>.

A Human Resources representative will have access to all the documentation associated with the assessment process and be present during the assessment process to provide advice in relation to meeting the particular requirements of priority assessments.

The Convenor must provide feedback to the unsuccessful employees within five working days of the assessment.



### 3.3 Stage Three – Internal and External Recruitment Action

Vacant positions not filled through the procedures set out in Stage One or Stage Two may be opened as promotional opportunities through internal merit selection, provided that the Director General (or delegate) is satisfied that excess or affected employees suitable for the vacant positions have been considered. The Director/Manager and Human Resources must consider the potential to employ excess/affected staff, given that a number of restructures may be occurring at the same time.

If there are no suitable internal candidates, vacant positions will be externally advertised on JobsNSW at <http://www.jobs.nsw.gov.au/> and, if appropriate, other internet job sites. Approval to advertise externally must be endorsed by the Associate Director HR.

Employees wishing to apply for positions advertised in JobsNSW and other Internet job sites will be required to submit an application in the usual manner.

### 3.4 Stage Four – Excess Employees

Employees will be declared 'excess' when all the positions they can reasonably expect to be appointed to within the new structure are filled. The Associate Director, HR, will determine the date an employee is declared 'excess' and the employee will receive a letter notifying them of their status and options.

Excess employees may be matched to and have access to and priority assessments for positions that appear on the Mobility Candidate Report issued by the Public Service Commission in accordance with Section 6.3 of the *Case Management and Redeployment Guidelines*.

[http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0020/125381/Case\\_Management\\_and\\_Redeployment\\_Guidelines-D2011\\_009\\_v1.0.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/125381/Case_Management_and_Redeployment_Guidelines-D2011_009_v1.0.pdf)

Employees who are declared excess remain the responsibility of their former Division or Branch for meeting salary and training costs, allocating temporary work and identifying redeployment opportunities during the retention period.

For further details on excess employees, refer to Department of Premier and Cabinet *M2011-11, Excess Employees*. [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0007/135178/D2011-07\\_MEE\\_2011\\_Version\\_2\\_POL.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0007/135178/D2011-07_MEE_2011_Version_2_POL.pdf)

### 3.5 Appeals

Where there is any departure from the above procedures, the matter may be referred to the Associate Director HR for consideration and any further action if appropriate.

If resolution is not initiated by the Associate Director HR within five working days of receipt of the appeal, employees may lodge a grievance in accordance with the Grievance - Effective Workplace Resolution, 2010\_007

[http://www.health.nsw.gov.au/policies/pd/2010/PD2010\\_007.html](http://www.health.nsw.gov.au/policies/pd/2010/PD2010_007.html).

Current Government policy on redeployment and voluntary redundancy is available using the following link [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0007/135178/D2011-07\\_MEE\\_2011\\_Version\\_2\\_POL.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0007/135178/D2011-07_MEE_2011_Version_2_POL.pdf)