

## NSW Health Service Senior Executive Arrangements

**Summary** The purpose of this Policy Directive is to set out the statutory and other requirements governing the employment of Health Service Senior Executives under the Health Services Act 1997, as amended by the Government Sector Employment Legislation Amendment Act 2016.

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## NSW HEALTH SERVICE SENIOR EXECUTIVE ARRANGEMENTS

### PURPOSE

The purpose of this policy directive is to set out the:

- Statutory and other requirements governing the employment of Health Service Senior Executives (executives) under the *Health Services Act 1997*, as amended by the *Government Sector Employment Legislation Amendment Act 2016*, effective from 1 January 2017.
- Key requirements in the employment and management of executives.
- Requirements for local health districts and specialty networks to report to the Secretary, NSW Health, in regard to their executives.
- Changes that may impact on Pillars and other HAC entities.

### MANDATORY REQUIREMENTS

The provisions of the *Health Services Act 1997*, as amended by the *Government Sector Employment Legislation Amendment Act 2016*, related statutory settings such as regulations and rules, and the Health Secretary's directions and policy directives apply to all NSW Health Service executives, including chief executives. Compliance with any such directions including this policy directive is mandatory under s 121 E, s 122 and s 127 of the *Health Services Act 1997*.

All current policy directives as at the date of this policy directive that apply to the Health Executive Service now apply to Health Service senior executives (with appropriate adjustment where necessary to accommodate the different employer for executives in local health districts and specialty networks).

The *Government Sector Employment Legislation Amendment Act 2016* amended the *Health Services Act 1997*, to:

- Align employment arrangements for senior executives in the NSW Health Service with the new employment arrangements for senior executives in the Public Service under the *Government Sector Employment Act 2013*.
- Ensure that existing executives are employed as senior executives under the new employment arrangements and retain their existing remuneration packages and allowances.
- Transfer employer functions for chief executives of local health districts and specialty networks from the Secretary to the board of local health districts and specialty networks. Transfer the employer functions for senior executives in local health districts and specialty networks from the Secretary to the chief executive of those organisations.

## IMPLEMENTATION

This policy directive took effect on 1 January 2017.

**Chief Executives** are required to:

- Seek approval from the Secretary on the number of executives, the bands in which they are employed and the roles they perform.
- Ensure recruitment and employment of executives occurs in accordance with the requirements set out in this policy directive and any other statutory requirements.
- Retain records as prescribed by the *State Records Act 1998*, and statistics on executives for reporting purposes.

## REVISION HISTORY

Version	Approved by	Amendment notes
January 2019 (PD2019_002)	Deputy Secretary, People, Culture and Governance	Updated to include additional requirements for the notification and management of Chief Executive absences
August 2017 (PD2017_029)	Deputy Secretary, People, Culture and Governance	New policy

## ATTACHMENTS

1. NSW Health Service Senior Executive Arrangements: Procedures

## NSW Health Service Senior Executive Arrangements

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## 1 BACKGROUND

### 1.1 About this document

These procedures describe the requirements for the employment of Health Service senior executives (executives) under the *Health Services Act 1997* (HSA), as amended by the *Government Sector Employment Legislation Amendment Act 2016* (GSELA), supported by the *Government Sector Employment (Health Services Senior Executives) Rules 2016* (GSE (HSSE) Rules).

It should be noted that Parts 6 and 7 of the *Government Sector Employment (General) Rules 2014* (GSE (General) Rules) also apply to executives, as do various provisions of the *Government Sector Employment Regulation 2014* (GSE Regulation), in particular Part 5.

These procedures will assist health organisations to implement the requirements relating to the employment of executives that took effect on and from 1 January 2017.

To assist in the implementation of these changes, references to relevant sections of the legislation have been provided throughout the document.

### 1.2 Role of the Ministry's Health Executive Service Unit (HESU)

The role of the HESU is to provide advice and support to employers of executives and to ensure there are processes in place for the effective implementation of this policy directive, including, but not limited to:

- Liaising with local health districts, speciality networks and the Ministry to facilitate effective governance arrangements
- Establishing and/or updating executive establishment
- Providing advice on service providers for job evaluation and recruitment activities
- Maintaining information for executive talent pools available to the NSW Health Service
- Providing relevant resources, including templates and fact sheets on executive arrangements, remuneration updates and any changes to Government policy.

## 2 TRANSITIONAL ARRANGEMENTS

Executives in the NSW Health Service transitioned to ongoing employment subject to the new arrangements, which commenced on 1 January 2017.

However, executives in limited term/project roles will continue in employment until the expiration of their current contract term.

From 1 January 2017, executives:

- Were assigned to the same role (previously termed 'position') in which they were employed immediately before the commencement of the new provisions.
- Continued to receive a remuneration package equivalent to that received immediately before 1 January 2017, including any recruitment or other allowances. These remuneration arrangements, including movement within the remuneration range applying to their HES level, will continue until the executive is assigned to a role (whether in the NSW Health Service or elsewhere in the government sector) that has a remuneration package higher than the remuneration package paid to the executive on transition.
- Are taken to have entered into a new contract of employment under the new executive provisions (as prescribed in the GSE (HSSE) Rules).
- Retain their existing performance agreement until the end of the current review period (i.e. 30 June 2017).
- Have their 2016/17 performance review based on their 2016/17 performance agreement.

NOTE: Any proceedings for unsatisfactory performance or misconduct pending under the HSA immediately before 1 January 2017 are to continue to be dealt with as if the Act had not been amended by the GSELA.

## **3 EMPLOYER FUNCTIONS**

### **3.1 Introduction**

The employer functions cover the full spectrum of employment provisions for executives employed in the NSW Health Service. These functions consist of, but are not limited to:

- Managing executive structures and roles
- Workforce planning
- Recruitment
- Determining commencing total remuneration package (TRP) within the discretionary range to be paid to an executive
- Establishing employment contracts
- Performance agreements and performance reviews
- Employment matters e.g. leave and professional development



- Assignment, temporary assignment, secondments and transfers
- Grievances, misconduct, criminal and disciplinary matters
- Voluntary and involuntary terminations
- Reporting to the Ministry and if necessary, other Government agencies, on executive matters.

The performance of these functions is subject to the applicable legislation, rules, regulations and any directives issued by the Secretary, from time to time. Some employer functions may only be exercised by the Secretary in her role as system manager. Others may require the Secretary's agreement prior to the employer exercising the function.

### **3.2 Employer functions for executives employed in local health districts and specialty networks**

The board of each local health district or speciality network exercises the employer functions for the chief executive of that organisation. Appointment and termination of a chief executive also requires the agreement of the Secretary.<sup>1</sup>

The chief executive exercises employer functions for other executives of the local health district or specialty network. Refer to Section 15 of this procedure for requirements regarding termination of executives.

The Secretary may terminate the employment of an executive (including a chief executive) at any time and without notice.

### **3.3 Employer functions for executives not employed in local health districts and specialty networks**

The Secretary exercises the employer functions for health executives in all other NSW Health organisations, such as Pillars and HAC entities.<sup>2</sup>

### **3.4 Delegation of employer functions**

The legislation allows for some employer functions to be delegated.

The board of a local health district or specialty network may delegate any or all of its employer functions to the chairperson or other member of the board, excluding the power to appoint and terminate the chief executive.<sup>3</sup>

A chief executive may delegate any or all of their employer functions to any member of the NSW Health Service or to any person employed in the Public Service of NSW.<sup>4</sup>

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<sup>1</sup> HSA s 23(1), 52G(1), 121H(5); *Government Sector Employment Act 2013* s 68(2); GSE (HSSE) Rules r 32.

<sup>2</sup> HSA s 116(3).

<sup>3</sup> HSA s 121K(1).

However, the delegate cannot exercise the delegated power in relation to their own position/employment.

Under this policy directive the Secretary has determined the following employer functions of a chief executive of a local health district or specialty network **may not** be delegated:

- Initial engagement as an executive and consequent assignment to an executive role;
- Assignment to a different role (not being a temporary assignment for a period of less than 12 months)
- Termination of an executive's employment.

The Secretary, as the employer of executives in other than local health districts and specialty networks, and in her role as system manager, has delegated certain functions to the occupants of specified roles. Refer to [PD2012\\_059 Delegations of Authority](#) and the [Combined Delegations Manual](#).

#### 4 ESTABLISHMENT OF EXECUTIVE ROLES

In the case of local health districts and specialty networks, the board is responsible for ensuring the number of executives employed enables the organisation to exercise its functions consistent with any Secretary direction or policy directive.<sup>5</sup> For all other NSW Health agencies the Secretary is responsible.

Executive roles are established in one of three bands, in accordance with the level of work to be performed. The appropriate band for each executive role is determined by the [NSW Public Service Senior Executive Work Level Standards](#) (WLS).

The number of executives, the bands in which they are employed and the roles they perform in NSW Health Service organisations are to be approved by the Secretary.<sup>6</sup>

A business case to the Secretary to vary the executive profile (ie the number, bands and roles performed) should address the following factors:

- Impact on budget and pertinent services
- Current/proposed structure
- Comparison to other similar organisations
- Full time equivalent (FTE) and annual budget (revenue/expenditure)

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<sup>4</sup> HSA s 121K(2).

<sup>5</sup> HSA s 28(e1) and 52F(2).

<sup>6</sup> HSA s 121D(3).

- Rationale for the proposal
- Impact on other executive roles in the organisation and public health system.

Once approved, the Ministry's HESU will update StaffLink accordingly. A role can only be established/updated on StaffLink by the HESU.

## 5 ROLE DESCRIPTIONS

Each role is to have a role description incorporating the relevant capability levels from the [NSW Public Sector Capability Framework](#). NSW Health Service organisations may refer to the Public Service Commission's [Role Description Development Guideline](#).

The NSW Health Role Description Template (Attachment 1) is to be used when developing a role description. Reference should be made to the Executive Capability Comparison Guide (Attachment 2) when determining role capability requirements.

Once the role description has been finalised and the band determined, the remuneration range for each role is determined using job evaluation and the [Senior Executive Remuneration Framework](#). Refer to Section 8 for further detail on remuneration.

Job evaluation is to be undertaken by a provider external to the employing organisation. The Ministry of Health can provide information about external job evaluators.

Where job evaluation results in a role change, due to a difference in the role's scope/responsibilities, details supporting the job evaluation outcome are to be provided to the HESU. Where appropriate, the HESU will arrange for the Secretary's approval for the variation to the role.

The HESU maintains a library of generic role descriptions. These may be modified to take into account specific organisational requirements, provided that core role requirements are not varied.

## 6 RECRUITMENT

### 6.1 Merit appointment

Executive recruitment for ongoing or term appointment is based on merit, as prescribed by the government sector core values set out in the *Government Sector Employment Act 2013* (GSE Act) and the GSE (HSSE) Rules.

Recruitment of executives for ongoing, or term employment (of more than 12 months), must be advertised externally (refer to Section 6.2 below).<sup>7</sup>

A merit-based appointment requires assessment of the capabilities, experience and knowledge of the person concerned, against the pre-established standards for the role, to identify the person best suited to the requirements of the role and the needs of the organisation.

Except in the case where a development opportunity is being provided, a person may only be employed in a role if they meet the pre-established standards for the role.

Where the employer decides to use an executive search provider, only providers listed under the Public Service Commission's [Executive Search Scheme \(SCM0227\)](#) can be used. These providers offer a range of executive recruitment services, from sourcing and screening through to selection and liaison for offer negotiation.

In terms of assessment providers, the Public Service Commission's [Assessment Services Panel](#) is to be used. Providers under this scheme have been screened to ensure they have the capacity to develop and deliver a range of suitable assessments aligned with the NSW Public Sector Capability Framework and merit-based employment requirements. All NSW government sector agencies are required to use this scheme.

### 6.2 Advertising

Where recruitment for an ongoing appointment or term appointment of more than 12 months has been approved, the role must be **externally** advertised through the NSW Government "*I Work for NSW*" online recruitment system, which is the primary portal for recruitment. In addition to advertising on this portal and *HealthJobs*, other government contract-selected media may be used and may include online career boards or specialist publications.

Advertisements should reflect the role description and be written specifically for the target audience to attract the best pool of applicants. The advertisement is to describe the duties and the pre-established standards (capability, knowledge and experience) for the role.

Candidates may be required to submit:

1. A one-two page covering letter, describing their suitability for the role
2. A Resume
3. Any other information relating to the application determined by the Assessment Panel Convenor, for example, responses to targeted questions relating to focus capabilities for the role.

The nominated contact person should be knowledgeable about the role, and readily available to answer enquiries in relation to the advertised role.

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<sup>7</sup> GSE (HSSE) Rules r 14, 16.

### 6.3 Assessments

Merit assessments are to be conducted in line with the GSE (HSSE) Rules, and depending on the circumstances, should be done on the basis of a comparative or suitability assessment.

A comparative assessment (Rule 10) **after external advertising** is required when:

- Employing an executive for ongoing employment (Rule 14)
- Converting an executive from term employment to ongoing employment (Rule 15).
- Employing an executive for term employment of over 12 months duration (Rule 17)

Either a suitability or comparative assessment (Rule 11) can be undertaken when employing an executive in term employment or temporarily assigning an executive to a role for up to 12 months (Rule 16). If the employment or assignment is expected to extend beyond 12 months, a comparative assessment should be undertaken after external advertising so that the executive can continue in that employment after the 12 month period. If the executive has been employed or assigned to the position on the basis of a suitability assessment and the position is expected to extend beyond 12 months, action to undertake a comparative assessment should commence no later than nine months after the commencement of the executive's term employment.

Assessments for a role should be based on methods that are appropriate to the role and its range of requirements.

### 6.4 Assessment panels for executive roles

Comparative assessments require more than one assessor. The assessment panel should include a health executive from the hiring organisation and a health executive from another health organisation or the Ministry of Health. Where possible, the assessment panel should be gender balanced.

Where the assessment is for the recruitment of a chief executive, the Secretary or his/her nominee is to participate in the assessment process.

Consideration should also be given to inclusion and diversity requirements, including any cultural matters that could impact the panel's ability to best assess each candidate's suitability for the role, for example, for a role significantly involved in service delivery to Aboriginal clients.

### 6.5 Talent pools

A talent pool may be established where one or more candidates have been assessed as possessing the capabilities required for a role, but were not appointed. Talent pools can be used by all NSW Health entities to search for candidates who have the required

capabilities without advertising a role. A candidate may be appointed from the talent pool without further assessment or after a capability-based interview has been undertaken. Referee checks are to be completed for candidates in the talent pool prior to their assignment to a role. Talent pools can save time and money.

A person cannot be in a talent pool for longer than 12 months following the completion of the comparative assessment that was the basis for their inclusion in the pool.

If, during the recruitment process, a candidate(s) is identified for inclusion in a talent pool, the name(s) and contact details of these candidates and the contact details of the hiring manager/convenor are to be forwarded to the HESU. These details will be maintained on a central register in the HESU so that information on talent pools may be accessed by other health organisations that are recruiting for executive roles with the same capabilities/levels.

## 6.6 Relocation expenses

The Secretary has determined that the Public Service Commission's NSW Government Sector [Executive Relocation Expenses Framework](#) applies to executive recruitment in the NSW Health Service.

Subject to approval by the employer, an executive may be paid "reasonable actual relocation expenses" and a contribution to "reasonable eligible expenses", within defined limits (currently \$25,000) as prescribed for Tier 2 category executives in the above Framework.

"Reasonable actual relocation expenses" may be payable where the employer has determined that the candidate's experience and expertise justifies relocation support and where the executive is to be employed in a location other than where they currently reside.

Currently "*Move Dynamics*" is the government contractor for household removal and transport. Guidance may be sought from the HESU.

## 7 INITIAL ENGAGEMENT

Part 2 of the GSE (HSSE) Rules sets out provisions in relation to the initial engagement of an executive:

### 7.1 Agreement of Secretary

The Secretary's agreement is required prior to the Chief Executive approving the appointment and initial assignment of a new executive in a local health district/speciality network.

## 7.2 Eligibility for employment

A person is not to be employed as an executive, unless they are:

- An Australian citizen; or
- A permanent resident of Australia; or
- A New Zealand citizen with a current New Zealand passport; or
- A citizen of another country with a current visa that allows the person to work in Australia.<sup>8</sup> Employment can only be offered where that employment would not exceed any limitation imposed by or in accordance with law as to the person's entitlement to work in Australia, for example a time-limited 457 visa.<sup>9</sup>

## 7.3 Required checks

Employment of executives in the NSW Health Service requires a Criminal Record Check clearance. Refer to Appendices 7 and 8 of the [Employment Checks - Criminal Records Checks and Working with Children](#) policy directive and completion of a Health Declaration (Attachment 3). Additional checks and clearances, including evidence of required formal qualifications, may apply to specific role types.

A person seeking to be employed in the NSW Health Service has a duty to disclose/report certain criminal conduct matters concerning themselves to the relevant employer (refer to Appendix 4 of [Employment Checks - Criminal Records Checks and Working with Children](#)).

## 7.4 Templates

The HESU will provide organisations with template letters for offers of new employment and further assignment. The HESU is available to provide advice if departure from these templates is required.

## 7.5 Probation

A probation period of up to three months may be applied to the engagement of a person as an executive in ongoing employment in the NSW Health Service, for the first time, or following the cessation of any previous employment in the NSW Health Service.<sup>10</sup>

The employer may write to the executive and confirm their employment at any time during or at the end of the probation period, or terminate the executive's employment. Prior to any actions being taken to terminate an executive's employment during the probation period, the employer is to consult with the Secretary and obtain appropriate legal and human resources advice from the Ministry.

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<sup>8</sup> GSE (HSSE) Rules r 6(1).

<sup>9</sup> GSE (HSSE) Rules r 6(2).

<sup>10</sup> GSE (HSSE) Rules r 5.



## 8 REMUNERATION

### 8.1 Introduction

The remuneration ranges for bands applying to executives are determined on an annual basis by the Statutory and Other Offices Remuneration Tribunal (SOORT).<sup>11</sup>

The method used to calculate the new remuneration for each role is determined annually by the Public Service Commission and is notified in the annual update of the [Senior Executive Remuneration Framework](#).

Within each band, the base remuneration point for a role is determined by job evaluation. The base remuneration point for a role cannot be varied without the Secretary's approval. The Secretary must also approve any increase in remuneration as a result of job evaluation.

The remuneration range paid must be in accordance with the job evaluation score.

Only the Secretary can approve a variation of the remuneration range of a role within the band.

A discretionary range also applies to each pay point within a band.

From 1 January 2017, the employer may determine the total remuneration package (TRP) upon employment of an executive from within the applicable discretionary remuneration range for the role. The TRP is the total amount which is to be paid to the executive, out of which he/she is required to pay the employer contributions for superannuation.

Any increase made through the annual SOORT process is applied to all government sector executive roles, and to each salary point within the remuneration range for the applicable band, effective 1 July. The HESU will provide updated remuneration schedules once the annual SOORT determination is published.

The employer of an executive can approve a remuneration increase within the discretionary range subject to the provisions of the [Senior Executive Remuneration Framework](#) and the NSW Health [Executive Performance Management Policy](#). No other movement within the discretionary range can proceed, without the Secretary's approval.

A remuneration **reduction** for an executive within the salary range for their role, including a decision not to adjust the executive's remuneration in line with the annual SOORT determination, can only occur as a result of a formal performance management review process to address poor performance (see NSW Health's [Executive Performance Management Policy](#)).

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<sup>11</sup> HSA s 121G(1).



All executive appointments after 1 January 2017 must be remunerated in line with the relevant SOORT determination and the role's discretionary range within the applicable band in accordance with the [Senior Executive Remuneration Framework](#). Executives operating under the transitional arrangements will retain the total remuneration they received as at 31 December 2016, and access the remuneration range applying to them.

## 8.2 Other functions

The employer, where not the Secretary, may seek approval from the Secretary for a remuneration adjustment during the recruitment process, but prior to employment of a person in an executive role. Any such adjustment is confined to the band in which the executive is employed.

There are two legislative mechanisms available where it is considered necessary to consider remuneration for an executive that is above the band in which the executive is employed.

- The SOORT has capacity to make a special determination regarding remuneration where adjustments above the band are considered necessary due to market factors.
- The Secretary may, in line with parameters agreed with the Public Service Commissioner, determine a remuneration package for an executive or a class of executives above the range determined for the band by SOORT.<sup>12</sup>

Consideration of above band remuneration using either mechanism will only be considered in limited circumstances. To be considered, the employer must submit an evidence-based business case to the Secretary via the HESU.

The Secretary also has the capacity to determine the kinds and values of employment benefits and allowances available to executives.<sup>13</sup> No benefits and allowances are to be paid to executives other than those determined by the Secretary (with the exception of executives employed prior to 1 January 2017 who are entitled to retain previous benefits or allowances).

## 8.3 Progression in the range

Progression within the discretionary remuneration range is not automatic. Subject to the provisions of NSW Health's [Executive Performance Management Policy](#), progression through the discretionary remuneration range is determined by the employer.

NOTE: Executives who transitioned to the new executive arrangements on 1 January 2017 still have access to progression within the remuneration range applying to their HES level at that time.

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<sup>12</sup> HSA s 121G(2).

<sup>13</sup> HSA s 121G(3).

## 9 CONDITIONS OF EMPLOYMENT

### 9.1 General conditions

Part 4 of the GSE (HSSE) Rules specifies the following general conditions of employment for executives.

- 1) An executive is not to undertake other paid work without the permission of his/her employer. This does not apply to an executive who is working part time during the period that he/she is not performing duties in the NSW Health Service, unless the part-time work adversely affects or a conflict of interest arises with an executive's employment in the NSW Health Service. In that case, approval of the employer for the executive to undertake other paid work is required.
- 2) If an executive becomes bankrupt, he/she must immediately notify the employer in writing and provide the employer with further information as required.
- 3) An executive must not be absent from duty unless reasonable cause is shown. An executive must provide an explanation for any absence.
- 4) If the employer of an executive has reason to believe that the executive is not fit for duty, the employer may direct the executive to submit to a medical examination. If so directed, the executive is to cease duty immediately and not resume duty until the completion of the medical examination or other health assessment and evidence is provided that the executive is fit for duty.
- 5) The employer of an executive may attach a specific condition of employment to the role of the executive, however any such condition cannot vary the terms of the executive's contract of employment, including changing the remuneration package.
- 6) If an allowance is payable in relation to the role of an executive and the executive is assigned to another role where no allowance is payable, the executive is no longer entitled to such allowance.
- 7) The employer of an executive may approve a request by the executive to work on a part time basis. An agreement between the employer and the executive is to specify the days or part days when the executive is available for duty. Where part time arrangements are in place, remuneration will be calculated on a pro-rata basis, other than for allowances in the nature of reimbursement where the part time employee will receive the same amount as a full time employee in the same circumstances. Note: this is separate to consideration of any request to take part-time leave without pay.
- 8) An executive is not entitled to any allocated day off or to be paid for working overtime.

## 9.2 Length of employment

An executive may be employed on an ongoing or term basis.<sup>14</sup>

Ongoing employment means that the employment continues until the executive resigns his/her employment, or is terminated by the employer.

Term employment means the executive is employed for a specific period or for the duration of a specified task, unless the executive resigns or his/her employment is terminated sooner by the employer.

## 9.3 Mobility

An executive is employed in the band for the role to which they are recruited, assigned or promoted. They may be assigned, transferred or seconded over time to other roles within the same band within the NSW Health Service, the Public Service of NSW, the NSW Transport Service or the NSW Police Force (see HSA s 121D, and Section 12 of this policy directive).

## 9.4 Leave

Leave entitlements and related conditions (including entitlements to public holidays) applying to executives are the same as those that apply to the NSW Public Service Senior Executive under the GSE Regulation.

Executive leave entitlements are detailed in the GSE Regulation 2014, the *Crown Employees (Public Service Conditions of Employment Reviewed Award 2009)*, and GSE (HSSE) Rules, Schedule 1, [Model Contract of Employment](#) clauses 15.1 – 15.2.

The Secretary has determined that executives, subject to certain conditions, may elect at any time to be paid the whole or part of the money value of the executive's accrued annual or extended leave (noting that such leave is paid at the Notional Rate).<sup>15</sup>

## 10 CONTRACT OF EMPLOYMENT

Executives are employed under a written contract of employment signed by the executive and the employer on behalf of the Government.<sup>16</sup>

Contracts of employment for executives, irrespective of who undertakes the employer function, must be in accordance with the [Model Contract of Employment](#) provided at Schedule 1 of the GSE (HSSE) Rules.

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<sup>14</sup> HSA s 121C.

<sup>15</sup> Refer to GSE Regulation r 37 for guidance.

<sup>16</sup> HSA s 121F(1).

The provisions of the model contract are mandatory and cannot be modified. Additional provisions, not inconsistent with any of the mandatory provisions, may be included (for example, conditions of engagement).

The contract includes, amongst other things, the following information:

- The band in which the executive is employed
- The duration of the contract if the executive is not employed in ongoing employment
- The total remuneration package and any allowances
- A requirement to enter into an annual performance agreement and participate in (at least annual) performance reviews
- Leave and other conditions of employment
- Compensation for termination of contract by the employer.

An executive's contract remains current while they continue to be employed in the same band, even if assigned to another role within the NSW Health Service, or transferred and assigned to a different role in the NSW Public Service, NSW Transport Service or NSW Police Force.<sup>17</sup> However, a new role description and performance agreement will apply.

A new contract must be entered into if the executive is recruited on an ongoing or term basis to a role in **another band**.

## 11 PERFORMANCE AGREEMENT AND MANAGEMENT

All executives are required to have a current performance agreement and to participate in regular (at least annual) performance reviews and periodic capability-based assessments relevant to the requirements of their role.<sup>18</sup> These will provide the basis for individual and corporate development plans, and the executive's progression within the approved discretionary remuneration range.

The [Executive Performance Management Policy](#) outlines requirements for performance management processes and the performance agreement templates to be used. Local health districts and specialty networks are to ensure that each executive has a current performance agreement in place, and will be required to report on compliance with this requirement.

For local health districts and specialty networks, the Secretary or his/her nominee should continue to be consulted on the performance assessment of the chief executive. For other organisations, the Secretary should continue to participate in the chief executive's performance review.

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<sup>17</sup> HSA s 121F(5).

<sup>18</sup> GSE (HSSE) Rules r 26, 27.

Formal performance management must also comply with the procedural requirements set out in the GSE (General) Rules (Rule 31), and may result in action being taken, including any actions prescribed in section 68(2)(a)-(d) of the GSE Act, subject to the Secretary's agreement.

The employer of the executive (where not the Secretary) is to consult with the Secretary and obtain appropriate legal and human resources advice from the Ministry prior to commencing any of the above actions.

## 12 MOBILITY: ASSIGNMENT, TEMPORARY ASSIGNMENT (ACTING), SECONDMENT AND TRANSFER

### 12.1 Assignment to another role within the same band

For ongoing or temporary assignments within the NSW Health Service to an executive role within the same band, no formal assessment is required. However, if the role is at a higher remuneration level the employer must be satisfied that the executive possesses any higher or different capabilities required for the role.

An executive is to be consulted prior to being assigned to another role.<sup>19</sup> While reasonable grounds against the proposed assignment should be considered, the assignment may proceed even if the executive has not agreed. The executive's remuneration cannot be reduced because of an assignment without the executive's consent.

An executive may be assigned to a different role in the same band in which they are employed, within the same employment division of the NSW Health Service. The assignment may be on an ongoing or temporary basis. The Secretary's agreement is required prior to the employer implementing the assignment.

The Secretary may also assign an executive to a different role (in the same band) in **another** employment division of the NSW Health Service.<sup>20</sup> Where the Secretary does not exercise the employer function in relation to the executive, he/she is to consult the appropriate person or body that exercises, or will exercise, the employer function in relation to the executive.

An executive may only be assigned by the Secretary to the role of chief executive of a local health district or specialty network with the agreement of the board of the local health district or specialty network to which the executive is assigned.<sup>21</sup>

Note: An executive cannot be assigned on an ongoing basis to a role in a **higher band** without undertaking a comparative assessment after external advertising.

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<sup>19</sup> HSA s 121D(13).

<sup>20</sup> HSA s 121D.

<sup>21</sup> HSA s 121D(8).

## 12.2 Acting in executive roles (temporary assignment)

An executive or any other NSW Health Service employee may be temporarily assigned to act in an executive role in the same or higher band, if the usual occupant is unavailable or if there is no current occupant in the role.<sup>22</sup> The employer must be satisfied that the employee possesses any higher or different capabilities required for the role. See below for requirements relating to developmental opportunities.

The employer of an executive can temporarily assign that executive to act in the role of another executive, but only if they are the employer of both executives.<sup>23</sup>

The Secretary can temporarily assign an executive to act in any executive role but is to consult the appropriate person or body that exercises, or will exercise, the employer function in relation to the executive.

The employee should be consulted prior to the decision to temporarily assign them to act in a role. Reasonable grounds given by the executive or employee against the proposed temporary assignment should be considered. The temporary assignment may proceed even if the executive or employee has not agreed.

When acting in an executive role, an employee undertakes all the functions and responsibilities of the executive role, but does not thereby become an executive if they are not already an executive.<sup>24</sup>

Where a **developmental opportunity** has been identified, it may be offered for a period of no more than six months. The employee should demonstrate that they meet some (but not necessarily all) the focus capabilities at the level required. Refer to the [Assignment to Role Guidelines](#) .

An employee temporarily assigned to act in an executive role is entitled to be paid an allowance if the remuneration for the role exceeds the remuneration for their current role. The calculation method for any such allowance can be found at the [Assignment to Role Guidelines](#). Where a non-executive is temporarily assigned to act in an executive role, the allowance payable should be based on the [Notional Rate 2016-2017](#), as varied from time to time.

## 12.3 Chief Executive absences - notification and management

When a chief executive is absent for 48 hours or more, arrangements must be made for an appropriate person to act in their role. For planned leave, the Secretary must be notified in advance of the arrangement so that the person acting in the role is contacted for any urgent or emergent issues during the Chief Executive's absence. For unplanned leave, the Secretary must be informed as soon as possible, together with an estimate of the expected period of absence.

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<sup>22</sup> HSA s 121I(1).

<sup>23</sup> HSA s 121I(2b).

<sup>24</sup> HSA s 121I(3).

An acting arrangement must also be put in place during any absence interstate or overseas and when participating in study activities for 48 hours or more.

#### **12.4 Secondment to a role outside the NSW Health Service**

Under the GSE Act and GSE (General) Rules, executives may be temporarily seconded to other government sector agencies for a period not exceeding two years by agreement between agency heads.<sup>25</sup> The executive will need to satisfy any local assessment requirements for the secondment to proceed.

The GSE Act also makes provision for the temporary secondment of employees to non-government organisations.

Further detail and guidance can be found by referring to the [Mobility Guideline - Transfers and Secondments](#).

#### **12.5 Transfer to an agency outside of the NSW Health Service**

An executive may be permanently transferred by the Secretary to the Public Service of NSW, NSW Transport Service or NSW Police Force (with the agreement of the head of that agency) and assigned to a role (other than as a police officer) in the band in which they are employed.

For transfer and assignment to a role in the same band, local assessment requirements need to be satisfied for the transfer to proceed.

Further detail and guidance can be found by referring to the [Mobility Guideline - Transfers and Secondments](#).

### **13 RESIGNATION OF EMPLOYMENT**

An executive may resign their employment by providing four weeks' written notice to the employer, or as agreed by the employer.

The employer is to advise the HESU and Executive Payroll immediately after receiving notice of an executive's resignation.

### **14 MATTERS RELATING TO EXECUTIVE CONDUCT**

Where a matter relating to the conduct of an executive which is relevant to their employment comes to the attention of the employer, the Secretary is to be immediately notified.

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<sup>25</sup> GSE Act s 64; GSE (General) Rules r 31.



The employer is responsible for managing the matter unless otherwise directed by the Secretary. Where the employer remains responsible, they are to keep the Secretary informed of the ongoing management and outcome of the matter.

The Secretary has the discretion, at any time, to determine the ongoing management of a matter concerning executive conduct, including determining the decision maker. The employer is to arrange for the matter to be managed in accordance with the Secretary's determination.

Chapter 9 Part 2 of the HSA (Criminal and disciplinary matters concerning staff of NSW Health Service) also applies to chief executives and other health executives.

## 15 TERMINATION OF EMPLOYMENT

The employer of an executive may terminate an executive's employment at any time, for any or no stated reason and without notice.<sup>26</sup>

The employer of an executive is to obtain the Secretary's agreement prior to terminating an executive. When seeking agreement, the employer should provide the Secretary via the HESU the basis for recommending the termination of the executive's employment (including where there is no stated reason).

The Secretary, even if not the employer, may terminate any health executive, including a chief executive.

The Public Service Commission requires the Secretary to provide information for all terminations of employment of executives, including a Chief Executive

An executive whose employment is terminated, other than for misconduct, is entitled to compensation as provided for in their contract.<sup>27</sup>

An executive who is terminated for misconduct is not entitled to any compensation.

Where an executive is terminated for the stated reason of unsatisfactory performance, this is to be on the basis of a properly documented performance management process.

Where an executive is terminated for the stated reason of misconduct, this needs to be on the basis of a fair process and with clearly stated findings provided.

An executive whose employment has been terminated and who has received compensation may not be re-employed in the public sector, including the NSW Health Service, during the period to which the compensation relates unless arrangements have been made to repay the relevant proportion of the compensation payment.<sup>28</sup> Re-

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<sup>26</sup> HSA s.121H(1).

<sup>27</sup> HSA s 121H(2); GSE Regulation cl 41.

<sup>28</sup> HSA s 121H(3).



employment in the public sector includes engagement as a consultant or contractor, engagement through a labour hire arrangement or a company or partnership that provides the former executive's services to the employer.

## 16 REPORTING REQUIREMENTS

Reports to the Secretary from local health districts and specialty networks must include, but are not limited to:

- Monthly advice (i.e. in advance) of planned and approved leave and associated acting arrangements for chief executives (if applicable)
- Regular reporting on executive staffing profile variations (for example appointments, resignations, job evaluations, etc.)
- Executive demographic data for workforce profile
- Annual reporting including:
  - Number of executives employed in each band and gender statistics
  - Average total remuneration of executives employed in each band
  - Percentage of total employee-related expenditure relating to executives

## 17 GLOSSARY

**Above level:** in a band higher than the band in which the executive is employed.

**Above level allowance:** the difference between the remuneration of the employee's current role and the remuneration of the role to which they have been temporarily assigned.

**Assignment:** allocation of an employee to a role within the employee's band in which the executive is employed, and includes initial and subsequent assignment.

**At level:** within the same band in which the executive is employed.

**Band:** senior executive bands as determined by the Premier.

**Band remuneration range:** range between the minimum and maximum remuneration rates for an executive band as determined by the SOORT.

**Base remuneration point:** the fixed minimum remuneration point for a particular role.

**Capability assessment:** a process that assesses a person's capabilities against those required for a role.

**Capabilities for a role:** the range of capabilities derived from the capability framework, including 16-20 core and focus capabilities, relevant occupation-specific capabilities and the levels required for each.

**Capability framework:** the NSW Public Sector Capability Framework.

**Comparative assessment:** the process of assessing an individual's claim against pre-established standards and the claims of other persons for the role. A comparative assessment requires at least two assessors and includes screening for essential requirements (such as a licence or qualification), an application and Resume, at least three capability-based assessments (one of which is an interview) and referee checks.

**Discretionary range:** starts from the base remuneration point and is up to \$21,408 for a band 1 executive; up to \$32,111 for band 2 and up to \$42,815 for band 3 (as varied from time to time by the Senior Executive Remuneration Framework).

**Employer of a Health executive:** the person who exercises employer functions in relation to the executive (see HSA s 116).

**Executive:** a Health Service senior executive.

**Executive role:** a Health Service senior executive role in the NSW Health Service that is or is to be assigned to a Health executive.

**External advertising:** advertising that is accessible to the general public, for example advertising on the NSW Jobs website.

**Focus capabilities:** those capabilities an employee must demonstrate competence in at the required level on commencement in the role.

**FTE:** full time equivalent.

**GSELA:** the *Government Sector Employment Legislation Amendment Act 2016*.

**HSA:** the *Health Services Act 1997*.

**Notional Rate:** the total amount of the remuneration package for the executive as last determined before the time of payment, less the superannuation guarantee amount payable in respect of the person.

**Pre-established standards:** the capability, knowledge and experience standards for the role.

**Public health organisation:** a local health district, a statutory health corporation or an affiliated health organisation in respect of its recognised establishments and services.

**Role description:** describes a role and the capabilities required, including core capabilities, occupation-specific capabilities (where appropriate) and focus capabilities. Role descriptions are the basis for job evaluation, a source of information for job applicants, used in recruitment and selection, a reference point for performance agreements and reviews and a starting point for identification of professional development activities and career development.

**Role evaluation:** a systematic process for determining the relative work value of a role in an organisation. The Mercer/CED job evaluation system is used in NSW Health.

**Rules:** is a reference to the Government Sector Employment (HSSE) Rules 2016, unless specified otherwise.

**Secretary:** the Health Secretary.

**SOORT:** Statutory and Other Offices Remuneration Tribunal.

**Suitability assessment:** the process of assessing an individual's claim against pre-established standards for a role. The assessment can be undertaken by a single assessor and includes screening for essential requirements (such as a licence or qualification) receiving a resume, at least two capability-based assessments (one of which is an interview) and referee check.

**Temporary assignment:** the assignment of an employee to another role, usually for a short or specific period.

**Total Remuneration Package (TRP):** the total amount paid to an executive and includes the employer contribution to superannuation.

**Work level standards:** broadly indicate the work expected to be performed in senior executive Bands 1 – 3.

**Work value of a role:** the outcome of a job evaluation process which provides the basis for determining a place within an executive band and the base remuneration point for the role.

## 18 LIST OF ATTACHMENTS

1. NSW Health Role Description Template
2. Capability Matrix
3. Health Declaration

Cluster	NSW Health
Public Health Organisation	XX
Division/Branch/Unit	XX
Location	XX
Classification/Grade/Band	XX
Senior Executive Work Level Standards	Work Contribution Stream:
Kind of Employment	XX
Role Number	XX
ANZSCO Code	XX
PCAT Code	XX
Date of Approval	XX
NSW Website	<a href="http://www.health.nsw.gov.au">www.health.nsw.gov.au</a>
Public Health Organisation Website	XX

## Agency overview

### Primary purpose of the role

(This should be no more than 5-10 lines. It describes the purpose of the role rather than everything the role does.)

### Key accountabilities

(No more than 8 key accountabilities for the role are to be included)

- XXX
- XXX
- XXX
- XXX
- XXX
- XXX
- XXX

### Key challenges

(No more than 3 key challenges for the role are to be included)

- XX
- XX
- XX

## Key relationships

Who	Why
<b>Ministerial</b>	
Xx	• xx
<b>Internal</b>	
Xx	• xx
Xx	• xx
Xx	• xx
Xx	• xx
Xx	• xx
<b>External</b>	
Xx	• xx

## Role dimensions

### Decision making

xx

### Reporting line

xx

### Direct reports

xx

### Budget/Expenditure

xx

### Essential requirements

Only complete if critical to the role and not covered by the capabilities for the role

xx






### Capabilities for the role

The NSW Public Sector Capability Framework applies to all NSW public sector employees. The Capability Framework is available at [www.psc.nsw.gov.au/capabilityframework](http://www.psc.nsw.gov.au/capabilityframework)

### Capability summary

The full list of capabilities and the level required for this role are set out below. The focus capabilities appear in bold. Refer to the next section for further information about the focus capabilities.

## NSW Public Sector Capability Framework

Capability Group	Capability Name	Level
 Personal Attributes	Display Resilience and Courage	
	Act with Integrity	
	Manage Self	
	Value Diversity	
 Relationships	Communicate Effectively	
	Commit to Customer Service	
	Work Collaboratively	
	Influence and Negotiate	
 Results	Deliver Results	
	Plan and Prioritise	
	Think and Solve Problems	
	Demonstrate Accountability	
 Business Enablers	Finance	
	Technology	
	Procurement and Contract Management	
	Project Management	
 People Management	Manage and Develop People	
	Inspire Direction and Purpose	
	Optimise Business Outcomes	
	Manage Reform and Change	

## Focus capabilities

The focus capabilities for the role are the capabilities in which occupants must demonstrate immediate competence. The behavioural indicators provide examples of the types of behaviours that would be expected at that level and should be reviewed in conjunction with the role's key accountabilities.

### NSW Public Sector Capability Framework

Group and Capability	Level	Behavioural Indicators
<b>Personal Attributes</b> XX	XX	•
<b>Relationships</b> XX	XX	•
<b>Results</b> XX	XX	•
<b>Business Enablers</b> XX	XX	•
<b>People Management</b> XX	XX	•

NB: There should be a minimum of 6 focus capabilities, with at least one from each group.

## Attachment 2

### Executive Capability Comparison Guide

EXECUTIVE BAND	FOUNDATIONAL	INTERMEDIATE	ADEPT	ADVANCED	HIGHLY ADVANCED	FOCUS CAPABILITIES (including any occupation-specific capabilities)
Band 3	0	0	0	8	12	7
Band 2	0	0	2-3	12-14	4-6	7
Band 1	0	0	5-7	11-14	1-3	6





## Health Declaration Form

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NSW Health is committed to supporting a person chosen on the basis of merit to carry out the role requirements and inherent demands of a role as far as reasonable and practicable.

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I, \_\_\_\_\_ have had the opportunity to fully discuss the role requirements and inherent demands of the role of \_\_\_\_\_ (role title) with \_\_\_\_\_ (line manager/title).

**Please tick the appropriate statement below.**

- I am not aware of any health condition that may interfere with my ability to perform the role requirements and inherent demands of this role.
- I have a health condition that may interfere with my ability to perform the role requirements and inherent demands of this role. I understand that I will be referred for a pre-employment assessment.
- I no longer wish to be considered for this role.

I am aware that any false or misleading statements may jeopardise my appointment or continued employment.

**Signature:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Contact**

**Number:**

\_\_\_\_\_

**For Local Health Districts and Specialty Network Governed Health Corporations (LDH/SNGHC)**

**Please sign and return this form to: the Employer.**

**For other Organisations (i.e. non LHD/SNGHCs)**

**Please sign and return this form to:**

Health Executive Service Unit

NSW Ministry of Health

Via email to: MOH-HES@health.nsw.gov.au