

SECTION 3: PEOPLE AND PERFORMANCE MANAGEMENT

13. Parliamentary Executive level employees

- 13.1 The department recognises its Parliamentary Executive level employees as a key group in the delivery of services to the Senate, senators and others.
- 13.2 Under this Agreement, Parliamentary Executive level employees commit to:
- (a) perform individually to a high level as leaders, managers, mentors and role models;
 - (b) demonstrate and promote high standards;
 - (c) work in partnership with each other, and the employees they oversee, to achieve the goals of this Agreement;
 - (d) ongoing review of work practices and service provision to achieve continuing improvements in the quality and efficient delivery of those services; and
 - (e) move to other positions in accordance with clause 19.1 as a means to achieve improved cooperation, capacity and understanding across work teams and the department.

14. Senate Management Advisory Group

- 14.1 The Senate Management Advisory Group will consist of all Parliamentary Executive Level 2 employees.
- 14.2 Parliamentary Executive Level 2 employees and the Program Manager Group will agree on terms of reference describing the purpose and administrative arrangements for the group. These may be reviewed and revised from time to time.

15. Probation

- 15.1 Employees will be required to undergo probation in accordance with the relevant departmental guidelines.

16. Performance Communication Scheme

- 16.1 The Performance Communication Scheme (the Scheme) provides the framework for performance management and communication between employees, supervisors and managers. The Scheme encompasses:
- (a) regular, structured, two-way communication and feedback between employees, supervisors and managers;
 - (b) a clear understanding of performance expectations and goals, and of each employee's contribution to the department's corporate plan;
 - (c) ongoing learning and professional development goals, which will lead to higher quality departmental services; and
 - (d) a fair and objective basis for recognising and rewarding effective performance.

- 16.2 In accordance with relevant departmental guidelines, all managers must ensure that the Scheme is implemented in their section or committee secretariat, and in particular, that:
- (a) a realistic, fair and specific performance agreement is set for each employee;
 - (b) work performance is monitored and regular two-way feedback is provided;
 - (c) the achievement of work objectives and learning and professional development goals is encouraged and facilitated; and
 - (d) work objectives are being met, and work performance is being assessed fairly by supervisors.
- 16.3 In accordance with the relevant departmental guidelines, the following requirements apply:
- (a) on an annual basis, a performance agreement will be established for each employee in May, and will be reviewed in November;
 - (b) a performance agreement will be established within four weeks for employees commencing or returning to the department. Where non-ongoing (temporary) employment or a temporary assignment extends beyond 12 weeks, the same requirement applies;
 - (c) supervisors and managers will engage in regular two-way feedback with employees on their individual work performance and with work teams on their performance in meeting the section's or committee secretariat's work objectives;
 - (d) written assessment of individual performance will be provided in October and April each year, along with the provision of written feedback to the supervisor by each team member or jointly with other team members; and
 - (e) the overall performance standards for the Scheme will be "effective or better", "requires development" and "unsatisfactory".

17. Managing underperformance

- 17.1 While the Scheme provides for a cyclical performance review (see paragraph 16.3(d) above), a performance review may be initiated at any time by the relevant supervisor, manager or program manager, in accordance with the relevant departmental guidelines.
- 17.2 The following provisions apply to all employees whose overall performance is assessed as "requires development" or "unsatisfactory", with the exception of those employees who are undergoing a period of probation.

Performance that requires development

- 17.3 An assessment that an employee's overall performance "requires development" will require the supervisor to monitor the employee's performance closely over the ensuing eight-week period (four weeks in the case of non-ongoing (temporary) employees) and to implement development strategies to assist the employee to achieve "effective or better" performance assessment by the end of the monitoring period.

- 17.4 Where an ongoing employee does not achieve an overall performance assessment of “effective or better” at the end of the eight-week monitoring period, the unsatisfactory performance provisions below will apply.
- 17.5 Where a non-ongoing (temporary) employee does not achieve an overall performance assessment of “effective or better” at the end of the four-week monitoring period, the employee’s employment may be terminated.

Unsatisfactory performance

- 17.6 Where an ongoing employee receives an overall performance assessment of “unsatisfactory”, or where, in accordance with clause 17.4, an ongoing employee does not achieve an overall performance assessment of “effective or better”, the Clerk will:
- (a) advise the employee in writing immediately that his or her performance has been found unsatisfactory and state why; and
 - (b) initiate a review of the employee’s performance over an eight-week period in accordance with the relevant departmental guidelines.
- 17.7 At any time during this performance review period, the employee may consent to the cessation of his or her employment. If agreement is reached to cease the employee’s employment he or she will be entitled to a payment equivalent to the balance of the eight-week performance review period. The relevant termination of employment notice period will apply as specified in the *Fair Work Act 2009*, however, the applicable notice period will be deemed to run concurrently with the balance of the performance review period.
- 17.8 If clause 17.7 is not invoked, and at the end of the eight-week performance review period, the employee’s overall performance is again assessed as “unsatisfactory”, the Clerk will issue a notice of intention to:
- (a) extend the review period by a further period of up to eight weeks; or
 - (b) reduce the employee’s classification; or
 - (c) assign the employee other duties; or
 - (d) terminate the employee’s employment.
- 17.9 The employee will have seven days from the date of the notice given by the Clerk to show cause, in writing, why the action notified in the notice should not be taken.
- 17.10 At the end of the seven days, the Clerk, having considered any representations submitted by the employee, may implement the intended action. In the event that the performance review period is extended under paragraph 17.8(a), at the completion of the extended performance review period, clause 17.8 again has effect.
- 17.11 A non-ongoing (temporary) employee whose overall performance is assessed as “unsatisfactory” at any stage during his or her employment period, will have his or her employment terminated.

18. Learning and development

- 18.1 Subject to clause 18.2, employees will have a target of 21 hours of work-related learning activities during each 12-month performance communication cycle. These activities will be managed in accordance with the relevant departmental guidelines, having regard to operational requirements and individual learning needs.
- 18.2 The annual target for part-time employees and for employees (either full-time or part-time) who commence mid-cycle will be calculated on a pro rata basis.
- 18.3 Casual and sessional (temporary) employees are not required to meet a learning and development target, but are not precluded from undertaking approved work-related learning activities.

Studybank

- 18.4 In accordance with the relevant departmental guidelines, the Clerk may approve the grant of assistance to an employee to a maximum of:
- (a) 40 hours paid leave per university unit (or equivalent) per semester (up to a maximum of 80 hours per semester or six month period), to attend classes, undertake examinations or for other agreed study purposes, which, with the agreement of the supervisor, can be accumulated over the semester and taken as a block of time; and
 - (b) \$1,000 per unit, or equivalent, for reimbursement of course fees and/or related costs.
- 18.5 Applications for leave without pay to study will be considered under the relevant departmental guidelines.

19. Mobility

- 19.1 The Clerk may, in consultation with the relevant program manager and the employee, temporarily move the employee to another position, to facilitate the operational needs of the department.
- 19.2 Requests from employees to move to different positions in the department will be considered in consultation with the relevant supervisors, managers and program managers and, as necessary, the Director, Human Resource Management.

In-house scholarship and understudy programs

- 19.3 In recognition of the value to be gained by the department when employees expand their knowledge of other work areas, an associated field of work or parliamentary knowledge, the department will sponsor in-house scholarship and understudy programs. Nominations will be called for both programs and all employees are eligible to apply.

- 19.4 Under the in-house scholarship program, employees can nominate to undertake a particular project or research that is relevant to the department or parliament. The project or research must be undertaken at appropriate times, such as non-sitting or quieter periods and the employee can work on the project or research during working hours. The project or research is to include preparation of a paper which can be published and/or presented at an in-house seminar.
- 19.5 The in-house understudy program will enable employees to gain practical experience in a particular job within the department, while keeping both the “trainee” and “trainer” on-line. The program may entail a short-term, single-task secondment to the relevant area to understudy the incumbent of the position.
- 19.6 The department may provide up to \$35,000 to fund the costs associated with these programs. Decisions on successful applicants and associated funding will be made by the Program Manager Group.

20. Consultation with employees

Change management

- 20.1 The department is committed to communicating and consulting with employees on workplace issues. The requirements outlined in clauses 20.2 to 20.4 will operate in addition to the consultation procedures set out in clauses 20.5 to 20.14.
- 20.2 The corporate and work planning processes will provide an opportunity for employees to develop an understanding of corporate directions and how they translate to work groups and individuals. As well, it is expected that managers will facilitate and participate in office and section meetings about ongoing coordination and discussion of planning processes, and encourage comments and suggestions from employees about workplace matters.
- 20.3 Employees will be consulted on planning and change issues. Compulsory retrenchment will be avoided wherever possible. Managers will minimise the impact of changes on their employees by supporting the affected employees before, during and after the changes.
- 20.4 The department and employees agree to discuss workplace issues in the spirit of cooperation and trust and the department will ensure that employees not only receive information on workplace matters that affect them, but also have an opportunity to contribute their views on those matters.

Consultation

- 20.5 Clauses 20.5 to 20.14 will apply if:
- (a) the Clerk has made a decision to introduce a major change to programs, organisation, structure or technology in the department; and
 - (b) the change is likely to have a significant effect on employees of the department.

- 20.6 The Clerk must notify the relevant employees of the decision to introduce the major change.
- 20.7 The relevant employees may appoint a representative for the purposes of the procedures in these clauses.
- 20.8 If:
- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the Clerk of the identity of the representative;
- the Clerk must recognise the representative.
- 20.9 As soon as practicable after making the decision, the Clerk must:
- (a) discuss with the relevant employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the employees; and
 - (iii) measures the Clerk is taking to avert or mitigate the adverse effect of the change on the employees; and
 - (b) for the purposes of the discussion – provide, in writing, to the relevant employees:
 - (i) all relevant information about the change including the nature of the change; and
 - (ii) information about the expected effects of the change on the employees; and
 - (iii) any other matters likely to affect the employees.
- 20.10 However, the Clerk is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 20.11 The Clerk must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 20.12 If a clause in this agreement provides for a major change to programs, organisation, structure or technology in the department, the requirements set out in clauses 20.6, 20.7 and 20.9 do not apply.
- 20.13 In clause 20.5, a major change is likely to have a significant effect on employees if it results in:
- (a) the termination of the employment of employees; or
 - (b) major change to the composition, operation or size of the workforce or to the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.
- 20.14 In clauses 20.5 to 20.13 “relevant employees” means the employees who may be affected by the major change.

Workplace Consultative Committee

- 20.15 There is to be a Workplace Consultative Committee, chaired by a program manager, and comprising one other program manager if nominated by the Program Manager Group, employee representatives nominated or elected by employees and a representative from each union covered by this Agreement.
- 20.16 Members of the Workplace Consultative Committee will review the terms of reference of the Committee from time to time.
- 20.17 The Workplace Consultative Committee will monitor the implementation and effectiveness of this Agreement. The Committee may at any time make recommendations to the Program Manager Group regarding workplace issues not explicitly dealt with in this Agreement.
- 20.18 The Workplace Consultative Committee may establish sub-committees to deal with major issues. A sub-committee must report back to the Workplace Consultative Committee on its activities.
- 20.19 Access to appropriate facilities (including communication systems and office equipment) will be provided to members of the Workplace Consultative Committee and members of sub-committees.

21. Work health and safety

- 21.1 To assist in mitigating more serious workplace injury and illness the department will reimburse the cost of medical treatments, generally up to the value of \$400 within a 12-month period, for reported incidents of work-related injuries. On each occasion, the practitioner must attest that the treatment was given in response to a work-related injury. This course of action does not remove or restrict an employee's entitlement to claim workers' compensation.

Health and Wellbeing Subsidy

- 21.2 Employees will be paid a taxable Health and Wellbeing subsidy in August each year, to assist with costs associated with, but not limited to:
 - (a) influenza vaccinations;
 - (b) corrective lenses for screen-based equipment;
 - (c) health and fitness activities;
 - (d) professional memberships or subscriptions; and
 - (e) airline lounge memberships.
- 21.3 The amount of the subsidy will be:
 - (a) \$600 for an ongoing employee;
 - (b) \$500 for a non-ongoing (temporary) employee; and
 - (c) \$400 for a sessional or casual employee.
- 21.4 Ongoing employees who commence part-way through the year (August to July) will receive a pro rata payment on commencement.

- 21.5 Non-ongoing (temporary) employees, including sessional or casual employees, who are employed as at 1 August will receive a pro rata payment based on the remaining period of their employment contracts.
- 21.6 Non-ongoing (temporary) employees, including sessional or casual employees, who commence employment after 1 August will receive a pro rata payment of the subsidy (based on the length of their employment contracts) at the commencement of each employment contract, including extensions, up to a maximum of the subsidy.

22. Employee assistance

- 22.1 The department will provide employees with access to a confidential, professional counselling service, at no cost to employees. Employees may have unlimited access to the service for support in resolving work-related matters and generally up to three sessions for support in resolving personal matters.

23. Excess employees

- 23.1 The provisions of clauses 23.2 to 23.31 apply to ongoing employees who are excess to the requirements of the department. They do not apply to:
- (a) an employee whose period of probation has not expired; or
 - (b) a non-ongoing (temporary) employee.
- 23.2 For the purposes of this Agreement, an employee is excess to the requirements of the department if:
- (a) the employee has a classification at which there is a greater number of employees than is necessary for the efficient and cost-effective operations of the department; or
 - (b) the services of the employee cannot be effectively used because of technological or other changes in the work methods of the department or changes in the nature, extent or organisation of the functions of the department.

Consultation process

- 23.3 Once the Clerk is aware that an employee is potentially excess to requirements, the Clerk will advise the employee accordingly, and will discuss with the employee and, if requested, his or her nominated representative, the options available, including:
- (a) redeployment opportunities for the employee at or below his or her classification; and
 - (b) whether voluntary retrenchment might be appropriate.
- 23.4 The Clerk may, prior to the conclusion of these discussions, invite employees who are not potentially excess to express interest in voluntary retrenchment, where the retrenchment of those employees would permit the redeployment of the employees who are potentially excess.
- 23.5 The Clerk will immediately advise, in writing, those employees who are excess to the department's requirements:

- (a) after the discussions in clause 23.3 have been held; or
- (b) where the employee has been given reasonable opportunity and has declined to discuss the matter, one month after the Clerk had advised the employee under clause 23.3.

Offer of voluntary retrenchment

- 23.6 The Clerk may make one offer of voluntary retrenchment to an excess employee. If the Clerk does so, the employee will have one month in which to accept or decline the offer.
- 23.7 To enable an employee to make an informed decision on whether to accept or decline an offer of voluntary retrenchment, the employee must be given timely information on:
- (a) the amount of severance pay, pay in lieu of notice, and payment for unused leave credits;
 - (b) the amount of accumulated superannuation contributions;
 - (c) the options open to the employee concerning superannuation;
 - (d) the taxation rules applying to the various payments; and
 - (e) the availability of financial assistance up to a maximum of \$400 for financial advice.
- 23.8 If the employee does not respond to the offer within the one-month period, it will be taken to mean that the employee has declined the offer, and the retention period and redeployment action will continue.
- 23.9 Where the offer is accepted, the Clerk will not give notice of termination before the end of that one-month period without the agreement of the employee.

Notice of termination of employment

- 23.10 Subject to clause 23.9, where the excess employee agrees to the offer of voluntary retrenchment, the Clerk may approve the termination of the employee's employment in accordance with the *Parliamentary Service Act 1999*.
- 23.11 The period of notice of termination of employment:
- (a) five weeks for an employee over 45 years of age with at least five years of continuous service; or
 - (b) four weeks for all other employees.
- 23.12 The Clerk can direct, or the employee may request, an earlier termination date within the period of notice.
- 23.13 Where an employee is retrenched before the expiration of the notice period, payment in lieu of salary for the unexpired period of notice will be made.

Severance benefit on voluntary retrenchment

- 23.14 An excess employee whose employment is terminated under the *Parliamentary Service Act 1999* as a result of accepting an offer of voluntary

- retrenchment is entitled to be paid a severance benefit. The severance benefit is a sum equal to two weeks' salary for each completed year of service, plus a pro rata payment for completed months of service since the last completed year of service unless:
- (a) the employee has completed more than two years of service but less than three years of service – in which case the employee is entitled to be paid a sum equal to six weeks' salary; or
 - (b) the employee has completed more than three years of service but less than four years of service – in which case the employee is entitled to be paid a sum equal to seven weeks' salary.
- 23.15 The minimum sum payable will be four weeks' salary and the maximum will be 48 weeks' salary.
- 23.16 The severance benefit will be calculated on a pro rata basis for any period where an employee has worked part-time hours during their period of service and the employee has less than 24 years' full-time service.
- 23.17 Where an excess employee's employment is terminated under the *Parliamentary Service Act 1999* as a result of accepting an offer of voluntary retrenchment but the severance benefit payable under clauses 23.14 to 23.16 is not treated as payment in respect of bona fide redundancy for the purposes of the *Income Tax Assessment Act 1936*, the benefit payable will be increased to the extent necessary to ensure that the net benefit payable, after tax, is equal to the benefit that would be payable had the payment been treated as a payment in respect of a bona fide redundancy for tax purposes.
- 23.18 Subject to clauses 23.19 to 23.21, service for severance benefit purposes means:
- (a) service in the department;
 - (b) Government service as defined in section 10 of the *Long Service Leave Act 1976*;
 - (c) service with the Commonwealth (other than service with a Joint Commonwealth-State body corporate in which the Commonwealth has a controlling interest) which is recognised for long service leave purposes;
 - (d) service with the Australian Defence Forces;
 - (e) service in the Australian Public Service immediately preceding deemed resignation under repealed section 49 of the *Public Service Act 1922*, if the service has not previously been recognised for severance pay purposes; and
 - (f) service in another organisation where:
 - (i) an employee was transferred from the Australian Parliamentary Service or the Australian Public Service to that organisation with a transfer of function; or
 - (ii) an employee engaged by that organisation on work within a function is transferred, as a result of the transfer of that function, to the Australian Parliamentary Service or the Australian Public Service;and such service is recognised for long service leave purposes.

- 23.19 For earlier periods of service to count there must be no breaks between the periods of service, except where:
- (a) the break in service is less than one month and occurs where an offer of employment with the new employer was made and accepted by the employee before ceasing employment with the preceding employer; or
 - (b) the earlier period of service was with the Australian Public Service and ceased because the employee was deemed to have resigned from the Australian Public Service on marriage under repealed section 49 of the *Public Service Act 1922*.
- 23.20 Any period of service which ceased:
- (a) through termination on the following grounds, or on a ground equivalent to any of the following grounds:
 - (i) the employee lacks, or has lost, an essential qualification for performing his or her duties;
 - (ii) non-performance, or unsatisfactory performance, of duties;
 - (iii) inability to perform duties because of physical or mental incapacity;
 - (iv) failure to satisfactorily complete an entry level training course;
 - (v) failure to meet a condition imposed under subsection 22(6) of the *Parliamentary Service Act 1999*;
 - (vi) a breach of the Public Service Code of Conduct or the Parliamentary Service Code of Conduct; or
 - (b) on a ground, equivalent to a ground listed above, under the repealed *Public Service Act 1922*; or
 - (c) through voluntary retirement at or above the minimum retiring age applicable to the employee; or
 - (d) with the payment of a redundancy benefit or similar payment or an employer-financed retirement benefit;
- will not count as service for severance benefit purposes.
- 23.21 Absences from duty which do not count as service for long service leave purposes will not count as service for severance benefit purposes.

Rate of payment – severance benefit

- 23.22 For the purpose of calculating any payment under clauses 23.14 to 23.16, salary will include:
- (a) the employee's salary at their substantive classification; or
 - (b) the salary of the higher classification, where the employee has been assigned to the higher classification for a continuous period of at least 12 months immediately preceding the date on which the employee is given notice that his or her employment is to be terminated; and
 - (c) a weekly average of shift penalties where an employee has undertaken shift work and has received shift penalties for 50% or more of the pay periods in the 12 months preceding the notice of retirement; and
 - (d) allowances in the nature of salary which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred, or a payment for disabilities associated with the performance of duty.

Retention periods

- 23.23 Unless the excess employee agrees, his or her employment will not be terminated until the following retention periods have elapsed:
- (a) 13 months (less the redundancy pay period determined in accordance with subsection 119(2) of the *Fair Work Act 2009*) where an employee has 20 or more years of service or is over 45 years of age; or
 - (b) seven months (less the redundancy pay period determined in accordance with subsection 119(2) of the *Fair Work Act 2009*) for other employees.

Note: The retention period will be reduced to reflect that, under the NES, an employee is entitled to redundancy pay in respect of the redundancy pay period.

- 23.24 The retention period will commence on the date the employee is advised in writing by the Clerk that he or she is an excess employee.

Redeployment action

- 23.25 During the retention period the Clerk:
- (a) will continue to take reasonable steps to find alternative employment for the excess employee;
 - (b) will consider excess employees who are applicants in isolation from, and not in competition with, other applicants for employment opportunities at the employee's substantive classification or below;
 - (c) may refer the employee to any redeployment services;
 - (d) will provide reasonable paid leave, and pay reasonable travel and incidental expenses incurred, in seeking alternative employment and attending interviews where these costs are not met by the prospective employer; and
 - (e) after taking the above steps, may, if the employee has not been found alternative employment, reduce the excess employee's classification as a means of securing alternative ongoing employment for the excess employee. Where this occurs before the end of an employee's retention period, four weeks' notice must be given, and the employee will continue to be paid at his or her previous classification for the balance of the retention period. His or her previous classification will include the salary of a higher classification where the employee has been performing work at the higher classification for a continuous period of at least 12 months immediately preceding the date on which he or she was reduced in classification, provided the employee would have continued to act but for the excess employee situation. The associated salary will also include allowances or loadings which are paid during periods of leave and on a regular basis.
- 23.26 During the retention period, the employee:
- (a) will take reasonable steps to find alternative employment; and
 - (b) will actively participate in learning and development activities, trial placements or other reasonable arrangements designed to assist the employee in obtaining an alternative placement.

Involuntary retrenchment

- 23.27 If redeployment action has taken place in respect of an excess employee for two months and:
- (a) there is no reasonable prospect of redeployment; and
 - (b) the Clerk is satisfied that there is insufficient productive work available for the employee within the department during the remainder of his or her retention period;
- the Clerk may, with the agreement of the employee, terminate the employment of the employee.
- 23.28 Where, with the agreement of the employee, the Clerk terminates the employment of the excess employee, the employee will be paid:
- (a) the balance of the retention period (as reduced by the NES under clause 23.23 above), as a lump sum and this payment will be taken to include the payment in lieu of notice of retirement; and
 - (b) an additional redundancy payment equal to the amount the retention period was reduced under clause 23.23 above (i.e. the NES component).
- 23.29 The Clerk may terminate the employment of an excess employee at the end of the retention period.
- 23.30 An excess employee will not be retrenched involuntarily if the employee has not been invited to accept an offer of voluntary retrenchment.
- 23.31 An excess employee will be given the following notice, or payment in lieu of notice, where it is proposed that he or she be retrenched involuntarily:
- (a) five weeks for an employee over 45 years of age with at least two years of continuous service; or
 - (b) four weeks for all other employees.