

Public Sector Reform Reforming the Public Sector to Deliver Improved Services to the NSW Community

Supplementary Questions and Answers

This supplementary document has been prepared following Metropolitan and Regional Briefings by the Public Service Commissioner during March and April 2013.

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GENERAL

1. Who is in-scope for the purposes of the executive structure reforms?

The new executive structure reforms will affect a subset of contract-based and award-based executives earning a base salary of \$140,067 and above. Some positions with base salaries lower than \$140,067 are included because they form part of a SO-equivalent classification system, for example, the Treasury's Technical Officers.

The majority of executive positions that are considered to be 'in scope' are predominantly engaged in managing people, functions and/or services but this group also includes specialists whose professional specialty is found across clusters.

Senior Executive Service (SES), Transport Senior Service and Senior Officer (SO) and equivalent positions are 'in scope' for the purposes of the reforms. Also 'in scope' is SOs under the *Crown Employees (NSW Police Force Administrative Officers and Temporary Employees) Award* and a small number of civilian NSW Police Force Senior Executive Service corporate positions.

Major exclusions are those executive-level positions that are covered by profession-specific statutory arrangements and other specific exceptions such as judicial and public office holders. These 'out of scope' positions may include specialists who manage people, functions and/or services but they predominately belong to an occupational group that is largely confined to a single department or cluster such as NSW Health, NSW Police Force or the Department of Education and Communities.

2. Are the reforms intended to significantly reduce executive numbers and is there a reduction target?

The key objective of the executive reforms is to improve management and leadership in the public sector. The purpose is not to freeze or arbitrarily cut executive numbers, nor has a target been set for reduction in executive numbers as a whole across the sector or by cluster or agency. However, it is anticipated that the redesign process will result in some reduction in executive numbers as a result of flattening structures (i.e. creating a structure with fewer executive layers) and increasing span of control where appropriate.

INTERIM ARRANGEMENTS

3. What interim arrangements will operate pending commencement of the new executive arrangements?

The Public Service Commission recently published *Circular 2013-02 'Executive Interim Arrangements'*, to operate pending implementation of the new executive structure and arrangements in the NSW public sector ([See PSC Circulars and Memos - Public Service Commission](#)).

Creation and filling of SES, SO and 'in scope' equivalent positions:

- No new permanent SO or 'in scope' equivalent positions are to be created. Where there is a pressing need to create a permanent SO or equivalent position, consideration will be given to determining the new position as SES;
- The creation of a new SES position should be offset, where possible, by the deletion of an existing SES or SO position. Agencies can create an additional SES position, without an offset, where the position is immediately essential to deliver a priority of Government; and
- Existing vacant SO or equivalent 'in scope' positions can be filled on a temporary basis only, for a period of up to two years. However an officer who is either affected under the 'Agency Change Management Guidelines' or excess under Premier's Memorandum 2011-11, and fulfils the requirements for appointment to such a position, can be permanently appointed.

Advertising of SES, SO and 'in scope' equivalent positions:

- All job advertisements for SES, SO and equivalent 'in scope' positions subject to the new executive arrangements should indicate that they will be affected by new structural and employment arrangements expected to be introduced over the next three years.
- In the case of SO and equivalent 'in scope' vacancies, the advertisement should indicate that they are to be filled on a temporary basis only – up to a maximum of two years.

NEW EXECUTIVE STRUCTURE

4. How will the new executive structure operate? What are the governance arrangements? Will Secretaries be the employer for all executives in the Cluster?

The existing Chief Executive Service, eight-level Senior Executive Service, and award-based Senior Officer structure and equivalents, will be replaced by a single executive structure across the public service.

The new executive structure will provide for a single NSW Public Service Senior Executive that will be employed on a common basis and working within consistent service-wide work levels.

The title of *Secretary* will replace Director General for heads of principal departments, and the new simpler executive structure will comprise the following four broad bands:

- State Executive – Department Secretaries, the Public Service Commissioner and the NSW Police Commissioner
- Senior Executive Band 3 – Deputy Secretaries and Agency Heads
- Senior Executive Band 2 – Executive Directors and Agency Heads
- Senior Executive Band 1 - Directors

The Premier will be the employer of the Secretaries of Departments. Secretaries will hold the employer functions for all executives and employees within their Departments. They will also have some employer functions, including recruitment, movement and termination, for executives of the 'in scope' agencies within their Cluster.

However, the heads of independent agencies, such as the Independent Commission Against Corruption, the Police Integrity Commission, the NSW Ombudsman, and the Crime Commission, will hold the employer functions in relation to all staff within their agency.

5. Will there be executive caps?

It is not intended to place limits on the numbers of executives in Departments and Executive Agencies. This approach reflects the January 2012 Commission of Audit's *Interim Report on the Public Sector*, which does not support the use of centrally-imposed executive caps or employee freezes and recommended that cluster directors general should determine the workforce composition of their cluster, including the appropriate number of front line staff, support staff and SES officers. Both recommendations were supported by the Government.

However, the Public Service Commission will provide guidance on the appropriate proportions of Executives in Clusters and will report on workforce composition in the State of the Public Sector reports each year.

6. How will the broad band structure operate in practice?

The Premier will determine the Executive band structure.

The Statutory and Other Offices Remuneration Tribunal (SOORT) will determine the remuneration ranges for each Senior Executive band.

Principal Department Secretaries will determine their cluster's executive establishment using a combination of work level standards, required

capabilities and job evaluation to determine which band the role should be assigned to and its particular pay point within the band.

Independent agencies will determine their executive establishment and employment arrangements for their own agencies.

There will be a capacity to adjust the executive's remuneration within an agreed range, based on rules developed by the Public Service Commission.

7. Will there be intra-band reporting? Will there be levels within bands? Will there be overlapping bands?

It is not anticipated that there will very many cases of executives within one of the three Senior Executive bands reporting to an executive within the same band. Nevertheless, some intra-band reporting is expected, for example where a specialist is engaged to provide specific expertise or conduct a time limited project. This arrangement occurs in the other Australian jurisdictions where broad bands operate, such as the Commonwealth and Victorian public services.

There will be no levels within bands or overlapping of executive bands.

8. Will the new structure provide for individual Senior Executive contributors who may not have any direct reports?

Yes, the band structure can accommodate roles which require specialist technical knowledge, manage contractors or manage large outsourced contracts, but do not have any direct reports. However, it is anticipated that, through the redesign of each cluster's executive establishments, the number of those individual contributors would reduce.

9. How will appointment to a Senior Executive band and assignment to role work on transition to the new system?

The Public Service Commission will establish executive work-level standards to guide the assignment of roles to one of the three bands and a method based on required capabilities and job evaluation to peg each role to a salary range within a band.

Roles in the new executive structure will be filled in the first instance from within the ranks of existing executive staff (contract and award) on the basis of an assessment methodology currently being developed by the Public Service Commission.

Senior Executives will be employed at the relevant band and then assigned to the role.

Over time, Senior Executives can be assigned to other roles within the band, both within their cluster and across clusters. This mobility will promote breadth of experience, which will increase and broaden individual capability. The Public Service Commission will issue guidance on how these movements are managed, including consultation with Senior Executives.

10. Will there be variance in spans of control and management layers across and within clusters?

It is anticipated that both spans of control (number of direct reports to a role) and executive layers within and across clusters will vary to some extent depending on the nature of the agency and the service it provides. While the Public Service Commission will issue design principles, the cluster secretaries will determine the configuration and deployment of senior executive roles across the Department and Cluster agencies.

TRANSITIONAL ARRANGEMENTS

11. What will the process be to fill roles in the new structure? What will happen if an officer is unsuccessful or chooses not to apply for a new executive role?

As outlined in question 9, there will be an assessment process for employing executives within a particular band and then assigning them to a role in the new structure. The approach adopted by clusters will be based on common design principles but may vary in detail. The Public Service Commission will provide guidance to secretaries about the assessment principles and process and may conduct, on behalf of the clusters, some form of centralised assessment.

If an SO or equivalent decides not to participate in the assessment process or does participate but is unsuccessful in gaining an appointment, they will become excess once their current position is deleted. If they are covered by the Managing Excess Employees (MEE) policy, they will be treated in accordance with that policy, including its voluntary redundancy (VR) provisions. If they are not covered by the MEE policy, they will be treated in accordance with the excess employee and VR policies that do apply to them.

An SES officer who chooses not to apply for a role or who is unsuccessful in gaining a role, will be eligible to go to the Statutory and Other Offices Remuneration Tribunal once their current position is deleted. Their current entitlement to compensation upon termination will apply.

12. Who makes the decision about where a role fits within the broad banded structure?

The decision about the band in which a Senior Executive role is positioned will be informed by executive work level standards, which will be used across the Public Service to assign executive roles to one of the three bands.

The decision about the pay point for a role within a band will be informed by a combination of required capabilities and job evaluation methodology. Both of these decisions will be made by the cluster secretary.

13. Will accrued recreation leave, sick leave, extended leave and family and community service leave entitlements transfer when a SO and SES is appointed to a band?

Yes, all accrued leave entitlements (other than flex leave) will be recognised and transfer across where an employee is appointed into the new executive structure.

14. Will Senior Officers be compensated for loss of benefits such as flex time when appointed to a band within the new executive structure? What are the implications for Senior Officer superannuation under the new arrangements?

Senior Officers will not be compensated for loss of benefits, such as flex time. However, it is intended that current SOs who move to the new executive arrangements will be no worse off financially at the point of transfer if they move to a role of equivalent work value. Consideration will be given to aspects such as superannuation and leave loading.

15. Is there a possibility of deferring changes to a position until the current occupant retires or finishes working in circumstances where there is a defined period for that?

All clusters will transition to the new arrangements within three years with most expected to have completed the process within two years.

The timing of the transition from the current to the new executive arrangements will be a matter for each cluster secretary. It is expected that each cluster will switch from the existing arrangements to the new at a single point in time.

16. What role will the Public Service Commission play in the implementation of the new arrangements? How centralised will the process be? What mechanisms will there be to ensure that there is a consistent approach across the sector?

In addition to the development of the new legislation, the Commission has also commenced the development of supporting directions, guidelines and other resources to assist and guide agencies in implementing the new reforms across the sector. This will ensure a level of consistency across the sector while allowing sufficient flexibility to meet the local / particular circumstances of each Cluster and its agencies.

The executive reforms are complex, and time and resource intensive. The Public Service Commission is establishing a temporary transition support team of high-level human resources and change management experts to assist departments and agencies with implementing the executive structure arrangements, and the broader public service reforms.

17. When will the Work Level Standards be finalised?

The Public Service Commission is developing a package of resources to assist Cluster Secretaries to develop their new executive structures and implement the broader public service reforms.

The development of Executive Work Levels Standards to be used to assign executive roles to bands is underway. These standards will indicate, in broad terms, the kind of work performed at each band level. Required capabilities and a numerical job evaluation method will then serve to place roles at specific points within the band. It is anticipated that this work will be finalised during the second half of 2013.

18. How will the Capability Framework be used?

The Public Service Commission is developing a revised *Capability Framework*, drawing on the existing *NSW Public Sector Capability Framework* and the draft Executive Capability Framework, as well as other inputs such as the legislated NSW public sector values. The new Framework will deliver a single, streamlined, plain English and user friendly framework which reflects the capabilities required of all public sector employees in NSW, including executives.

The framework will provide a common foundation for the full range of workforce management and development activities, including: workforce planning, role design and description, recruitment, performance management, learning and development, talent management and succession planning.

NEW EXECUTIVE SERVICE - REMUNERATION

19. What are the remuneration ranges for the new four band structure? How will salary progression occur within the band? Are there pay points in each band and how is progression managed to each pay point?

The Statutory and Other Offices Remuneration Tribunal will determine the remuneration ranges for each Senior Executive band.

Cluster secretaries will determine their cluster's Senior Executive establishment as described in response to questions 9, 12 and 17. Each role will be pegged to a defined salary range within the band. There will be a capacity to adjust the executive's remuneration within this range, based on rules developed by the Public Service Commission.

20. Will there be performance pay?

Performance pay will not form part of the executive reforms.

21. Will the role of the Statutory and Other Offices Remuneration Tribunal change under the new arrangements?

The Tribunal will determine the remuneration ranges for each Senior Executive band.

However, it will no longer determine compensation payable in the event of termination of a contract in the new executive structure. The termination provisions, including compensation upon termination, will be governed by the new legislation and in the new executive contract of employment.

22. Will Wages Policy apply to the new executive arrangements?

Yes, the NSW Public Sector Wages Policy 2011 will apply to the new arrangements.

NEW EXECUTIVE SERVICE – ENTITLEMENTS

23. Will there be any changes to current entitlements such as sick, extended purchased, family and community service leave? Will there be standard working hours? What provisions will there be to allow flexibility in working hours?

There will be no change to current sick, extended, purchased, family and community service leave entitlements as they currently apply to SO and SES in Public Service departments and agencies.

Flexible working arrangements available under current SES arrangements, such as part-time work, job sharing, and working from home, will continue to be available under the new executive structure. As is currently the case, these arrangements will be subject to the operational requirements of the agency.

Working hours' arrangements for the new executive structure will be in accordance with the terms of the contract of employment.

NEW EXECUTIVE SERVICE - CONTRACT OF EMPLOYMENT

24. Will there be a standard employment contract across the new Executive Service? What will be in the employment contract?

There will be a standard contract of employment for executives across the NSW public sector. Contracts of employment will be ongoing, except if the circumstances require a time-limited fixed term contract, such as for designated policy or project work.

Although yet to be finalised, the executive employment contract will include the standard terms and conditions of employment such as nature of the engagement (ongoing or time limited), the role the executive is being assigned to, the Total Remuneration Package, part-time or job sharing work arrangements (where applicable), leave entitlements, and termination provisions, including compensation upon termination.

There will not be cluster or agency-specific inclusions, nor will executives have the ability to individually negotiate terms and conditions of employment.

MOBILITY IN THE NEW EXECUTIVE SERVICE

25. How will mobility occur, given that Senior Executives will be appointed to a band rather than a position? Will it be within a cluster or across clusters and will it extend to the regions?

Appointment to a Senior Executive band rather than a position will facilitate executive mobility from one assigned role to another to ensure resources are deployed to organisational priorities and to enhance individual capabilities for development purposes. Mobility will be within an agency, within a Cluster or across Clusters.

The Public Service Commission will provide guidance on the management of mobility, including consultation with employees.

TIME FRAME FOR IMPLEMENTATION

26. What is the time frame for implementing the reforms? When does the three year implementation period begin?

The three-year implementation period will begin once the new Act commences. It is anticipated that this will occur in late 2013.

Departments and cluster agencies will design and implement wholly new executive structures based on the simplified design and principles.

Implementation will occur over a three year period. The timetable for each cluster may depend on recent organisational restructures and reforms within that cluster. It is anticipated that the majority of the new executive structure will be implemented in clusters within two years, and the whole completed within three years.

UNION CONSULTATION

27. What union consultation has taken place and what is planned for the future?

The Public Service Commissioner has briefed the Union Consultative Forum.

The Commissioner has also begun regular meetings with the Public Service Association, which are expected to continue throughout the reform process.

OTHER REFORMS

28. Is there any intention to reform selection criteria, position descriptions and the recruitment process in general, as part of the reforms? Will the reform of the selection process occur in tandem with executive structure reforms?

A 2012 PSC review confirmed the Commission of Audit's finding that recruitment in the NSW public sector is process driven, with assessment methods not best suited to assessing merit based on demonstrated capabilities. A suite of proposed changes will aim to introduce modern and contemporary recruitment practices together with a more cost effective approach to advertising and filling roles.

Improved selection processes will be available for use in the executive structure reforms.

29. Will there be ‘delaying’ of Administrative and Clerical Officer grades? What is the timetable for the rest of the public sector reform?

It is not proposed to change the Administrative and Clerical Officer grades.

It is anticipated that the majority of the Executive Structure reforms will be implemented in Clusters over the next three years. A timetable for each reform will vary and be advised in due course.

30. Will there be a performance management framework rolled out in parallel with these reforms? Will the reforms look at performance management and misconduct provisions within the current Act?

Under current legislation, it is mandatory for agencies to have a performance management system in place from 1 July 2013. The Public Service Commission will issue guidelines to public sector agencies on the essential elements of a performance management system prior to that date. The performance development framework will be reviewed annually to align with the broader reforms as they are implemented.

Under the reform proposals now being finalised, management of underperformance will be dealt with separately from management of misconduct.

The PSC website will be kept up to date with developments at www.psc.nsw.gov.au/publicsectorreform

Regular updates will also be provided in the PSC e-newsletter, [WorkWise](#).

You may also email any questions to publicsectorreform@psc.nsw.gov.au