



Directive

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Sub Category	Managing Excess Employees
Summary	Managing Excess Employees Advice To Agencies No 2 Of 7 July 2011 Workers Compensation explains how the Managing Excess Employees policy is applied to employees on workers compensation, who no longer have a substantive position.
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This Directive may be varied, withdrawn or replaced at any time without notice



MANAGING EXCESS EMPLOYEES

ADVICE TO AGENCIES

No. 2 of 7 JULY 2011

WORKERS COMPENSATION

This advice is provided to help agencies apply the *Managing Excess Employees* policy in Premier's Memorandum 2011-11, which takes effect on 1 August 2011.

Workers Compensation

Can an employee on workers compensation be declared excess?

An employee on workers compensation may be declared excess when they no longer have a substantive position. Declaring the employee excess must not be due to an employee's work-related injury or illness.

They should be notified that they are excess and given the choice of voluntary redundancy or the three month retention period. However, consideration may need to be given to a retention period that takes into account any restrictions on the work the employee can undertake as a result of the employee's injury.

If an excess employee on workers compensation chooses voluntary redundancy, they exit the service pursuant to the *Managing Excess Employees* policy.

It should be noted that acceptance of a redundancy payment does not, by itself, deny an injured employee compensation where there is continuing incapacity to work.

Where an excess employee on workers compensation does not accept voluntary redundancy, the length of the retention period may need to be varied on the basis of the individual circumstances of each employee.

For example, an excess employee who is on a Return to Work plan, and who is restricted in the work they can perform, may be constrained in seeking redeployment to a suitable position during the 3 month retention period depending on an assessment of whether that position can accommodate the Return to Work plan. The agency must assess this on a case-by-case basis. Although an agency cannot extend the retention period, the agency head may seek approval from the Department of Premier and Cabinet to extend the retention period.

Obligations

Agencies' obligations under other relevant legislation and awards are not altered by the *Managing Excess Employees* policy or this advice.

For further information, please contact Public Sector Workforce on 9228 4444 or psw@dpc.nsw.gov.au.