

PART 3: CONTRACT OF EMPLOYMENT

15. DIRECT AND PERMANENT EMPLOYMENT

Statements of Government Preference

- 15.1 The Western Australian Government recognises that:
- (a) direct employment is the preferred form of engagement, noting this may not be practicable or financially achievable in all circumstances; and
 - (b) permanent employment is the preferred mode of employment for Employees covered by this Agreement.
- 15.2 The Employer recognises that casual employment, labour hire, and other contract for service arrangements are not the preferred methods for delivery of services, and the Employer will work towards minimising the use of casual employment, labour hire and other contract for service arrangements.

Government Temporary Labour Hire Review

- 15.3 The use of temporary labour hire arrangements will be limited to the circumstances set out in Approved Procedure 5 – Approved Contracts for Services Procedures (AP 5).

[Approved Procedure 5 – Approved Contracts for Services Procedures \(AP5\)](#), as issued by the Public Sector Commission, outlines the appropriate circumstances for entering into contracts for service, including labour hire arrangements.

- 15.4 PSC will conduct regular compliance reviews to ensure Employers are complying with AP 5. The findings of these reviews will be provided to the Peak Consultative Forum (PCF) for consideration. Employers found to be non-compliant with AP 5 as a result of the reviews will be directed to comply with AP 5.
- 15.5 The Union may refer concerns about the potential misuse of labour hire contracts to the PCF.
- 15.6 During the life of this Agreement, the PCF will conduct a review of existing contract for service labour hire arrangements and associated procedures across the Public Sector.
- 15.7 The review will consider:
- (a) reasons for the use of labour hire rather than direct employment; and
 - (b) opportunities for work currently being done by labour hire arrangements to be delivered by the Public Sector where it is financially viable to do so.
- 15.8 Employers are to provide any information requested by the PCF to support the review in a timely manner.

Further information about the PCF labour hire arrangements review will be provided to agencies in due course. For the purposes of the review, agencies are encouraged to ensure they have available accurate information regarding labour hire arrangements to which they are a party.

15.9 The parties agree to consult through the PCF on any changes proposed to AP 5.

Joint Consultative Committee Access to Information

15.10 Within 60 days of a request being made in writing, the Employer will provide to the Joint Consultative Committee (JCC) the names of the labour hire businesses used; the functions undertaken; the headcount number of labour hire employees performing the work; and the amount of money paid to each labour hire business.

Surplus Employees

15.11 Prior to engaging, or extending the engagement of, a labour hire employee, or otherwise entering into a new or extended labour hire arrangement, the Employer must first consider whether any permanent Surplus employees can undertake the role or duties required. All duties undertaken by labour hire employees will be assessed every three months for the possibility of a Surplus employee instead undertaking the role or duties. If a permanent Surplus employee can undertake the role or duties, they will be offered the employment.

Employers are required to consider whether any permanent Surplus employees can undertake the roles or duties of labour hire employees:

- before engaging or extending a labour hire employee or entering into or extending a labour hire arrangement, and
- every three months during the life of a labour hire arrangement.

15.12 Where more than one appropriate permanent Surplus employee exists, the following hierarchy shall apply for access to the role or duties:

- (a) internal Surplus employees are considered first;
- (b) if no internal Surplus employees are suitable, Registered employees from other employing authorities are considered; and
- (c) if no Registered employees are suitable, Registrable employees from other employing authorities are considered.

Employers are encouraged to use mechanisms under the [Public Sector Management \(Redeployment and Redundancy Regulations 2014\)](#) (the Regulations) to facilitate the placement of permanent Surplus employees. The Public Sector Commission can provide advice on the application of the Regulations.

In the first instance, the Employer needs to identify whether the vacancy is ongoing or temporary.

Where the vacancy is temporary the Employer is to determine how the employment arrangement is facilitated under the Regulations and the Employer's legislative framework, e.g. by secondment arrangement, temporary deployment, or a fixed term contract (where appropriate).

Where the vacancy is ongoing, the Employer can seek to permanently employ the Surplus employee under the Regulations and the Employer's legislative framework.