



## 1. Title: **Best practice guidelines for maximising employment security**

2. Effective Date: **10 May 2002**

3. Reviewed: **20 October 2008**

### 4. Introduction:

Queensland Government continues to support employment security as a priority for the public sector. Agencies are encouraged to maximise tenured employment while continuing to deliver services in a timely, effective and cost efficient manner.

It is acknowledged that achieving these objectives is becoming increasingly difficult for both private and public sectors. Significant changes to the nature of the workforce (a more competitive and skilled labour market, changing attitudes about the value and nature of work, increased workforce mobility and an increasing desire of employees to balance work and family) are driving organisations to be more conscious of the need for good planning in all areas of business operations. Of particular importance is workforce planning which aims to ensure that recruitment and staff utilisation are appropriate for the achievement of business outcomes.

*Best practice guidelines for maximising employment security* aims to provide agencies with a background to the legislative frameworks governing public sector employment and to identify some issues to consider in the determination of the most appropriate employment arrangements, in order to meet both business needs and government commitments.

Through developing an understanding of the appropriate use of non-permanent employment and by examining their current workforce profiles utilising workforce planning processes, agencies will be well-placed to meet both key objectives of employment security and service delivery.

### 5. Background:

#### 5.1. Definition

**“Employment security”** refers to the implementation of human resource management policies and practices that:

- maximise tenured employment where possible;
- utilise casual or temporary forms of employment only where tenured employment is not viable or appropriate;
- limit the use of contracting out of services in accordance with government policy;

- ensure that tenured public sector employees will not be forced into unemployment as a result of restructuring or organisational change, other than in exceptional circumstances; and
- where organisational changes impact on employment arrangements, actively assist employees retrain for other roles and deployment opportunities.

Employment security underpins the government's commitment to a career public service and the creation of jobs in Queensland. It also reflects the government's desire to promote best practice in the employment of its own workforce.

Definitions of casual, temporary and contract employment and their appropriate use are discussed in a later section of this paper.

## **5.2. Existing legislative and policy framework**

Queensland Government has given commitments to employment security and this has been demonstrated through its policy framework and Queensland public sector enterprise bargaining agreements.

### **5.2.1. Policy framework**

The *Queensland Government policy on contracting-out of services* emphasises to agencies that public servants are the preferred providers of public services in Queensland. It ensures that agencies are aware that Cabinet approval is required for out-sourcing which has a significant impact on employees.

The *Employment security policy* demonstrates the government's commitment to the public service workforce. It covers all tenured employees of Queensland Government departments, public service offices and public sector units - including, teachers, health workers, police officers, and fire and ambulance officers. It provides a commitment to all aspects of employment security as detailed in the definition provided at the beginning of this paper. Agencies are also required to talk to their employees and their representatives about their intentions to implement any changes that may affect the security of their employment before commencing any changes.

### **5.2.2. Certified agreements**

Employment security is of critical importance to public sector unions and is included in most certified agreements covering Queensland public sector employees. The *State Government Departments Certified Agreement 2000* contained a group of initiatives to support the principles of the *Employment security policy*. A major principle in this agreement was the commitment to maximising permanent employment where possible, and utilising casual or temporary forms of employment only where permanent employment is not viable or appropriate. The Central Peak Consultative Committee (CPCC) was established to oversee the implementation of the agreement. The Queensland Council of Unions, Queensland Public Sector Union and Australian Workers' Union were represented on this body.

### **5.2.3. Directives**

To ensure the consistency, transparency and equity of the recruitment and selection of public sector employees, agencies must conform to centrally issued directives. A number of directives support the maximising of tenured employment in certain circumstances:

- Directive 03/09 – *Recruitment and selection* (formerly Directives 04/06, 01/04 and 01/03)
- Directive 15/08 - *The employment of temporary employees engaged on a full time or part time basis*

- Directive 22/05 – *The retrenchment of temporary employees engaged on a full time or part time basis*

Note that these directives are likely to be reviewed over time, and it is recommended that readers refer to the directives that are current at the time of reading.

#### **5.2.4. Changes to industrial relations provisions**

Recent trends and decisions in the industrial relations environment are reducing the attractiveness of utilising non-tenured forms of employment. For example:

- The law relating to casual and permanent employment is continually evolving, and the Queensland Industrial Relations Commission is increasingly prepared to find that a longer-term casual or temporary employee is, in fact, a permanent employee. As a permanent employee, the individual may have increased access to the unfair dismissals jurisdiction as well as to other entitlements, such as introduction to change and redundancy pay.
- Temporary and casual employees are able to access salary increments more rapidly than before.
- Various employment conditions (such as maternity leave) have been extended to casuals who meet relevant eligibility criteria.

## 6. Advantages and disadvantages of non-tenured employment

The advantages and disadvantages of non-tenured employment for both the organisation and the employee are outlined below.

	Advantages	Disadvantages
For the Organisation	<ul style="list-style-type: none"> <li>Organisational flexibility to allow staffing of irregular work (such as supply teachers, volunteer firefighters etc), temporary projects, and temporary absences.</li> <li>Support for the employment security of other public sector employees (for example to facilitate an employee's return to their substantive position following a period of secondment or higher duties).</li> <li>Flexibility to target employees with specific knowledge or skills otherwise not found within the organisation.</li> </ul>	<ul style="list-style-type: none"> <li>Impact on employee morale and commitment.</li> <li>Impact on quality of advice. Traditionally, the public sector has provided secure employment to recognise the nature of its work and provide an environment where employees are encouraged to provide professional and impartial advice to the government of the day. Less secure forms of employment may lead to employees being less comfortable providing a wide variety of options or advice.</li> <li>Temporary and casual employees, by the nature of their employment, are likely to leave the organisation, which can be a significant loss to the organisation (e.g. intellectual capital, loss of the investment in training and development, decline in workforce skills)</li> <li>Impact on service delivery, particularly if temporary/casual employees leave ahead of their scheduled completion date in order to take up more permanent opportunities.</li> <li>Impact on service delivery, if temporary and casual employees are not given sufficient access to training and development opportunities.</li> </ul>
For the Employee	<ul style="list-style-type: none"> <li>Short-term periods of employment provide development opportunities for employees to gain a working knowledge of the public sector and enhance their suitability for future permanent positions.</li> <li>Individuals may prefer to work on a casual basis in order to maintain flexibility of working hours and to receive a higher hourly payment in lieu of long-term benefits such as leave entitlements.</li> </ul>	<ul style="list-style-type: none"> <li>Inability to access some public sector employment protections (such as complaint based appeal mechanisms which uphold equity and merit).</li> <li>Employment conditions may differ from permanent employees, particularly in relation to leave and termination payments.</li> <li>Uncertainty of future employment which makes personal planning difficult.</li> </ul>

## 7. Best practice guidelines

The following guidelines are provided to assist agencies determine the most appropriate basis for engagement of employees. It is imperative that agencies first consider the relevant conditions of employment provided in awards, certified agreements or any other industrial instrument. Such instruments will provide specific conditions to be met, including minimum engagements, casual loadings etc. Agencies must also consider the Queensland Government's broad policy framework on employment security and the appropriate use of non-tenured employment in the Queensland public service.

Whatever strategies are used to maximise tenured employment, agencies should also consider:

- the relationship between a specific engagement and their workforce plan
- the on-going re-evaluation of temporary and casual engagements to ascertain the appropriateness of continuing the basis of engagement over time
- identification of optimal balance between full-time tenured, part-time tenured, temporary and casual employment to meet the business needs of the agency, and
- the balance between the needs for financial efficiency and quality service delivery.

Once such issues have been considered, and agencies examine their current workforce profiles using workforce planning processes, agencies will be ideally placed to satisfy Queensland Government objectives of employment security and service delivery.

## 8. Use of tenured employment

Tenured employees may work full-time or part-time hours. Other arrangements may include:

- job sharing – a voluntary arrangement whereby one job is shared between part-time employees
- aggregated/averaging ordinary hours of work – ordinary hours of work are averaged over a cycle with differential daily and weekly hours
- part-year employment – which offers employees a number of weeks/months unpaid leave per year, or extra leave for proportionate salary subject to requirements and organisational viability
- flexible shift arrangements – consideration of extending, altering and/or revising current shift arrangements eg extending working hours for a shift, staggered starts and finish times.

It is a requirement of the *Public Service Act 2008* (formerly *Public Service Act 1996*) that tenured employees are selected through a merit selection process following advertisement of the vacant position.

In accordance with the current directive relating to recruitment and selection, some jobs are exempt from advertising including vacancies for public service officer roles:

- designated to be in a Ministerial office
- subject to an industrial determination where the salaries, duties and designations of the job are modified
- at entry level (except for continuous applicant pools)
- to be filled temporarily for a period not exceeding 12 months
- to be filled by transfer or secondment at or below level.

An agency may also seek to conduct a limited applicant pool where exemption from advertising is required to minimise potential displacement of tenured employees or disruption to the workforce that may result from organisational restructuring. Proposals for limited applicant pools are to be agreed by the agency chief executive and relevant unions, and approved by the Public Service Commission Chief Executive.

Refer to the current directive relating to recruitment and selection for the complete list of circumstances and arrangements.

## **9. Use of temporary employment**

A temporary employee is employed for a defined period of engagement and receives most of the standard employment conditions, such as leave entitlements.

Temporary employees may work full-time or part-time hours.

The temporary employee should receive a letter of engagement specifying the period of engagement, salary and/or classification level, and any other details relevant to the engagement. The letter should state the terms under which the engagement may be terminated (generally at least two weeks notice).

The current directive relating to the employment of temporary employees engaged on a full time or part time basis outlines the minimum requirements of temporary appointment letters.

On completion of the period of engagement, the temporary engagement should not be automatically “rolled over” to a further temporary engagement without due consideration being given to the circumstances. If there is still a need for the employee’s services, then the nature of the work to be performed and the staffing situation should be examined to determine whether it may be more appropriate to engage the individual on a part-time or full-time tenured basis.

If it is not appropriate to offer the employee tenure, and if a decision is made to offer the individual another temporary engagement, then the offer and letter of appointment should be in writing stating the length of the engagement and the other matters referred to above. Each temporary engagement represents a new and finite period of employment, and should not be held out to be a continuation of the original engagement. Nor is it intended that temporary employment be used routinely as a de facto probation period.

## **10. Use of casual employment**

A casual employee is an employee who is:

- engaged on an hourly basis
- paid by per unit type
- paid a casual loading.

Employment of casual staff should be considered only when one or more of the following circumstances exist:

- where the hours to be worked are irregular
- where the hours to be worked are regular but award provision does not permit the engagement of part-time staff
- where the hours to be worked are less than the usual hours of a full-time employee, calculated on a weekly basis (unless otherwise stated in the relevant award and where part-time work is not considered appropriate), and
- where peak workload times of a short duration require additional staff for assistance.

Casual employees must be engaged in accordance with any applicable provisions of the award relevant to the designated position and/or calling. Any limitation of hours provided by an award must be adhered to.

## 11. Engagement of contractors, consultants and labour hire firms

Contractors and consultants are commonly engaged by agencies to complete a specific task or project, or for a specified period. Contractors and consultants are not employees, and as such the terms of the engagement (together with the rights and liabilities of both principal and contractor) will primarily be as set out in the contract or letter of engagement.

The *State Purchasing Policy*, together with departmental policy on the engagement of contractors and consultants, should be followed in every case.

Labour hire firms (or Employment Agencies) provide staff to public sector agencies for a variety of reasons including:

- to cover vacancies for short periods
- to work on special projects which have specific timeframes, and/or
- to meet needs for extra staffing during busy periods and to cover unexpected increases in workload.

Staff from such firms should only be used where no other suitable or practical recruitment strategy is available or in emergent situations.

Employment agency staff engaged by a public sector agency under this arrangement remain the employees of the employment agency. The *State Purchasing Policy*, together with departmental policy on the engagement of staff from labour hire firms, should be followed in every case.

## 12. Section 122 contracts

The use of fixed term employment contracts under section 122 of the *Public Service Act 2008* (formerly section 70 of *Public Service Act 1996*) provide public service agencies with the flexibility to attract and/or retain officers with critical skills for specific business needs by offering financial and/or other incentives. The engagement of officers on fixed term contracts of employment must be in accordance with the objectives of the relevant directive.

The fixed term period of the contract of employment can be made for periods of up to five (5) years or the duration of the specific project (whichever is the lesser period). Use of contracts must not circumvent Award provisions, Government policy or other human resource management policy and practice and/or other approved conditions of employment and entitlements.