



CIRCULAR TO DEPARTMENTS AND AUTHORITIES NO. 11 OF 2012

PUBLIC SECTOR EMPLOYMENT FLEXIBILITIES FRAMEWORK – EMERGENCIES AND OTHER ADVERSE EVENTS

This circular replaces Circular to Departments and Authorities No. 2 of 2008.

This circular contains the **Employment Flexibilities Framework** (the Framework) (attached) and provides the Public Sector Commissioner with scope to activate it under certain conditions.

Western Australia is at risk of events or circumstances that may disrupt agency staffing. These may include: a human influenza pandemic, widespread flooding, extensive bushfires and other man-made or natural disasters.

In the event of any such incident, agencies are expected to operate using flexibilities and entitlements under current industrial arrangements.

An emergency or other adverse event may impact on staffing to such an extent that the business continuity of an agency or the entire public sector is threatened. In this event, the Public Sector Commissioner may activate the Framework to assist agencies to manage staff in order to maintain business continuity.

The Employment Flexibilities Framework

- will both come into effect and cease to have effect by determination of the Public Sector Commissioner;
- will be activated for the entire public sector or for selected agencies as determined by the Public Sector Commissioner;
- provides CEOs with scope to apply additional industrial entitlements and flexibilities to their workforce; and
- operates in addition to agencies' existing business continuity plans.

All agencies are encouraged to review the staffing components of their business continuity and disaster management plans in light of this circular.

If you require further information about this circular, its application or agency responsibilities, please contact your Department of Commerce labour relations adviser.

A handwritten signature in black ink that reads "Bob Horstman". The signature is written in a cursive style with a horizontal line underneath the name.

**BOB HORSTMAN
EXECUTIVE DIRECTOR
LABOUR RELATIONS**

19 October 2012

Att.

ATTACHMENT A

PUBLIC SECTOR EMPLOYMENT FLEXIBILITIES FRAMEWORK

PURPOSE

To provide options for the management of the Western Australian public sector workforce during a serious threat to the business continuity of agencies.

RATIONALE

1. The Employment Flexibilities Framework (the Framework) modifies normal industrial relations arrangements and entitlements.
2. In an emergency or other adverse event, the strain on government services may be significant and the available workforce may be reduced.
3. Existing industrial instruments (awards and agreements) provide flexibilities which can be used to manage circumstances such as staff absences.
4. In keeping with the Public Sector Commissioner's Circular 2009-19, agencies are required to have a risk management policy and continuity plans.
5. The Framework operates in addition to these policies and plans. The Framework will be activated by the Public Sector Commissioner to assist agencies manage staff in order to maintain business continuity.
6. In taking the decision to activate the Framework, the Public Sector Commissioner may seek advice from the State Emergency Coordination Group and agency CEOs.
7. The Framework is practical and builds on conditions either already operating in the public sector, or identified as necessary through consultation with various departments.
8. The following labour relations principles underlie the Employment Flexibilities Framework:
 - a) Employers balance the requirement to continue the operations of the organisation with the employee's need to manage personal and community responsibilities.
 - b) Requests to access leave and anticipated leave should not be unreasonably withheld.
 - c) Standard industrial relations policies and practices in relation to salaries, wages and conditions apply and are enforceable, unless a variation is made through the appropriate processes.
 - d) Where workplace arrangements need to be varied, changes should be made in advance and in consultation with employees within the relevant legislative framework, and applied fairly at the workplace.

- e) Management should consult with their workforce and involve staff in the development of appropriate business continuity plans in accordance with the Public Sector Commissioner's Circular 2009/19.
- f) The process of determining employment arrangements for an emergency or other adverse event should not be used to pursue changes in pay and conditions unrelated to the crisis.
- g) Staff concerned about the safety of their work environment are expected to cooperate with their employer to address these concerns.

FLEXIBILITIES AND ENTITLEMENTS

1. Payment of salaries and wages

To simplify procedures and ensure continuity of payment of salaries and wages, agencies may elect to pay base pay and fixed allowances (or similar), with variations to individual pay postponed until the recovery phase of the emergency or adverse event.

Note: This should not be used to prejudice claims such as workers compensation.

2. Sick/personal leave – authorisation

Employers may opt to waive or simplify the normal authorisation requirement for sick and personal leave, for example, the requirement to produce evidence may be waived if it is not practical for the employee to obtain such evidence.

3. Paid sick/personal leave exhausted

Employers may allow employees to take up to one year's sick/personal leave entitlement in advance where cumulated sick leave entitlements have been exhausted.

4. Annual leave exhausted

Employers may allow employees to take up to one year's annual leave entitlement in advance where annual leave entitlements have been exhausted.

5. Repayment on resignation

Staff who resign prior to accruing the leave taken in advance, will be required to repay the un-accrued portion.

6. Temporarily redeploying or relocating staff to areas of greatest need

The requirement and infrastructure for temporary redeployment and relocation options should be identified during an agency's business continuity planning process and discussed with staff in advance.

The employer may request staff to temporarily relocate or be temporarily redeployed to areas of greatest need, provided the affected staff:

- have the appropriate skills to perform the work, or;

- can be brought up to the minimum competency level in a short period of time.

This may include redeployment to volunteer organisations and between agencies with the agreement of CEOs.

Consideration should be given to rotating staff through redeployment and relocation options.

7. Working from an alternate location

- Where the employer;
 - is not able to provide a safe workplace, and
 - temporary redeployment/relocation opportunities are not currently available,

the employer may direct employees to work from home. Employees directed to work from home must be available to perform duties as directed.

- Where staff inform management that they are unable by any reasonable means to travel to their regular workplace, an employer may deem that person to be working from home until other transport arrangements are made.

8. Providing a safe workplace

The employer may direct staff who do not observe appropriate occupational safety and health protocols to leave the workplace.

The employer shall direct staff, who they judge to be ill or at risk due to their personal circumstances, to leave the workplace. Employees who pose a health and safety risk but choose not to access personal leave must make alternative leave arrangements with their employer.

9. Staff not attending work without cause

Staff who do not attend work will be deemed to be on leave without pay if they fail to provide management with an adequate reason for non-attendance.

10. Mechanisms to recognise staff

Staff who have worked additional hours or, in exceptional circumstances at the request of their employer, may be granted additional personal leave or other entitlements as considered appropriate by their CEO.