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21 November, 2014

Mr Graeme Head  
Commissioner  
Public Service Commission  
Lvl 14 Bligh House  
4-6 Bligh Street  
SYDNEY NSW 2000

Dear Commissioner,

**Draft Assignment to Role Guidelines**

Thank you for the opportunity to provide comment on the Draft Assignment to Role Guidelines. Please find our feedback attached.

Yours faithfully,

ANNE GARDINER  
**General Secretary**

Asked to Move Change of Location Concerns Costs

Decision Family Needs Offered Right of Appeal Staff

Support Transferred Employees Compensation Transferred

Officers Work Location

Employees Excessive Travel Feedback Flexible Agencies

Concerned Guidelines Location

## ASSIGNMENT TO ROLE GUIDELINES

Managers Place Policy Positions Process PSA Public Service

## PUBLIC SERVICE ASSOCIATION

Costs Employees Guidelines Job Manager

## FEEDBACK

Means Nepotism Position Service Role

Selection Staff Surve Role Rules



Career Employees Fairly Focus Grade Lower

Management Mean Permanent Reduced Result Section

Selection Staff Think Workplace

Basis Children Disadvantages Employer Fair

Family Flexible Following Happens Not be Able Paid Part-

time Partner

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\*The text back ground of the title page is a word cloud taken from members' responses to our survey on this matter

## **1. Introduction**

The Association welcomes the opportunity to provide feedback on behalf of our members on the Draft Assignment to Role Guidelines.

Secure jobs, fulfilling careers, work/life balance and the right-to-have-a-say in the workplace are amongst the highest priorities of our membership. The proposed guidelines have implications in respect to each of these matters and for that reason we take a great interest in their content and implementation.

The theme of “enhancing employee mobility” has existed within the sector for a number of years. Whilst the motivation for an employer to be able to readily deploy employees in a manner it sees fit is clear, “mobility” for an employee is not a benign concept. “Mobility” for an employee may mean significant disruption to both their career and life outside of work. Within a broader context of 15,000 jobs being cut from the NSW public service, it is understandable that “mobility” can be interpreted as part of a less secure working environment.

In order to provide informed feedback to the Commission on this matter, the Association conducted a survey of our GSE Act covered membership. We asked members to rate how important a number of key issues were to them and invited comment on the guidelines in their entirety. The response of members was overwhelming. Over 800 members completed the survey in the two weeks it was open with respondents drawn from all nine departments along with a number of independent agencies.

The feedback from our membership strongly informs our view that the interests of employees are insufficiently protected within the Guidelines as they currently stand. The removal of the notion of a ‘substantive’ or ‘permanent’ position in favour of the more fluid concept of a ‘role’, represents a clear shift in power away from the employee towards the employing agency. Without sufficient safeguards and oversight being put in place we are concerned that the assignment to role process could be abused to the detriment of employees.

We provide a number of recommendations here as to how we feel the Guidelines could be improved to ensure that a fair balance is maintained between the rights of employees and the desire of agencies to best utilise their staff resources. The adoption of these recommendations would in our view give greater integrity to the assignment to role process from the outset and avoid a number of unintended consequences that we feel will result from the process on the basis of the current draft Guidelines.

## 2. Survey summary

The Association received responses from 804 members to our survey in the two weeks that it was open from 29 October 2014.

Respondents were drawn from all nine departments within the NSW public service with FACS (205), Police Justice (192) and Education and Communities (86) representing the largest groups of respondents.

The survey sought to gauge how important a number of issues are to members and provided the option for respondent to enter open ended comments in response to each section of the Guidelines.

Key findings from the survey include:

- **99% of respondents** believe it is *very important* or *important* that agencies consult with employees when assignment to role decisions create structural change.
- **Not a single respondent** consider it to be *not important* for agencies to consult when assignment to role decision created structural change.
- **97%** of respondents believe it is *very important* or *important* that employees have a **right-to-return** to their previous role when returning from leave.
- The matter of **right-to-return** following leave elicited the largest number of open ended comments of all sections of the guidelines.
- **97%** of respondents believe it is *very important* or *important* that assignment to role decisions take into account the impact on an employee of a change in location.
- **94%** of respondents believe it is *very important* or *important* that assignment to role decisions take into account an employee's existing caring arrangements.
- **A majority** of respondents feel that assignment to role decisions should *not* proceed where issues exist in relation to:
  - Work location (79%)
  - An employee's caring responsibilities (71%)
  - An employee's existing flexible work arrangements (68%)
  - An employee's skills set (65%); and
  - An employee's preferred career path (52%)
- **358 respondents** identified that their agency had an *existing transfer policy*.
- Of these respondents, **89%** feel it is *very important* or *important* that these policies continue to operate.

### **3. Matters that need to be addressed**

#### 3.1 Purpose

As noted in the introduction, there is understandable anxiety amongst our members regarding the operation of the assignment to role system amidst a climate of job and budget cuts.

We note that staff mobility provisions were a component of the previous *Public Sector Employment and Management Act 2002*, and to an extent, these guidelines and the provisions of the GSE Act are a continuation the previous legislative framework.

What is different as a result of the GSE Act and these Guidelines is the removal of a number of basic protections from how mobility previously operated (such as the right-to-return following a period of leave) plus the accompanying language of “enhancing mobility” through a “new approach”.

Our concerns are therefore based both on the terms of the Guidelines along with increased frequency of assignment to role based movements compared to what previously occurred.

We recognise that issuing this guidance as Guidelines and not Rules in the first instance allows for feedback and adjustment prior to Rules being issued in 2015. We are wary however of agencies using the uncertainty of this transitional period to implement staffing decisions that are inconsistent with the intention of the Act and established policies.

*“It worries me that they are creating a very flexible workplace purely for the purpose of making things easier for themselves and a lot harder for their staff. I would seriously consider leaving my current stable workplace if such changes were made!”*

**Member, Planning and Environment**

*“I have never seen staff anxiety levels this high in the history of this dept.”*

**Member, Department of Education and Communities**

#### **Recommendations**

1. That ongoing consultation occurs during 2015 between the PSC, the Association and other relevant unions regarding the assignment to role process.
2. That there be a further review and consultation process prior to Rules being issued in late 2015.
3. The PSC play an active role if requested in resolving disputes between the Association and agencies in relation to assignment to role matters.

#### 3.2 Scope

There is the need to clarify how the assignment to role process relates to other documents and instruments, including:

- Awards;
- Agency Change Management Guidelines; and
- Existing agency based transfer and recruitment policies.

We note the reference to the *Crown Employees (Transferred Employees Compensation) Award 2009*, the *Industrial Relations Act 1996* and the *Crown Employees (Public Service Conditions of Employment) Award 2009* elsewhere in the Guidelines, however, we of the view that it should be stated within the scope clause that the Guidelines do not displace the operation of any industrial instrument.

The need for clearer guidance on how the role of assignment to role process sets within the context of change management is vital. In our view, it would be an abuse of the intended purpose of the Guidelines if agencies were to use assignment to role decisions to circumvent their obligations to consult with employees when the movement of staff results in structural change.

The importance of consultation in these circumstances was strongly supported in our survey. 99% of respondents believe it is *very important* or *important* that agencies consult with employees when assignment to role decisions create structural change

A number of agencies have existing staff transfer and recruitment policies that provide criteria for the 'compassionate' and 'lateral movement' of staff, and or the means by which vacant positions are filled. In many instances these policies are the result of negotiation with the Association and we would resist any move by agencies to unilaterally depart from these policies on the grounds of these Guidelines being issued.

Of the members that participated in our survey 358 identified that their agency had an existing transfer policy, and of these respondents, 89% feel it is very important or important that these policies continue to operate.

### **Recommendations**

4. The scope clause of the Guidelines state that its operation is not intended to displace or disrupt the operation of existing industrial instruments.
5. The scope clause of the Guidelines state that it is not to be used in place of the Agency Change Management Guidelines (or any document which replaces it).
6. The scope clause of the Guidelines state that existing staff transfer and recruitment policies shall continue to operate.

### **3.3 Workforce planning**

The Association agrees that pro-active workforce planning is an essential activity of agencies and should be undertaken as a matter of course. Our experience is often however that long-term workforce planning is severely impeded by budget and job cuts. In the face of these cuts, managers seek to use whatever employment arrangements are available to them, and even breach legislative provisions, in order to have staff in place to deliver services to the public.

There is clearly evidenced in the significant built-up of temporary employees in the last 10 years, and the number of these employees engaged in a manner inconsistent with the terms of the PSEM Act. Between 2004 and 2013, the portion of the government sector employees engaged as temporaries increased from 8.52 to 13.35%. We understand that as of 24 February 2015, there will be 2,400 temporary employees engaged for more than four years.

Our concern is that while agencies remain subject to the imposition of the labour expense cap and efficiency dividends, the assignment to role process will be used as means to continually assign staff to plug gaps in service delivery, rather than permanently recruiting and training a sufficient number of staff.

When subsequent and temporary assignments occur there is necessarily a vacant role created undertaking the duties of the previous role. The reference within the Guidelines to every vacancy being an opportunity to “consider whether the role is still needed in its current form” is particularly concerning. The deletion of roles has clear workload implications for other staff and should give rise to consultation with affected staff and their union. We are concerned that these guidelines will be interpreted as a cart-blanche invitation to management to delete positions following the reassignment of the previous role-holder.

Member’s comments in relation to workforce planning indicate a lack of faith in the capacity of management to properly plan in the current environment and also expressed concern at how the process will be used in the context of performance management.

*“Due to savings directives Managers may plan for workforce resources to meet reform initiatives however due to savings directives are unlikely to be approved. Also (we are) operating within a reactive rather than proactive environment due a lack of resources and increasing workload demands.”*

**Member, FACS**

*“This is just another way to reduce staff numbers.”*

**Member, DTIRIS**

*“Staff are being moved without proper workplace planning. How can planning occur when there is no business plan which determines the priorities and the requirements of the agency!”*

**Member, FACS**

*“How will work force planning occur when there is not a departmental strategic plan?”*

**Member, FACS**

*“What right of refusal exists for employees if their role is designated as 'movable'? How do we safeguard against it being used as poor performance management?”*

**Member, FACS**



## Recommendations

7. A review mechanism is introduced in relation to assignment to role decisions. This mechanism should reflect the provisions of section 34 of the GSE Rules with respect to the employer initiated transfers between agencies.
8. Advice is given to agencies that assignment to role actions are not to be used as a substitute for the recruitment of staff where permanent staffing shortfalls exist.
9. Reference is made to documents that give more comprehensive guidance with respect to performance management and workforce planning.

### 3.4 Role and classifications

The nebulous definition of a 'classification of work' given in section 45 of the GSE Act means that the implementation of the assignment to role process is heavily dependent on the effectiveness of the capability framework in providing coherent and consistent descriptors of like jobs. Our experience is that agencies are at varying stages of compliance with the capability framework and suggest that there are likely to be problems with implementing assignment to role decisions where there is not a well-functioning system of capability framework described roles.

It is evident from the comments of members that there is widespread concern regarding the frequency at which roles are to be reviewed and the effect continual change has on the morale of staff and their performance. The Association is of the view that agencies should consider as a priority the need for staff to have certainty with respect to the expectations of their job and their skill development.

*"Given that we appear to for at least the last decade to have been on a biannual cycle of restructures/realignments, each time resulting in a total change of Head of dept and priorities, it is likely that 'roles' will become so changeable on such a frequent basis that staff will have no continuity, no chance to feel confident and competent in any one position, and will actually result in poor productivity and performance. This is already happening with a total drain of any corporate knowledge making it almost impossible to actually get anything done efficiently."*

**Member, Planning and Environment**

*"The problem here is that the definition of 'role' in section 3 of the GSE Act (s.46(3)) and these draft guidelines is too broad - it gives too much latitude to individual agencies to describe roles in such a way that they under-remunerate and over-load staff in those roles. The proper determination of what within the makeup of a role properly acts to determine what objective duties and responsibilities of a role should score a given pay and classification."*

**Member, Police and Justice**

*"No indication given to staff about their "classification of work" or any indication of how things may operate in the future."*

**Member, Police and Justice**

## Recommendations

10. Workforce planning should seek to provide certainty for employees with respect to their role description required skills.
11. Any assignment to role decision should be contingent on the capability framework underpinning a comparison of the two roles and the employee's skill set.

12. The review of any roles not yet compliant with the capability framework should include consultation with the relevant employees.
13. Employees should be given supporting material to enable them to understand what classification they fit in to.

### 3.5 Assessment, development and specialist skill sets

The assignment to role process as set out in the Guidelines encompasses circumstances in which employees are effectively reassigned to their own role (or a substantively similar role) as well as circumstances in which employees are placed in a 'new' vacant role.

The decision to not impose a set assessment requirement for assignment to roles is supported by the Association as it means existing employees will not be required to undertake a new recruitment processes in order to be placed in similar ongoing roles. This is crucial given the assignment to role mechanism is likely to be used to place employees in roles in the course of restructures.

It is important however that the absence of assessment requirements is not abused in the course of placing employees in vacant positions to which a number of employees may have valid claims. This was a view that emerged strongly from the feedback of members in regard to section 4.3 of the Guidelines. To this extent we refer to our previous recommendation that existing staff transfer and recruitment policies be maintained and that a review mechanism be introduced. We note also the reference to EOI procedures in Appendix 2. We suggest the circumstances in which it is intended that an EOI process is to undertaken should be clarified.

The combination of section 4.3 and 5.5 of the Guidelines imply that the assignment of an employee to a role for which development is required is connected to their placement in the role on a temporary basis. The Guidelines need to take into account circumstances in which employees are placed in a role on an ongoing basis for which they may require training and development.

A number of employees emphasised the time and expense incurred by both themselves and their agency in gaining a particular skills set. They held concerns that the assignment to role process would lead to agencies with poor workforce planning to place them in roles in which their skills were underutilised for the purpose of filling gaps.

It is the view of the Association that consultation should take into account the skills and development needs of the employee. 95% of respondents to our survey indicated that it was *very important* or *important* that an employee's skill set be taken into account prior to assignment decision being made, while 87% indicated it was *very important* or *important* that an employee's preferred career path be taken in account.

*“How will you ensure consistency in assessment of capabilities between managers? This will be critical to ensure that staff are adequately matched e.g. different managers would assess staff differently and staff are also likely to have a different perspective of what their capability levels are. How will you assign someone if there is not role description for an existing employee (and therefore how have their competencies been assessed)?”*

**Member, Planning and Environment**

*“This section is very worrying, it appears to be open to abuse and corruption. An assessment is made based upon a perceived ability of an employee to fill a role without any mention of oversight or an appeal process.”*

**Member, Police and Justice**

*“So what happens if the employee doesn't have the skill/compulsion and or capability to fulfil 'new focus?’”*

**Member, FACS**

*“Concern - again used to get rid of troublesome staff or blackmail threat - move into area where manager know you will fail for whatever reason eg lack of capability”*

**Member, Treasury and Finance**

*“If the practice of enhanced mobility had existed when I was first approached about undertaking the specialist training, I would have been less likely to agree. I see no point exerting a whole lot of energy into something when it can be devalued so quickly. The knock on effect of having a mobile workforce is that it will become increasingly difficult for agencies to build capacity to respond to situations. It would be very difficult for the NSW Rural Fire Service to train and maintain competencies for specialist roles (that are in addition to day to day roles) when potentially employees could be rotated through the public sector in order to deal with government priorities.”*

**Member, Rural Fire Service**

### **Recommendations**

14. Further guidance should be provided to agencies to clarify when it is appropriate to use an EOI process prior to making an assignment to role decision.
15. Consultation with an employee should specifically take into account an employees' skill set, any development and training needs as well as their preferred career path.
16. Where significant concerns are held by an employee regarding their capacity to perform in a role prior to being assigned to it, the capacity should exist for the assignment to be on a temporary basis whilst the employee retains claim to an ongoing role.

### **3.6 Remuneration**

The Association does not support the Guidelines operating in a manner that leads to employees being financially disadvantaged. This was a view expressed strongly by members in our survey.

To ensure an employee is not disadvantaged the view of the Association is of the view that the employee should remain on the greater of the two salary ranges of the old and the new role.

The Association is of the view that the comparison of salary between roles should take into account the total remuneration an employee regularly expects to earn and any assignment to role decision should not lead to them being disadvantaged in total quantum.

The use of the word 'may' in relation to temporary assignment allowance is a cause of understandable angst for members. The Guidelines should make clear that where the circumstances set out in the Regulations are met, the allowance will be paid.

Given consent is required for an executive employee to be placed in a role with lower remuneration, it is the position of the Association that the Guidelines should make clear that the failure of an executive to provide consent does not prejudice the ongoing nature of their contract.

*"Why is there an option that staff might be redeployed to a position of lower salary?"*

**Member, FACS**

*"I have worked in a shift work environment for 14 years. When I applied for a loan with the bank, my shift penalties appeared to be taken into account. If I was moved to a non-shift working position, I would find it more difficult to repay the loan."*

**Member, Transport**

"May be eligible for payment - this is contrary to the regulations section 20 & 21 (that) states "is" entitled!"

**Member, DTIRIS**

### **Recommendations**

17. Assignment to roles should not result in an employee being financially disadvantaged with respect to their salary, salary increments or total regular remuneration.
18. The Guidelines should state that the temporary assignment allowance will be paid in circumstances set out in the Regulations.
19. The ongoing contract of executive employees should not be prejudiced by their refusal to accept an assignment at a lower pay level.

### **3.7 Impact on employees**

The Association is firmly of the view that consultation with employees regarding assignment to role decision *must* include discussions of any adverse impact on the employee and steps that can be taken to mitigate this. In its present terms, section 4.4 of the Guidelines refers to consultation occurring only in relation to the role itself.

This was a widespread concern amongst members in our survey. 94% of respondents believe it is very important or important that assignment to role decisions take into account an employee's existing caring arrangements while 93% believe it is very important or important that assignment to role decisions take into account an employee's existing flexible work arrangements. A sizable majority were of the view that assignment to roles should not proceed where issues exist in relation to caring responsibilities (71.21%) and flexible work arrangements (68.08%).

In addition to these matters it is essential also that assignment to role decisions take into account the health and safety of an employee.

Members were strongly of the view that without the requirement to take the above matters into account and given the emphasis on the decision ultimately resting with the organisation, consultation could not be viewed as being genuine.

The review mechanism set out in section 34 of the GSE Rules clearly recognises the capacity for undue hardship to be caused by employer-initiated transfers and secondments *between* agencies. For an employee, the harm caused by an inability to meet caring and family commitments as a result

of a new work location or less flexible work arrangements is no different whether the change has come about as a result of a transfer between agencies or as a subsequent assignment within agencies. The Association is of the view that hardship from assignment to role decisions should be treated no differently and should similarly be subject to a review mechanism.

Given the commitment of the sector as a whole to address bullying in the workplace, it would be inconsistent with this objective if safe-guards and improved guidance were not provided in relation to the decisions that place significant power in the hands of the decision making manager.

*"It needs to talk about work arrangements - otherwise this will impact on women in particular. It's better that they have guidelines about how this should be addressed and not leave it up to discretion. It took me quite a few years of temporary low paid positions and hard argument to get this role but others with more flexible managers have had this straight away- its again really inefficient to spend time arguing this out rather than just focussing on your work- and its inefficient to lose skilled people because of issues around flexibility."*

**Member, Planning and Environment**

*"Consultations sound hollow. It appears to be consultation as a means to an end rather than actually listening to concerns."*

**Member, FACS**

*"Very concerning that these decisions are not reviewable. Also the word "consultation" is a misnomer - this paragraph basically describes telling an employee about their new assignment, writing down and ignoring any objection, and refusing to allow a review of the decision."*

**Member, Police and Justice**

### **Recommendations**

20. The Guidelines should specify the need to discuss any adverse impact on the employee and the potential steps that can be taken to mitigate this.
21. All attempts should be made to continue existing flexible work arrangements.
22. Where employees object to assignment to roles, agencies should consider alternative arrangements to fill the role.

### **3.8 Location**

A compulsory change of work location can have a significant adverse impact on an employee and their family. Members expressed deep concerns regarding this element of the Guidelines. 97% of respondents to our survey believe it is very important or important that assignment to role decisions take into account the impact on an employee of a change in location while 78% believe that assignment to roles should not proceed where issues with a new location exist.

The Association views a number of amendments as being essential in relation to section 4.5. It should be made clear that not only should concerns be considered, but measures to alleviate these concerns should be actively explored. These possibilities should include the capacity to work from home, to work from an alternative location (including from another government sector agency location), job swaps, and any combination of these and other flexible work arrangements.

The Association does not believe that the circumstances and compensation and provided for in TEC Award are sufficient to guide agencies as to how and when these issues should be addressed. Changed work locations that do not necessitate an employee to relocate are still able to cause significant financial stress and disrupt family and caring arrangements. Agencies should be required to consider means to ameliorate these issues, including financial compensation, for all changes of work locations.

At a minimum the Guidelines should be amended to state that compensation under the TEC Award *will* apply when the circumstances are met.

The impact that a changed work location may have on an employee and their family is further reason to allow for a review process similar to that available for transfers and secondments.

*“Assignment to a role in a different location would potentially have large social, family, career and financial implications for an employee.”*

**Member, Planning and Environment**

*“From a regional perspective, relocation is not an option. If say you were fulfilling a role in a town where you live and were assigned a role in a different location the choice is to move your life (family, home, friends etc) or lose your job. The guidelines offer no protection against this.”*

**Member, Police and Justice**

*“This can end up destroying people’s lives and communities in a sense, and leave employees powerless at the will of the Government to, with loose and discretionary powers, move people at will for indeterminate periods of time and no provision to allow them to return to their preferred location of work.”*

**Member, DTIRIS**

### **Recommendations**

23. The Guidelines should provide assistance for managers and employees as to what options are available to mitigate the impact of a change of work location including financial compensation.
24. Agencies should consider taking advantage of technology based alternatives that reduce the need for location based changes.
25. Where an employee objects to a change of location the agency should consider alternative means of filling the role.
26. Guidance should be provided as to what is to be considered in relation to employee requests for a change in work location, including reference to existing agency based transfer policies. Similar options to those noted above should be considered in order to accommodate these requests.

#### **3.9 Right to return to role following leave**

The removal of the right to return to an employees’ previous role following leave or secondment is seen by the Association as an attack on current conditions of employment. Members were unequivocal in their rejection of this proposal with 97% of respondents to our survey indicating that it was very important or important that employees have a right-to-return to their previous role when returning from leave.

The Association urges the Commission to consider the unintended consequence this arrangement could have including the unwillingness of employees to take leave or accept secondments and the capacity for it to be abused as a means of bullying and displacing employees. Given the sector is seeking to reduce leave liabilities and enhance the mobility of staff, the removal of the basic right to return to an employee's existing role seems counter-productive.

The application of this provision to "other absences" is further concerning if these other absences are to include carer's leave and workers compensation.

The capacity exists elsewhere for agencies to consult with an employee and make changes to their position whilst they are on leave in circumstances of a restructure. Where an employee's "role" is subject to a restructure the same obligation and capacity should continue to operate.

The response of members also drew attention to the disproportionate impact that the removal of the right-to-return would have on employees in unique roles within an agency and/or a location, and on those with specialist skill sets. In these circumstances if another employee was assigned to their role on an ongoing basis whilst they are on leave, the capacity for them to be suitably reassigned in the same location or a in a similar role is greatly diminished.

*"They should always be returned to that exact same role. My personal experience is that I took extended leave to deal with the death of (a family member) and to have returned to an unexpected role would have been even more devastating."*

**Member Police and Justice**

*"Does this mean that following a period of secondment the employee will not necessarily be able to go back to their substantive position. This is ludicrous as staff will not seek secondments to perform tasks for the benefit of the agency if their substantive position at the original location is no longer available."*

**Member, Planning and Environment**

*"The caring role is usually undertaken by women and this provision is discriminatory! It's 2014!"*

**Member, Treasury and Finance**

*"I have grave concerns about this part. it is highly likely that I will need to take short chunks of extended leave to cover some school holidays as both myself and husband work full time, and eight weeks of annual leave between us does not cover the 12 weeks of NSW state school holidays. You should be secure in the knowledge that your work will not change after you have gone on leave! This policy will only encourage employees NOT to take leave!"*

**Member, DTIRIS**

### **Recommendations**

27. Employees should be guaranteed to right to return to their previous role following secondment or a period of leave.

#### **3.10 Parental leave**

The Association recognises that the Commission is seeking to reflect the terms of the Crown Employees Award in relation to employees returning to work following parental leave. The Association is of the view however that the Guidelines could be improved by stating that the

agencies will make all reasonable efforts to accommodate requests for part-time work within the employee's previous role.

Members are of the view that in lieu of either a requirement or commitment to attempt to provide part-time time work within existing roles, agencies will unfairly place employees in alternative roles that may be less reflective of their skills set, hold less status or be based in different locations.

The view of members is that the operation of this section in its current form would lead to employees (in this case, disproportionately women) returning to full-time work sooner than is optimal for the care of their children and family circumstances, in order to retain their previous role.

The Association is unclear as to how to what arrangements will be put in place when part-time work is unable to be accommodated in the existing role. The fourth paragraph of section 4.8 suggests that an assignment to a role in which part-time work can be accommodated will be a new subsequent assignment and the employee would retain no right to return to their pre-parental leave role. If this is the intention, the Association is of the view that this would further exacerbate the unfairness noted above.

The preference of the Association in circumstances in which part-time work can *genuinely* not be accommodated in the existing role, after *all reasonable efforts* have been made, is for assignments to alternative roles to be made as temporary assignments. This would necessitate amendments to section 5.2 and 5.3 of the guidelines that restrict temporary assignments to a six month period.

*"A full time employee should have right of return to their former role as a part time staff member. If the role is subsequently (say 2 months later) not found to be working in a part time capacity - documented and justifiable - and a job-share partner is not available, discussions should then take place about potential changes to assignment."*

**Member, Planning and Environment**

*"Why should part time employees returning from parental leave be disadvantages and not be able to return to their previous role? What happens when they want to become full time again what role do they go into? It just seems to me that agencies are not working with employees to make this a mutually beneficial arrangement."*

**Member, Treasury and Finance**

*"How can this not be viewed as discriminatory for parents of young children to be expected to immediately return to work full time after returning from parental leave (assume this covers adoption leave or parents taking on Foster children etc) if they wish to return to the role they left at the commencement of their leave period?"*

**Member, Police and Justice**



### **Recommendations**

28. Section 4.8 of the Guidelines be amended so that agencies are directed to genuinely consider and make all reasonable effort to accommodate part-time work arrangements in an employee's existing role when they return from parental leave.
29. That assignment to roles required to accommodate part-time work are done so on a temporary basis and that amendments are made to sections 5.2 and 5.3 of the guidelines to enable these arrangements to operate until the child reaches school age.

#### **4. Recommendations**

1. That ongoing consultation occurs during 2015 between the PSC, the Association and other relevant unions regarding the assignment to role process.
2. That there be a further review and consultation process prior to Rules being issued in late 2015.
3. The PSC play an active role if requested in resolving disputes between the Association and agencies in relation to assignment to role matters.
4. The scope clause of the Guidelines state that its operation is not intended to displace or disrupt the operation of existing industrial instruments.
5. The scope clause of the Guidelines state that it is not to be used in place of the Agency Change Management Guidelines (or any document which replaces it).
6. The scope clause of the Guidelines state that existing staff transfer and recruitment policies shall continue to operate.
7. A review mechanism is introduced in relation to assignment to role decisions. This mechanism should reflect the provisions of section 34 of the GSE Rules with respect to the employer initiated transfers between agencies.
8. Advice is given to agencies that assignment to role actions are not to be used as a substitute for the recruitment of staff where permanent staffing shortfalls exist.
9. Reference is made to documents that give more comprehensive guidance with respect to performance management and workforce planning.
10. Workforce planning should seek to provide certainty for employees with respect to their role description required skills.
11. Any assignment to role decision should be contingent on the capability framework underpinning a comparison of the two roles and the employee's skill set.
12. The review of any roles not yet compliant with the capability framework should include consultation with the relevant employees.
13. Employees should be given supporting material to enable them to understand what classification they fit in to.
14. Further guidance should be provided to agencies to clarify when it is appropriate to use an EOI process prior to making an assignment to role decision.
15. Consultation with an employee should specifically take into account an employees' skill set, any development and training needs as well as their preferred career path.
16. Where significant concerns are held by an employee regarding their capacity to perform in a role prior to being assigned to it, the capacity should exist for the assignment to be on a temporary basis whilst the employee retains claim to an ongoing role.

17. Assignment to roles should not result in an employee being financially disadvantaged with respect to their salary, salary increments or total regular remuneration.
18. The Guidelines should state that the temporary assignment allowance will be paid in circumstances set out in the Regulations.
19. The ongoing contract of executive employees should not be prejudiced by their refusal to accept an assignment at a lower pay level.
20. The Guidelines should specify the need to discuss any adverse impact on the employee and the potential steps that can be taken to mitigate this.
21. All attempts should be made to continue existing flexible work arrangements.
22. Where employees object to assignment to roles, agencies should consider alternative arrangements to fill the role.
23. The Guidelines should provide assistance for managers and employees as to what options are available to mitigate the impact of a change of work location including financial compensation.
24. Agencies should consider taking advantage of technology based alternatives that reduce the need for location based changes.
25. Where an employee objects to a change of location the agency should consider alternative means of filling the role.
26. Guidance should be provided as to what is to be considered in relation to employee requests for a change in work location, including reference to existing agency based transfer policies. Similar options to those noted above should be considered in order to accommodate these requests.
27. Employees should be guaranteed to right to return to their previous role following secondment or a period of leave.
28. Section 4.8 of the Guidelines be amended so that agencies are directed to genuinely consider and make all reasonable effort to accommodate part-time work arrangements in an employee's existing role when they return from parental leave.
29. That assignment to roles required to accommodate part-time work are done so on a temporary basis and that amendments are made to sections 5.2 and 5.3 of the guidelines to enable these arrangements to operate until the child reaches school age.