

OUR REFERENCE

DIRECTOR'S CHAMBERS



ODPP
New South Wales

YOUR REFERENCE

DATE

06 March, 2018

Mr Stewart Little
General Secretary
Public Service Association of NSW
GPO Box 3365
SYDNEY NSW 2001
Email: MWunderlin@psa.asn.au

Dear Mr Little

Re: Proposed Changes Early Appropriate Guilty Plea Staffing Structure

I refer to your letter dated 20 February 2018 regarding proposed changes to the staffing structure of my Office as a consequence of the Early Appropriate Guilty Plea (EAGP) reforms.

Please find below a summary of response to the matters of concern to members as raised.

1 How the positions will be filled;

Please refer to Appendix A proposed 'Implementation Plan'.

2 The role of talent pools during the restructure;

Please refer to Appendix A proposed 'Implementation Plan'.

3 The absence of position descriptions;

A number of proposed role descriptions are attached with the remainder to follow when the drafts are completed. The capabilities for each role/level remain unchanged and the work to be undertaken is already within the contemplation of the existing role descriptions. Overall the changes are negligible although some practices may differ. Improved processes will result in efficiencies and the 'team' based model will further enhance the support and guidance available to staff at all levels.

4 The reduction of level two lawyers in some offices;

The proposed structure envisages an increase of 10.6 Level 2 Lawyers across the Office. In any local office where a reduction in the number of Level 2 Lawyers is proposed there is an increase in Level 3 Lawyer roles and Level 4 Lawyer roles providing even greater opportunities for promotion and career progression. No existing substantive ongoing Level 2 Lawyers will be displaced or required to relocate to a different geographical location as a consequence of the proposal. In accordance with the proposed 'Implementation Plan' staff may wish to express an interest in lateral transfer at a different location should they wish to do so.

5 Procedures and policies around lateral transfers;

Please refer to Appendix A proposed 'Implementation Plan'

6 The absence of any kind of career progression and foreseeable increase in work load for administrative staff;

The formal structures in place for administrative staff remain unchanged and will continue to offer career progression through the existing hierarchy with positions at Levels 1,2,3,4 and 5. Improved administrative processes, the Office's pending move to a new and improved case management software system in late 2018 and the expansion of the LDP program (which includes an increase of 22 positions to provide legal support across the Office) are expected to reduce the work load for administrative staff not increase it.

7 How your proposal has been assessed against the existing workload agreement between the Association and the ODPP;

The proposed structure was designed taking into account the workload and activity of all offices. There is currently a separate piece of work underway to review and devise a new workload measurement process for the Office, with a view to streamlining the process and incorporating automated tools for measuring workload into the new case management software system. Ongoing consultation with the PSA in regards to this proposal will continue before any change to the existing workload agreement is considered.

8 The future of the Legal Development Program roles in light of the proposal to delete level one lawyer positions;

The proposed structure does not change the current 12-month temporary contract period for Legal Development Program (LDP) participants, but vastly expands the number of roles and locations where LDPs opportunities will be available. Current LDPs will continue to serve at their current locations until their date of program completion and the expansion of the program is expected to enhance the benefits in terms of development and experience for all participants and reinforce the value placed on this important program in terms of the development of future talent for the Office.

9 The lack of detail surrounding the role of witness assistance service officers;

The Witness Assistance Service structure is being dealt with as a discrete and separate group due to the unique nature of the service and the PSA will be consulted throughout this process. I anticipate we will be in a position to circulate a proposal for the WAS structure within the next few weeks. It is anticipated that there will be an increase in staffing levels and no staff will be displaced as a result of any changes proposed.

10 The lack of detail surrounding the size of work groups;

The proposed structure included indicative numbers in terms of the size of work groups for every location.

Your letter also included further reference to the following issues:

The inclusion of expressions of interests for voluntary redundancy in the consultation

The ODPP has carefully designed the proposed structure to maximise the use of the additional resources available, best utilise the existing talent available and have the least possible deleterious impact on the existing staff of the Office. With respect of the specific impact of the reduction in the number of ongoing Level 1 Lawyer roles, please note the following:

- The ODPP currently has 79 substantive ongoing Level 1 Lawyers;
- The proposed structure provides for 73 Level 1 Lawyers roles;
- The ODPP currently has 38 substantive Level 1 Lawyers temporarily appointed to 'act' in Level 2 Lawyer roles.

On the basis of these numbers, coupled with the Office's usual turnover rate (approximately 10%), it is anticipated that all substantive ongoing Level 1 Lawyers will be accommodated within the proposed structure and will not result in any staff being displaced. The transition period anticipated in terms of completing those matters already on hand before all matters are conducted in accordance with the proposed EAGP legislation is between 18 months and 2 years, and as such natural attrition and internal movement will negate the need to displace any staff at this level.

The use of Government Sector Employment Rule 23 to limit advertising of vacancies to internal staff in the first instance.

I have considered the provisions of GSE Rule 23 and have determined that it does not apply on the basis that the proposed restructure does not result in a significant number of employees as likely to be determined to be excess employees. In fact no employees will be determined as excess as a consequence of the proposed restructure. As proposed in the draft 'Implementation Plan' the use of internal talent to fill any new roles that arise out of the changes will be prioritised with external appointments utilised as the final method of filling roles.

Advertising of managers positions contrary to proper consultation

The EAGP reform initiative will involve an overall increase in ODPP resources and is predicated on the need to have more senior legal staff involved in the process earlier. As a consequence the Office has reviewed existing numbers of staff, existing talent pools and also undertaken considerable analysis and forecasting in terms of expected attrition and turnover to underpin our workforce planning to best maximise our use of the increased funding.

Following this analysis, allowing for the 6-8 week timeframes needed for recruitment action to be completed and as a consequence of a series of senior statutory movements prior to the Christmas period, a decision was made to initiate a strategic and scheduled approach to our recruitment planning for 2018. We are undertaking a 'top down' approach which commenced with advertising roles such as Deputy Director of Public Prosecutions, Senior Crown Prosecutor, Deputy Senior Crown Prosecutor and Crown Prosecutor. This was followed closely by Trial Advocate roles and the recent advertisement of the Managing Lawyer roles is the next phase in this plan. This process will continue through the various other roles in the near future to ensure we have available talent pools to move quickly to fill whatever roles are necessary as an outcome of our ongoing consultation towards a new structure.

I reiterate this consultation is genuine and I look forward to your feedback.

In the interests of effective and meaningful consultation I invite your comments and feedback with respect of the proposed EAGP Structural Change Implementation Plan for consideration prior to finalisation of this document. I ask that this be provided by 19 March 2018.

If you have any questions please contact Nigel Richardson, Director HR on 9285 2549 or at NRichardson@odpp.nsw.gov.au

Yours faithfully



Lloyd Babb SC

Director of Public Prosecutions

ODPP - EAGP Structural Change Implementation Plan

Reassignment

Any staff reassignment will be done in accordance with the provisions of the Government Sector Employment Act 2013.

Existing substantive ongoing staff will be assigned to new roles at the same level within the new structure. Staff will be assigned to roles at the same geographical location wherever possible, and any movement to a different location will be done so in consultation with the staff member. It is not anticipated that any staff will be required to move residence as a consequence of reassignment.

Recruitment

The following priority order will be used to fill any opportunities that arise as a result of the proposed new structure:

1. *Transferring existing staff who lodge an Expression of Interest (EOI) for lateral (at level) transfers to different locations;*
2. *Appointing current acting/temporary staff who were formally merit tested for their existing temporary/acting appointment;*
3. *Appointing and/or promoting individuals who are in pre-existing talent pools and have not yet been offered an appointment;*
4. *Formal external recruitment action.*

Please note the following relevant issues:

- Staff in pre-existing talent pools, including those who have been appointed to their current temporary/acting roles based on formal external recruitment, need not reapply for roles at that level;
- EOI opportunities for lateral transfer will be circulated at or about the same time as external roles are advertised to allow for appropriate workforce planning. Requirements will be included in the individual EOIs but are likely to include such things as tenure, status, referees and an up to date PDP which confirms the staff member is *meeting expectations*;
- Lodging an EOI is not a guarantee of a lateral transfer. EOIs will be carefully considered to ensure any movement is operationally viable and this will involve considering factors such as tenure, experience, team balance and operational requirements. The temporary nature of many roles will also be a factor in these decisions.
- Talent pools are valid for 12 months from the date they are approved. Any staff who is in a current pool that expires in the near future and who have not yet been made an offer should consider reapplying if the position is advertised. This will ensure that in the event that a role arises in a suitable location in the future (eg after the current talent pool they are in expires) they will remain in a valid talent pool.