

# NSW Government Workforce Mobility Placement and Employee Transition Policy

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# 1 Introduction

## 1.1 Purpose and coverage

- 1.1.1 The NSW Government is committed to retaining valued and skilled employees and facilitating workforce mobility, in situations where employees' roles are at risk or no longer required as a result of, for example, significant restructures, machinery of government changes, adjustments to business and service delivery priorities.
- 1.1.2 In circumstances where impacted employees are determined to be excess to the requirements of the agency or department in which they are employed, the NSW Government is also committed to ensuring that those employees who are unable to be retained in the sector are appropriately transitioned to excess.
- 1.1.3 The aim of the NSW Government Workforce Mobility Placement and Employee Transition Policy (the **Policy**) is to create a streamlined, whole of Government approach to retain talent, optimise usage of employee capabilities, facilitate mobility and reduce recruitment and redundancy expenditure, in order to sustain and continually improve NSW public sector service delivery. The Policy also aims to ensure the successful transition of employees who are determined to be excess to the requirements of an agency.
- 1.1.4 The Policy applies to the government sector as defined in section 3(1) of the *Government Sector Employment Act 2013 (GSE Act)* and applies to ongoing, non-executive employees. The Policy does not apply to casual and temporary employees and senior executives. The Policy also does not apply to statutory office holders, including non-executive police officers. State-owned corporations are strongly encouraged to apply the terms of the Policy.
- 1.1.5 The Policy and associated centralised workforce placement process will deliver on the NSW Government's commitment to ensuring that the redundancy of employees is a last resort, which should be avoided wherever practicable.

## 1.2 Legislation and policy

- 1.2.1 The Policy operates alongside legislative requirements relating to workforce mobility and excess employees, including:
  - sections 46, 47 and 64 of the GSE Act;
  - rules 13 and 29 of the *Government Sector Employment (General) Rules 2014 (GSE Rules)*; and
  - Part 3, Divisions 1 and 2 and Schedule 2 of the *Government Sector Employment Regulation 2014 (GSE Regulation)*.
- 1.2.2 The Policy does not affect the requirements of those laws and does not replace provisions in current industrial instruments, legislation and active Policies, Guidelines, Circulars and Premier's Memoranda.
- 1.2.3 The Policy is not to be used for the purposes of dealing with unsatisfactory performance or for the purposes of promoting employees.

## 2 Definitions

2.1 **Business day** is any day of the week, excluding weekends (Saturday and Sunday) and public holidays.

2.2 **Capability review period** is a period of up to **10 business days** in which the employing agency is required to complete the capability review of a matched excess or impacted employee.

2.3 **Capability review** is undertaken by the employing agency to review the capabilities of a matched excess or impacted employee, to determine whether the employee meets, or could meet, within a reasonable period of time, the capability requirements of the role and the employing agency needs. It involves a review by the employing agency of the employees relevant skills and experience, as against the vacant role, including consideration of information completed as part of the employee profile following matching, and any additional factors deemed relevant by the employing agency.

2.4 **Case manager** is an employee within the home agency responsible for case managing excess and impacted employees through both the placement and retention periods. In smaller agencies, this role may be performed in conjunction with other Human Resources Team responsibilities. In larger agencies, or in agencies with a significant number of excess and impacted employees, it may be appropriate to appoint a dedicated case manager.

2.5 **Employing agency** is the agency that excess and impacted employees are matched to, or may be transferred to, as a result of their successful placement to a matched role, via implementation of the Policy.

2.6 **Employer-initiated transfer** is the transfer of an employee between government sector agencies that has been initiated by the employer, in consultation with the impacted employee (section 64 of the GSE Act and rule 29 of the GSE Rules).

2.7 **Excess employee** is an ongoing non-executive employee employed in a government sector agency who is determined by the head of the agency to be excess to the requirements of the part of the agency in which the employee is employed.

2.8 **Government sector** is as defined in section 3(1) of the GSE Act.

2.9 **Home agency** is the agency that exercises employer functions in relation to impacted employees.

2.10 **Impacted employees** are ongoing non-executive employees whose employment is at risk or no longer required as a result of, for example, significant restructures, machinery of government changes, and/or adjustments to business and service delivery priorities.

2.11 **Impacted role** is a role that has been identified by the home agency as being at risk or no longer required as a result of, for example, significant restructures, machinery of government changes, and/or adjustments to business and service delivery priorities.

2.12 **Matching process period** is a minimum period of **5 business days** during which the home agency must not advertise a role externally.

2.13 **Placement process period** is a maximum period of **40 business days** in which impacted employees are to be matched to vacant roles within the government sector.

2.14 **Process to declare employees excess** is the process whereby a home agency head seeks confirmation from Premier's Department prior to declaring an employee excess.

2.15 **Retention period** is a period of **20 business days** for excess employees who decline an offer of voluntary redundancy to seek placement opportunities in vacant roles within the government sector. The retention period commences from the closing date of the voluntary redundancy offer (i.e.: immediately after the 10 business days referred to in section 6 of the Policy, which is afforded to excess employees to decide whether to accept or reject a voluntary redundancy).

2.16 **Vacant roles** are ongoing roles, or temporary roles of at least 12 months' duration, within the government sector, that are covered by the Policy that become, or are to become, vacant, with the exception of:

- clinical roles (including medical practitioners, paramedics and nurses);
- train crew roles;
- teacher, firefighter and police officer roles; and
- graduate roles.

Further exceptions for highly specialised roles may be considered for immediate alternate sourcing, outside of the matching process period, subject to consultation with and approval from, the Workforce Mobility Placement Team.

2.17 **Voluntary redundancy (VR)** is a payment that must be offered by a home agency to excess employees who have not been successfully placed to vacant roles within the government sector during the placement period.

2.18 **Workforce Mobility Placement Team (WMP Team)** is a team in Premier's Department assigned with accountability to oversee and facilitate the implementation of the Policy.

## 3 Roles and responsibilities

### 3.1 Impacted employees

- Must participate proactively in the placement process, including regularly consulting with agency Human Resources Teams and line managers, as well as providing additional information when required in order to facilitate potential role matching.
- Must continue to undertake meaningful work, assigned by the home agency, during their participation in the placement process, that is reasonably within the capabilities of the role in which they are employed.
- Are encouraged to provide feedback to line managers and Human Resources on their experience of participating in the placement process when requested, to continually inform stakeholders on the impact of the Policy.

### 3.2 Excess employees

- In cases where a VR is accepted, or excess employees are made forcibly redundant, excess employees must sign an undertaking to refund the Crown that proportion of the redundancy payment applying to the period of re-employment, should they be re-employed or re-engaged in any capacity in a government sector agency (including temporary, part-time or casual employment, as a consultant, contractor or subcontractor), within the period covered by the redundancy payment (clause 24 of the GSE Regulation). The repayment covers the relevant proportion of the payment, that is, the sum calculated on years of service and the additional payment of up to 8 weeks' pay (but excludes pay in lieu of notice).
- Where a VR is declined by excess employees, excess employees must continue to proactively participate in the placement process during the retention period.

### 3.3 Secretaries Board

- The Secretaries' Board is responsible for proactively promoting agencies' use of the Policy, commissioning sector-wide reporting at appropriate intervals to stay informed of the progress of placements across the sector and determining whether any additional action or changes are required to improve outcomes for employees and the sector.

## 3.4 Agencies

### Secretaries/Agency Heads

- 3.4.1 Secretaries/heads of home agencies must ensure that the home agency prioritises the placement of excess and impacted employees and the successful transition of excess employees, by way of the Policy.
- 3.4.2 Secretaries/heads of home agencies must ensure that the home agency proactively shares all necessary information with the employing agency, the WMP team and other agencies, as appropriate, to give excess and impacted employees the best opportunity to identify roles for continued employment in the government sector.
- 3.4.3 Secretaries/heads of employing agencies must ensure that the employing agency makes all efforts to fairly review the capabilities of excess and impacted employees as part of the placement process, including ensuring that the delegation for the hiring approval process under the Policy is exercised at the appropriate executive level.
- 3.4.4 Secretaries/heads of home agencies (or authorised delegates) are responsible for approving the offer of a VR to excess employees employed by the home agency and must ensure that the home agency provides an offer of VR to excess employees. Confirmation from Premier's Department is required prior to a home agency declaring an employee excess. If confirmation is given, funding assistance for redundancies may be available from Treasury NSW, to assist agencies to implement the required workforce changes (See [TPG23-23 NSW Treasury Policy and Guidelines: Funding for Redundancy Payments](#) or any replacement Guidance/Policies).

### Chief People Officers and equivalent roles

- 3.4.5 Must support Secretaries and Agency Heads to ensure the placement of excess and impacted employees is prioritised in accordance with the Policy.
- 3.4.6 Responsible for assigning at least one case manager to support and manage excess and impacted employees through the placement and retention periods.
- 3.4.7 Provide advice and support to agencies within their portfolio on the application of the Policy.
- 3.4.8 Chief People Officers must share relevant information with the Chief People Officers network (CPO network) and support the reporting requirements of the WMP Team.

### Human Resources Teams and Line Managers (Home Agencies and Employing Agencies)

- 3.4.9 Home agencies must identify impacted roles, notify and consult with impacted employees as early as possible, to expedite implementation of the Policy.
- 3.4.10 Home agencies to strongly encourage excess and impacted employees to independently seek and apply for any suitable roles within the government sector whilst the WMP Team progress potential placements, to further the Policy's aim of retaining valued and skilled employees in the government sector.
- 3.4.11 Whether by the home agency or by the employing agency, agencies are to initiate the transfer of excess and impacted employees to the employing agency as part of the Policy.
- 3.4.12 Home agencies must continue to assign meaningful work to excess and impacted employees during their participation in the placement process, that is reasonably within the role capabilities in which employees are employed.
- 3.4.13 Home agencies must ensure candidate information is accurate, of a high quality and readily accessible, to enable better decision making during the placement process.
- 3.4.14 Employing agencies must prepare consistent and transparent role descriptions to minimise 'mismatching.'

- 3.4.15 Home agencies must consult with excess and impacted employees during the placement process, recognising individual needs and career aspirations.
- 3.4.16 Home agencies to manage excess and impacted employee expectations regarding potential outcomes during the placement process period or retention period.
- 3.4.17 Employing agencies to undertake a capability review of the matched excess and impacted employee to determine whether the employee meets the capability requirements of the role.
- 3.4.18 Home agencies must seek confirmation from the WMP Team that the placement process has been exhausted, prior to obtaining confirmation from Premier's Department to declare employees excess.
- 3.4.19 Home agencies and employing agencies to agree and collaborate on the transfer of excess and impacted employees who have been successful in being offered a role by the employing agency.
- 3.4.20 Employing agencies must continually review their current use of contractors and consultants to determine whether any of those roles can be replaced with employees participating in the placement process. All efforts should be made to ensure that excess and impacted employees participating in any placement are assessed against these roles.
- 3.4.21 Home agencies must provide timely data to the WMP Team to enable reporting to the Secretaries Board.
- 3.4.22 Home agencies to obtain excess and impacted employee feedback, when provided, on their experience of the placement process to inform relevant stakeholders.
- 3.4.23 Home agencies to offer continued training and skills development opportunities to excess and impacted employees, where such opportunities are linked to improving successful matching and potential placement to vacant roles.
- 3.4.24 Home agencies to provide reasonable feedback to participants who are unsuccessful in role matches to boost future placement prospects.
- 3.4.25 Home agencies and employing agencies to engage in education and awareness programs to enhance cross-agency commitment to the Policy.
- 3.4.26 Home agencies to ensure that impacted and excess employees have access to confidential counselling and advice services, including via any Employee Assistance Program, to ensure appropriate support is provided throughout the placement and transition to excess processes.
- 3.4.27 Home agencies must ensure that excess employees are properly informed about their options and entitlements, including providing written advice regarding the status of the employee becoming excess and have access to career transition assistance.
- 3.4.28 If an employee is determined to be excess, home agencies must provide written advice that the employee is excess as at the date of the written advice. The written advice must also include that the excess employee has **10 business days** from the date of the advice to either accept or decline a VR offer, that the excess employee will be made forcibly redundant if not placed in a role at the end of the retention period and that, if the excess employee exits the service after declining a VR offer at any time during the retention period, the excess employee will receive a payment as calculated under section 6.4 of the Policy.
- 3.4.29 Employing agencies must ensure that the requirement to repay the proportion of a redundancy payment applying to the period of re-employment is met, in circumstances where an excess employee has accepted a redundancy payment and is subsequently re-employed or re-engaged in a government sector agency. This includes confirming with the prospective employee any previous redundancy payments and, if repayment is required, making such repayment a condition of the offer of employment or engagement.
- 3.4.30 Home agencies and employing agencies to inform prospective employees that non-disclosure of Government redundancy payments which would otherwise be required to be

proportionally refunded, will invalidate the appointment and may result in the appointment being terminated.

### 3.5 Workforce Mobility Placement Team, Premier's Department

- 3.5.1 Oversee the application of the Policy to ensure maximal cross-agency and employee engagement and adherence.
- 3.5.2 Working with relevant agency Human Resources teams to facilitate successful role matching as part of the placement process.
- 3.5.3 Undertake the matching process to identify potential roles for excess and impacted employees within the government sector.
- 3.5.4 Ensure that the employing agency makes all efforts to fairly review the capabilities of employees as part of the placement process.
- 3.5.5 Assess whether home agencies have met the criteria required under the Policy and that the placement process has been exhausted, prior to advising the home agency that confirmation has been provided by Premier's Department to manage impacted employees as excess, via the process to declare employees excess.
- 3.5.6 Assess whether the employing agency has made all efforts in fairly reviewing excess and impacted employees for matching and placement, prior to approving alternate sourcing (including external advertising) of vacant roles.
- 3.5.7 In circumstances where the employing agency has completed a capability review and deemed an excess and impacted employee unsuccessful, the WMP Team may request additional information from the employing agency to assist in further discussions with the employing agency, to determine why the employee was not deemed suitable for the role.
- 3.5.8 Support home and employing agencies to complete employer-initiated transfers efficiently to provide timely, professional and cost-effective movement of successfully placed employees between agencies.
- 3.5.9 Assist in building home and employing agencies' awareness and knowledge on the process and benefits of the Policy to ensure greater sectoral understanding.
- 3.5.10 Evaluate excess and impacted employee feedback received from home and employing agencies to optimise future performance of the Policy and share success stories.
- 3.5.11 Share best practice and provide guidance through the CPO network and Mobility forums held by the WMP Team.
- 3.5.12 Report to the Secretaries Board on agency participation and application of the Policy as directed.

### 3.6 Public Sector Industrial Relations, Premier's Department

- 3.6.1 Provide strategic support and advice to agencies, WMP Team and other relevant stakeholders on workforce and industrial relations considerations regarding the application of the Policy.
- 3.6.2 Address workforce and industrial relations issues that arise as a result of the implementation and ongoing operation of the Policy and develop rules where required and appropriate.
- 3.6.3 Lead consultation with unions to identify and address any practical implications of the implementation and ongoing application of the Policy.

## 4 Centralised placement process

### 4.1 Matching process to identify roles for impacted and excess employees

4.1.1 Prior to releasing an advertisement for a vacant role, home agencies must enable a matching process, which is undertaken by the WMP Team, to identify whether the vacant role is a match for an impacted employee or an excess employee who has not accepted a VR and seeks further placement during the retention period. Bulk and/or targeted recruitment exercises must also be considered as part of the matching process, however, an agency can seek approval from the WMP Team to release advertisements for bulk and/or targeted recruitment, whilst the matching process is undertaken. Approval to release advertisements for bulk and/or targeted recruitment outside of the matching process is determined by the WMP Team on a case by case basis, having regard to criteria such as the volume of recruitment, relevant deadlines and potential specialised nature of the roles.

4.1.2 In undertaking the matching process, the WMP Team will consider the capabilities and associated behaviours outlined in the NSW Public Sector Capability Framework, in addition to employing agencies role-specific capability requirements.

4.1.3 The matching process is required to be conducted by the WMP Team within **five business days**. If no matches are identified by the WMP Team at the end of the matching process period, the home agency can release the vacant role for alternate sourcing, including external advertisement, to fill the vacancy. Excess employees will continue to take priority in all matching and recruitment activities before all other applications, including impacted employees. Agencies should conduct internal matching within their agency prior to the WMP Team undertaking cross-sector-matching. If necessary, agencies may run internal matching, simultaneously with the WMP Team's cross-sector matching.

4.1.4 Employing agencies are to consider the impacted or excess employee's grade/level, salary and the employee's capabilities as against the grade/level, salary, requirements and capabilities of the vacant role, as well as relevant skills and experience

4.1.5 If an employee is matched to a temporary role of 12 months or greater (including via a secondment or temporary assignment), the employee will retain their ongoing employment status with their home agency during this period. No less than 12 weeks prior to the end of the temporary role end date, home agencies are to re-engage with the WMP Team to enable the employee to re-enter the mobility placement process for a new 40 business day placement period. If the employee is not successfully matched and placed during their new respective placement or retention periods, the home agency can seek approval to declare the employee excess (in the case of an impacted employee) or make forcibly redundant (in the case of an excess employee who has rejected VR to seek further placement during the retention period).

4.1.6 Home agencies should prioritise the placement of employees in ongoing roles. Employees should not be placed in temporary roles on more than one occasion (unless they are placed in a temporary role within their home agency or unless all parties agree to an additional temporary placement where there is a strong possibility that the role will become an ongoing role).

### 4.2 Capability review for impacted and excess employees

4.2.1 Where a match is identified, the vacant role is not to be advertised and the employing agency must undertake a capability review for the impacted or excess employee (who has

not accepted a VR and seeks further placement during the retention period). The WMP Team will have oversight of this process. An employing agency must complete their capability review within **10 business days** (capability review period).

- 4.2.2 The capability review considers the capabilities of the impacted or excess employee and the employing agencies role-specific capability requirements. The capability review process should also refer to any relevant information regarding capabilities and associated behaviours outlined in the NSW Public Sector Capability Framework requirements.
- 4.2.3 If, following the capability review, the impacted or excess employee is found to meet the capability requirements of the vacant role, the employee is notified of the match and is given an offer in writing from the employing agency. The offer letter to transfer the employee to the employing agency should contain details on the role that has been matched, the commencement date, the classification of work and salary, as well as the location and hours of work. The employee will also be invited to make any submissions in relation to the proposed transfer to the matched role. Reasonable notice must be provided by the home agency to the employee of the transfer and employees must be advised that they can request a review of the transfer within **10 business days** after being notified of the transfer.
- 4.2.4 If, after consultation, the employee does not raise any concerns with and agrees to the transfer, the transfer process is commenced between the home and employing agencies to release the employee within 15 business days (with the option for the home agency and employing agency to negotiate a longer or shorter period). The employee will not be subject to a period of probation following placement in the new role. However, appropriate service and conduct checks need to be undertaken, including a reference check, criminal records check and any other agency or role specific checks or clearances (if the role ordinarily requires any of these checks to be undertaken).
- 4.2.5 If, following the capability review, the employee is found **not** to meet the capability requirements of the role, the employing agency must provide reasons of this outcome to the home agency, the WMP Team and the employee. If there are any concerns raised by the home agency, the WMP Team and the employee, these concerns will be discussed with the employing agency, to ensure that all efforts have been made to fairly review the employees capabilities. Subject to these discussions, or if the employee will not meet the capability requirements for the role within a reasonable period of time, the vacant role will be released for alternate sourcing, which may include external advertisement. The reasons as to why the employee has not met the capability requirements of the role should also be provided by the home agency and to the employee for their information and, if required, for further development.
- 4.2.6 In circumstances where the employing agency has determined that the employee does not meet the capability requirements of the role, but the home agency and/or the employee is of the view that they do, the WMP Team may request additional information from the employing agency and the employee, to assist in further discussions with the employing agency to determine why the employing agency has determined that the employee does not meet the capability requirements of the role.
- 4.2.7 If, after consultation, the employee is notified of a comparable role within the NSW government sector by way of the placement process and does **not** accept the offer, consideration should be given as to whether personal circumstances and/or other considerations prevent the employee from accepting the offer. These issues should be discussed confidentially between the home agency and the employee in the first instance.
- 4.2.8 Depending on the reasons for the employee refusing to accept a matched role, the employee can be transferred under an employer-initiated transfer between government sector agencies, following consultation and with reasonable notice, without requiring employee consent (with recourse to a review of the transfer) under section 64 of the GSE Act and rule 29 of the GSE Rules.

- 4.2.9 The period that an impacted employee continues to be matched under the placement process is **40 business days**. Once this period is complete and if the employee has been declared excess and rejects a VR, the excess employee can seek further placement during the retention period of **20 business days**.
- 4.2.10 Where the home agency identifies impacted roles, the home agency **must** apply the requirements of the Policy and demonstrate that the placement process has been exhausted, prior to seeking confirmation from Premier's Department to declare an employee excess.
- 4.2.11 Employing agencies must demonstrate to the WMP Team, in writing, that employees have not met the capability requirements of the matched role, or that the employee will not meet the capability requirements for the role within a reasonable period of time.

## 5 Principles and procedures

### 5.1 Employee consultation

- 5.1.1 Consultation is an important part of the Policy and provides the impacted or excess employee (who has rejected a VR to seek further placement during the retention period), the home and employing agencies the opportunity to discuss reasons for placement and any concerns raised, including impacts on the employee such as work location and financial position.
- 5.1.2 Consultation must occur with employees during the relevant stages of their placement process. In particular, home agencies must consult with employees to ensure they are made aware of the reasons as to why, following an unsuccessful capability review, they have not met the requirements of the role.
- 5.1.3 If employees are successful in meeting the capability requirements of a vacant role, home agencies must consult with employees regarding the proposed transfer to the employing agency, including providing role information and estimated timeframes for completion of the transfer.
- 5.1.4 Employees who refuse to accept a role, following a successful capability review, are to be advised that employer-initiated transfers between government sector agencies can occur, following consultation and with reasonable notice, without requiring employee consent (with recourse to a review of the transfer) (section 64 of the GSE Act and rule 29 of the GSE Rules).

### 5.2 Multiple matched roles

- 5.2.1 If multiple roles are deemed as matches, an employee may have the opportunity to list the matched roles by order of personal preference. Every effort should be made to accommodate the employees preference.
- 5.2.2 Employees can nominate, and advise their line managers, of their preferred locations. Nominated locations will be considered as part of the placement process but will not be a determinative factor when matching to vacant roles. Agencies should take into consideration reasonable and relevant factors that support employees nominated preferred locations, including, but not limited to, transport availability, length of commute, and personal commitments that may be impacted by work location.
- 5.2.3 If required, employing agencies are to provide appropriate training and support to ensure a successful transition for the employee into their new role.
- 5.2.4 Employees are encouraged to independently seek and apply for opportunities within the government sector whilst the WMP Team are progressing potential placements.

## 5.3 At-level transfers and secondments

5.3.1 A government sector employee may only be transferred or seconded to another agency at the same or equivalent grade or level, unless the impacted employee consents to a transfer or secondment at a lower level.

5.3.2 Where there is a difference in remuneration between the excess or impacted employees current role and matched role, the transfer of the excess or impacted employee should meet the following criteria:

- The maximum salary of the grade in the new role is no more than 5 per cent greater than the maximum salary in the grade of the current role.
- If the maximum salary for the grade (i.e. the highest increment the employee may progress to in that grade) in the new role is less than the maximum that the employee could progress to in the employee's current role, the employee's written consent is required.
- In circumstances where the capabilities of both roles are matched, but the employee's current role has a higher salary, the employee is entitled to a 12 week salary maintenance period. A typical arrangement for the salary maintenance may be made by agreement between the employing agency and the home agency (for example, the employing agency paying the employee the relevant amount during the salary maintenance period and subsequently seeking a reimbursement from the home agency).

5.3.3 Where exceptional circumstances arise that may impact or alter the application of the abovementioned criteria, home, employing agencies and impacted and excess employees may agree on the applicable arrangements for the transfer, where there is a difference in remuneration between the current role and matched role.

5.3.4 The remuneration of an employee who is transferred is not to be reduced without the approval of the employee (section 64(3) of the GSE Act).

5.3.5 Employees transferring between government sector agencies remain employees of the NSW government and superannuation is not affected. Entitlements such as annual leave, sick leave, parental leave and extended leave are covered by legislation and relevant industrial instruments, including options available for different leave to transfer to the employing agency or be paid out to the employee. As a general rule, all entitlements should be maintained, however, employment conditions and any applicable flexible working arrangements will depend on the applicable industrial instruments and flexible working agreements in the employing agency.

## 5.4 Review process

5.4.1 Employees may request, in writing to the home agency head, for a review of an employer-initiated transfer (section 64(4) of the GSE Act and rule 34 of the GSE Rules).

5.4.2 If an application for a review is made, the transfer will not have effect until the completion of the review.

5.4.3 The request for review must be made no later than **10 business days** after the day on which the employee is notified of the transfer.

5.4.4 The review is to be conducted by a senior executive (the reviewer) who was not involved in the transfer decision-making process and must be completed within **10 business days** after the application for the review is made.

5.4.5 The employee may make submissions to the reviewer, including reasons why the proposed transfer or secondment would cause undue hardship to the employee.

5.4.6 In conducting the review, the reviewer must assess whether or not the transfer is appropriate having regard to all relevant circumstances (including any submissions provided

by the employee). The reviewer is then to make such findings as the reviewer thinks appropriate and then provide the findings to the home agency head for final decision.

- 5.4.7 The decision of the home agency head is final. The home agency head must notify the employee of the decision in writing.
- 5.4.8 If the home agency head determines that the proposed transfer is appropriate, the employee is notified of the decision and the continued offer of employment.
- 5.4.9 If the employee continues to refuse the offer, they are to be advised by the home agency that the employer-initiated transfer between government sector agencies provisions have been complied with and that a transfer will take place.
- 5.4.10 If the home agency head determines that the proposed transfer is not appropriate, the employee will continue to participate in the matching process.

## 6 Employee transition to excess

### 6.1 Declaring an employee excess

- 6.1.1 If an impacted employee is not matched to a role at the end of the placement process period, or no further matches have been made before the placement process period expires, the home agency can seek agreement from Premier's Department to declare an employee excess. Employees on an approved period of parental leave cannot be declared excess until such time as they return to their role from the period of parental leave taken.
- 6.1.2 If agreement by Premier's Department is given, the home agency can declare an employee excess and **must** provide an excess employee with an offer of VR. An excess employee then has **10 business days** to choose between the following two courses of action:
  - **Accept** a VR offer and leave the service of the home agency within 10 business days of accepting the offer, or at a time nominated by the home agency; **or**
  - **Decline** the VR offer to pursue placement opportunities within the sector during the retention period. If an excess employee:
    - leaves at any time after declining the offer of VR and before the retention period ends, they will receive a payment using the calculation described in section 6.4 of the Policy, or
    - is not placed at the end of the retention period, they will be made forcibly redundant by the home agency and receive a payment using the calculation described in section 6.4 of this Policy.
- 6.1.3 If an excess employee fails to notify the home agency of a course of action as outlined in point 6.1.2 above within the 10 business day timeframe, this will be taken by the home agency as a decision by the excess employee to decline VR and pursue placement opportunities during the retention period.

### 6.2 Accepting a VR offer and payments

- 6.2.1 If an excess employee **accepts** a VR offer, they are entitled to the following payments:
  - four weeks' notice or payment in lieu, plus.
  - for employees aged 45 years and over with five or more years of completed service, an additional one weeks' notice or payment in lieu, plus

- a redundancy payment at the rate of three weeks per year of continuous service with a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be on a quarterly basis
- the benefit allowable as a contributor to a retirement fund, plus
- pro rata annual leave loading for leave accumulated at the date of termination, plus
- the following incentive payments based on years of service:

Length of service	Additional payment
Less than 1 year	2 weeks' pay
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 or more years	8 weeks' pay

6.2.2 All continuous service in NSW public sector agencies, in accordance with Schedule 2 of the GSE Regulation, is recognised for VR purposes, provided no previous redundancy payment has been made for this service.

6.2.3 If a VR is approved, home agencies may seek from Treasury NSW access to redundancy funding assistance and for any reimbursement of redundancy costs, after the redundancy has been implemented (see [TPG23-23 NSW Treasury Policy and Guidelines: Funding for Redundancy Payments](#) or any replacement Guidance/Policies).

6.2.4 Employees who accept a redundancy payment cannot be re-employed or re-engaged in any capacity in any NSW government sector agency within the period covered by their payment, without first repaying the relevant proportion of their redundancy pay (clause 24 of the GSE Regulation). This requirement applies to employment or engagement in any capacity as employees, contractors, consultants or employees or principals of companies engaged in contracting to a government sector agency.

## 6.3 Declining a VR offer and the retention period

6.3.1 Excess employees who **decline** a VR offer are entitled to a retention period to continue to pursue placement opportunities within both their home agency and across the government sector. During the retention period, excess employees receive their normal salary while pursuing placement opportunities.

6.3.2 The retention period commences immediately after the 10 business day period that the excess employee has to consider whether to accept or a VR offer. If the excess employee rejects the VR offer at any time before the 10 business day period ends, the retention period will commence from that point in time.

6.3.3 The retention period is for **20 business days** and should not be extended by the home agency. However, in exceptional circumstances, an agency head (or their delegate) may seek approval from Premier's Department to extend the retention period.

6.3.4 During the retention period, excess employees will continue to have priority access to placement opportunities within their own agency and across the government sector and may be placed in any suitable role without advertising. Where a potential role is identified, excess employees are entitled to priority assessment before other applicants, including those in mobility placement. Where two or more excess employees are considered for the same role, selection is based on merit between the excess employees.

## Secondment or temporary assignment within the retention period

6.3.5 Excess employees may also choose to accept a secondment (not exceeding 2 years) or temporary assignment during the retention period. If the excess employees retention period ends during the secondment or assignment, the excess employee will continue to be employed for the remaining period of the secondment or temporary assignment. When the secondment or temporary assignment ends, if the excess employee has not been placed in a new alternate role, or has not secured an extension of the secondment (not exceeding 2 years) or temporary assignment, the excess employee will be made forcibly redundant.

6.3.6 During the period when excess employees are placed in a secondment or temporary assignment, they shall continue to have priority access to ongoing roles.

## 6.4 Exit during the retention period, at forced redundancy and payments

6.4.1 An excess employee may leave the service of the home agency at any time after refusing a VR offer and during the retention period. If an excess employee declines a VR offer and pursues placement opportunities within the sector during the retention period, but is not placed during this period, the home agency can make the excess employee forcibly redundant.

6.4.2 An excess employee is made forcibly redundant by the home agency head when all of the following conditions have been satisfied:

- the employee has been informed in writing that they are excess; and
- the excess employee has not accepted the offer of VR or the offer closes without acceptance of the offer; and
- the excess employee has exhausted their retention period without a suitable placement, or exits the service at any time during the retention period, after rejecting the VR offer.

6.4.3 Upon exiting the service, after refusing the offer of VR and at any time during the retention period, or upon being made forcibly redundant, an excess employee is entitled to:

- The minimum redundancy payment as calculated under point 6.4.4; and
- An additional payment of four weeks salary if under the age of 45 or five weeks salary if aged 45 and over.

6.4.4 The forced redundancy payment is to be calculated using the following methodology:

Length of continuous service	Redundancy pay	
	Under 45	45 or Over
Less than 1 year	Nil	Nil
1 year and more but less than 2 years	4 weeks	5 weeks
2 years and more but less than 3 years	7 weeks	8.75 weeks
3 years and more but less than 4 years	10 weeks	12.5 weeks
4 years and more but less than 5 years	12 weeks	15 weeks
5 years and more but less than 6 years	14 weeks	17.5 weeks
6 years or more	16 weeks	20 weeks
<i>plus</i>		

Additional payment	4 weeks	5 weeks
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## 6.5 Re-employment or re-engagement in the NSW Public Sector

- 6.5.1 An employee who accepts a redundancy payment cannot be re-employed or re-engaged in any capacity in any NSW public sector agency within the period covered by their redundancy payment, without first repaying the relevant proportion of their redundancy pay. This requirement applies to employment or engagement in any capacity as employees, contractors, consultants or employees or principals of companies engaged in contracting to a public sector agency.
- 6.5.2 An excess employee who exits the service during the retention period or is made forcibly redundant is subject to these same restrictions on re-employment or re-engagement in the NSW public sector.

## 7 Monitoring, Evaluation and Review

- 7.1 This Policy will be reviewed by Public Sector Industrial Relations in Premier's Department every 12 months, in consultation with the WMP Team, following input from agencies, relevant unions and other relevant key stakeholders.

## 8 Template letter to declare an employee excess

- 8.1 Home agencies can use the following template letter to provide written advice to employees who are determined to be excess:

### Template letter to declare an employee excess

[Employee's address]

Dear [Employee's name]

*I am writing to advise that you no longer have a substantive position and are an excess employee from the date of this letter.*

*Please find attached a copy of Premier's Memoranda M2025-XX NSW Government Workforce Mobility Placement and Employee Transition Policy (the **Policy**) for your information. Please note this Policy may be varied, withdrawn or replaced at any time without notice. This Policy is not intended to legally bind the New South Wales Government, the Crown in right of New South Wales, its officers, employees or agents or have contractual effect or form part of any legally enforceable employment contract of any public sector employee.*

*As per the Policy, you must choose whether to:*

- a) accept an offer of voluntary redundancy, or*
- b) decline an offer of voluntary redundancy and pursue placement opportunities in the sector during the 20 business day retention period.*

**Note:** if you do not respond within **10 business days** from the date of this letter, this will be taken as the choice to **decline voluntary redundancy and pursue potential placement**.

*Further information on these options is outlined below.*

### Option 1: Voluntary redundancy

You are invited to accept an offer of voluntary redundancy. To accept or decline this offer, you must respond within **10 business days** from the date of this letter (i.e. by [Date]) by completing the appropriate section of the **attached** Excess Employee Voluntary Redundancy or Placement Acceptance form.

If you accept this voluntary redundancy offer, your last day of service will be the date that is **10 business days** from the acceptance date [or any other date nominated by the agency]. Please note that should you decline this offer of voluntary redundancy you will not receive any further offers.

The voluntary redundancy package comprises:

- four weeks' notice or payment in lieu, plus
- for employees aged 45 years and over with five or more years of completed service, an additional one weeks' notice or payment in lieu, plus
- a redundancy payment at the rate of three weeks per year of continuous service with a maximum of 39 weeks, with pro-rata payments for incomplete years of service to be on a quarterly basis
- the benefit allowable as a contributor to a retirement fund, plus
- pro rata annual leave loading for leave accumulated at the date of termination, plus
- the following incentive payments based on years of service:

Length of service	Additional payment
Less than 1 year	2 weeks' pay
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 or more years	8 weeks' pay

A schedule estimating the value of your entitlement is **attached**. The conditions of acceptance are as follows:

- This voluntary redundancy must be accepted by [date that is 10 business days from receipt of this letter].
- Excess employees who accept this voluntary redundancy must agree to leave the NSW Government Service by the date that is 10 business days from the acceptance date [or any other date nominated by the agency] (i.e. your last day of service must be on or before [the date that is 10 business days from the acceptance date or any other date nominated by the agency]).
- Employees who accept a voluntary redundancy cannot be re-employed or re-engaged in any capacity in any NSW government sector agency within the period covered by their redundancy payment, without first repaying the relevant proportion of their redundancy pay. This requirement applies to employment or engagement in any capacity as employees, contractors, consultants or employees or principals of companies engaged in contracting to a government sector agency.

### Option 2: Ongoing Placement

You may elect to decline the voluntary redundancy offer and pursue placement within the NSW Government sector during the retention period. To select this option, you must respond by completing

the appropriate section of the **attached** Excess Employee Voluntary Redundancy or Placement Acceptance Form within **10 business days** from the date of this letter (i.e. by [date that is 10 business days from the date of this letter]). If you do not return the **attached** acceptance form, this will be taken as the choice to decline voluntary redundancy and pursue placement. If you choose placement, you will be provided with:

- a 20 business day retention period, commencing from the date you choose placement or immediately following the end of the 10 business day period to accept or reject VR.
- priority consideration for placement to suitable positions within the NSW Government sector
- assistance in pursuing placement, including career transition services.

For us to be able to support you in being placed, you must:

- submit an up to date resume to your case manager by [date] to allow you to be matched to suitable positions across the sector and proactively participate in the placement process, including submitting applications within identified timeframes and attending and participating in priority assessment interviews.
- If you have not been appointed to an ongoing position at the conclusion of the retention period, you will be made forcibly redundant and receive the forced redundancy payment as per section 6.4 of the Policy.

### Secondments

During the retention period you may choose to accept a secondment or temporary assignment, as under sections 64 and 66 of the Government Sector Employment Act 2013 and Parts 2 and 6 of the Government Sector Employment Rules 2014.

If this occurs and your retention period ends during the secondment or temporary assignment, you will continue to be employed for the remaining period of the secondment or temporary assignment. When the secondment or temporary assignment ends, if you have not been placed or secured an extension of the secondment or temporary assignment, you will be made forcibly redundant.

### Next Steps

Please complete the **attached** Excess Employee Voluntary Redundancy or Placement Acceptance form indicating whether you wish to accept the offer of voluntary redundancy or decline the offer of voluntary redundancy and pursue placement.

Please return the form to [HR/People, Culture & Talent Director's name/Manager's name] by [date that is 10 business days from the date of this letter].

### Employee Assistance Program

[Insert details of agency EAPs program].

### Further information

Please contact [agency HR contact] on [phone number] if you have any questions about your voluntary redundancy estimate.

Please contact [agency HR contact] on [phone number] if you have any questions about the placement and redundancy processes.

Yours faithfully  
 [Name]

[Position Title]

### Excess Employee Voluntary Redundancy or Placement Acceptance Form

Name:	
Employee Number:	

I declare that (please tick one of the following):

I wish to accept the voluntary redundancy offer and voluntarily terminate my services with [name of agency] on [last day of service]. I understand that I cannot be re-employed or re-engaged in any capacity in any NSW Government Sector agency within the period covered by the redundancy payment, without first repaying the relevant proportion of this redundancy pay. The repayment covers the relevant proportion of the redundancy payment (up to 39 weeks) and the additional up to eight weeks payment.

OR

I wish to decline the voluntary redundancy offer and will pursue placement within the NSW Government sector. I understand that by choosing this option I will not be offered a further voluntary redundancy and that, should I not be placed by the end of my retention period, I will be made forcibly redundant.

In choosing the option indicated above, I acknowledge that the Policy does not legally bind the New South Wales Government, the Crown in right of New South Wales, its officers, employees or agents, or have contractual effect or form part of any legally enforceable employment contract to which I may be a party and may be varied, withdrawn or replaced at any time without notice and that this may affect the benefits available to me under the Policy.

Signature:	
Date:	
Name of current supervisor:	

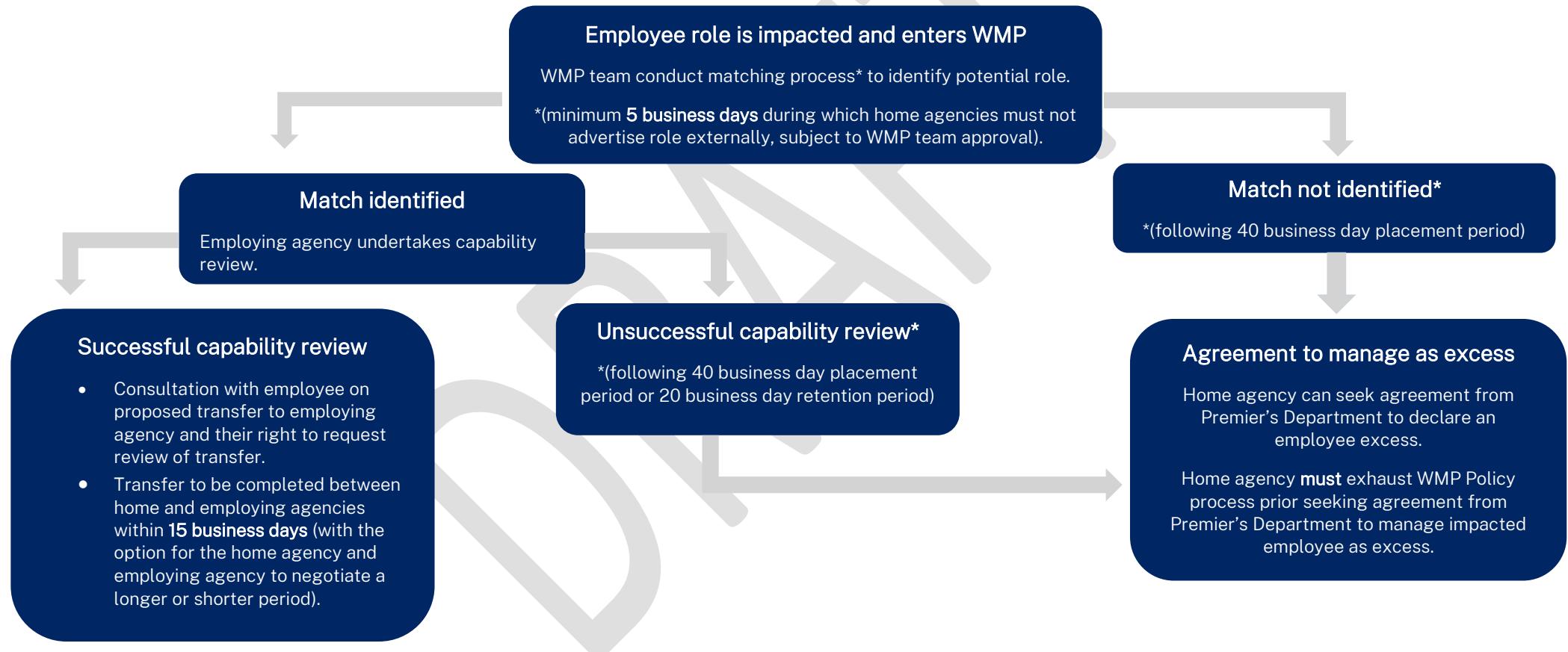
Please return this form by [date that is 10 business days from the date of this letter] to:

[HR Director's name/Manager's name]

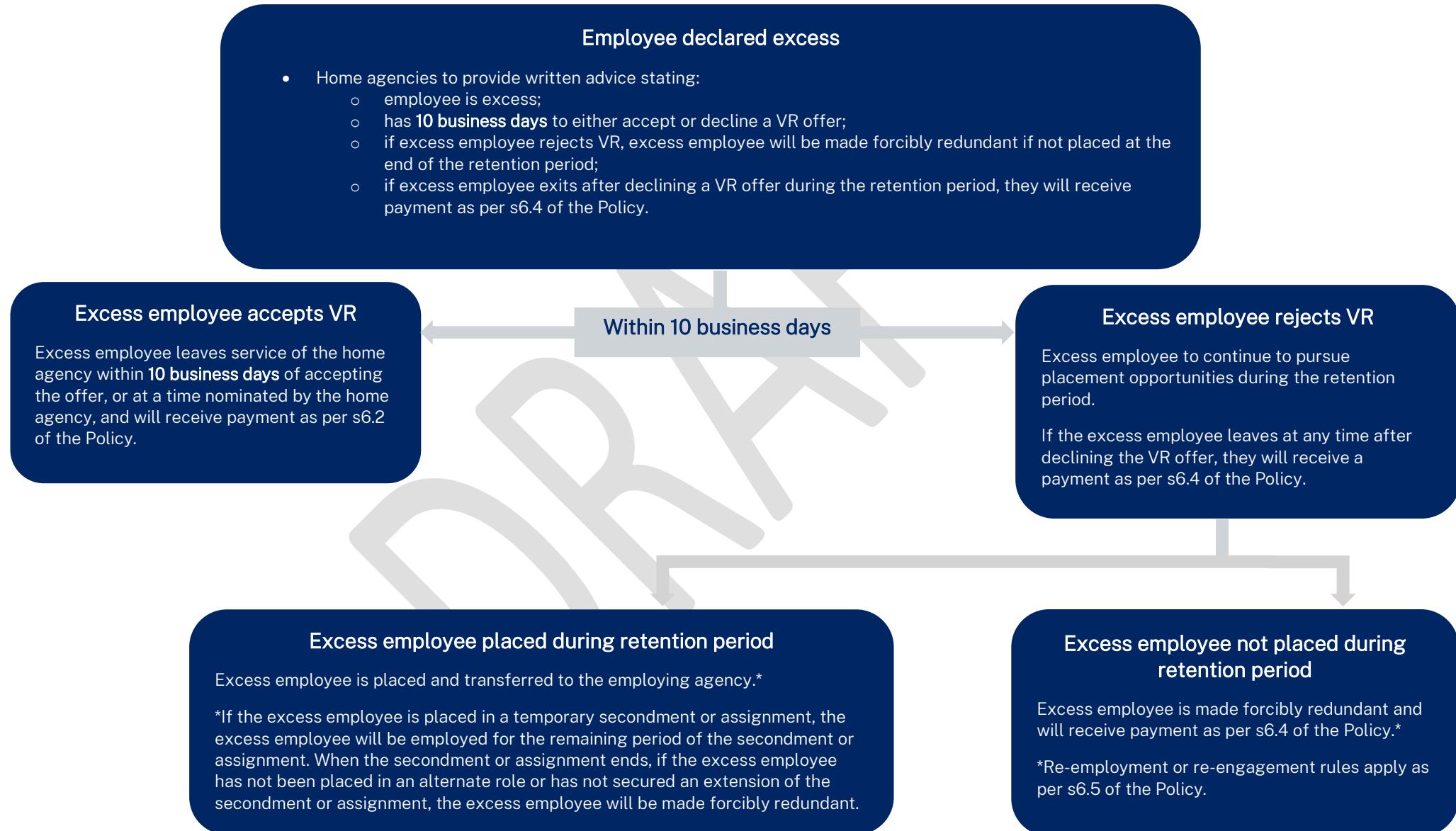
[Postal/email address]

## 9. Policy processes

### 9.1 WMP process for impacted and excess employees who decline VR



## 9.2 Transition to excess process



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