

| BEHAVIOUR AND CONDUCT POLICY | |
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PURPOSE

ReturnToWorkSA aims to provide an environment of mutual respect and integrity, underpinned by appropriate employee conduct. ReturnToWorkSA expects all employees to conduct themselves appropriately, unhindered by harassment, discrimination or intimidating behaviour.

SCOPE AND APPLICATION

This policy applies to all employees and establishes the minimum standards of behaviour and conduct. Exceptions are detailed in relevant procedures.

This policy is intended to inform, supplement and operate in combination with other ReturnToWorkSA policies and procedures, and must be read in conjunction with the procedures, toolkits and forms published on Nexus.

DEFINITIONS

1. **Discrimination:** is disadvantaging someone in the workplace because of a personal characteristic.
2. **Harassment:** is unwelcome behaviour that is unsolicited, repeated and causes the person / or a reasonable person to feel intimidated, humiliated, threatened or offended.
3. **Procedural fairness / natural justice:** is concerned with the procedures used by the decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure to be used when making a decision and that all parties are given the opportunity to be heard. This includes the right of an individual to be informed of the allegations made against them, a right of reply to those allegations, support at meetings and a presumption of innocence until evidence against them shows otherwise on the balance of probability. Confidentiality is to be maintained throughout the process.
4. **Reasonable management action:** a manager can make decisions about poor performance, take disciplinary action, and direct and control the way work is carried out. Reasonable management action that is carried out in a reasonable way is not bullying.



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POLICY PRINCIPLES

This policy and the procedures that support it are based on the following principles:

1. All employees treat others with respect, dignity and fairness.
2. All employees conduct themselves in an appropriate and safe manner and comply with relevant legislation.
3. Positive relationships are maintained with people and/or organisations with which ReturnToWorkSA interacts.
4. All employees are expected to work diligently and complete their work to the best of their ability. In situations where unsatisfactory conduct/behaviour or performance is identified, the principles of procedural fairness and natural justice will be used to discuss, understand and resolve issues identified.
5. Conflicts of interest will be immediately declared and managed in an open, transparent and consistent way.
6. Complaints and grievances will be dealt with effectively, fairly, transparently, sensitively and in a timely manner.
7. Decision-making will be transparent, free from bias, and apply the principles of procedural fairness and natural justice.
8. ReturnToWorkSA employees will respect privacy and, unless required by law to do otherwise, will treat communications confidentially.
9. ReturnToWorkSA recognises the right of employees to have appropriate access to their personal information held by ReturnToWorkSA.
10. All employees will comply with relevant Codes and legislation including Code of Ethics for the South Australian Public Sector.
11. All employees will follow any and all lawful, fair and reasonable directions given by a person in authority.

SUPPORTING PROCEDURES

- Discipline Procedure
- Prevention of Bullying and Workplace Harassment Procedure
- Prevention of Discrimination Procedure
- Resolution Procedure
- Resolution Flowchart
- ReturnToWorkSA Standard of Conduct

RELEVANT LEGISLATION

ReturnToWorkSA expects all employees to adhere to our standards of behaviour and comply with all requirements of relevant legislation as well as the Code of Ethics for the South Australian Public Sector.



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DOCUMENT HISTORY

| SUPERCEDED DOCUMENTS | SUPPORTING DOCUMENTS |
|--|--|
| <ul style="list-style-type: none"> • Alcohol and drugs policy & procedure • Bullying policy & procedure • Contact Officer info • Business Attire policy • Complaints or grievances policy • Confidential information policy • Corporate credit card policy (to finance) • Discipline policy • Employee entertainment policy • Performance Counselling Policy & Guidelines • Workplace harassment policy & procedure • Gift and hospitality declaration form • Conflict of interest declaration form | <ul style="list-style-type: none"> • Code of Ethics for the South Australian Public Sector • ReturnToWorkSA Standard of Conduct • Prevention of Bullying and Harassment Procedure • Prevention of Discrimination Procedure • Resolution Procedure • Performance Improvement Procedure • Discipline Procedure • Gift and Hospitality Declaration form • Conflict of Interest Declaration form • Our values • Social Media and Public Comment Standard • Confidentiality, Handling of Official Information and ICAC Declaration • Alcohol and Drugs Procedure |



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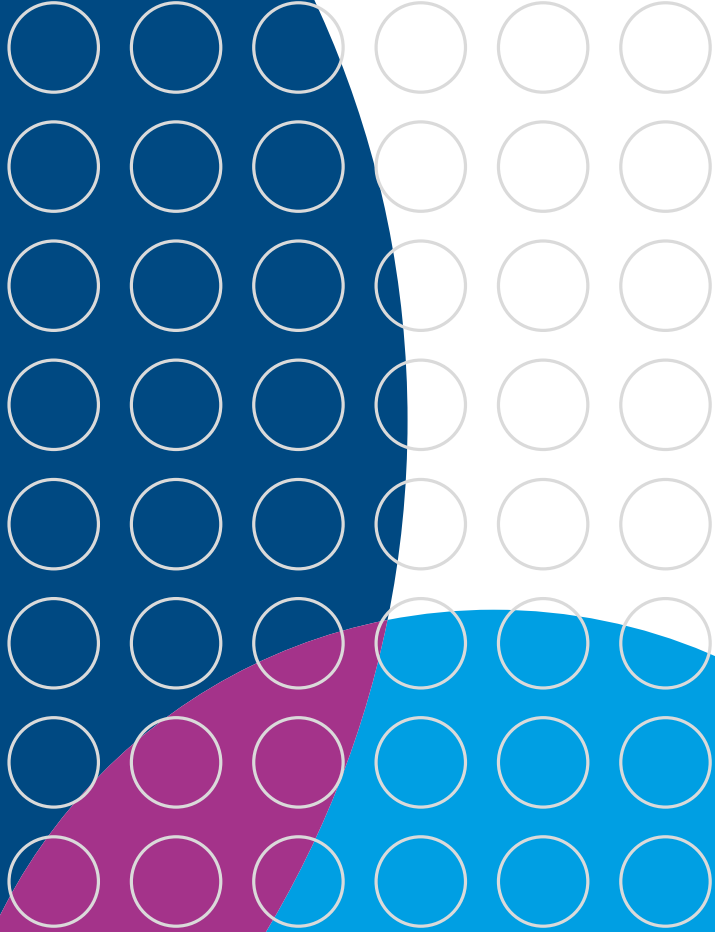
CODE OF ETHICS

for the South Australian Public Sector



**Government
of South Australia**

Commissioner for
Public Sector Employment



publicsector.sa.gov.au

The Government of South Australia acknowledges Aboriginal people as the first peoples and nations of South Australia.

The South Australian Government and public sector recognise and respect their cultural connections as the traditional owners and occupants of the land and waters of South Australia and that they maintain a unique and irreplaceable contribution to the State.

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INTRODUCTION

THE GOVERNMENT IS COMMITTED TO ENSURING THAT SOUTH AUSTRALIA IS A PLACE WHERE PEOPLE AND BUSINESS THRIVE.

The public sector must serve this vision through a strong culture of service excellence, founded on a productive working relationship with communities and business.

Above all, this relationship must be established on trust, and the guarantee that public sector employees will act effectively and with the utmost professional integrity.

This Code of Ethics for the South Australian Public Sector is the Code of Conduct for the purposes of the *Public Sector Act 2009*, and all public sector employees are bound by it.

One of the primary aims of the Act is to embed a culture of “one government” across the sector. Although public sector employees work in a diverse range of professions and organisations, they should be united by common values and standards of professionalism. These values and standards are articulated in this Code.

This Code has been updated to ensure its relevance to the opportunities and challenges that face modern South Australia. It incorporates the views provided by employees and other stakeholders since the Code was last issued in 2010.

It is intended that the Code will help employees challenge traditional ways of working while maintaining the essential principles of their profession and reliably serving the community and Government of the day.

RESPONSIBILITY OF EMPLOYEES

This Code of Ethics for the South Australian Public Sector is the Code of Conduct for the purposes of the *Public Sector Act 2009*, and all public sector employees are bound by it regardless of:

- the nature or level of employment;
- employment status; or
- the nature of the public sector organisation in which an employee works.

Every public sector employee must familiarise themselves with the content of this Code and conduct themselves in a manner consistent with the values and standards of professional conduct that are set out herein.

Some public sector employees, such as health professionals and lawyers, are bound by codes of conduct specific to their profession. In such cases, employees must have regard to the Code of Ethics for the South Australian Public Sector as well as their professional codes.

RESPONSIBILITY OF CHIEF EXECUTIVES AND OTHER ORGANISATIONAL LEADERS

Strong and visible leadership is a critical factor in achieving support for, and adherence to, the values and professional conduct embodied by this Code.

Chief executives and other organisational leaders have a special responsibility to demonstrate publicly their support for both the spirit and letter of the Code through their actions.

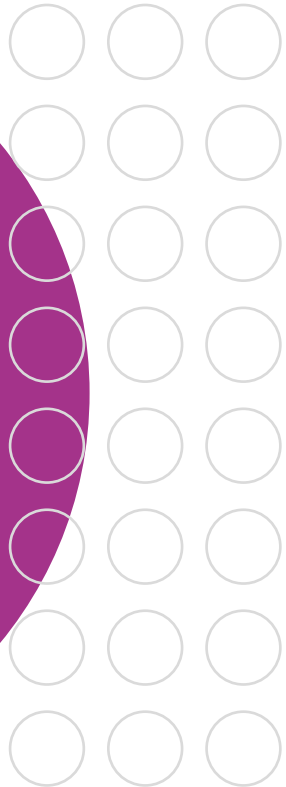
In addition to exemplary personal behaviour, chief executives and other organisational leaders are responsible for raising awareness of the Code, promoting debate on application of its content, and responding to any issue – including requests for guidance – raised by employees.

STATUTORY RESPONSIBILITY OF THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

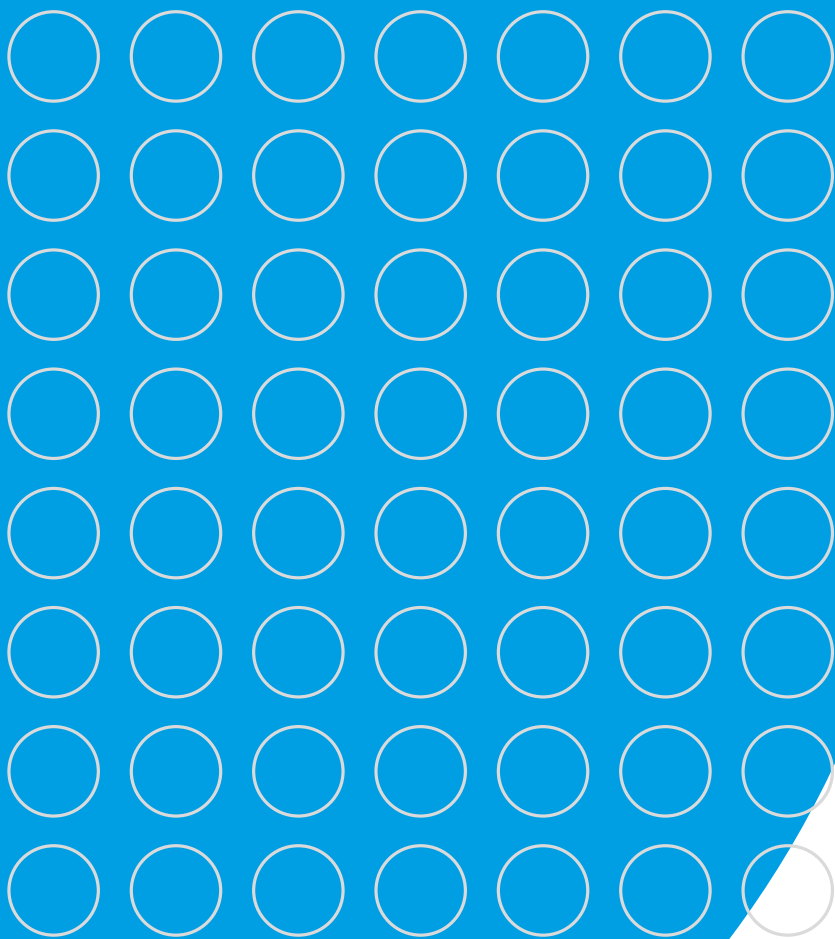
It is the responsibility of the Commissioner for Public Sector Employment to issue this Code under Part 4, Section 14(1)(a) of the *Public Sector Act 2009*.

The Commissioner will also monitor and report to Parliament on the extent to which the Code has been observed. The Commissioner is required to keep the Code under review and may vary, or revoke and substitute the Code.

**ALL PUBLIC SECTOR
EMPLOYEES ARE
BOUND BY THE CODE
OF ETHICS**



FOUR FOUNDATIONS



THE VALUES AND STANDARDS OUTLINED IN THIS CODE BUILD UPON FOUR FOUNDATIONS OF PUBLIC SERVICE:



1

DEMOCRACY

It is the role of the public sector to support the Government of the day, under law and the Constitution, in achieving the common good, primarily by providing services to the community. An emerging feature of South Australia's democracy is a higher level of collaboration between the public sector and the community in the design and delivery of services and the involvement of people in decisions that affect their lives.

2

IMPARTIALITY

Public sector employees must be detached from political influence and the influence of partisan interests within the community. Instead, public sector employees must rely on evidence to provide objective advice to Government and implement directions promptly and thoroughly.

3

ACCOUNTABILITY

Within a broad system of accountability under which ministers are accountable to Parliament, public sector employees are accountable for exercising their delegated authority and for performing their role within the values and standards of conduct outlined in this Code.

4

DIVERSITY

The South Australian public sector should be as diverse as the community it serves. The views and experiences of all people should be respected, regardless of nationality, gender, cultural or social background, sexuality, religion, age, or physical or intellectual ability.

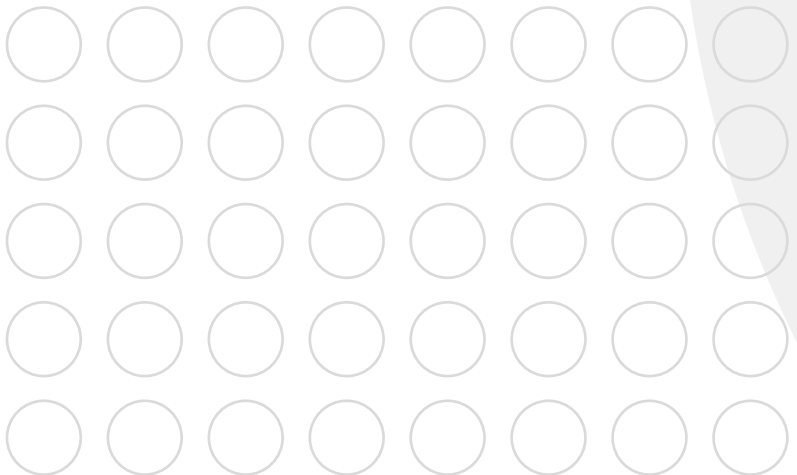
PUBLIC SECTOR VALUES

THE SOUTH AUSTRALIAN PUBLIC SECTOR IS CONTINUOUSLY EVOLVING.

Ministers, chief executives and other public sector employees have collectively defined values to guide the sector's long-term development.

The values are, in part, based on the traditional tenets of public service. Yet they also reflect the evolution of the sector, and the modern world in which it operates.

The values are articulated in the *Public Sector Values and Behaviours Framework*. All public sector employees should endeavour to embody the values in their work.



The values are:



SERVICE

Proudly serve the community and Government of South Australia.



PROFESSIONALISM

Strive for excellence.



TRUST

Have confidence in the ability of others.



RESPECT

Value every individual.



COLLABORATION & ENGAGEMENT

Create solutions together.



HONESTY & INTEGRITY

Act truthfully, consistently, and fairly.



COURAGE & TENACITY

Never give up.



SUSTAINABILITY

Work to get the best results for current and future generations of South Australians.

PROFESSIONAL CONDUCT STANDARDS

EMPLOYEES MUST EXHIBIT THE HIGHEST STANDARDS OF PROFESSIONAL CONDUCT IN ORDER TO MAINTAIN THE INTEGRITY OF THE SOUTH AUSTRALIAN PUBLIC SECTOR.

These professional conduct standards are the disciplinary provisions of the Code of Conduct for the purposes of the *Public Sector Act 2009*.

Contravention or failure to comply with these professional conduct standards will constitute misconduct as defined by the *Public Sector Act 2009*. Any employee who fails to comply with these conduct standards may be liable to disciplinary action.

Public sector organisations may choose to issue agency-specific conduct standards. Additional standards must be consistent with these standards, the *Public Sector Act 2009*, the *Public Sector Regulations 2010* and any other relevant legislation, industrial instrument or Government policy. Such conduct standards are not to be labelled as a 'code'.

This section of the Code outlines the standards of conduct regarding:

- PROFESSIONAL AND COURTEOUS BEHAVIOUR
- PUBLIC COMMENT
- HANDLING OFFICIAL INFORMATION
- USE OF GOVERNMENT/PUBLIC RESOURCES
- CONFLICTS OF INTEREST
- OUTSIDE EMPLOYMENT
- ACCEPTANCE OF GIFTS AND BENEFITS
- CRIMINAL OFFENCES
- REPORTING UNETHICAL BEHAVIOUR

PROFESSIONAL AND COURTEOUS BEHAVIOUR

Public sector employees will not at any time act in a manner that a reasonable person would view as bringing them, the agency in which they work, the public sector, or Government into disrepute; or that is otherwise improper or disgraceful.

Public sector employees will comply with a lawful and reasonable direction given to them as an employee by a person with authority to give such direction.

Public sector employees will at all times treat other persons with respect and courtesy.

Public sector employees will not be absent from duty without authority or proper explanation or excuse.

Public sector employees will be diligent in the discharge of their role and duties and not act in a way that is negligent.

PUBLIC COMMENT

Public sector employees will only make public comment in relation to their duties, the public sector or the Government – including policy and programs – when specifically authorised to do so. Such comment will be restricted to factual information and professional advice and avoid the expression of personal opinion. Public comment includes providing information or comment to or in any media (electronic and print), including posting comment on the internet and speaking engagements.

Notwithstanding the above, public sector employees may engage in a private capacity in conduct intended to influence public opinion on an issue, or promote an outcome in relation to an issue of public interest except in the circumstances set out in section 15(2) of the *Public Sector Act 2009*.

These provisions do not apply to certain statutory office holders (or other authorised officers or employees) who are entitled to make independent public comment, either through convention, under legislation or pursuant to delegated authority.

HANDLING OFFICIAL INFORMATION

By virtue of their duties, public sector employees frequently access, otherwise deal with, and/or are aware of, information about issues, facts and circumstances that they know, or where a reasonable person in the circumstances would know, needs to be treated as confidential.

Public sector employees will not access or attempt to access official information other than in connection with the performance by them of their duties and/or as authorised.

Public sector employees will not disclose official information acquired through the course of their employment other than is required by law or where appropriately authorised in the agency concerned.

Public sector employees will not misuse information gained in their official capacity, including, but not limited to:

- purchasing shares or other property on the basis of confidential information about the affairs of a business or of a proposed Government action; or
- seeking to use information for personal benefit or gain or for the personal benefit or gain of another.

Public sector employees will maintain the integrity and security of official information for which they are responsible. Employees will also ensure that the privacy of individuals is maintained and will only release information in accordance with relevant legislation, industrial instruments, policy, or lawful and reasonable direction.

USE OF GOVERNMENT/PUBLIC RESOURCES

Public sector employees shall use the Government/public resources that are the property of the Crown efficiently and only for appropriate purposes as authorised.

Government/public resources (Crown property) include physical, financial, technological and intellectual property.

The Crown retains ownership of these resources.

CONFLICTS OF INTEREST

Public sector employees will avoid actual or potential conflicts of interest.

Public sector employees will ensure their personal or financial interests do not influence or interfere with the performance of their role. They will ensure the interests of family members, friends or associates (as defined in the *Public Sector (Honesty and Accountability) Act 1995*) do not influence the performance by them of their duties and/or their role as a public sector employee.

Employees will disclose in writing to their chief executive or agency head any actual or potential conflicts of interest at the earliest available opportunity and comply with any lawful and reasonable direction issued by a person with authority to issue such direction to resolve the conflict or potential conflict, including written direction by a relevant authority pursuant to the *Public Sector (Honesty and Accountability) Act 1995*.

OUTSIDE EMPLOYMENT

Public sector employees must not engage in employment or other remunerative activity outside of their public sector employment where the activity conflicts with, or has the potential to conflict with, their role as a public sector employee, or if the performance of such outside employment or activity might affect their capacity to perform their public sector duties.

Public sector employees will obtain written permission from their agency head or delegate before engaging in any outside employment or remunerative activity (including any employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward).

In general, it is not necessary for employees to obtain permission to involve themselves in or undertake voluntary or unpaid activities or paid recreational activities (e.g. sport coaching) unless there is an actual or potential conflict of interest between such activity and their duties and/or role as a public sector employee.

Public sector employees who leave the public sector to work with a non-Government employer will avoid situations which would result in an unfair advantage for their new employer. This holds particularly in the case where the employer is bidding for a government contract or is competing for a grant or similar disbursement of public moneys.

ACCEPTANCE OF GIFTS AND BENEFITS

Public sector employees will not seek or accept gifts or benefits for themselves or others that could be reasonably perceived as influencing them in the performance of their duties and functions as a public sector employee.

Non-pecuniary gifts or benefits offered to employees by representatives of other governments may be accepted, as may gifts from non-Government sources if they are obviously mementos or gifts of a symbolic nature.

All employees will comply with any policies of their agency in relation to accepting, declaring and/or recording the receipt of gifts or benefits.

CRIMINAL OFFENCES

Public sector employees will at the earliest possible opportunity advise their manager (or if their manager is not available, some other person in management in the agency in which they are employed or working) if they are charged with a criminal offence and, if admitted or proven, there would be a connection between the offending conduct and the employee's public sector duties/role or position and/or status.

Reports to a manager or person in management will be in writing.

Public sector employees will comply with all legislation, industrial instruments, policies and procedures and lawful and reasonable directions relevant to their role as a public sector employee and/or to the performance of their duties.

REPORTING UNETHICAL BEHAVIOUR

Public sector employees will report to an appropriate authority workplace behaviour that a reasonable person would suspect violates any law, is a danger to public health or safety or to the environment, or amounts to misconduct. This obligation does not derogate from the obligations on public sector employees under the Directions and Guidelines issued by the Independent Commissioner Against Corruption.

Public sector employees who are potential witnesses or are otherwise capable of assisting, will actively cooperate and assist with any investigation into the suspected or alleged conduct of another public sector employee that, if proven, would amount to misconduct (including corruption and maladministration as defined in the *Independent Commissioner Against Corruption Act 2012*) and any other processes relating to the management of such suspected or alleged conduct. This obligation does not impact upon the right against self-incrimination of employees suspected of committing or alleged to have committed misconduct.

Public sector agencies will inform employees of their rights and responsibilities under *Public Interest Disclosure Act 2018*.

FURTHER INFORMATION

LEGISLATION AND REGULATIONS, INCLUDING:

- *Public Sector Act 2009*
- *Public Sector Regulations 2010*
- *Public Sector (Honesty and Accountability Act) 1995*
- *Independent Commissioner Against Corruption Act 2012*
- *Public Corporations Act 1993*
- *Criminal Law Consolidation Act 1935*
- *Summary Offences Act 1953*
- *Equal Opportunity Act 1984*
- *Freedom of Information Act 1991*
- *Work Health and Safety Act 2012*
- *Public Finance and Audit Act 1987*
- *Public Interest Disclosure Act 2018*
- *Lobbyist Code of Conduct*
- *State Records Act 1997*
- *Disability Discrimination Act 1992* (Commonwealth Government)
- any other relevant agency-specific legislation

PUBLIC SECTOR VALUES AND BEHAVIOURS FRAMEWORK

DETERMINATIONS AND GUIDELINES ISSUED BY THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

PUBLIC SECTOR-WIDE POLICIES ISSUED BY THE GOVERNMENT, THE DEPARTMENT OF THE PREMIER AND CABINET, THE DEPARTMENT OF TREASURY AND FINANCE, AND THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

ANY AGENCY-SPECIFIC POLICIES AND CONDUCT STANDARDS

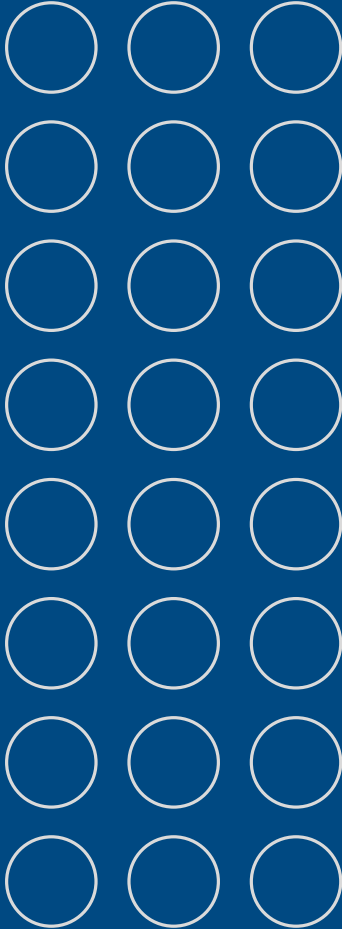
TREASURER'S INSTRUCTIONS

DIRECTIONS AND GUIDELINES ISSUED BY THE INDEPENDENT COMMISSIONER AGAINST CORRUPTION

THE OFFICE FOR PUBLIC INTEGRITY AND INDEPENDENT COMMISSIONER AGAINST CORRUPTION

SOUTH AUSTRALIA POLICE ANTI-CORRUPTION BRANCH

CROWN SOLICITOR'S OFFICE



| PREVENTION OF BULLYING AND HARASSMENT PROCEDURE | |
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BACKGROUND

ReturnToWorkSA is committed to being a workplace free from bullying and harassment. We seek to create, provide and sustain an environment of mutual respect, trust, integrity, professionalism and appropriate employee conduct.

Workplace bullying and harassment are unlawful and considered inappropriate behaviour, they are not acceptable to ReturnToWorkSA. We aim to ensure through policy, education, training and our actions, that bullying and harassment behaviour is prevented. Where inappropriate workplace behavioural matters arise, ReturnToWorkSA is committed to resolving them in a timely, fair and equitable way.

Employees are required to familiarise themselves with this procedure, as well as the Code of Ethics for the South Australian Public Sector and ReturnToWorkSA’s Standard of Conduct.

PURPOSE

This procedure provides clarification on how we support a fair treatment environment, what is / is not considered as bullying and harassment behaviour, and how to identify, resolve and report unlawful behaviour.

RELEVANT POLICY

Behaviour and Conduct Policy

SCOPE AND APPLICATION

This procedure applies to all employees (full or part-time, casual), contractors, sub-contractors, trainees, apprentices and visitors, as well as people working on our premises, clients and our customers in the course of their duties reasonably connected with ReturnToWorkSA. This includes social activities which may extend beyond the office site.



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DEFINITIONS

1. **Bullying:** is defined as repeated, unreasonable behaviour directed towards a worker or a group of workers, that creates a risk to health and safety.
2. **Defamation:** is the publication of a statement about a person which causes that person’s reputation with other people to be lowered, or causes them to be shunned, avoided or brought to ridicule.
3. **Employee Representative/Representative:** is a person nominated by an employee to provide support to the employee but is not an advocate.
4. **Procedural fairness and natural justice:** is concerned with the procedures used by the decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure to be used when making a decision and that all parties are given the opportunity to be heard. This includes the right of an individual to be informed of the allegations made against them, a right of reply to those allegations, support at meetings and a presumption of innocence until evidence against them shows otherwise on the balance of probability. Confidentiality is to be maintained throughout the process.
5. **Repeated behaviour:** refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
6. **Unreasonable behaviour:** means behaviour that a reasonable person, having regard for the circumstances, would see as victimising, humiliating, undermining or threatening.
7. **Vexatious:** refers to any action of a person that is brought forward without sufficient grounds purely to cause annoyance or harm to another person or persons.
8. **Vicarious liability:** An employer’s responsibility for their employee’s behaviour while they are working for them. Employers may receive a harassment complaint if they have not made a reasonable attempt to prevent unfair behaviour.
9. **Victimisation:** when a person does an act, or threatens to do an act against a person because:
 - they have made a complaint or are associated with a person who has made a complaint, or
 - they have had a complaint made against them (respondent), or are associated with a person who has had a complaint made against them.
10. **Vilification:** is any form of conduct that incites hatred, serious contempt for, or revulsion or severe ridicule of another person or class of person on the grounds of their race, religion, social status, chosen gender, caring responsibilities, identity of spouse, religious appearance or dress, etc. Such conduct can be a single event or series of events over a period. It may include the use of social media to publish or transmit statements.
11. **Workplace harassment:** is unwanted verbal, written or physical behaviour / conduct directed towards an employee by a fellow employee (or group of employees) which is regarded as unwelcome, offensive, threatening, intimidating, abusive or belittling by the recipient. It is unwelcome, unreciprocated, uninvited and usually, but not always,



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repeated. Such behaviour is a violation of employment and discrimination laws and may also contravene criminal and/or civil law in some circumstances. Examples of harassment may include:

- Unwanted physical contact.
- Sexual advances, propositions, suggestions or pressure for social activity outside of work, where it has been made clear that these are unwelcome.
- Conduct which is discriminatory, intimidating, physically or verbally abusive, including the display of explicit material, humour or comments of a sexual or racial nature or related to a person's abilities or disabilities whether directed specifically at any particular individual or not.
- Suggestions that sexual favours may further an employee's career, or that refusal may hinder it.
- Unjustified conduct which is intimidating or bullying and which results in an individual being made to feel humiliated, distressed or persecuted and has an adverse effect on the physical or mental well-being of the recipient.
- Offensive comments about dress, appearance or physique.

PROCEDURE

1. How to support a fair treatment environment

All persons conducting work on behalf of ReturnToWorkSA have a responsibility for creating a fair, safe and productive work environment. This includes behaviour and conduct as described in the Code of Ethics for the South Australian Public Sector and the ReturnToWorkSA Standard of Conduct.

2. What is workplace bullying

Workplace bullying is defined as “*repeated, unreasonable behaviour directed to a worker or a group of workers that creates a risk to health and safety*”. It is unacceptable behaviour, unlawful and will not be tolerated at ReturnToWorkSA. We will take appropriate action where incidents occur and will take disciplinary action against offenders.

Bullying is behaviour which makes people feel offended, afraid or humiliated and in the circumstances it is reasonable to feel that way.

Bullying can occur face-to-face, over the phone, via email, instant messaging or using mobile phone technologies including text messaging. Bullying can involve many different forms of unreasonable behaviour, which can be obvious (direct) or subtle (indirect).

2.1. Direct bullying

Examples of direct bullying include:



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- abusive, insulting or offensive language
- spreading misinformation or malicious rumours
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is shouted
- displaying offensive material
- teasing or regularly making someone the brunt of pranks or practical jokes
- inappropriate comments about a person's appearance, lifestyle, or their family
- harmful or offensive initiation practices
- intruding on a person's space by pestering, spying or tampering with their personal effects or work equipment
- defamation
- intimidating a person through inappropriate personal comments, belittling opinions, or unjustified criticism or complaints
- covert behaviour that undermines, treats less favourably or disempowers others.

2.2. Indirect bullying

Workplace bullying can also be subtle and may include behaviour such as:

- setting deadlines that are hard to achieve or constantly changing them
- regularly setting tasks that are unreasonably below or beyond a person's skill level
- deliberately excluding, isolating or marginalising a person from normal work activities
- withholding information that is vital for effective work performance
- deliberately denying access to information, consultation or resources such that it is detrimental to the employee
- deliberately changing work arrangements, such as rosters and leave, to inconvenience a particular worker or workers, or
- unfair treatment in relation to accessing workplace entitlements such as leave or training.

2.3. Intentional bullying

Bullying can be intentional, where the actions are intended to humiliate, offend, intimidate or distress, whether or not the behaviour did have that effect.

2.4. Unintentional bullying

Bullying can also be unintentional, where actions which, although not intended to humiliate, offend, intimidate or distress, cause and could reasonably have been anticipated to cause that effect. Sometimes people do not realise that their behaviour can be harmful to others. In some situations, behaviours may unintentionally cause distress and be perceived as bullying.



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3. What is not workplace bullying?

Many things that happen at work are generally not considered to be bullying, although some experiences can be uncomfortable for those involved. Bullying is not about occasional differences of opinion, different communication styles, performance management, conflicts or personality clashes which can happen in any workplace.

Legitimate feedback or comment on performance or work related behaviour is not considered as bullying behaviour. Line Managers have a responsibility to provide direction, monitor workflow and give feedback on an ongoing basis. Line Managers can give full and frank feedback in a constructive and sensitive way. If an employee has performance problems, these should be identified and dealt with constructively and in a way that is not humiliating or threatening.

'Reasonable management action' carried out in a reasonable manner is not considered to be bullying (this includes appropriate performance management). Examples of 'reasonable management action' include:

- setting and / or altering performance goals, standards and deadlines in consultation with workers and after considering their respective skills and experience
- allocating work to a worker in a transparent way
- fairly rostering and allocating working hours
- transferring an employee for legitimate and explained operational reasons
- deciding not to select an employee for promotion, following a fair and documented process
- informing an employee about unsatisfactory work performance in a constructive way
- informing an employee about inappropriate behaviour in an objective and confidential way
- implementing organisational changes or restructuring, and
- performance and career development processes or performance improvement processes.

A single incident of unreasonable behaviour is also not bullying, although it may have the potential to escalate into bullying and therefore should not be ignored.

4. What is workplace harassment?

Harassment is unwanted verbal, written or physical behaviour / conduct directed towards an employee(s) by a fellow employee (or group of employees) which is regarded as unwelcome, offensive, threatening, intimidating, abusive or belittling by the recipient. It is unwelcome, unreciprocated, uninvited and usually, but not always, repeated.

Harassment can be obvious or subtle, direct or indirect and can make the victim(s) feel belittled, intimidated, insulted and/or offended. Harassment targets an individual because of their:

- Sex or gender



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PREVENTION OF BULLYING AND HARASSMENT PROCEDURE

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- Sexuality
- Pregnancy
- Marital status, or status as a parent or carer
- Physical or intellectual disability
- Race, colour, descent, national or ethnic origin
- Cultural differences
- Age
- Political beliefs
- Religious background
- Personal association with a person as identified by any of the listed attributes.

Examples of workplace harassment include:

- Telling insulting jokes about particular racial groups
- Making derogatory comments and taunts about someone's race or religion
- Asking intrusive questions about someone's personal life, including sex life.

Some forms of harassment, such as physical assault, are a criminal offence. Bullying is a form of harassment.

5. What is not harassment

Legitimate comment and advice (including negative comment or feedback) from Line Managers or others on the work performance or work related behaviour of an individual or group.

6. What is sexual harassment

Sexual Harassment as defined in the *Equal Opportunity Act 1984*, "is unwelcome behaviour of a sexual nature that causes the other person to feel offended, humiliated or intimidated" and it is reasonable in the circumstances to feel that way. Both men and women can sexually harass or be harassed. Sexual harassment is determined from the point of view of the person feeling harassed. It is how the behaviour is received not how it is intended. It has nothing to do with mutual attraction or friendship. If there is consent, it is not sexual harassment. The Act lists the following as sexual harassment:

- he or she subjects the other to an unsolicited and intentional act of physical intimacy
- he or she demands or requests (directly or by implication) sexual favours from the other
- he or she makes a remark with sexually related connotations to the other and it is reasonable in the circumstances that the other person should feel humiliated, offended or intimidated by the conduct.

It also includes:

- Unwelcome touching or kissing in a sexual way
- Unnecessary familiarity e.g. deliberately brushing up against someone
- Repeated jokes or comments, leering or staring, that are sexually suggestive



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- Sexually explicit pictures, objects or reading material
- Direct or implied sexual propositions
- Intrusive questions about sexual activity
- Sending explicit or sexually suggestive electronic / voice messages
- Staring or leering at a person or parts of their body
- Stalking or sexual assault

Sexual harassment: is a serious issue and will not be tolerated at ReturnToWorkSA. Sexual harassment is defined by law from the perspective of the recipient. If the recipient feels offended, humiliated, distressed or intimidated by conduct of a sexual nature, and it is reasonable in all circumstances for the recipient to feel that way, then the conduct is sexual harassment. This is the case even if others might think the behaviour mild or trivial.

It is important to note that some of the above actions are also defined as criminal acts.

7. What is not sexual harassment

Behaviour which is based on mutual attraction, friendship or respect or consensual, welcome and reciprocated behaviour does not constitute sexual harassment.

8. How to report bullying or harassing behaviour

It is not easy to define workplace bullying or harassment, as it depends on some extent to how the behaviour is perceived by the person experiencing it. ReturnToWorkSA employees should be careful not to risk being misunderstood and thus becoming the subject of a complaint. It is no defence to a complaint of unlawful bullying or harassment that you did not mean to cause the offence.

Any person who believes they have witnessed inappropriate behaviours or believe they are being harassed or bullied has the right to report and resolve the situation and should refer to ReturnToWorkSA’s Resolution Procedure.

While ReturnToWorkSA strives to provide effective and respectful procedures for handling complaints, employees are always entitled to seek assistance of external bodies in resolving complaints.

9. Potential outcomes / legal considerations

The potential outcomes and legal considerations include, but are not limited to the following:

- ReturnToWorkSA recognises the right of the person accused of workplace bullying to be treated with natural justice
- Any employee found guilty of perpetrating or permitting workplace bullying will be disciplined, and may, in serious cases, be dismissed, including instantly



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- Any employee found guilty of making deliberate malicious, vexatious or frivolous allegations of bullying or harassment that are found to be unsubstantiated, will be disciplined and in justifiable circumstances, dismissed
- All employees should note that defamation laws exist to protect reputations from being unfairly damaged by false or exaggerated allegations. Therefore, any person involved either directly or indirectly in the process, including the complainant, should maintain the strictest of confidence regarding the complaint and pursue resolutions through the Resolution Procedure
- If bullying involves physical harm or the threat of physical attack, criminal laws may apply.

ROLES AND RESPONSIBILITIES

CEO / People and Communications:

- Listen to the concerns
- Provide and facilitate information on existing policies and procedures to all employees
- Treat all complaints of bullying or harassment seriously and take action to investigate and resolve any complaint in a timely manner, fairly, impartially, confidentially and with sensitivity
- Discuss options available to resolve the problem
- Refer the complaint on if necessary to where help can be accessed
- Provide training/information sessions for all employees relating to inappropriate behaviour
- Model appropriate behaviour and monitor the working environment to ensure that the required standards of behaviour and conduct are observed at all times
- Ensure that employees who make or support a complaint of inappropriate behaviour receive support and are not subsequently subjected to victimisation
- Ensure that effective resolution of complaints is achieved including where necessary, disciplinary and other remedial actions
- Provide support and training to the Contact Officers
- Take all reasonable steps to ensure there is no recurrence of the offence
- Manage risk
- Update policy and procedure as necessary
- Advise employees who approach P&C of the relevant policies and procedures, and where relevant, of the provisions of the state and federal legislation
- The CEO has ultimate responsibility for the policy whilst management of the policy and procedure rests with P&C.

Managers:

- Provide leadership and model appropriate professional behaviour in the workplace



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- Actively encourage all employees to develop an awareness of unlawful bullying and harassment issues and to support and abide by the policies
- Assist employees to establish a work environment which is free from unlawful behaviour
- Be aware of, identify and where possible, take steps to prevent inappropriate behaviour in the workplace
- Ensure that where inappropriate behaviour is observed, either directly or indirectly through a third party, appropriate action is taken regardless of whether a complaint is received about the behaviour
- Read and understand, as well as be familiar with and behave in accordance with, policy and procedures
- Respond promptly, fairly, sensitively and confidentially to all situations where inappropriate behaviour is exhibited or alleged to have occurred
- Ensure that appropriate support is provided to employees who may be affected by bullying or harassment, or involved in the investigation, including EAP support
- Ensure that employees who make or support a claim of bullying or harassment are not subject to victimisation.

Contact Officers:

- Primarily offer information and support. They do not have an official capacity in any formal investigation or resolution of the complaint
- Report unfair treatment queries/incidents made to them to People and Communications.

Employees:

- Develop a workplace that is free from unlawful bullying and harassment
- Be familiar with and behave in accordance with policy and procedure
- Any person approached by someone wishing to discuss a specific instance of possible inappropriate behaviour should refer the person to their manager or P&C
- Confidentiality must be maintained at all times
- Promptly report suspected incidents of inappropriate behaviour when it is witnessed or when they become aware of it, to the appropriate manager, in accordance with this policy
- Offer support to the person seeking resolution
- If inappropriate behaviour is observed, offer to act as a witness for the person being bullied / harassed
- Keep a record of events and incidents noting what happened, when they occurred and the names of witnesses
- Refrain from victimising any person associated with a complaint.

RECORDS MANAGEMENT



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Where appropriate, the following written records will be made / kept on the employee’s personnel file as part of this procedure:

- Written documents, including but not limited to, investigation reports.

RELEVANT LEGISLATION

ReturnToWorkSA expects all employees to adhere to our standards of behaviour and comply with all requirements of relevant legislation as well as the Code of Ethics for the South Australian Public Sector.

The *Work Health Safety Act (2012)* states that it is the employer’s responsibility to provide a safe workplace. In addition, the Commonwealth *Fair Work Act (2012)* provides a separate Code of Practice on “Preventing and Responding to Workplace Bullying” (2011).

The *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* places a new positive duty on employers and PCBU’s (“Persons Controlling a Business or Undertaking”) to take reasonable and proportionate measures to eliminate, as far as possible, sexual harassment, sex-based discrimination and harassment, hostile workplace environments and victimisation.

If bullying involves physical harm or the threat of physical attack, criminal laws may apply.

If someone is bullied on the basis of their sex, race or ethnic background, disability, sexual preference, marital status, pregnancy or age, this is covered by the *Equal Opportunity Act (1984)*.

Ultimately however, the law is the last resort. It is far better to address the issue before it impacts individuals and the productivity and reputation of ReturnToWorkSA.

DOCUMENT HISTORY

| SUPERCEDED DOCUMENTS | NEW SUPPORTING DOCUMENTS |
|--|---|
| <ul style="list-style-type: none"> • Bullying Policy • Bullying Procedure • Workplace Harassment Policy • Workplace Harassment Procedure | <ul style="list-style-type: none"> • Code of Ethics for the South Australian Public Sector • ReturnToWorkSA Standard of Conduct • Behaviour and Conduct Policy • Prevention of Discrimination Procedure • Resolution Procedure • Resolution Flowchart |



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BACKGROUND

At ReturnToWorkSA we strongly value and celebrate the diversity of our employees and promote the recognition, acceptance and right of all people to be treated with fairness, equity and justice. We are committed to an environment which provides that there will be no employment discrimination based on race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

ReturnToWorkSA subscribes to the objectives of all relevant Federal and State laws.

Anti-discrimination legislation aims to ensure that all persons have an opportunity to participate in the workforce, and that persons are not subject to detrimental treatment due to arbitrary or irrelevant characteristics.

Workplace discrimination is unlawful and considered inappropriate behaviour. It is not acceptable to ReturnToWorkSA. We endeavour to ensure through policy, education, training and our actions that discrimination is prevented. Where inappropriate workplace behavioural matters arise, ReturnToWorkSA is committed to resolving them in a timely, positive, fair and equitable way.

Employees are required to familiarise themselves with this procedure as well as the Code of Ethics for the South Australian Public Sector, ReturnToWorkSA’s Prevention of Bullying and Harassment Procedure, and ReturnToWorkSA’s Standard of Conduct.

PURPOSE

This procedure deals with discrimination in the workplace. Anti-discrimination laws also apply to other areas of life including, but not limited to, the provision of goods and services and access to and from buildings.

This procedure provides an overview of what is and is not considered discriminatory behaviour, that the behaviour is unacceptable and considered unlawful and provides an



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overview of the procedures available to identify, report and resolve behaviours that are perceived as discriminatory.

RELEVANT POLICY

Behaviour and Conduct Policy

SCOPE AND APPLICATION

This procedure applies to all employees (full or part-time, casual), contractors, sub-contractors, trainees, apprentices and visitors, as well as people working on our premises, clients and our customers in the course of their duties reasonably connected with ReturnToWorkSA. This includes social activities which may extend beyond the sites and buildings.

DEFINITIONS

1. Defamation: is the publication of a statement about a person which causes that person's reputation with other people to be lowered, or causes them to be shunned, avoided or brought to ridicule.
2. Employee Representative/Representative: is a person nominated by an employee to provide support but is not an advocate.
3. Procedural fairness and natural justice: is concerned with the procedures used by the decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure to be used when making a decision and that all parties are given the opportunity to be heard. This includes the right of an individual to be informed of the allegations made against them, a right of reply to those allegations, support at meetings and a presumption of innocence until evidence against them shows otherwise on the balance of probability. Confidentiality is to be maintained throughout the process.
4. Repeated behaviour: refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.
5. Unlawful discrimination: means directly or indirectly treating someone differently and less favourably because of their race, colour, (chosen) gender, sexual orientation, gender identity, intersex status, marital or relationship status, age, physical or mental disability, parental status, family or carer's responsibilities, pregnancy, religion, political opinion, national, social or ethnic origin, identity of their spouse, religious appearance or dress, trade union activity, criminal record.
6. Vicarious liability: An employer's responsibility for their employee's behaviour while they are working for them. Employers may receive a discrimination or sexual harassment complaint if they have not made a reasonable attempt to prevent unfair behaviour.

PROCEDURE



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1. How to support a fair and equitable work environment

All persons conducting work on behalf of ReturnToWorkSA have a responsibility for creating a fair, safe and productive work environment. This includes behaviour and conduct as described in the ReturnToWorkSA Standard of Conduct document.

2. What is discrimination

Discrimination is disadvantaging someone in the workplace because of a personal characteristic. At ReturnToWorkSA, discrimination based on any of the following grounds or attributes is unacceptable and considered unlawful:

- race
- colour
- (chosen) gender
- sexual orientation, gender identity, intersex status
- marital or relationship status
- age
- physical or mental disability, illness or injury
- parental status
- family or carer's responsibilities
- pregnancy or potential pregnancy
- breastfeeding
- religion
- political opinion
- national, social or ethnic origin
- identity of their spouse
- religious appearance or dress
- industrial activity or trade union membership
- criminal record or
- any other status protected by the law.

The disadvantage must fit the legal definition of 'adverse action'.

Adverse action includes terminating an employee, changing their job to their disadvantage, treating an employee differently than others, not recruiting someone, not giving an employee legal entitlements such as leave and pay, and offering a potential employee different terms and conditions for a job compared to other employees.

2.1 Direct and Indirect discrimination

Direct discrimination is when a particular employee is disadvantaged (e.g. person X is not hired because she is a female/has (potential) caring responsibilities).



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Indirect discrimination happens when there is a requirement that at first sight seems to treat everyone equally or reasonably, but which in fact has an unfavourable effect on a certain group of people and is not a reasonable requirement in the circumstances.

It is when an unreasonable work requirement, condition or practice applies to all employees but disadvantages certain people on the basis of a personal characteristic as defined by law (e.g. all employees must report for a 7am weekly employees meeting otherwise they will be given a written warning - a group of employees cannot attend due to family responsibilities).

2.2 What is discrimination

Examples include:

- Preferring an older person to a younger person for a job without looking at their actual experience and qualifications or not following a merit based selection process
- Holding all team meetings at 7.00am in the morning and making them compulsory to all employees
- Expressing negative stereotypes of particular groups, for example, “married women shouldn’t be working”
- Dismissing an employee on the grounds of their family responsibilities
- Declining to offer someone employment because of their partner, spouse, sexual orientation or any other area defined under the law as discriminatory
- A ‘last on, first off’ selection policy in redundancy selection processes.

2.3 What is not discrimination

Examples include:

- Recognising or rewarding an employee for outstanding achievements
- Recruiting according to the inherent requirements of a position
- Proactive measures taken for the sole purpose of advancing the employment of certain groups or individuals (indigenous, women, disabled employees).

3. How to report discriminatory behaviour

Any person who believes they have witnessed inappropriate behaviours or believe they are being discriminated against has the right to report and resolve the situation and should refer to ReturnToWorkSA’s Resolution Procedure.



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It is not easy to define workplace discrimination as there is no requirement to show intent or motive to prove that unlawful discrimination has occurred. It also depends on whether it is direct or indirect, and in the case of direct discrimination, three important elements need to be considered. These are:

- establishing whether “less favourable treatment” or “unfavourable” treatment has occurred
- that the treatment is based on an attribute or characteristic which is considered unlawful, and
- it is necessary to show that the less favourable treatment has occurred in circumstances that are the same as, or not materially different to, the circumstances of the non-discriminatory situation.

It also depends to some extent to how the behaviour is perceived by the person experiencing it. “Reasonable conduct” on behalf of the discriminator is irrelevant and cannot form the basis for a valid defence in the case of direct discrimination (although it is a relevant consideration in the case of indirect discrimination).

ReturnToWorkSA employees should be careful not to risk being misunderstood and thus becoming the subject of a complaint. It is no defence to a complaint of unlawful discrimination that you did not mean to cause the offence.

While ReturnToWorkSA strives to provide effective and respectful procedures for handling complaints, employees are always entitled to seek assistance of external bodies in resolving complaints.

4. Potential outcomes / legal considerations

ReturnToWorkSA recognises the right of the person accused of workplace discrimination to be treated with natural justice.

The potential outcomes and legal considerations include, but are not limited to the following:

- Any employee found guilty of perpetrating or permitting workplace discrimination will be disciplined, and may, in serious cases, be summarily dismissed
- Any employee found guilty of making deliberate malicious, vexatious or frivolous allegations of discriminatory conduct that are found to be unsubstantiated, will be disciplined and in justifiable circumstances dismissed
- All employees should note that defamation laws exist to protect reputations from being unfairly damaged by false or exaggerated allegations. Therefore, any person involved either directly or indirectly in the process, including the complainant, should maintain the strictest of confidence regarding the complaint and pursue resolutions through the Resolution Procedure



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- If discrimination involves physical harm or the threat of physical attack, criminal offences may apply.

ROLES AND RESPONSIBILITIES

CEO / People and Communications:

- Listen to the concerns
- Provide and facilitate information on existing policies and procedures to all employees
- Treat all complaints of discrimination seriously and take immediate action to investigate and resolve any complaint quickly and fairly and with sensitivity and complete confidentiality
- Discuss options available to resolve the problem
- Refer the complaint on if necessary where help can be accessed
- Provide training/information sessions for all employees relating to inappropriate behaviour
- Model appropriate behaviour and monitor the working environment to ensure that the required standards of behaviour and conduct are observed at all times
- Ensure that employees who make or support a complaint of inappropriate behaviour receive support and are not subsequently subjected to victimisation
- Ensure that effective resolution of complaints is achieved including as necessary disciplinary and other remedial actions
- Provide support and training to the Contact Officers
- Take all reasonable steps to ensure there is no recurrence of the offence
- Update policy and procedure as necessary
- Advise employees who approach P&C of the relevant policies and procedures, and where relevant, of the provisions of the state and federal legislation.

Managers:

- Provide leadership and role model appropriate and professional behaviour in the workplace
- Actively encourage all employees to develop an awareness of unlawful discrimination issues and to support and abide by the policies
- Assist employees to establish a work environment which is free from unlawful behaviour
- Be aware of, identify and where possible, prevent discrimination in the workplace
- Ensure that where inappropriate behaviour is observed, either directly or indirectly through a third party, appropriate action is taken regardless of whether a complaint is received about the behaviour
- Respond promptly, sensitively and confidentially to all situations where discrimination has been evident or alleged to have occurred
- Treat all complaints of discrimination seriously and take immediate action to investigate and resolve any complaint quickly and fairly and with complete confidentiality



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- Ensure that employees who make or support a complaint of discrimination are not subjected to victimisation
- Take all reasonable steps to ensure there is no recurrence of the offence (line managers can be considered vicariously liable where they are found to have failed to take all reasonable steps to prevent discrimination).

Contact Officers:

- Primarily offer information and support. They do not have an official capacity in any formal investigation or resolution of the complaint
- Report unfair treatment queries/incidents made to them to People and Communications.

Employees:

- Develop a workplace that is free from unlawful discrimination
- Promptly report suspected, or reported, incidents of discrimination to your Manager or People and Communications
- Confidentiality must be maintained at all times
- Refrain from victimising any person associated with a complaint
- Be familiar with and behave in accordance with this procedure.

RECORDS MANAGEMENT

The following written records will be made / kept on the employee’s personnel file as part of this procedure:

- Written documents, including but not limited to investigation reports.

RELEVANT LEGISLATION

ReturnToWorkSA expects all employees to adhere to our standards of behaviour and comply with all requirements of relevant legislation as well as the Code of Ethics for the South Australian Public Sector.

The Work Health Safety Act (2012) states that it is the employer’s responsibility to provide a safe workplace.

The *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022* places a new positive duty on employers and PCBU’s (“Persons Controlling a Business or Undertaking”) to take reasonable and proportionate measures to eliminate, as far as possible, sexual harassment, sex-based discrimination and harassment, hostile workplace environments and victimisation.



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If discrimination involves physical harm or the threat of physical attack, criminal offences may apply.

Ultimately however, the law is the last resort. It is far better to address the issue before it impacts individuals and the productivity and reputation of ReturnToWorkSA.

DOCUMENT HISTORY

| SUPERCEDED DOCUMENTS | NEW SUPPORTING DOCUMENTS |
|---|--|
| <ul style="list-style-type: none"> • Equal Employment Opportunity Policy | <ul style="list-style-type: none"> • Code of Ethics for the South Australian Public Sector • ReturnToWorkSA Standard of Conduct • Behaviour and Conduct Policy • Prevention of Bullying and Harassment Procedure • Resolution Procedure • Resolution Flowchart • Disability Access and Inclusion Plan 2019-22 |



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BACKGROUND

ReturnToWorkSA is committed to providing a fair, equitable and cooperation based procedure for the resolution of disputes/complaints via informal and formal methods.

The aim is to resolve actual or potential disputes over work related matters which an employee considers to be unfair or unjust.

ReturnToWorkSA will not accept victimisation.

PURPOSE

The focus of ReturnToWorkSA's Resolution Procedure is to engage all parties in genuine dialogue and partnership to identify and remedy matters at the workplace level.

This procedure deals with both informal and formal resolution procedures, and is structured to promote a fair, timely and confidential process. We trust employees to exercise good judgement and good faith, and not to abuse resolution procedures by making trivial or vexatious allegations.

RELEVANT POLICY

Behaviour and Conduct Policy.

SCOPE AND APPLICATION



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This procedure applies to all employees.

This procedure deals with all work related issues, problems, complaints, concerns and misunderstandings which may include employment discrimination in any form, working conditions, workplace safety, perceived bullying or harassment, inappropriate behaviour or disciplinary action, interpretation of ReturnToWorkSA’s Enterprise Agreement, policies or other issues.

A complaint potentially regarded as falling under the scope of disciplinary or misconduct matters will be dealt with in accordance with the Discipline Procedure or the Managing Performance Improvement Procedure.

PROCESS FLOWCHART

Refer to the Resolution flow chart.

DEFINITIONS

1. Complaint: refers to matters raised about unfair treatment or discrimination in relation to employment matters covered by the Enterprise Agreement, policies or procedures which are not otherwise managed under a separate review procedure.
2. Unlawful discrimination: means directly or indirectly treating someone differently and less favourably because of their race, colour, gender, sexual orientation, (chosen) gender identity, intersex status, marital or relationship status, age, physical or mental disability, parental status, family or carer’s responsibilities, pregnancy, religion, political opinion, national, social or ethnic origin, identity of their spouse, religious appearance or dress, trade union activity, criminal record.
3. Formal dispute resolution is a process around a complaint (either verbal or written) that details the issue and the name of the person(s) who is the subject of the complaint (where applicable). Documentation is required regarding what actions have been taken to resolve the matter and the remedy being sought.
4. Informal dispute resolution is an informal process around a complaint (either verbal or written) that details the issue and the name of the person(s) who is subject of the complaint (where applicable), what actions have been taken to resolve the matter and the remedy being sought, and may form the basis of a formal complaint.
5. Investigator: refers to a person with the delegated authority to investigate disputes/complaints.
6. Procedural fairness and natural justice: is concerned with the procedures used by the decision-maker, rather than the actual outcome reached. It requires a fair and proper



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procedure to be used when making a decision and that all parties are given the opportunity to be heard. This includes the right of an individual to be informed of the allegations made against them, a right of reply to those allegations, support at meetings and a presumption of innocence until evidence against them shows otherwise on the balance of probability. Confidentiality is to be maintained throughout the process.

7. Recrimination: refers to any retaliatory action towards a complainant, witness or other person involved in the resolution of a complaint.
8. Vexatious: refers to any action of a person that is brought forward without sufficient grounds purely to cause annoyance or harm to another person or persons.
9. Victimisation: when a person does an act, or threatens to do an act against a person because:
 - they have made a complaint or are associated with a person who has made a complaint, or
 - they have had a complaint made against them (respondent), or are associated with a person who has had a complaint made against them.

PROCEDURE

It is important that all disputes/complaints be dealt with as efficiently as possible. It is the responsibility of all employees, managers or other related parties to minimise delay and to proceed through the complaint process in a timely and efficient manner.

Without prejudice to any party, ongoing work responsibilities will continue as usual while the subject matter of the complaint is dealt with in accordance with this procedure, unless otherwise determined by ReturnToWorkSA or the matter relates to serious health and safety concerns.

Either party retains the right to pursue external options for remedy.

1. Prevention of disputes/complaints

To work effectively as a team, managers and their employees need to communicate regularly and openly about work matters that affect them. Often disputes or complaints arise when:

- an employee perceives that they have been done an injustice
- an employee is concerned about pending change, or
- there is a misunderstanding / misinterpretation / misapplication of policy or procedure.



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These issues can potentially be averted when employees are encouraged to, and supported in, respectfully expressing their views and exploring alternative solutions.

2. Informal and formal complaint procedures

There are both informal and formal procedures to resolve disputes/complaints. Employees may nominate to use either or both of these avenues, though in the first instance every attempt should be made to resolve the matter through informal means. An employee may seek assistance of managers, a colleague, People and Communications, their employee association or other representative of their choice at any stage of this procedure.

In any complaint procedure, the aim is to ascertain the facts as fully as possible. Both sides will be given the opportunity to present their version of events and put forward supporting material. Note that anonymous or vexatious complaints will not be investigated.

As far as practicable, the issues or matters raised in the complaint (from the perspective of each party) will be aired and discussed openly at each stage with a view to a fair and reasonable exchange of views in good faith.

Informal resolution

Where an employee believes they have been unfairly treated or experienced employment discrimination:

1. In the first instance the employee is encouraged to resolve a problem or concern directly with the person involved through conversation and negotiation. Open respectful communication may offer the quickest and most effective resolution to the complaint.
2. If that approach is unsuccessful, or where an employee feels unable to raise the matter directly, or where they would like support to approach the other party, they are encouraged to contact their manager (or next level manager where the issue relates to their line manager), and/or a Contact Officer and/or People and Communications to seek their guidance and support.
3. In raising the matter with their manager (or next level manager) the employee is responsible for clearly articulating the grounds of dispute or complaint, including a



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description of the actions that have been undertaken to resolve the matter and what remedy they are seeking.

4. If the complainant does not want to name the person they are complaining about there may be little that ReturnToWorkSA can do to resolve the issue. This is largely due to the issues associated with procedural fairness and natural justice.
5. Where appropriate the manager (or next level manager) is to arrange a meeting between all relevant parties to seek a resolution. The meeting of all relevant parties is to be held within five (5) working days, or a longer period as agreed by the parties.
6. The principles of natural justice must be applied in that all parties are to be given the opportunity to respectfully express their views, or respond to allegations without fear of bias or recrimination.
7. Where an issue is resolved informally, no official record will be held on personnel files. However the manager, People and Communications representative or Contact Officer involved, is required to keep a file note summarising the incident and resolution.

Formal resolution

1. If the complaint is not resolved informally, the employee may refer the matter formally to their ELT member. The complainant must provide notification that:
 - provides a clear statement of the matter being disputed
 - identifies what actions have already been taken by the complainant and /or other parties to resolve the matter; and
 - identifies and recommends possible solutions.
2. The complainant may seek the assistance of a Contact Officer or a colleague / manager to assist them in preparing a written statement.
3. The ELT member is to acknowledge receipt of the notification within five (5) working days of receiving the notification.
4. The ELT member is to attempt to resolve the matter. Where resolution is not reached, the ELT member is to assign the investigation to the Executive Leader People and Communications (unless the complainant, or the subject of the complaint, is from that business group) within five (5) working days to investigate the matter, or a longer period as agreed by the parties.
5. The Executive Leader People and Communications is to appoint an investigator within three (3) working days, or a longer period as agreed by the ELT member. The Executive Leader People and Communications will advise all relevant parties of who will undertake the investigation.



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6. Where the Executive Leader People and Communications considers there is potential for conflict of interest they are to advise the referring ELT member.
7. Where the complaint involves an executive, the complaint is to be referred directly to the CEO. The CEO will determine whether to appoint an internal or external investigator.
8. The complainant and the person who is the subject of the complaint each have the right to information and representation throughout this process.
9. The Investigator is to investigate the matter to ascertain the facts as fully as possible, gather supporting evidence and conduct interviews (where appropriate). On conclusion of the investigation, the Investigator is to provide the ELT member (via the Executive Leader People and Communications – or other party if there is a conflict of interest) with a written report detailing the nature of the complaint, the investigation findings and options for remedy.
10. The ELT member, having regard to the provisions of the ReturnToWorkSA Sub-delegations and policies, shall determine the actions to be taken. Where appropriate the ELT member shall advise the CEO and the Executive Leader People and Communications of the proposed action.
11. The ELT member will provide feedback to all relevant parties on the outcome of the investigation and the associated actions.
12. If the matter is not resolved, either party can refer the matter to the CEO for decision. The CEO may elect to seek an external party to review the investigation findings.

External resolution

If the complaint is not resolved in accordance with these procedures, either party may refer the matter to the relevant authority for resolution.

All internal avenues of complaint resolution should be exhausted prior to seeking determination of the matter by the relevant authority. Examples of external authorities include (but are not limited to):

- Australian Human Rights Commission
- Fair Work Commission
- South Australian Employment Tribunal
- SafeWorkSA
- South Australian Equal Opportunities Commission
- South Australian Equal Opportunities Tribunal
- The Office of the Employee Ombudsman



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Actions taken on the part of another employee that may be deemed corrupt, illegal or improper may be reported to any authorised authority as described in the *Public Interest Disclosure Act 2018*.

ROLES AND RESPONSIBILITIES

All parties involved in the resolution process are to be diligent in maintaining confidentiality, and to afford all parties natural justice by remaining fair, impartial and respectful of people and process.

Employees: have a responsibility to ensure that their behaviour with other employees, potential employees, customers or stakeholders is at all times appropriate. Employees will assist in the resolution of informal and formal complaints according to this procedure.

Contact Officers: primarily offer information and support. They do not have an official capacity in any formal investigation or resolution of the complaint. Contact Officers receive appropriate training and will treat matters with sensitivity and confidentiality. Contact Officers are required to report unfair treatment queries/incidents made to them to the People and Communications team.

Managers: includes team leaders/managers/leaders, have a responsibility to provide guidance and support to employees, and will ensure that they are open and accessible to discussing matters and addressing issues. They must also maintain a workplace that is safe and ensure that employment related decisions are free of bias or discrimination.

People and Communications: will ensure that employees are informed of the relevant policy and procedures, as well as support employees and managers through the review process and where appropriate assist to resolve the complaint. P&C will provide support and training to the Contact Officers. P&C will organise any investigation to be undertaken.

Investigators: are to ensure that they are fully conversant with the associated policy and procedures prior to commencing the investigation.

ELT members: have a responsibility to ensure that formal complaints are managed in accordance with this procedure.

Chief Executive Officer: holds overall responsibility and accountability for the overarching policy.



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RECORDS MANAGEMENT

The following written records will be maintained as part of the formal resolution procedure:

- Complaint written notification
- The written statements of both the complainant and the person(s) who is (are) the subject of the complaint
- Notes or reports of any person conducting an investigation into the complaint
- Notes or reports of those reviewing the complaint and any supporting documentation
- All investigation associated records will be maintained on a confidential file.

All records need to be provided to People and Communications so that they can be stored on file in accordance with the State Records Act.

RELEVANT LEGISLATION

ReturnToWorkSA expects all employees to adhere to our standards of behaviour and comply with all requirements of relevant legislation as well as the Code of Ethics for the South Australian Public Sector.

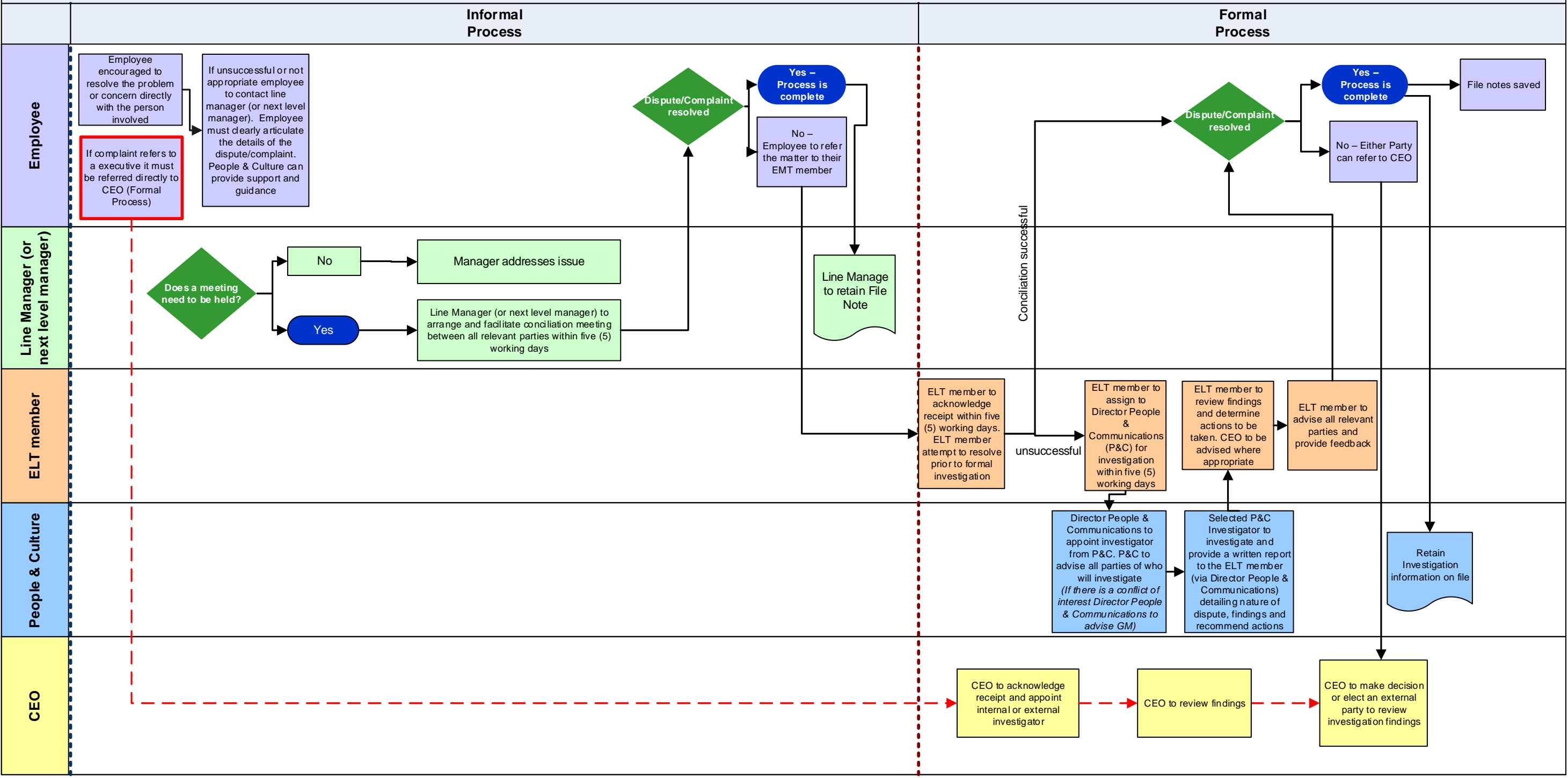
DOCUMENT HISTORY

| SUPERCEDED DOCUMENTS | NEW SUPPORTING DOCUMENTS |
|--------------------------------|--|
| Complaints or Grievance Policy | <ul style="list-style-type: none"> ▪ Behaviour and Conduct Policy ▪ Resolution Process Flowchart |



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Resolution Process Flowchart



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BACKGROUND

As a public sector employee you are employed to provide services for the South Australian community in line with the policies of ReturnToWorkSA. This places you in a unique position of trust, requiring standards of ethical behaviour that reflect community expectations.

This document explains the standards of conduct required by all employees when dealing with each other, customers, suppliers, contractors, stakeholders and anyone we interact with in our business every day.

The **Code of Ethics for the South Australian Public Sector** (The Code) provides an ethical framework for all public sector employees and forms part of your employment conditions. It is expected that you will understand and comply with its contents. A copy of The Code is available on Nexus and is provided to all employees during their induction.

The Standard of Conduct (the Standard) provides additional guidance in relation to the expectations ReturnToWorkSA has of your behaviour, activities and interactions on a daily basis. This includes social activities which may extend beyond the sites and buildings.

The Standard and The Code jointly provide the behavioural standards expected of you as an employee of ReturnToWorkSA. Reading of these documents acknowledges your understanding of their importance and your undertaking to demonstrate these standards in your employment.

OUR VALUES

“Our Values” exist to ensure that we provide clarity and transparency regarding how we conduct ourselves. Values shape our culture and influence the decisions we make and define the nature of our conduct, actions and interactions. ReturnToWorkSA ensures a shared obligation in consistently demonstrating “Our Values” of Integrity, Achievement, Respect and Professional Excellence.

- **Integrity:** We will be transparent in all that we will do, be fair in our treatment of others and deliver on our word.
- **Achievement:** We will deliver our outcomes, recognise and celebrate success and have the courage to make the right decisions.
- **Respect:** We will respect people for who they are and what they bring to the table, value open and honest communication, consider the impact of our actions on others, and value our employees’ safety and wellbeing.
- **Professional Excellence:** We will be accountable to the highest ethical and professional standards, accept responsibility for our actions and always seek to learn and actively share information and expertise.



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STANDARD OF CONDUCT

We are committed to doing business with our employees, customers, suppliers and other stakeholders in accordance with our values.

Key to our values is the need for everyone to act honestly and lawfully and adhere to these standards.

ROLES AND RESPONSIBILITIES

Employees:

At work, work-related social situations and any situation in which you are representing ReturnToWorkSA you will:

- treat others with courtesy, dignity and respect;
- act in accordance with ReturnToWorkSA's values;
- make truthful statements, promises or commitments that you and ReturnToWorkSA are able to meet;
- fulfil your contract of employment;
- follow lawful and reasonable instructions;
- learn about and comply with ReturnToWorkSA standards, policies and procedures, and all relevant laws;
- raise situations you think could be in breach of the Standard or the Code with your line manager. Encourage others to also raise concerns;
- act without regard to political influence or preference. You are engaged to support the employers and injured workers of South Australia;
- make decisions based on merit and equity using the best available information;
- be accountable for the appropriate use of ReturnToWorkSA resources;
- not make public comment that brings ReturnToWorkSA into disrepute; and
- maintain a professional and appropriate standard of presentation, including dress and appearance.

Managers:

As an employee of the organisation you share the responsibilities above, as well the expectation that you will:

- lead by example, demonstrating the Standard of Conduct, our Values, The Code and any other policies, procedures and laws that apply in your area of responsibility;
- build team members' knowledge of and compliance with the Standard, Values, Code and any other policies and laws that apply;
- provide an environment where employees can confidently raise their concerns and discuss them openly without fear of reprisal or recrimination;



STANDARD OF CONDUCT

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- proactively manage behaviour that is inconsistent with the ReturnToWorkSA Standard, our Values, The Code and any other relevant policies and laws; and
- lead and manage team members in accordance with the ReturnToWorkSA Standard of Conduct, our Values and The Code.

OUR CONDUCT

Confidentiality of Information

Information is considered confidential when it is not readily available to the public. The majority of information used throughout and within ReturnToWorkSA is confidential. If you are in doubt, treat information as confidential. ReturnToWorkSA will not accept the unauthorised use, access or disclosure of confidential information. ReturnToWorkSA employees will:

- keep information confidential except where disclosure is authorised or required by law;
- use only their own log-on credentials, and ensure these are not disclosed to anyone else;
- use confidential information solely for authorised purposes. Information will not be used to gain an advantage or to cause detriment to ReturnToWorkSA; and
- not access confidential information which is not relevant to their position.

Conflict of Interest

Situations can sometimes arise where a team member has interests which conflict with those of ReturnToWorkSA. For example, a conflict of interest exists where you make a decision, or influence a decision (of a supplier, customer, contractor, another team member), that provides a personal benefit to yourself or a related third party such as a partner, relative, business or associate. ReturnToWorkSA employees will:

- declare any actual or potential conflict of interest to their line manager;
- declare any financial interests in writing;
- ensure other employment does not impair their ability to perform their role, and gain formal permission as required;
- **immediately** advise their manager of any gifts or entertainment, either offered or received (value over \$20);
- not accept gifts, entertainment or any benefit (value over \$20) in their capacity as an employee unless:
 - Manager's approval has been given and the value of the gift, entertainment or benefit is under \$100 **Or** the relevant ELT member approval has been given if over \$100 in value.

*NOTE: Irrespective of the above approvals, a gift **must not** be accepted from an Employer or an Injured Worker if over \$20 in value.*

Note: all gifts must be recorded on the gifts and hospitality register

- not offer or accept a bribe or engage in fraud.



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Diversity and Equal Opportunity

ReturnToWorkSA encourages diversity and is committed to equal opportunity as per our Disability Access and Inclusion Plan (DAIP) 2019-2022. We recognise and appreciate the value of our differences, internally amongst employees and also externally with anyone we interact within our roles with ReturnToWorkSA. We do not accept harassment, sexual harassment, discrimination, bullying or any other inappropriate workplace behaviour. ReturnToWorkSA employees will:

- treat everyone that they interact with in the course of employment with dignity, courtesy and respect;
- contribute positively to an environment where employees and others can work without the distress or interference caused by harassment, sexual harassment, discrimination or bullying;
- not unlawfully discriminate against people in the provision of our services, and in all aspects of employment including recruitment, training, promotion, remuneration and benefits and termination of employment on prohibited grounds (such as age, gender, race, disability, religion etc.); and
- not make any disparaging or untruthful remarks about other employees, injured workers, employers, providers, contractors or suppliers.

Fairness and Equity

ReturnToWorkSA engages with a number of stakeholders, some that rely on ReturnToWorkSA for their financial support. ReturnToWorkSA employees will be open, honest and trustworthy in all their dealings with them. ReturnToWorkSA employees will:

- deal openly and honestly with all stakeholders;
- work with suppliers of goods and services in a constructive and fair manner; and
- not engage in favouritism in the making of decisions including job selection or procurement of services.

ReturnToWorkSA must ensure engagement with injured workers is of a fair and reasonable manner at all times. ReturnToWorkSA employees will:

- deal fairly with injured workers to achieve positive return to work outcomes and not influence their case manager or other parties in a negative way;
- not enter into any discussions or agreements that do not support positive return to work outcomes;
- not misuse our position to restrict access to services or appropriate reporting and management of a claim; and
- not act or become involved on behalf of a personal connection relating to an injury claim.



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Safety, Health & Wellbeing

ReturnToWorkSA provides a safe working environment and does not accept behaviour that puts the safety of employees or anyone we interact with in our work at risk. This includes physical violence and psychological harm, or threats of violence or harm.

ReturnToWorkSA employees will:

- behave in a manner that ensures personal safety, and the safety of others;
- adhere to all safety procedures;
- attend work fit to undertake duties, not under the influence of alcohol or other drugs;
- not possess or traffic illegal drugs or weapons at work; and
- not smoke on company premises except in designated areas.

ReturnToWorkSA Resources

ReturnToWorkSA will not accept deliberate or reckless damage, theft or misuse of its resources, or the resources of others who we interact with in our work. Resources include but are not limited to, equipment, stationery, files, data, records, computer hardware and software, intellectual property and organisation work time. ReturnToWorkSA employees will:

- use organisation resources for the purpose intended;
- abide by copyright and trademark laws, including organisation logos;
- maintain accurate business records, including accounting records, and not falsify them;
- not take or use stationery and office supplies for personal matters; and
- respect the personal property of others, including fundraising materials.

Breaching the Standard

ReturnToWorkSA treats breaches of this Standard seriously.

If you breach this Standard, or assist someone else to breach it, the breach will be investigated. If it is determined that a breach has occurred, ReturnToWorkSA will address the breach in line with the circumstances of the individual case. This could include coaching a team member, or disciplinary action, which ranges from a warning through to termination of employment.

There are some breaches of this Standard that ReturnToWorkSA considers serious and wilful misconduct and will not tolerate. Serious proven breaches will result in termination of employment.

Examples of serious and wilful misconduct are, but not limited to:



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- (a) any serious or persistent breach by employee of any of the terms of their employment contract, the Enterprise Agreement, award, other industrial instrument or ReturnToWorkSA's policies or procedures;
- (b) serious safety breaches, including physical violence or psychological harm, or threats of violence;
- (c) any form of harassment, bullying, sexual harassment, or discrimination including verbal, written or physical abuse or threats in the workplace;
- (d) misconduct or wilful neglect in the discharge of their duties, including seriously risking ReturnToWorkSA's business / reputation including unauthorised statements to the media or bringing ReturnToWorkSA into disrepute;
- (e) improper use of ReturnToWorkSA's property including damage or theft;
- (f) being under the influence of alcohol or other drugs during the performance of their duties;
- (g) disregard of a reasonable management directive; i.e. refusing to do something lawful and reasonable that is part of your job;
- (h) breach of Delegations or Treasurer's Instructions;
- (i) victimising a person who has been involved with a complaint;
- (j) acts of dishonesty including fraud, theft or misleading behaviour; and
- (k) any other reason that is considered serious and wilful misconduct.

Reporting a Breach

If you genuinely believe that conduct in breach of this Standard has occurred, you should raise your concerns. Employees who are concerned should raise the matter with a Manager. If the breach involves your Manager, raise it with their manager.

Where there are circumstances when an employee has used this process and the conduct is not rectified, or a team member believes a breach is so serious that they feel unable to raise their concerns via their manager then the employee should raise their concerns with People and Communications or the Chief Executive Officer.

ReturnToWorkSA will not accept victimisation of an employee who raises a genuine concern.

Further Information

Your Manager is your most direct source of information and action. They will clarify how the ReturnToWorkSA Standard of Conduct, our Values and The Code apply to you in a specific situation, or direct you to someone who can assist such as P&C.



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Orders



SOUTH
AUSTRALIAN
EMPLOYMENT
TRIBUNAL

Case Details

Case number ET-21-02988

Applicant Public Service Association of South Australia, Shirley Holt, Wendy Roberts, Selle Verhoeven, Sara Roberts, Natasha Green, David Ormsby, Department of Treasury and Finance, Michelle Walding, Rob Coulter, Lee Anne Kearney, Cathy Smith, Mark Cunningham, Daphne Lai, Chris Peake

Other parties

Linked case(s)

Orders - Approval of Enterprise Agreement Return To Work SA Enterprise Agreement 2021

I HEREBY APPROVE this Enterprise Agreement pursuant to section 79 of the *Fair Work Act 1994*.

This Agreement shall come into force on and from 2 August 2021 and have a nominal life extending for a period of 3 years therefrom.

A handwritten signature in blue ink, appearing to read 'A Cairney', written over a light blue horizontal line.

Commissioner Cairney

02 Aug 2021

DOC_BUILDER_ENTERPRISE_AGREEMENTS





ReturnToWorkSA

Enterprise Agreement 2021

ReturnToWorkSA

400 King William Street Adelaide SA 5000 • GPO Box 2668 Adelaide SA 5001 • ABN 83 687 563 395

General Enquiries 13 18 55 • www.rtwsa.com



**Government
of South Australia**

1 Title

This Agreement will be referred to as the ReturnToWorkSA Enterprise Agreement 2021.

2 Arrangement

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3 Definitions

“Additional duties allowance” – where an employee undertakes some discrete, additional work or area of responsibility that is not normally part of their substantive role but does not perform all of the duties of another position or move to another position.

“Agreement” means this Agreement.

“Award” means the ReturnToWorkSA Award 2015.

“Continuous service” means, for the purpose of calculating length of service of an employee in accordance with clauses 26, 27 and 29, any period of employment with ReturnToWorkSA (including service with the former "SGIC Claims Agency" dating from 2 February 1987) which has not been broken other than by a period of approved paid or unpaid leave or by a period of absence of less than three months duration immediately prior to the employee's re-employment by ReturnToWorkSA. For the purpose of calculating actual service entitlements (as opposed to determining continuous service), unpaid absences will not count as part of an employee's total service with ReturnToWorkSA, as per clause 41 of this Agreement.

“Employee” means and includes all employees appointed to positions in Classification Level 1 to 7 (Grade 1 to 5) as prescribed in the Award.

“Family member” includes:

- partner which includes a spouse;
- child or step child of the employee or partner;
- sibling of the employee or partner;
- parent of the employee or partner;
- grandparent or grandchild of the employee or partner; or
- any other member of the person's household;
- any other person who is dependent on the person's care.

Note: A partner includes a former partner.

“Higher duties allowance” is where an employee performs duties at a higher Grade than their substantive role or where undertaking the delegations of a role which is at a higher Grade for 5 or more consecutive working days. The employee may not necessarily perform all of the duties of the other person's position.

“Industrial Association” means the Public Service Association of SA (PSA).

“Salary” means the gross cash component of an employee's total remuneration prior to any salary sacrifice items and includes ordinary rate of pay (as stated in Appendix A), market allowance, higher and additional duties allowance but does not include overtime or allowances not paid for all purposes including on-call allowance, first aid allowance or meal allowance. Higher duties and additional duties allowances will not apply to long service leave cash outs, termination payments or absences in excess of 4 weeks.

“ReturnToWorkSA” means the Return To Work Corporation of South Australia.

“Secondment” – the temporary transfer of an employee to another position within ReturnToWorkSA. A secondment will be paid at a salary appropriate to the position.

4 Commencement and period of operation

- 4.1 This Agreement shall operate from the date of approval by the South Australian Employment Tribunal and will remain in force for three years from the date of approval.

5 Scope and parties bound

- 5.1 This Agreement will be binding on:

5.1.1 the Return to Work Corporation of South Australia (ReturnToWorkSA);

5.1.2 employees of ReturnToWorkSA;

5.1.3 the Industrial Association, and

5.1.4 the Chief Executive of the Department of the Premier and Cabinet as the declared employer for the purposes of the *Fair Work Act 1994 (SA)*, in relation to the Return to Work Corporation of South Australia.

6 Application

- 6.1 This Agreement will operate to the exclusion of any Certified Agreements or Enterprise Agreements that may otherwise apply and will be read and interpreted in conjunction with the Award, provided that, where there is any inconsistency, this Agreement will take precedence.

- 6.2 This Agreement does not limit the application of:

6.2.1 Sections 21 to 24 of the *Return To Work Corporation of South Australia Act 1994*; and

6.2.2 Part 3 of the *Public Sector Act 2009 (SA)*.

- 6.3 The application of such Acts is preserved and will take precedence over any inconsistent provisions of this Agreement.

7 No extra claims

- 7.1 The parties undertake that during the period of operation of this Agreement there shall be no further wage or other claims sought or granted relating to the relationship of the employer and employee, whether dealt with in this Agreement or not, except where provided under the terms of this Agreement.

8 Renegotiation

- 8.1 The parties will commence negotiation of a new Agreement no later than six (6) months prior to the expiry of this agreement.

9 Purpose and intent

- 9.1 ReturnToWorkSA is committed to:

9.1.1 continuing use of the "Behaviours we value";

9.1.2 fair and equitable treatment of its employees;

- 9.1.3 the enhancement of flexibility in the employment of its employees to achieve corporate goals;
 - 9.1.4 increasing efficiency and effective service delivery;
 - 9.1.5 achieving the business strategy and the necessary culture to facilitate this aim;
 - 9.1.6 improving consultation for all employees;
 - 9.1.7 providing appropriate training, retraining and career guidance aimed at supporting employees to reach their full potential and maximum employability both inside and outside ReturnToWorkSA;
 - 9.1.8 recognising employee achievement informally and formally through a recognition system;
 - 9.1.9 abiding by relevant laws in all its dealings with employees;
 - 9.1.10 ensuring its policies are understood and fairly and consistently applied, this will be reviewed and monitored on an on-going basis;
 - 9.1.11 taking into account family responsibilities and lifestyle changes;
 - 9.1.12 ensuring that the focus of ReturnToWorkSA's efforts continues to be on the achievement of the strategic plan.
- 9.2 ReturnToWorkSA recognises that it is a signatory to the South Australian Workplace Health and Wellbeing Charter and aspires to be an employer of choice in relation to wellbeing in the workplace.

10 Consultation

10.1 Consultation principles

- 10.1.1 Proper consultation involves the sharing of information and the exchange of views between employees and the persons or bodies that must be consulted and the genuine opportunity for them to contribute effectively to, or influence, any decision-making process.
- 10.1.2 ReturnToWorkSA undertakes to consult in good faith, not simply advise what will be done.
- 10.1.3 The parties to this Agreement accept that effective workplace relationships can only be achieved if appropriate consultation between the parties occurs on a regular basis.
- 10.1.4 Workplace change which will have a significant effect on employees should not be implemented before appropriate consultation has occurred.
ReturnToWorkSA will notify those employees affected by the proposed changes and their appointed representatives, including the PSA representatives. These notifications will be given concurrently where practicable.
- 10.1.5 Employee representatives, including the PSA, will be given the opportunity to adequately consult with the employees they represent in the workplace, in relation to any significant proposed changes that may affect employees' working conditions.

10.2 Consultation Process

10.2.1 In keeping with the consultation principles detailed in 10.1 above, ReturnToWorkSA will adhere to the following process:

- providing wherever possible all relevant information to employees about pending changes or decisions or other issues that will or may impact on them;
- in making decisions, taking into account the views expressed by internal and external stakeholders where appropriate; and
- explaining corporate decisions that have been made.

10.3 Consistent with subclause 10.1.2 above, it is agreed that the Consultative Group continue to foster communication between ReturnToWorkSA and its employees.

10.4 The Consultative Group is the key forum for consultation. However, in addition to this Group, ReturnToWorkSA may hold separate discussions with the PSA, provided that these discussions do not usurp the function of the Consultative Group.

10.5 For the duration of this Agreement the Consultative Group will consist of up to two (2) elected staff members from each Business Group, and one (1) Job Representative and one (1) Industrial Officer from the PSA. ReturnToWorkSA will provide up to three (3) management representatives, as well as executive support.

10.6 Elections will be managed entirely within each Business Group with any ongoing employee able to nominate. Elections will be conducted internally by secret ballot.

10.7 The successful employee will hold the position for the duration of the Agreement.

10.8 In the event of a vacancy occurring new elections must be held.

10.9 Where an Elected Representative decides that he/she is unable to fulfil their role of representing all staff of their Business Group for any reason, Business Group staff, or a section of Business Group staff, may choose to be represented by another nominated member of the Business Group, or Deputy or Proxy to the Elected Representative on a needs basis, until such time as the Elected Representative is able to resume normal representation.

10.10 Consultation will include, but not be limited to, all areas covered specifically in this Agreement and changes in ReturnToWorkSA policy. It is agreed that appropriate training for members of the Consultative Group will occur where necessary in the areas of communication, decision making, problem solving and negotiation.

11 Employee responsibilities

11.1 ReturnToWorkSA has expectations of its employees' responsibilities and duties. All employees:

11.1.1 must follow lawful and reasonable instructions at all times;

11.1.2 are expected to become acquainted and work in accordance with all of ReturnToWorkSA's policies, including any changes and amendments made from time to time.

11.2 Nothing in this Agreement is intended to remove or limit an employee's or ReturnToWorkSA's rights and obligations at common law.

12 Workplace and employment policies

- 12.1 This Agreement will be read in conjunction with ReturnToWorkSA's policy. Where policy is inconsistent with this Agreement, the Agreement will prevail. A copy of ReturnToWorkSA's policies as varied from time to time will be made available and reasonably accessible to employees.

13 Classifications

- 13.1 The classification structure in Appendix A will apply during this Agreement.

14 Job evaluation

- 14.1 The following is the agreed process for job evaluation:
- 14.1.1 The People and Communications Group will evaluate or re-evaluate positions in association with managers and employees involved;
 - 14.1.2 The Delegate of the CEO will approve the classification;
 - 14.1.3 The outcome of the evaluation will be communicated to the manager and employee/s involved and the Consultative Group;
 - 14.1.4 If requested, a written summary will be provided to the manager and the employee/s involved.
- 14.2 If disagreement occurs the occupant of the position can elect to lodge a grievance in writing to the People and Communications Group who will arrange to have the position re-evaluated by a nominated service provider (currently Mercer Human Resource Consulting).
- 14.3 If there is still disagreement after the re-evaluation has been completed the occupant of the position can elect to lodge a grievance in the normal manner as described in this Agreement.
- 14.4 Job evaluation training will be available to nominated employee representatives and PSA representatives to allow the provision of support to employees (if requested) in the dispute resolution process.

15 Selection Practices

- 15.1 ReturnToWorkSA aims to provide employees with career development opportunities and maximise the value of the skills and capability of existing employees. All permanent positions and temporary positions with tenure greater than three months, will be advertised internally and internal applications will be considered first by the selection panel.
- 15.2 For the purpose of this clause "temporary positions" may also include opportunities to perform higher duties at Grades 1 to 5, where it is known that these opportunities will extend beyond three months continuous duration.
- 15.3 The CEO of ReturnToWorkSA is able to make a direct appointment without a formal selection process in the following circumstances, where the assignment is to a position at the same level as the employee's current position:
- a) To cover the absence of another employee (up to 6 months);

- b) To cover a new position which requires specialist skills and knowledge (up to 6 months);
- c) Where an employee would otherwise be excess i.e. not replaced; or
- d) In order to accommodate a special circumstance, making a formal selection process inappropriate having regard to the person's abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the performance of duties in question.

15.4 Secondments

ReturnToWorkSA may appoint an employee (by agreement and following a recruitment process if required) to a different role within the organisation for a period of up to 2 years. An employee appointed to such a role will be paid at the salary level of the new role for the duration of the secondment. At the end of the secondment the employee will return to their substantive role and salary.

16 Performance Building

- 16.1 RTWSA will maintain policy and practices throughout the period of this agreement that provides for consistent and fair performance building activities including conducting a regular goal setting and review process.
- 16.2 RTWSA will maintain a pay point procedure throughout the period of this agreement that aims to:
 - encourage a high performance culture;
 - encourage the consistent demonstration of our organisational values;
 - fairly and equitably recognise and reward employees who consistently achieve or exceed the requirements of their position description and annual performance objectives, by providing access to pay point progression for eligible employees.

17 Hours of work

- 17.1 Normal hours of work will be 37.5 hours a week, Monday to Friday inclusive.

17.1.1 Agreed temporary reduction in ordinary hours

ReturnToWorkSA and an employee may agree to temporarily reduce their hours of work which may include an agreement for an employee to change their contracted hours of work from full time to part time, with a commensurate reduction in the employee's salary. Any agreement must be in writing and shall be genuinely agreed with the employee.

- 17.2 The ordinary span of hours of all employees covered by this Agreement, including those employees who are rostered to work on the 'service desk', is 7.30am to 6.30pm Monday to Friday.

17.2.1 Flexibility in ordinary hours

At the request of an employee, and where operationally appropriate, ReturnToWorkSA may agree to a non-rostered employee's request for extended ordinary span of hours when working from home, providing the employee with flexibility to work a standard 7.5 hour day across a greater span of hours between 6am and 9pm. This arrangement does not increase the employee's contracted hours. Overtime, TOIL or flexitime will not apply under

this arrangement, unless overtime is directed by management. Such an agreement will be documented in writing, be for a prescribed period and can be terminated by either party with reasonable notice.

17.3 Ordinary hours in any one shift are not to exceed 10 hours.

17.4 Additional hours for part time employees

Agreed additional hours worked up to 7.5 hours per day or 37.5 hours per week for part time employees are not regarded as overtime. Employees will be remunerated at their current salary for any additional hours worked and shall accrue superannuation and leave entitlements on these hours.

18 Workloads

18.1 In establishing and maintaining a safe and healthy work environment, ReturnToWorkSA will take into consideration the employee's hours of work, health and safety. ReturnToWorkSA will not require an employee to have an unreasonable workload in the ordinary discharge of the employee's duties.

18.2 In the interests of providing a safe and healthy work environment and of promoting work/life balance with staff, ReturnToWorkSA takes a positive approach on workloads, staffing levels, the management of flex time and the working of overtime. ReturnToWorkSA is committed to fully staffing workplaces in accordance with appropriate business unit methodologies.

18.3 When monitoring workloads ReturnToWorkSA will have regard to all relevant local level factors including, but not limited to, staff experience, business opportunities, appropriate training and obligations under this Agreement and the Award.

18.4 ReturnToWorkSA will take all reasonable steps to:

18.4.1 fill vacant positions promptly and consistent with business needs.

18.4.2 ensure that appropriate training is provided for entry level recruits and redeployees to enable those employees to effectively carry out their work. It is recognised that in some circumstances it is more appropriate for on the job training to occur.

18.5 ReturnToWorkSA agrees that generally workloads should be capable of being completed in ordinary working hours. Consequently, ReturnToWorkSA will not require an employee to work overtime which is unreasonable, when the employee's particular personal or family circumstances are considered. It is accepted that workloads may vary from time to time depending on business cycles and demands, and these shall be taken into account in managing workloads.

18.6 If an employee or group of employees has a concern with their workload or staffing matter, they may raise the matter with their immediate supervisor. If the matter is not resolved it will be referred to the next level of management and People and Communications for review. The review will address the employee(s) concerns and identify how workloads can be managed.

19 Flexible work practices

19.1 The parties acknowledge the mutual benefit to ReturnToWorkSA and the employee of voluntary flexible business operations and flexible working arrangements to balance

work and other (including family) commitments, caring (or grandparent) responsibilities and transition to retirement. Flexible working arrangements may include: flexitime, part-time work, purchased leave and working from home.

- 19.2 ReturnToWorkSA will provide equitable access to flexible working arrangements to employees at all levels in all types of work. Requests from employees to negotiate how, and when hours will be worked will be given positive and reasonable consideration in line within agreed limits and conditions set by (the chief executive of) ReturnToWorkSA.

Flexible business operations

- 19.3 ReturnToWorkSA will maintain a Flexible Business Operations Policy and associated procedures during the lifetime of the Agreement that provide for:

19.3.1 A suite of Flexible Business Operations arrangements will be made available to employees in line with the operational requirements of their role and team, in which they work.

19.3.2 Employees will always be given a choice to apply for a Flexible Business Operations arrangement.

19.3.3 No Flexible Business Operations arrangement is to be considered permanent and all arrangements will be reviewed from time to time, arrangements are only sustained by agreement (of ReturnToWorkSA and the employee) and may be changed due to business needs, individual needs, working arrangements in the team, or as matter for creating better organisational outcomes, service to customers or employee engagement.

19.3.4 Requests for flexibility may be different for each employee and the flexibility that each role can accommodate will be different.

19.3.5 Employees will manage their work schedule whilst a Flexible Business Operations arrangement is in place and as such will not attract additional payments such as overtime, TOIL or flexitime, unless overtime is directed by management.

19.3.6 A Flexible Business Operations arrangement does not extend business hours, business communications should still occur during normal business operating hours.

19.3.7 Where work from home is part of the Flexible Business Operations arrangement, the employee is responsible to setup, maintain and manage their home office, ensuring compatibility of the home environment with their work and that it meets workplace health and safety requirements and maintains appropriate information security.

19.3.8 Further information will be outlined in ReturnToWorkSA policies, and apply to all staff covered by this Agreement.

20 Remuneration system

20.1 No current or future employee will be paid any less than the lowest Agreement rate applicable for the relevant grade.

20.2 For the life of this Agreement the operations of the remuneration system detailed in Appendix A will be used.

21 Salaries

21.1 ReturnToWorkSA will increase salaries as outlined in Appendix A of this Agreement.

22 Allowances

22.1 On call allowance

The provisions of this clause shall stand alone in lieu of any Award clauses referencing on call.

22.2 An on call allowance will be paid to an employee who is rostered on call for return to duties outside of normal business hours.

Employees rostered on call are to be contactable and available for recall to duty outside of ordinary hours. Employees are not required to remain home for the period of on call provided that they are able to return to ReturnToWorkSA place of business within 1 hour of being recalled to duty and must remain fit to work. Where an employee is absent from work on leave, rostered on call allowances and duties will not apply until the employee has returned to normal duties.

22.3 On call payment

22.3.1 The on call allowance is paid for the period outside of operational hours as outlined in the table below and is set for the life of the Agreement.

| Condition – TSS Employees | Payment |
|--|----------------------------|
| On-call commencing Monday to Friday (overnight) | \$60.26 per night |
| On-call Saturday, Sunday, Public Holidays (including part day public holidays) | \$80.46 per 24 hour period |

| Condition – Non-TSS Employees | Payment |
|--|----------------------------|
| On-call commencing Monday to Friday (overnight) | \$36.75 per night |
| On-call Saturday, Sunday, Public Holidays (including part day public holidays) | \$64.21 per 24 hour period |

22.3.2 If an employee is rostered on call for a period of time which includes hours on a Public Holiday they shall be paid the Public Holiday rate.

22.3.3 Payment for hours worked on call

Time worked when on call shall be paid in accordance with the Overtime clause.

22.4 First aid allowance

22.4.1 A First Aider shall be paid a fortnightly allowance of \$36.92, set for the life of the Agreement.

22.4.2 An employee with suitable qualifications and experience may be designated as a First Aid Coordinator and shall receive an allowance equal to twice that of a First Aider.

23 Overtime

23.1 This clause shall stand alone in lieu of any Award clauses referencing overtime.

23.2 Overtime is hours worked:

- (a) outside the ordinary hours of duty as provided in Clause 17 Hours of Work; or
- (b) in excess of 7.5 hours on any day, or in excess of 37.5 hours in any week, whether within the ordinary hours of duty or not.

23.3 Subject to 23.3.1 an employer may require an employee to work reasonable overtime at overtime rates.

23.3.1 An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:

- a) Any risk to employee health and safety;
- b) The employee's personal circumstances including any family responsibilities;
- c) The needs of the workplace or enterprise;
- d) The notice (if any) given by the employer of the overtime and by the employee of his or her intention to refuse it; and
- e) Any other relevant matter.

23.4 Overtime payment

23.4.1 With the exception of employees in the TSS area, no overtime payment will be made to an employee who is appointed to or acting at Grade 4 or a higher level.

23.4.2 The basic hourly rate for calculation of overtime will be obtained by dividing the fortnightly total salary paid to an employee by the number of ordinary hours that the employee is required to work.

23.4.3 Provided that an employee works at least 30 minutes' overtime at the direction of ReturnToWorkSA, they will be paid overtime rates in accordance with the following table (with each occasion of work standing alone):

| Day | Payment |
|--|---|
| Monday to Friday (except Public Holidays) | Time and a half for the first 2 hours and double time thereafter with a minimum payment of 3 hours, unless the employee is on call and the work does not necessitate return to site or where hours worked are an extension of ordinary hours, actual hours worked will be paid. |
| Saturday and Sunday | Double time for all hours worked with a minimum payment of 3 hours, unless the employee is on call and the work does not necessitate return to site, in which case actual hours worked will be paid. |
| Public Holiday (including part day) | <u>Time worked within ordinary span of hours</u> Double time and a half (in total) for all hours worked with a minimum payment of 3 hours, unless the employee is on call and |

| | |
|----------------------------|---|
| public holiday hours) | <p>the work does not necessitate return to site, in which case actual hours worked will be paid.</p> <p>Time worked on a public holiday in the ordinary span of hours will be paid at time and a half in addition to the day's pay that the employee would otherwise receive, resulting in 2.5 times the employee's standard hourly rate.</p> <p><u>Time worked outside ordinary span of hours</u> Time worked on a public holiday outside of ordinary span of hours will be paid at double time and a half in addition to the day's pay that the employee would otherwise receive, resulting in 3.5 times the employee's standard hourly rate.</p> <p><u>Part time employees</u> A part time employee who does not normally work on a public holiday that is required to work will receive payment of double time and a half for all hours worked.</p> |
| Meal Allowances | <p>Where a meal is not provided, a meal allowance of \$16.94 for lunch and \$24.29 for dinner will be paid if an employee is required to work overtime onsite for a minimum of:</p> <p>a) two hours after the completion of a minimum of 7.5 hours where the employee continues to work after 6.30pm; or b) five (5) hours on a Saturday, Sunday or public holiday.</p> <p>This amount is set for the life of the Agreement.</p> |
| Rest period after overtime | <p>An employee who works so much overtime between the termination of ordinary hours on one day and the commencement of their usual start (ordinary hours) on the next day that they have not had at least 8 continuous hours off duty between those times, shall be released after completion of the overtime until the employee has had 8 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence. This rest period will not apply to an employee who is on call who has not worked at least 2 hours of cumulative overtime.</p> |

24 Superannuation

- 24.1 Employer superannuation contributions will be made in addition to the base salary according to the legislative requirement.
- 24.2 ReturnToWorkSA is committed to prior consultation with staff and their representative, which may be the PSA, in the event the SGC rate is increased during the life of the Agreement in terms of any impact such rate increase may have on the superannuation contributions made by ReturnToWorkSA.

25 Salary sacrifice

- 25.1 ReturnToWorkSA will provide all employees with access to salary sacrifice in accordance with ReturnToWorkSA's policy, and subject to the employee obtaining independent financial advice and agreeing to indemnify ReturnToWorkSA against any claims arising out of the salary sacrifice arrangements. The cost of any incidental Government charges are to be borne by the employee and does not include GST in all cases.

- 25.1.1 This clause applies for the period an employee enters into a Salary Sacrifice Agreement. A Salary Sacrifice Agreement (SSA) is the formal administrative instrument between the employer and the employee which enables salary packaging arrangements to be put in place.
- 25.1.2 Subject to this clause, the salary payable to an employee, or applicable to a position where the incumbent elects to enter into a SSA, pursuant to this Agreement will be the salary payable under the SSA, notwithstanding any other provision in, or Schedule of, this Agreement.
- 25.1.3 Any entitlement to payment of overtime, leave loading, higher duties allowance/additional duties allowance will be based on the salary that would have been payable had the employee not entered into a SSA.
- 25.1.4 Where, on cessation of employment, the employer makes a payment in lieu of notice; or a payment in respect of accrued annual or long service leave entitlements, the payment thereof shall be based on the salary that would have been payable had the employee not entered into a SSA.

26 Termination of employment

26.1 Notice of termination by ReturnToWorkSA

- 26.1.1 In order to terminate the employment of an employee, ReturnToWorkSA must give to the employee four weeks' notice, unless otherwise agreed.
- 26.1.2 In addition to the notice above, employees over 45 years of age at the time of the giving of the notice with not less than two years' continuous service, are entitled to an additional week's notice.
- 26.1.3 Payment in lieu of notice in 26.1.1 and 26.1.2 may be made if ReturnToWorkSA determines that the appropriate notice is not required to be worked. Provided that employment may be terminated by the employee working part of the required period of notice and by ReturnToWorkSA making payment for the remainder of the period of notice.
- 26.1.4 The required amount of payment in lieu must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, ReturnToWorkSA would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of: the employee's ordinary hours of work (even if not standard hours); and the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loadings and penalties; and any other amounts payable under the employee's contract of employment.
- 26.1.5 Continuous service is defined in clause 3 of this Agreement.

26.2 Notice of termination by an employee

- 26.2.1 In order to terminate their employment, an employee must give ReturnToWorkSA four weeks' notice, unless otherwise agreed.
- 26.2.2 If an employee fails to give the required notice ReturnToWorkSA has the right to withhold monies due to the employee to a maximum amount equal to the

amount the employee would have received under clause 26.1.4, unless otherwise agreed.

27 Redundancy

- 27.1 “Redundancy” means the loss of employment due to ReturnToWorkSA no longer requiring the specific job to be done by any person within ReturnToWorkSA.
- 27.2 ReturnToWorkSA is committed to taking all reasonable steps to avoid use of compulsory redundancy. Where redundancy is identified, every reasonable effort will be made to avoid redundancy through redeployment or re-training (consistent with clause 28), normal employee turnover, managing recruitment and exploring other options for employees to remain in employment with ReturnToWorkSA.
- 27.3 All employees to be made redundant will be given the maximum practical forewarning of likely separation and the specific separation date. The employee will be given a minimum period of six (6) weeks’ notice which may be paid in lieu of notice (at the employees’ election) or ReturnToWorkSA may request that the employee agree to work out the period of notice. In addition all members of the Consultative Group will be notified of impending redundancy action as soon as possible after the CEO has approved such action and there has been discussion with affected employees.
- 27.4 The full notice period will count as service for the purpose of the redundancy calculations detailed in this clause, whether worked or not.
- 27.5 ReturnToWorkSA will offer outplacement support to affected employees who elect to use this service. Outplacement support will be provided for a minimum of six (6) weeks.
- 27.6 Subject to proof of attendance ReturnToWorkSA will allow employees up to four (4) days on full pay to attend job interviews during the notice period.
- 27.7 In addition to the period of notice above, an employee whose employment is terminated by reason of redundancy is entitled to the following amounts of severance pay in respect of a continuous period of service. Any service prior to 2 February 1987 is not recognised as part of the employee’s continuous service.
- 27.7.1 Eight (8) weeks’ pay for the first year of service;
- 27.7.2 Four (4) weeks’ pay for each subsequent year of continuous service;
- 27.7.3 A pro-rata payment for each completed month of service in the final part year of service.
- 27.7.4 “weeks’ pay” means the annual salary divided by 52 and excludes:
- overtime;
 - penalty rates;
 - allowances;
 - special rates; and
 - any other ancillary payments of a like nature.
- 27.8 Employees who have transferred from full time to part time employment or vice versa will have their separation payments based pro-rata on the actual time worked in each mode using the employee’s current salary.

27.9 Redundancy will not apply to fixed-term or casual employees.

27.10 Employees with at least five (5) years' continuous service who are made redundant will be entitled to payment for pro-rata long service leave.

27.11 ReturnToWorkSA's rights in selection and decision will be final.

28 Redeployment

28.1 In the case of an employee whose substantive position has become surplus to requirements, and where alternative positions exist, ReturnToWorkSA will make all reasonable efforts to redeploy the employee concerned at the present level within ReturnToWorkSA. ReturnToWorkSA will make every attempt to redeploy its employees including giving special consideration to them for vacant positions where it can be demonstrated that they have the necessary skill and demonstrated performance or the potential to develop it within a reasonable time. Where single positions exist for more than one redeployee, selection will be made on a merit basis.

28.2 When no redeployment opportunities exist at the employee's level, ReturnToWorkSA may, with the agreement of the affected employee, redeploy the employee to a position at a lower classification level. In this instance the employee will be appointed at the highest paypoint of the lower classification level.

28.3 Where an employee is transferred, under 28.2 to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and ReturnToWorkSA may at its discretion, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

28.4 Upon transfer to lower paid duties by reason of redundancy the employee will have their salary maintained at the former ordinary rate for a further period of six (6) weeks.

29 Parental leave

Paid Parental Leave

29.1 ReturnToWorkSA will continue to pay employer superannuation contributions during periods of paid parental leave (maternity and partner leave).

Paid Maternity Leave

29.2 Paid maternity leave, paid adoption leave and paid leave to enable parent-child relationships through surrogacy parenting applies in accordance with this clause. For the purpose of this clause maternity and adoption leave includes a parent taking primary caring responsibility (parent-child relationship) as a consequence of a surrogacy arrangement.

29.3 Subject to this clause, an employee, other than a casual employee, who has completed 12 months continuous service immediately prior to the expected date of birth of the child, or immediately prior to taking custody of an adopted child is entitled to sixteen (16) weeks of maternity / adoption leave paid on full salary. The leave can be taken at full pay or half pay, or a combination of both and must be taken as one continuous period. The paid maternity / adoption leave is not to be extended by public holidays or any other leave falling within the period of paid leave.

- 29.3.1 Eighteen (18) weeks of maternity / adoption leave will be paid on full salary, as per 29.2, where the employee has at least 5 years or more continuous service with ReturnToWorkSA at the time leave commences.
- 29.3.2 An employee may take annual leave or paid maternity leave from the commencement of parental leave. Periods of unpaid leave may not be broken by periods of paid leave during parental leave.
- 29.3.3 If the employee elects to take the leave at half pay, they will be entitled, during the period of leave, to be paid at half salary from the date the maternity / adoption leave commences and will accrue paid leave for 16 (or 18) of the 32 (or 36) weeks (with the other 16 (or 18) weeks being treated as leave without pay).
- 29.4 Pregnant employees are also entitled to 37.5 hours paid leave to attend medical appointments associated with the pregnancy. This amount is not prorated for part time employees.
- 29.5 During periods of unpaid maternity / adoption leave, the employee will not accrue any paid leave (personal leave, annual leave or long service leave) and as per clause 41 of this Agreement, the employee's continuous service date will be deferred by the period of unpaid leave taken.

Return to Work from Maternity Leave

- 29.6 All reasonable efforts will be made to provide employees returning from a period of parental leave with part time employment (if requested).

Partner Leave

- 29.7 Partners may take two weeks of partner leave paid at the employee's full salary, one week of which is to be taken from the employee's available personal leave balance. The paid partner leave is not to be extended by public holidays or any other leave falling within the period of paid leave.
- 29.8 Partners may also take 7.5 hours paid leave to attend medical appointments associated with the pregnancy. This amount is not prorated for part time employees.
- 29.9 These provisions apply to employees, other than casual employees, who have 12 months or more continuous service with ReturnToWorkSA.

30 Personal leave

- 30.1 The provisions of this clause shall operate on a pro-rata basis for part time employees.
- 30.2 Full time employees are entitled to 90 hours paid personal leave per annum for absences as described below. Part time employees accrue personal leave on a pro-rata basis according to ordinary hours worked. Unless otherwise identified, all leave will accrue and be taken in hours.
- 30.3 An employee (other than a casual employee) is entitled to take paid personal leave if they are unfit for work because of a personal illness, or personal injury that affects them.
- 30.4 Employees are not required to provide a medical certificate for absences up to two consecutive working days. However, if the Manager believes it appropriate, an

employee may be required to provide a medical certificate for lesser periods of absence. It is suggested that this power only be exercised in circumstances where it is practical for the employee to obtain a medical certificate (for example, where the employee has previously been informed that such a medical certificate will be required for each day of a period of absence, or whilst the employee is still absent).

30.5 Personal leave is paid at the employee's current salary.

30.6 An employee (other than a casual employee) is entitled to access up to 75 hours of their paid personal leave entitlement in any one year to provide care or support to a family member, or any other person who is dependent on their care, who requires their care or support because of:

- a) a personal illness, or personal injury; or
- b) an unexpected emergency.

An employee may be requested to provide a medical certificate, statutory declaration or certificate from a health practitioner to support an absence in respect of 30.6.

30.7 The ability to access this leave does not in any way limit an employee's right to apply for special leave in accordance with arrangements provided elsewhere for this leave.

31 Annual leave

31.1 The provisions of this clause shall operate on a pro-rata basis for part time employees.

31.2 Full time employees are entitled to 150 hours annual leave for each year of service. Part time employees accrue annual leave on a pro-rata basis according to ordinary hours worked. The entitlement accrues and is credited monthly. Unless otherwise identified, all leave will accrue and be taken in hours. Whilst on annual leave, payment is made for the number of hours the employee would normally have worked during the period.

31.3 Annual leave taken is paid at the employee's current salary.

31.4 Annual leave is to be booked and taken within a reasonable period of its accrual, at a time mutually convenient to ReturnToWorkSA and the employee. Balances in excess of 300 hours (or pro-rata equivalent) will be scheduled to be taken during the next 12 months by management in consultation with the employee.

32 Purchased leave

32.1 For the life of the Agreement, purchased leave will be available to staff and may be salary sacrificed. The relevant policy may be amended from time to time.

33 Long Service Leave and Skills and Experience Retention Leave

33.1 Long Service Leave

33.1.1 Entitlement

Long service leave entitlements are subject to the *Public Sector Regulations 2010*.

33.1.2 Long Service Leave is recorded and taken in hours, such recording will not diminish the entitlement amount of leave and is for the benefit of booking and taking leave in an easily understood format. The provisions of this clause shall apply on a pro-rata basis for part time employees.

33.1.3 Taking of Leave

Long service leave must be taken in one continuous period with a minimum booking of one or more whole working days. An employee's long service leave balance will be debited by an amount equal to the number of hours that an employee ordinarily works per day for each day of long service leave taken.

33.1.4 Payment during or in lieu of long service leave will be at the employee's current salary subject to the provisions of clause 3.

33.1.5 An employee with 7 completed years of effective service may access accrued Long Service Leave entitlements.

33.1.6 Balances in excess of 85 working days (637.5 hours or pro-rata equivalent) are to be booked and taken within 3 years of accrual, at a time mutually convenient to ReturnToWorkSA and the employee.

33.1.7 Employees with 7 completed years of service may request in writing to have a portion of their accrued long service leave paid out each service year – limited to a minimum of 37.5 hours and a maximum of 450 hours (or pro-rata equivalent) in any service year and subject to approval by ReturnToWorkSA.

33.2 Skills and Experience Retention Leave

33.2.1 Entitlement

An employee is entitled to Skills and Experience Retention Leave as detailed in Schedule 1, clause 7(1a), (2a), 4(a) – 4(d) and 5 of the *Public Sector Act 2009*.

33.2.2 Taking of Leave

Skills and Experience Retention Leave must be taken within 5 years of the end of the financial year in which it accrues, with a minimum booking of one or more whole working days.

34 Bereavement Leave

34.1 An employee, other than a casual, is entitled to up to three (3) days bereavement leave on any occasion on which a family member dies or is seriously ill.

34.2 An employee may also access up to three (3) days of their existing Personal Leave entitlement to augment bereavement leave, in special circumstances such as, but not limited to where:

1. The employee has direct caring responsibility for the family member or;
2. Attendance requires extensive travel;
3. The employee is the sole executor of the family member's estate.

If an application for personal leave to augment bereavement leave is received, satisfactory evidence relating to 2 and 3 above may be required.

35 Domestic and Family Violence Leave

35.1 ReturnToWorkSA shall provide employees with access to Domestic and Family Violence Leave in accordance with the Public Sector Regulations, subregulation 9(8).

36 Emergency Services Leave

36.1 Where operationally appropriate, a manager may grant up to 10 days of paid Emergency Services Leave per financial year for employees engaged in duties with a recognised **Emergency Services Management Body** during a state declared emergency or natural disaster. Pro-rata Emergency Services Leave is applicable to part time employees. Emergency Services Leave does not accrue from year to year.

36.2 To be able to access Emergency Services Leave the employee must be engaged on emergency work as a volunteer member of an **Emergency Services Management Body**. ReturnToWorkSA may require evidence of such.

36.3 Employees are eligible to take unpaid Emergency Service Leave in relation to a voluntary emergency management activity where operationally appropriate.

36.4 Employees who have resigned and are serving a notice period are unable to take Leave under this clause.

36.5 For the purpose of this clause an Emergency Services Management Body is:

- SES
- CFS/MFS
- SA Ambulance Services (SAAS) or St John's Ambulance
- RSPCA (in respect of animal rescue during emergencies or natural disasters)
- SA Veterinary Emergency Management Inc.

37 Cultural and religious leave

37.1 Employees may access their accrued annual leave or flexi-time for days of cultural or religious significance.

37.2 Approval is at ReturnToWorkSA's discretion.

37.3 The leave must be taken at a time mutually convenient to ReturnToWorkSA and the employee with reasonable notice given.

38 Military leave

38.1 Employees may be granted paid military leave to attend compulsory training camps as a member of the Australian Defence Force.

38.2 Up to 14 calendar days in any year of service may be granted for one camp of continuous training. Further calendar days in any year of service for additional compulsory training (not necessarily continuous) are granted by approval from ReturnToWorkSA.

38.3 The applicant is required to produce a statement from the Australian Defence Force.

39 Leave for official sporting events

- 39.1 Employees may be granted paid leave if they are selected to compete or officiate at international or national sporting competitions.
- 39.2 Approval is at ReturnToWorkSA's discretion.
- 39.3 Leave applications must be accompanied by a copy of official advice as to selection and a copy of the official itinerary.

40 Leave for blood donors

- 40.1 Employees may be granted paid leave to donate blood during normal business hours.
- 40.2 Approval is at ReturnToWorkSA's discretion.
- 40.3 Employees are expected to attend at times most convenient for operational efficiency.

41 Leave without pay

- 41.1 Employees may be granted leave without pay in certain circumstances for private purposes.
- 41.2 Approval is at ReturnToWorkSA's discretion.
- 41.3 Leave without pay (including unpaid parental leave) granted for periods accumulating to more than 22 working days in any one year of service do not count as service for any purpose, other than unpaid personal leave certified as having been caused by an illness arising from a pregnancy or birth.

42 Urgent special leave

- 42.1 Employees may be granted paid urgent special leave to provide for exceptional circumstances requiring them to take leave where they do not have any other accrued leave type available to them.
- 42.2 Approval is at ReturnToWorkSA's discretion.
- 42.3 Leave is limited to three days in any year of service (non cumulative). ReturnToWorkSA may exercise some discretion in extreme circumstances to exceed three days.

43 Trade union training leave

- 43.1 Employees who are members of the PSA or are Office Stewards/Job Representatives are eligible for nomination to attend trade union training courses approved by the Workers' Educational Association of South Australia Incorporated or other trade union training courses agreed between ReturnToWorkSA and the Industrial Association.
- 43.2 All nominations for attendance on courses must be made by the Industrial Association.
- 43.3 Approval to attend such courses is subject to:
 - 43.3.1 a certificate of eligibility signed by the General Secretary of the Industrial Association; and

43.3.2 the proviso that the employee can be released by ReturnToWorkSA. In deciding approvals the work of ReturnToWorkSA must be a priority and the approval may be withdrawn at any time if deemed necessary.

43.4 Time off with pay for an employee eligible to attend courses may be granted up to a maximum of 10 working days during two (2) calendar years, to be calculated from the date the employee was first granted leave to attend a trade union training course. Time off with pay in excess of this amount may be granted in special circumstances at the discretion of ReturnToWorkSA but in no case will the amount exceed 20 working days during two (2) years. ReturnToWorkSA will not be responsible for any other costs relating to attendance at a course.

43.5 ReturnToWorkSA will maintain adequate records of time off showing the extent of each authorised absence, and attendances should be verified.

44 Office steward/job representative

44.1 Upon receiving written advice from the Branch Secretary or Secretary of the Industrial Association, as the case may be, that one or more members have been appointed or elected to act as office steward or job representatives, ReturnToWorkSA will recognise person(s) as the accredited representative of the appropriate Industrial Association.

44.2 ReturnToWorkSA will allow reasonable and sufficient paid time during working hours for representatives to discuss matters pertaining to the duties of an office steward or job representative as defined by the rules and/or by laws of the respective Industrial Association or the associated body with all employees, Industrial Association officers and ReturnToWorkSA.

44.3 ReturnToWorkSA will also allow an office steward or job representative reasonable and sufficient time during working hours to distribute authorised information and literature from the Industrial Association.

45 Amenities

45.1 ReturnToWorkSA will provide a luncheon room of a size adequate for use by its employees.

45.2 ReturnToWorkSA will provide a separate first aid/rest room which is suitably located and is convenient to access, well lit and ventilated and readily accessible to sanitary accommodation.

46 Dispute resolution

46.1 Any decision made under this Agreement may be reviewed on request by an aggrieved employee, except that decisions of ReturnToWorkSA relating to the termination of employment shall only be reviewable pursuant to the applicable legislation.

46.2 An employee may seek the advice, assistance and representation of an appointed office steward/job representative or other representative at any stage.

46.3 Without prejudice to any party, ongoing work responsibilities will continue as usual in accordance with the Agreement and ReturnToWorkSA's policies while the subject matter of the grievance is dealt with in accordance with this procedure.

46.4 The procedure will be as follows:

- 46.4.1 The employee should firstly discuss with the manager or decision maker any matter affecting them in which the grievance, dispute or likely dispute exists, in an informal manner;
- 46.4.2 If the grievance or dispute is not resolved, the employee should refer the matter to the relevant Executive Management Team member who shall arrange a conference of the parties;
- 46.4.3 This process shall be commenced within three (3) days of the grievance dispute or likely dispute or within such longer or shorter period as agreed by the parties;
- 46.4.4 If the matter is not resolved the parties will refer the matter to the CEO or the CEO's nominated representative for decision;
- 46.5 If a dispute in relation to a matter between the parties is unable to be resolved at the workplace, and all agreed steps for resolving it as detailed above have been taken, the parties agree that the dispute may be referred to the South Australian Employment Tribunal ("SAET").
- 46.6 The parties agree that the SAET may perform or exercise such functions or powers with respect to assisting the parties in the resolution of the matter by mediation and/or conciliation and, where the matter in dispute remains unresolved, arbitration as the Commissioner might otherwise exercise under s82 of the *Fair Work Act 1994*.
- 46.7 Any dispute referred to the SAET under this clause should be dealt with by a member nominated by the President of the SAET.
- 46.8 The parties agree that the decision of the SAET will bind the parties, subject to either party exercising a right of appeal against the decision to the Full SAET.
- 46.9 If the Industrial Association reasonably believes that in respect of its members there is a purported breach or non-compliance with this Enterprise Agreement in relation to: an express basis on which this agreement is made; or a parliamentary process that reduces or removes an employment benefit; an existing condition; or a condition prescribed in this agreement, the Industrial Association may seek redress to the SAET in relation thereto.

47 Probation

- 47.1 Appointments of new employees may be subject to a probationary period of up to six (6) months.
- 47.2 The employment of a person appointed on probation may be terminated by either party at any time during the probation period by two (2) weeks notice or payment in lieu provided that:
 - 47.2.1 the decision to terminate is directly related to the employee's conduct or performance.
 - 47.2.2 any concerns regarding conduct are raised with the employee and they have had an opportunity to respond and show improvement.
 - 47.2.3 none of the provisions in this sub-clause limit the right of ReturnToWorkSA to summarily dismiss an employee for conduct which would warrant such action.

48 Police Checks and Employment Screenings

48.1 ReturnToWorkSA will implement police checks and other screenings that may be appropriate to the role as part of an Internal Fraud and Corruption Control Plan.

48.2 The following principles will be applied:

- employees with an adverse record are treated fairly and justly and with concern for natural justice; and
- employees do not have their career prospects limited due to direct or indirect consequences of the results of irrelevant material in Police Checks.

48.3 All information collected by Police Checks remains the property of the person who is the subject of the Police Check. No copies of Police Checks are to be made by ReturnToWorkSA and information contained in the Police Check must only be revealed to those agreed to in the policy and must be treated by those person with the strictest confidentiality.

49 Transfer to alternative position

49.1 Employees may be substantively transferred to an alternative position at their appointed level subject to:

49.1.1 a minimum of four weeks' notice in writing or a shorter period if agreed to by ReturnToWorkSA and the employee;

49.1.2 the duties of the alternative position being consistent with the employee's education, experience, skills and competencies;

49.1.3 no transfer of employment taking effect against an employee's will until such time as all of the provisions of the Dispute Resolution Procedure have been concluded in relation to any dispute arising out of a proposed transfer.

50 Casual employment

50.1 A casual employee means an employee who is engaged and paid as such on an hourly basis.

50.2 ReturnToWorkSA may employ persons on a casual basis for the purpose of meeting particular and short term needs.

50.3 A casual employee will be paid at an hourly rate which will be not less than the appropriate rate for the classification of the duties being performed, plus a loading of 25 per cent. The loading is in lieu of all paid leave (except long service leave) and public holidays not worked to compensate for the nature of casual employment. All other conditions in this agreement will apply to casual employees unless specifically excluded.

50.4 Where a casual employee works overtime or on a public holiday, the casual rate will be the base upon which the appropriate penalty rate is applied.

50.5 Where an employee is to be engaged for more than 6 months, consultation will occur with the Consultative Group prior to that decision being put into effect.

51 Fixed term employment

- 51.1 ReturnToWorkSA is able to offer positions on fixed term contracts of employment.
- 51.2 Fixed term contracts will normally apply for specific projects, periods of extended leave or where the function is of temporary nature or subject to review.
- 51.3 A person may be engaged as a term employee for duties required for the carrying out of a project of a duration not exceeding 5 years and the engagement may be extended, but not so that the term extends beyond the duration of the project.
- 51.4 A person may be engaged as a term employee for a specified term for duties required to be performed because of the absence of another employee and/or while selection processes are conducted in respect of the duties and the engagement may be extended but not so that the term extends unreasonably beyond the absence of the employee and the completion of the selection processes.
- 51.5 A person may be engaged as a term employee for a specified term not exceeding 2 years for duties that are subject to review or are otherwise of a temporary nature and the engagement may be extended but not so that the term extends beyond a total of 2 years.
- 51.6 A person engaged as a term employee may be offered ongoing employment provided the person's original appointment was through an appropriate selection process.

52 Additional Injury and Income Protection for Work Injuries

- 52.1 The parties agree on the provision of income protection for injured employees as set out in Appendix B of this Agreement.

Signed for and on behalf
of the ReturnToWorkSA Corporation

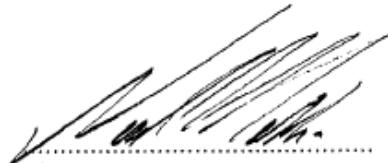


Signature

MICHAEL FRANCIS
Title *Chief Executive Officer*

23/6/21
Dated

Signed for and on behalf of the
Public Service Association of SA

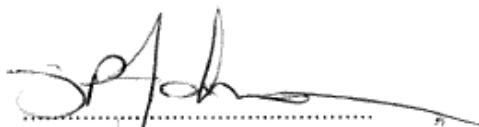


Signature

NEV KITCHIN
Branch Secretary PSA/PSU
Title

24/6/21
Dated

Director, Enterprise Bargaining,
Industrial Relations and Policy Branch,
Department of Treasury and Finance,
Under delegated authority on behalf of the Chief
Executive,
Department of Treasury and Finance
as the declared employer for public employees
Reg. 4, Fair Work Act (General) Regulations 2009
(SA)



Signature

Simon Johnson

25/6/21
Dated

.....
Title *Director, Enterprise
Bargaining.*

53 Appendix A - Remuneration system

The following outlines the system features and provisions.

53.1 Classification system

The Mercer CED Job Evaluation tool will be used to evaluate positions to place them in one of the Grades. The evaluation points for each Grade are:

| Grade | Award classification | Evaluation Points Range | Midpoint |
|-------|----------------------|-------------------------|----------|
| 5 | Level 7 | 331 – 420 | 375 |
| 4 | Level 6 | 241 – 330 | 285 |
| 3 | Level 4 and 5 | 181 – 240 | 210 |
| 2 | Level 2 and 3 | 121 – 180 | 150 |
| 1 | Level 1 | 70 – 120 | 95 |

Any position evaluated at 421 points or more will be classified as a Senior Officer position (covered by individual agreements).

53.2 Salary ranges

The salary ranges in the remuneration system have been established for each Grade using General Market base salary information. Each Grade will consist of seven (7) salary points based on the minimum, midpoint and maximum.

The salary amounts in Appendix A are an employee's ordinary rate of pay.

53.3 Classification and salary range structure

With effect from the first full pay period in August 2021, the following grades and base salary ranges will apply.

| Grade | Pay point 1 (minimum) | Pay point 2 | Pay point 3 | Pay point 4 (midpoint) | Pay point 5 | Pay point 6 | Pay point 7 (maximum) |
|-------|-----------------------|-------------|-------------|------------------------|-------------|-------------|-----------------------|
| 5 | \$104,781 | \$107,517 | \$110,239 | \$112,973 | \$115,711 | \$118,432 | \$121,168 |
| 4 | \$88,359 | \$90,650 | \$92,941 | \$95,230 | \$97,522 | \$99,812 | \$102,102 |
| 3 | \$72,915 | \$74,802 | \$76,691 | \$78,581 | \$81,088 | \$82,976 | \$84,864 |
| 2 | \$60,227 | \$61,772 | \$63,323 | \$64,866 | \$66,412 | \$67,960 | \$69,508 |
| 1 | \$48,626 | \$49,859 | \$51,078 | \$52,314 | \$53,549 | \$54,769 | \$56,004 |

With effect from the first full pay period in August 2022, the following grades and base salary ranges will apply.

| Grade | Pay point 1 (minimum) | Pay point 2 | Pay point 3 | Pay point 4 (midpoint) | Pay point 5 | Pay point 6 | Pay point 7 (maximum) |
|-------|--------------------------|-------------|-------------|---------------------------|-------------|-------------|--------------------------|
| 5 | \$106,248 | \$109,022 | \$111,782 | \$114,555 | \$117,331 | \$120,090 | \$122,864 |
| 4 | \$89,596 | \$91,919 | \$94,242 | \$96,563 | \$98,887 | \$101,209 | \$103,531 |
| 3 | \$73,936 | \$75,849 | \$77,765 | \$79,681 | \$82,223 | \$84,138 | \$86,052 |
| 2 | \$61,070 | \$62,637 | \$64,210 | \$65,774 | \$67,342 | \$68,911 | \$70,481 |
| 1 | \$49,307 | \$50,557 | \$51,793 | \$53,046 | \$54,299 | \$55,536 | \$56,788 |

With effect from the first full pay period in August 2023, the following grades and base salary ranges will apply.

| Grade | Pay point 1 (minimum) | Pay point 2 | Pay point 3 | Pay point 4 (midpoint) | Pay point 5 | Pay point 6 | Pay point 7 (maximum) |
|-------|--------------------------|-------------|-------------|---------------------------|-------------|-------------|--------------------------|
| 5 | \$107,842 | \$110,657 | \$113,459 | \$116,273 | \$119,091 | \$121,891 | \$124,707 |
| 4 | \$90,940 | \$93,298 | \$95,656 | \$98,011 | \$100,370 | \$102,727 | \$105,084 |
| 3 | \$75,045 | \$76,987 | \$78,931 | \$80,876 | \$83,456 | \$85,400 | \$87,343 |
| 2 | \$61,986 | \$63,577 | \$65,173 | \$66,761 | \$68,352 | \$69,945 | \$71,538 |
| 1 | \$50,047 | \$51,315 | \$52,570 | \$53,842 | \$55,113 | \$56,369 | \$57,640 |

53.4 Market Allowance

The Executive Management Team may decide, due to prevailing market pressures and/or strategic imperatives, to pay a Market Allowance in addition to the salary ranges in this Agreement for employees in certain positions, or in groups of positions. A signatory to this Agreement, may request an IT market rates survey to be undertaken to inform the Executive Management Team's consideration once during the life of this Agreement.

53.5 Higher duty provisions

Higher duties allowance will be paid where an employee is required to perform the duties of a position at a higher grade or where undertaking the delegations of a role which is at a higher Grade for 5 or more consecutive working days.

The higher duties allowance will be paid based on the difference between the employee's existing salary and the minimum of the respective grade of the higher position (or the equivalent proportion of the difference based on the duties being performed) or a flat 3% whichever is the greater.

Where an employee has been assigned higher duties in accordance with this clause, and the period of assignment includes a period of paid leave, the higher duties allowance will continue to be paid provided:

- (a) the allowance is being paid on the day prior to the commencement of leave; and
- (b) the higher duties would have continued were it not for the period of leave.

Periods of higher duties will be taken into consideration should an employee be appointed at the higher level.

53.6 Promotion

Employees receiving a promotion to a new Grade will receive an increase on their current salary level to at least the minimum of the higher Grade. If the employee can demonstrate a level of competency based on prior experience or has undertaken the competencies of the new grade, the employee may negotiate with the applicable manager a higher commencing pay point.

54 Appendix B – Injury and Income Protection Policy

54.1 Preamble

54.1.1 Under this new 'Injury and Income Protection' policy an eligible worker will receive entitlements as outlined in this policy.

54.2 Funding Arrangements

54.2.1 The funding arrangements for this policy shall be provided within the budget process of the agency.

54.3 Administration of this Policy

54.3.1 The responsibility for administering this policy is vested in the Chief Executive or delegate.

54.3.2 In administering this policy the Chief Executive shall provide procedural fairness when making potentially adverse decisions affecting injured workers.

54.4 Definitions

54.4.1 This policy applies to workers who have an accepted claim pursuant the *Workers Rehabilitation and Compensation Act 1986* or the *Return to Work Act 2014* and meet the eligibility requirements of this policy.

54.4.2 "Employer" means Chief Executive or delegate.

54.4.3 "Benefits" means weekly payments of income maintenance or medical and like expenses.

54.4.4 "Financial support" means the weekly payments of income support made pursuant to this policy.

54.4.5 "Independent Medical Adviser" in this policy means an Independent Medical Adviser as listed on the South Australian Employment Tribunal website (www.saet.sa.gov.au).

54.4.6 "Notional Weekly Earnings" within this policy means the "Salary as specified for the eligible worker's classification in the applicable Enterprise Agreement".

54.4.7 "Retirement" in this policy has the same meaning as 'retiring age' as defined in section 44 of the *Return to Work Act 2014*.

54.4.8 "Recovery/return to work plan" includes a recovery/return to work plan established or continuing under this policy.

54.5 Mutual Obligations

54.5.1 A worker while in receipt of benefits pursuant to this policy is entitled to expect—

- a) The employer to continue to actively manage the worker's injury, to provide services and to participate and cooperate in assisting the workers recovery and return to work; and

- b) A worker may reasonably request the employer to review the provision of any service to the worker under this policy or to investigate any circumstance where it appears that the employer is not complying with any requirement of this policy.

54.5.2 A worker while in receipt of benefits pursuant to this policy must—

- a) participate in all activities designed to enable the worker to recover and return to work as soon as is reasonably practicable; and
- b) without limiting paragraph a)-
 - i. participate and cooperate in the establishment of a recovery/return to work plan; and
 - ii. comply with obligations imposed on the worker by or under a recovery/return to work plan; and
- c) ensure that the employer is provided with current medical certificates (in a designated form provided by recognised health practitioners not inconsistent with the Return to Work Act 2014) with respect to any incapacity for work for which financial support is being provided under this policy so as to provide evidence to support the continuation of those payments; and
- d) return to suitable employment when reasonably able to do so; and
- e) take reasonable steps to mitigate any possible loss on account of the work injury.

54.6 Return to Work Commitment

54.6.1 Whereas:

- a) the parties agree that a return to work within the meaning of the *Return to Work Act 2014* is always the objective in the case of any work injury;
- b) the unions and workers covered by this agreement will reasonably support and cooperate in the pursuit of this objective as required by the *Return to Work Act 2014* and this agreement.

54.7 Coverage and Benefits – Injuries on or after 1 July 2015

54.7.1 Those workers who are injured on or after 1 July 2015 in circumstances where the worker:

- a) is temporarily or permanently incapacitated for work as a result of a physical or psychological injury sustained when he or she was on duty or lawfully exercising the duties of a worker in their employment; and
- b) the injury—
 - i. resulted from conduct directed at the worker that constitutes a criminal offence; or
 - ii. occurred as a direct and immediate result of conduct by another person that constitutes a criminal offence in the course

- of the workers employment or conduct by another person that appears to be criminal; or
 - iii. occurred as a direct and immediate result of conduct by another person that constitutes a criminal offence; or
 - iv. occurred in other circumstances where the worker is placed in a dangerous situation in the course of, or as a consequence of, acting in, or engaging in, their duties or position excluding psychological injury other than that caused as a consequence of a specific incident or incidents.
- c) has an accepted claim pursuant to the *Return to Work Act 2014*; and
 - d) has had their individual entitlements exhausted pursuant to the *Return to Work Act 2014*; and
 - e) has not been assessed as having a 30% or more Whole Person Impairment (WPI); and
 - f) has not made a return to work within the meaning of the *Return to Work Act 2014*;
- will be provided on the following basis:

54.7.2 In the case of medical expenses, ongoing cover for such expenses as are reasonably and necessarily incurred as a direct result of such accepted claim (other than those already covered by the Employer); or

54.7.3 A redemption of medical expenses referred to in 54.7.2.

54.7.4 In the case of financial support:

- a) A top-up payment to achieve 80% notional weekly earnings or 80% of the difference between actual earnings and notional weekly earnings until retirement or return to work, subject to a work capacity review as per the *Workers Rehabilitation and Compensation Act 1986* and meeting the mutual obligations set out in this policy; or
- b) A redemption of 54.7.4a).

54.8 Coverage and Benefits 1 July 2015

54.8.1 Those workers who were injured prior to 1 July 2015 in circumstances of 54.7.1a) and b); and

- a) have an accepted claim pursuant to the *Workers Rehabilitation and Compensation Act 1986/Return to Work Act 2014*; and
- b) have had their individual entitlements exhausted pursuant to the *Return to Work Act 2014*; and
- c) have not been assessed as having a 30% or more Whole Person Impairment (WPI); and
- d) have not made a return to work within the meaning of the *Return to Work Act 2014*;

will be provided on the following basis:

54.8.2 In the case of medical expenses, ongoing cover for such expenses as are reasonably and necessarily incurred as a direct result of such accepted claim (other than those already covered by the Employer); or

54.8.3 A redemption of medical expenses referred to in 54.8.2.

54.8.4 In the case of financial support:

- a) A top-up payment to achieve 80% notional weekly earnings or 80% of the difference between actual earnings and notional weekly earnings until retirement or return to work, subject to a work capacity review as per the *Workers Rehabilitation and Compensation Act 1986* and meeting the obligations set out in this policy, or
- b) a redemption of 54.8.4a); or
- c) payment of an amount equivalent to the payment to which the worker would have been entitled to under section 39 of the *Return to Work Act 2014* had their compensable injury occurred after 1 July 2015.

54.8.5 Any financial support provided for in this policy shall be discounted to the extent of any payment made pursuant to Part 4, Division 6 of the *Return to Work Act 2014*.

54.9 Work Capacity Review Provision - as referred to in 54.7.4a) and 54.8.4a)

54.9.1 In regard to 54.7.4a) and 54.8.4a), a worker's entitlement to financial support pursuant to this policy does not commence, or if having commenced, ceases, unless the worker is assessed by the employer as:

- a) having no current work capacity; and
 - b) likely to continue indefinitely to have no current work capacity;
- Or
- c) being in employment, and that because of the compensable injury the worker is, and is likely to continue indefinitely to be, incapable of undertaking further or additional employment or work which would increase the worker's current weekly earnings.

54.9.2 A review of the assessment of a worker under 54.9.1 may be conducted by the employer at any time and must be conducted as often as may be reasonably necessary, being at least once in every 2 years.

54.9.3 An assessment under 54.9.1 may be conducted before or after the period of financial support provided pursuant to the *Return to Work Act 2014* has been exhausted.

54.9.4 A worker receiving financial support under this policy shall continue to receive such financial support unless or until the employer has assessed whether the worker may be considered as:

- a) having no current work capacity; and
- b) likely to continue indefinitely to have no current work capacity.

54.9.5 The employer must not discontinue the financial support under this policy on the basis of a work capacity assessment until it has given the worker 13 weeks notice in writing of the proposed discontinuance. Such notice must not be given unless and until the assessment referred to herein has been undertaken.

54.9.6 A worker who is, or has been, entitled to financial support under this policy may apply to the employer for a decision that the worker's entitlement to financial support under this policy does not cease.

54.9.7 The employer, upon receipt of an application under 54.9.6 may decide that the worker's financial support under this policy does not cease as contemplated by 54.9.1 if the employer is satisfied that the worker is in employment and that because of the work injury, the worker is, and is likely to continue indefinitely to be, incapable of undertaking further or additional employment or work which would increase the worker's current weekly earnings.

54.9.8 The employer:

- a) must within 90 days of receiving an application under 54.9.6, make or refuse to make a decision under 54.9.7 and advise the worker in writing of its decision (unless the employer requires an extension of time because of the operation of paragraph b)); and
- b) must not refuse to make a decision under 54.9.7 on the ground that the employer is not satisfied under the requirements of that clause unless—
 - i. the employer has referred the medical question whether, because of the injury, the worker is, and is likely to continue indefinitely to be, incapable of undertaking further or additional employment or work, and if not so incapable, what further or additional employment or work the worker is capable of undertaking, for the opinion of an Independent Medical Adviser ('IMA'); and
 - ii. the opinion of the 'IMA' is that the worker is not so incapable and specifies what further or additional employment or work the worker is capable of undertaking.

54.9.9 If the employer makes a decision under 54.9.7, the worker is entitled to financial support in accordance with clause 54.7.4 (for injuries occurring on or after 1 July 2015) or 54.8.4 (for injuries occurring prior to 1 July 2015).

54.9.10 The entitlement to financial support under 54.9.9 continues until—

- a) the employer ceases to be satisfied as to the matters specified in 54.9.7; or
- b) the worker otherwise ceases to be entitled to financial support under this policy.

54.10 Ceasing of Benefits

54.10.1 In regard to a worker's entitlement to financial support ceasing for any reason other than on the basis of a work capacity assessment, 28 days notice outlining the reasons for discontinuance is to be provided before the discontinuance of financial support.

54.10.2 Benefits pursuant to this policy shall no longer apply in the event that an eligible worker in the view of the employer:

- a) Has “returned to work” under the *Return to Work Act 2014*; or
- b) Has had a Work Capacity Assessment the result of which is cessation of payments under clause 54.9.1 of this policy; or
- c) Fails to comply with the Mutual Obligations of this policy; or
- d) Receives a redemption of entitlements pursuant to the *Workers Rehabilitation and Compensation Act 1986* or the *Return to Work Act 2014*; or
- e) Retires, resigns or is terminated from employment; or
- f) Is in receipt of income or other financial benefits in lieu of wages; or
- g) Is classified as a seriously injured worker under the *Return to Work Act 2014*.

54.10.3 If a worker applies for and takes a period of annual or long service leave, the employer may suspend the financial support that would otherwise be payable to the worker during the period while the worker is on leave.

54.11 Provisions Applicable to Medical Expenses

54.11.1 In the case of 54.7.2 and 54.8.2, an eligible worker incurring medical expenses beyond the period provided for within the *Return to Work Act 2014* pursuant to this policy shall in the first instance claim such incurred expenses against the private health insurance policy held by the worker or, in the case of a worker whose private health insurance policy does not cover the particular item or who does not hold a private health insurance policy, from Medicare.

54.11.2 The worker may then claim ‘out of pocket’ costs against this policy for:

- a) attendance, examination or treatment by a health practitioner including the obtaining of a certificate or report; or
- b) any diagnostic examination or test required for the purpose of treatment by a health practitioner; or
- c) any medical services which are included in the scales of charges published by the Minister for Industrial Relations under section 33(12)(a) of the *Return to Work Act 2014*.