



Managing Excess Employees Procedure

20 August 2024

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Purpose/scope

This document applies to permanent full-time and part-time employees of WaterNSW whose employment conditions are governed by the WaterNSW Enterprise Agreement 2023 – 2026. It specifically excludes:

- Apprentices, cadets or graduates who are part of a graduate program
- Employees engaged as casuals or for a specific period of time, or identified task (including fixed term and maximum term employees)
- Employees whose employment is terminated for reasons other than redundancy, including misconduct, unsatisfactory performance or failure to satisfactorily complete a probationary period.
- 'Contingent labour' such as contractors or consultants who are not directly employed by WaterNSW.
- Employees engaged by WaterNSW on individual contracts of employment where the WaterNSW Enterprise Agreement 2023 – 2026 does not apply to their employment.

Implementation officer	Executive Manager Safety, People and Culture.
Relevant to	Permanent full-time and part-time employees of WaterNSW
Relevant documents	<ul style="list-style-type: none">- WaterNSW Enterprise Agreement 2023 – 2026- WaterNSW Code of Conduct- WaterNSW Workplace Complaints Procedure- WaterNSW Act 2015 (Governor's Orders)
Relevant legislation	<ul style="list-style-type: none">- Fair Work Act 2009 (Cth)

Monitoring, evaluation and review, revision history

Monitoring	Feedback on the application of the procedure.
Evaluation and review	Medium - 2 Years
Revision history	April 2021 – Reviewed and no changes required. Review date extended to September 2026

Approval

Beth Winchester

Executive Manager, Safety, People and Culture

20 August 2024

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1. Introduction

WaterNSW values its people and the contribution they make to the organisation's success.

WaterNSW takes responsibility for ensuring that any major workplace change:

- Endeavours to minimise impact on employees
- Seeks to retain employees and provide job security wherever possible
- Maintains open communication with employees about their options and entitlements
- Ensures employees and their skills are appropriately matched to positions
- Supports employees where they choose options to seek redeployment or redundancy

Our values will guide us in delivering change and managing employees impacted by change. Our values are:



2. Objective

This document explains how excess employees are managed by WaterNSW. WaterNSW will ensure that excess employees:

- are properly informed about their options and entitlements under this document
- have access to career transition assistance
- are helped in the search for redeployment, where they choose that option.

To facilitate this, WaterNSW will ensure that it has in place:

- a case manager(s)
- capacity to promptly provide estimates of employee entitlements
- appropriate career transition assistance, provided in-house, by a third party specialist, or through a combination of these.

3. Definitions

Term	Definition
Redundancy payment	A payment based on years of continuous service, according to a schedule using 'base rate of pay' for ordinary earnings for employees who leave during the retention period or who are made forcibly redundant.
Voluntary Redundancy Payment	Termination payment made to an employee who accepts an offer of voluntary redundancy which is then approved by WaterNSW.
Redeployment	Placement of an excess employee into a suitable, alternative position.
Retention Period	A period of up to three calendar months commencing from formal written notification that the employee has been declared excess.
Excess Employee	An employee who no longer has a substantive position.
Salary maintenance	The entitlement for an employee declared excess who is redeployed to an alternative position to continue to receive a salary equivalent to their former base rate of pay for a period of up to three calendar months.

4. Declaring an employee 'excess'

4.1 Options for excess employees

Upon being declared excess, an excess employee has two weeks to choose between two courses of action:

1. Accept an offer of voluntary redundancy and leave WaterNSW within two weeks of accepting the offer or at a time nominated by WaterNSW. If voluntary redundancy is declined it will not be offered again.
2. Decline the voluntary redundancy offer and pursue redeployment during the three month retention period. If an excess employee:

- a) leaves at any time after declining the offer of voluntary redundancy, they will receive a payment using the calculation described in section 7.1 of this document, or
- b) is not redeployed at the conclusion of the retention period, they will be made forcibly redundant and receive a payment using the calculation described in section 7.1 of this document.

If an excess employee fails to notify WaterNSW of a course of action within the nominated two week timeframe, this will be taken as the choice to decline voluntary redundancy and pursue redeployment.

4.2 Voluntary redundancy

Upon declaring an employee excess, WaterNSW must provide an offer of voluntary redundancy. The offer is to be estimated using the methodology described in section 5.2 of this document. If an excess employee declines this voluntary redundancy offer, it will not be offered again.

4.3 Notice of forced redundancy

Upon declaring an employee excess, WaterNSW must provide the employee with written notice of the intention to make the employee forcibly redundant if:

- a) the excess employee refuses the offer of voluntary redundancy, and,
- b) the excess employee is not redeployed at the conclusion of the three month retention period.

Upon being made forcibly redundant, the excess employee will receive the severance benefit described in section 7.1 of this document.

4.4 Summary of written advice to be provided to employees upon being declared excess

Upon declaring an employee excess, WaterNSW will provide written advice that:

1. The employee is excess as at the date of the written advice.
2. The employee has two weeks from the date of the written advice to decide whether to:
 - a) accept the offer of voluntary redundancy (provided with the advice) and leave WaterNSW within two weeks of acceptance (or at a time nominated by WaterNSW),
 - or,
 - b) decline the offer of voluntary redundancy and opt to pursue redeployment within the three month retention period.
3. WaterNSW will make the excess employee forcibly redundant if the employee has not left the service, or been redeployed, at the conclusion of the three month retention period.

4. If the excess employee exits WaterNSW after declining the offer of voluntary redundancy and at any time during the retention period, or is made forcibly redundant at the end of the retention period, the excess employee will receive a payment calculated using the methodology described in section 7.1 of this document.

5. Voluntary redundancy

Every excess employee must be provided with an offer of voluntary redundancy when they are declared excess.

5.1 Approval

WaterNSW is responsible for determining whether the offer of redundancy accepted by an employee is approved.

5.2 Voluntary redundancy payments

A voluntary redundancy is a voluntary termination payment to a permanent employee. Where employees accept voluntary redundancy, they are entitled to the following payments:

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

Length of service	Additional payment
Less than one year	Two weeks' pay
One year and less than two years	Four weeks' pay
Two years and less than three years	Six weeks' pay
Three or more years	Eight weeks pay

All continuous service with WaterNSW (including transfers under Minister's Orders) is recognised for voluntary redundancy purposes provided no previous redundancy payment has been made for this service.

Employees who transferred under 'Governor's Orders' maintain additional voluntary redundancy entitlements

5.3 Re-employment or re-engagement with WaterNSW

Employees who accept a voluntary redundancy cannot be re-employed or re-engaged in any capacity with WaterNSW within the period covered by their severance payment, without first repaying the relevant proportion of their severance pay. This requirement applies to employment or engagement in any capacity as staff members, contractors, consultants or employees or principals of companies engaged in contracting to WaterNSW.

6. The retention period

6.1 Scope of the retention period

The retention period commences from the date on which the voluntary redundancy offer is declined by an excess employee or closes without being accepted by an excess employee.

The retention period runs for three calendar months. In exceptional circumstances only, WaterNSW may consider an extension to the retention period.

6.2 Redeployment within the retention period

The purpose of the retention period is to allow excess employees to pursue redeployment to a permanent position with WaterNSW. Excess employees may be placed in any suitable vacancy without advertising.

During the retention period, excess employees are to be provided with priority access to redeployment opportunities within WaterNSW. Where a potentially suitable job match is identified, excess employees are entitled to priority assessment for vacancies before any other applicants.

Where two or more excess employees apply for the same vacant position, selection is based on merit between the excess employees.

6.3 Temporary secondment or assignment within the retention period

During the retention period an excess employee may choose to accept a temporary secondment with WaterNSW.

If this occurs and the excess employee's retention period ends during the secondment or assignment, the employee will continue to be employed for the remaining period of the secondment or assignment. When the secondment or assignment ends, if the excess employee has not been redeployed or secured an extension of the secondment or assignment, the excess employee is then made forcibly redundant.

6.4 Case management and career transition assistance

Case managers are responsible for: ensuring excess employees are properly informed about their options and entitlements; have access to career transition assistance; and are helped in the search for redeployment, where that is their choice.

Where there is no internal expertise in career transition counselling and skills development, WaterNSW will engage a qualified external provider to deliver these services.

6.5 Salary maintenance if placed in a lower graded position

If an excess employee chooses to be matched to and is placed in a position at a lower grade, they are entitled to three calendar months' salary maintenance at their former grade.

7. Exit during the retention period and at forced redundancy

An excess employee may leave WaterNSW at any time after refusing the voluntary redundancy offer and during the retention period.

An excess employee is made forcibly redundant when all the following conditions have been satisfied:

- a) the employee has been informed in writing that they are excess
- b) the excess employee has not accepted the offer of voluntary redundancy
- c) the excess employee has exhausted their three month retention period.

7.1 Payments when exiting during the retention period and at forced redundancy

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

Length of continuous service	Redundancy pay Under 45	Redundancy pay 45 or Over
Less than 1 year	Nil	Nil
1 year and more but less than 2 years	4 weeks	5 weeks
2 years and more but less than 3 years	7 weeks	8.75 weeks
3 years and more but less than 4 years	10 weeks	12.5 weeks
4 years and more but less than 5 years	12 weeks	15 weeks

5 years and more but less than 6 years	14 weeks	17.5 weeks
6 years or more	16 weeks	20 weeks
	plus	
Additional payment	4 weeks	5 weeks

Employees are also entitled to:

- notice of termination of employment, a payment in lieu of notice, or a combination of both
- payment of pro rata annual leave loading, where applicable

8. Employee Assistance Program

WaterNSW provide a free, confidential, professional and independent counselling services for all employees. Further details can be found on the WaterNSW Intranet page

9. Contact Information

For further information, please contact:

PCCconnect@waternsw.com.au