

TEMPORARY APPOINTMENTS PROCEDURE[®]

DOCUMENT SUMMARY/KEY POINTS

- This document describes the procedures involved in the employment of temporary employees in accordance with the Health Industry Status of Employment – (State) Award.
- These procedures should avoid the situation of temporary employees working on expired contracts.
- Ensure a consistent approach to the management of temporary appointments.
- Ensure employees are aware of the individual terms and conditions of appointment.
- Ensure staffing levels are managed appropriately and within allocated resources
- Define where temporary appointments are appropriate and the reasons for appointment are in line with the relevant award and funding.

Note: This document must be read in conjunction with the following policies:

[NSW Health PD2012_028 - Recruitment and Selection Policy](#)

[NSW Health PD2012_021 Managing Excess of the New South Wales Health Service](#)

[NSW Health Industry Status of Employment \(State\) Award – 12 November 2008](#)

[SCHN Recruitment, Selection and Appointment of Staff \(non-medical\) Policy](#)

Approved by:	SCHN Policy, Procedure and Guideline Committee	
Date Effective:	1 st July 2015	Review Period: 3 years
Team Leader:	Associate Director Workforce Operations	Area/Dept: Workforce

CHANGE SUMMARY

- N/A – new document.

READ ACKNOWLEDGEMENT

- All managers should read and acknowledge they understand the contents of this document.
- JMOs and Senior medical staff should be aware of document.

TABLE OF CONTENTS

1	Purpose and Scope	3
2	Responsibilities	3
3	Definitions	4
4	Principles	5
5	Temporary Appointments	6
5.1	Managing Temporary Appointments	6
5.2	Appointment	6
5.3	Reports	6
6	Documentation	6
7	Loadings	7
	<i>Arrangements for Existing Part-Time Workers</i>	<i>7</i>
8	Maternity Leave	8

1 Purpose and Scope

The purpose of this document is to:

- Ensure a consistent approach to the management of temporary appointments.
- Ensure employees are aware of the individual terms and conditions of appointment.
- Ensure staffing levels are managed appropriately and within allocated resources.
- Define where temporary appointments are appropriate and the reasons for appointment are in line with the relevant award and funding.
- Define the roles of Workforce Services in the management and recording of temporary appointments.
- Provide an auditing/verification tool.

The Sydney Children's Hospitals Network (SCHN) at times employs staff on temporary contracts across various classifications. Given industrial and legal implications, a system is required to ensure a consistent approach across the SCHN for the management of these staff.

Note: This document must be read in conjunction with the following policies:

[NSW Health PD2012_028 - Recruitment and Selection Policy](#)

[NSW Health PD2012_021 Managing Excess of the New South Wales Health Service](#)

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2 Responsibilities

Executive Directors review and determine the outcome (approve/reject) requests to appoint or extend temporary positions.

Clinical Program Directors/Tier 3 managers review and provide recommendations to the Executive Directors in relation to requests to appoint or renew temporary positions.

Department Heads identify, assess and submit requests to appoint to or renew temporary positions in line with budget and service needs. It is the responsibility of the Department Head to ensure that employees are working with a valid contract.

Workforce Services provide advice on, and review and process approved requests to appoint to or renew temporary positions.

3 Definitions

The following definitions are provided within the Health Industry Status of Employment (State) Award:

- **Employer** means the Director-General of the Ministry of Health exercising employer functions on behalf of the Government of NSW (and includes a delegate of the Director-General).
- **Employee** means a person who is engaged on either a full time, part time, temporary, exempt or casual basis under a contract of employment in the NSW Health Service under s115(1) of the Health Services Act 1997.
- **Casual employee** means a person who may be engaged on an hourly basis, for a period which does not extend beyond one week, to provide services related to the unexpected absence of temporary, permanent or exempt employees. This provision may also encompass short-term employment associated with unanticipated peak demands.
- **Temporary employee** means a person who is engaged as an employee for a period not exceeding 13 weeks, provided that fixed term contracts of employment, whether for periods greater or lesser than 13 weeks, must not be offered in preference to ongoing contracts.
- **Permanent employee** means a person appointed as such or a person who has worked in the same position, including a permanent relief position, for a continuous period of 13 weeks other than as an exempt employee. Permanency is subject to the outcome of any appeal process.
- **Exempt employee** means a person who is engaged for a continuous period and whose employment involves:
 - relief for periods in excess of 13 weeks during the absence of existing employees or;
 - specific projects which are time limited or;
 - functions which involve funding for a specific period and which is not of a recurrent nature or;
 - forthcoming service reductions which have a predetermined date.

Exempt employees as defined do not attract casual or temporary loadings.

Refer to [Section 7](#) for more loading information.

- **Continuous period of employment** means an uninterrupted period of 13 weeks employment involving at least one shift per week in that period, but does not refer to exempt employees as defined.

4 Principles

The following principles are described within the Health Industry Status of Employment (State) Award:

- Employees who are engaged in meaningful work on a continuing basis are entitled to an expectation of permanency of employment subject to the provisions of this award.
- It is the responsibility of the employer to ensure that all employees, upon engagement and at all appropriate times, are correctly classified as exempt, casual, temporary, or permanent according to the above definitions.
- Where a person changes from casual to *either temporary or permanent*, the employment status of the person is deemed to have changed *automatically*.
- During the period of continuing employment the status of an employee cannot be changed *from permanent to temporary or casual* or *from temporary to casual*, without the prior written consent of the employee.
- All permanent employees are required as part of their contract of employment, to use their best endeavours to provide four weeks' notice of their intention to terminate their employment contract.
- Any position which would involve the employment of an exempt, temporary or permanent employee, upon falling vacant, will, where such a position continues to be required in its current form by the Health Service, be advertised within the Health Service and/or external to the Health Service. Positions should be filled under the merit principle of selection.
- A person who, by definition, is a temporary employee for a period of less than 13 weeks may be re-engaged by the same Health Service under more than one employment contract provided the aggregate period of the contracts, where consecutive, does not exceed 13 weeks.
- Where the employee is retained beyond a continuous period of 13 weeks in the same position the employee is deemed to be permanent, subject to the outcome of any appeal. The application of this sub clause shall not be applied in a manner which is inconsistent with legislation or Government recruitment and employment policy, as varied from time to time. This subclause does not apply to an exempt employee as defined.

5 Temporary Appointments

5.1 Managing Temporary Appointments

The SCHN approval and recruitment and selection processes must be undertaken prior to an offer of a temporary appointment being made. An official letter of offer provided by Workforce Services must be sent to appointees of all temporary appointments. Signed acceptance of the letter of offer must also be obtained from the applicant prior to their commencement of a new temporary appointment.

5.2 Appointment

A letter of offer will be provided to the employee that outlines that they are employed for a fixed term, specifically if they are an [exempt](#) or [temporary](#) employee, the period of employment and the reason for their temporary status.

When appointing temporary employees, Workforce Services will ensure that the employee is entered on to the Human Resources Information System (HRIS) in such a way that clearly shows that the staff member is employed on a fixed term basis.

5.3 Reports

Department Managers will receive notifications generated from the HRIS which provide advice regarding the imminent end date of an employees fixed term contract. These notifications are automatically generated one month prior to the contract end date.

Reports can be manually generated via the Manager Self Service (MSS) function of the HRIS.

It is the Department Manager's responsibility to ensure that employment extensions are approved and forwarded to Workforce Services in a timely manner. It is essential that Department Managers give urgent attention to these reviews as a matter of priority and the required documentation is forwarded to the Workforce Services.

6 Documentation

The letter of offer, signed acceptance and associated approval documentation must be forwarded to Workforce Services to be placed on the employees personnel file.

7 Loadings

The following loadings are described within the Health Industry Status of Employment (State) Award:

- **Casual Employees** - A casual employee will be paid for the number of hours worked each week at an hourly rate, calculated at the same hourly rate as prescribed for a full time employee in the same classification and grade plus 10 per cent loading. A minimum payment of 2 hours at ordinary pay on each occasion the employee commences a shift will apply.
- **Temporary Employees** - A temporary employee shall be paid for the number of hours worked each week on an hourly rate calculated at the same hourly rate as prescribed for a full time employee in the same classification plus 10 per cent loading. The loading shall cease to apply if:
 - i. the period of employment extends beyond 13 weeks
 - ii. the employer and the employee agree, during the period of 13 weeks, that the employee will be employed on a permanent basis.

Arrangements for Existing Part-Time Workers

- **Payment of 15% Allowance** - Persons engaged as at 1 January 2000 and who were paid the 15% loading at that date will continue to receive that loading but only for the remainder of the existing part time employment contract. Receipt of the allowance will cease if the contract is completed or where an employee requests a transfer or is promoted to another position.
- **Conditions** - Persons covered by clause 5.1 of this clause will, for the duration of any existing part-time employment contract and while remaining in their current position, retain existing part-time provisions. They will not be entitled to pro rata entitlements as outlined elsewhere within applicable awards.

8 Maternity Leave

- Temporary employees who have been employed for periods of 40 continuous weeks or more immediately prior to the expected date of birth or date of taking custody of the child are entitled to the provisions of maternity leave. (As per the relevant Award conditions).
- Applications for Maternity and Adoption Leave will be assessed on a case by case basis for staff on a temporary contract. Employees, who are on a temporary contract that expires within 14 weeks prior to date of confinement, will be eligible for the payment of maternity leave provisions as per the relevant Award conditions.
- To ensure that a Junior Medical Officer's (JMO) training is not compromised through the taking of maternity or parental leave, their length of training contract of employment can be extended to cover the period of that leave. JMOs should no longer need to reapply for employment when returning from maternity or parental leave. This interpretation is provided by the Deputy Director, Workforce Strategy & Culture from the Ministry of Health (MoH), as advised via email on 11 July 2013. For example, if a JMO has completed eight months of a 12 month contract, and they enter on maternity/parental leave, their current contract is then extended for the duration of their leave (i.e. they are provided with a further four months to complete the outstanding component of their current contract).

Refer to the following for more information:

- NSW MoH Policy Directive PD2014_029 "[Leave Matters for the NSW Health Service](#)" (Section 5: Maternity, Adoption and Parental Leave)
- [Relevant Awards](#)
- [IRC 507 of 2008 "NSW Nurses Association v North Coast Area Health Service \[2008\] NSWIRComm 1072"](#)
- MoH Policy Directive PD2010_074 "[Medical Officers - Employment Arrangements in the NSW Public Health System](#)"

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