



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**
Public Sector Labour Relations

Public Service and Government Officers CSA General Agreement 2017

Supplementary Notes

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Background

The *Public Service and Government Officers CSA General Agreement 2017 (GA7)* was registered by the Western Australian Industrial Relations Commission (WAIRC) on 8 December 2017. Several GA7 'satellite' agreements were subsequently registered between December 2017 and January 2018.

Copies of these industrial agreements can be downloaded from www.wairc.wa.gov.au.

This document provides an overview of new GA7 provisions and other amendments. Employers can obtain further detailed advice by contacting their Public Sector Labour Relations portfolio adviser and/or accessing the Labour Relations Knowledge Portal.

Administrative matters

Naming conventions

New naming conventions have been adopted for the GA7 and satellite agreements to reflect (wherever possible) the employer, the Civil Service Association (CSA), and occupational group.

Previous title	New title
Country High School Hostels Authority Residential College Supervisory Staff General Agreement 2014	Department of Education (Residential College Supervisors) CSA General Agreement 2017
Department of the Attorney General Jury Officers Agreement 2014	Department of Justice (Jury Officers) CSA Agreement 2017
Department of Corrective Services Youth Custodial Officers General Agreement 2014	Department of Justice (Youth Custodial Officers) CSA General Agreement 2017
Family Resource Employees General Agreement 2014	Department of Communities (Family Resource Employees) CSA General Agreement 2017
Government Officers (ICWA) General Agreement 2014	Insurance Commission of Western Australia (Government Officers) CSA General Agreement 2017
Public Service and Government Officers General Agreement 2014	Public Service and Government Officers CSA General Agreement 2017
School Support Officers (Government) General Agreement 2014	Department of Education (School Support Officers) CSA General
Social Trainers General Agreement 2014	Department of Communities (Social Trainers) CSA General Agreement

New definitions

The following new definitions have been included in **clause 3** of the GA7 and relevant satellite agreements:

- Public Sector Labour Relations
- Redeployment period
- Registered employee
- Registrable employee
- Suitability
- Suitable office, post or position
- Suitable employment
- Surplus employee
- Suspend
- TAFE colleges

Payment under clause 10.2

Clause 10.2 provides an equivalent payment to eligible employees for the period between 13 June 2017 and 8 December 2017.

This payment is not available to employees who ceased employment prior to 8 December 2017 or those engaged on a casual basis.

The following administrative arrangements apply where an employee moved between public sector employers during this period.

Situation	Administrative arrangement
Employee changes employer prior to 8 December 2017 but remains covered by GA7.	The employer as at 8 December 2017 is responsible for full payment under clause 10.2.
Employee changes employer prior to 8 December 2017 and coverage shifts between GA7 and a satellite agreement.	The employer as at 8 December 2017 is responsible for full payment under clause 10.2.
Employee changes employer prior to 8 December 2017 and coverage shifts from a non-GA7/satellite agreement to a GA7/satellite agreement.	The employer as at 8 December 2017 is responsible for payment under clause 10.2. Payment is based on the period between starting date and 8 December 2017.
Employee changes employer prior to 8 December 2018, but takes an unpaid break prior to commencement with the new employer.	The employee can take a week without pay before commencing with the new employer and still be entitled to payment under clause 10.2.

Time spent on unpaid leave is not counted when calculating payment under **clause 10.2**.

Engagement arrangements

Labour hire

Information requests

Under **clause 14.3**, the CSA can request and is to be provided with the following information:

- the name(s) of labour hire business(es) used by the employer;
- the function(s) undertaken by the labour hire business(es);
- the headcount number of labour hire employees performing the work; and
- the amount of money paid to each labour hire business.

This information is to be provided within 60 days of the request being made via the Joint Consultative Committee (JCC), irrespective of whether the information is readily available to the employer.

Assessment of arrangements

The *Public Sector Management Act 1994 (WA)* (PSM Act) allows persons to be engaged by an employer via a contract for service.

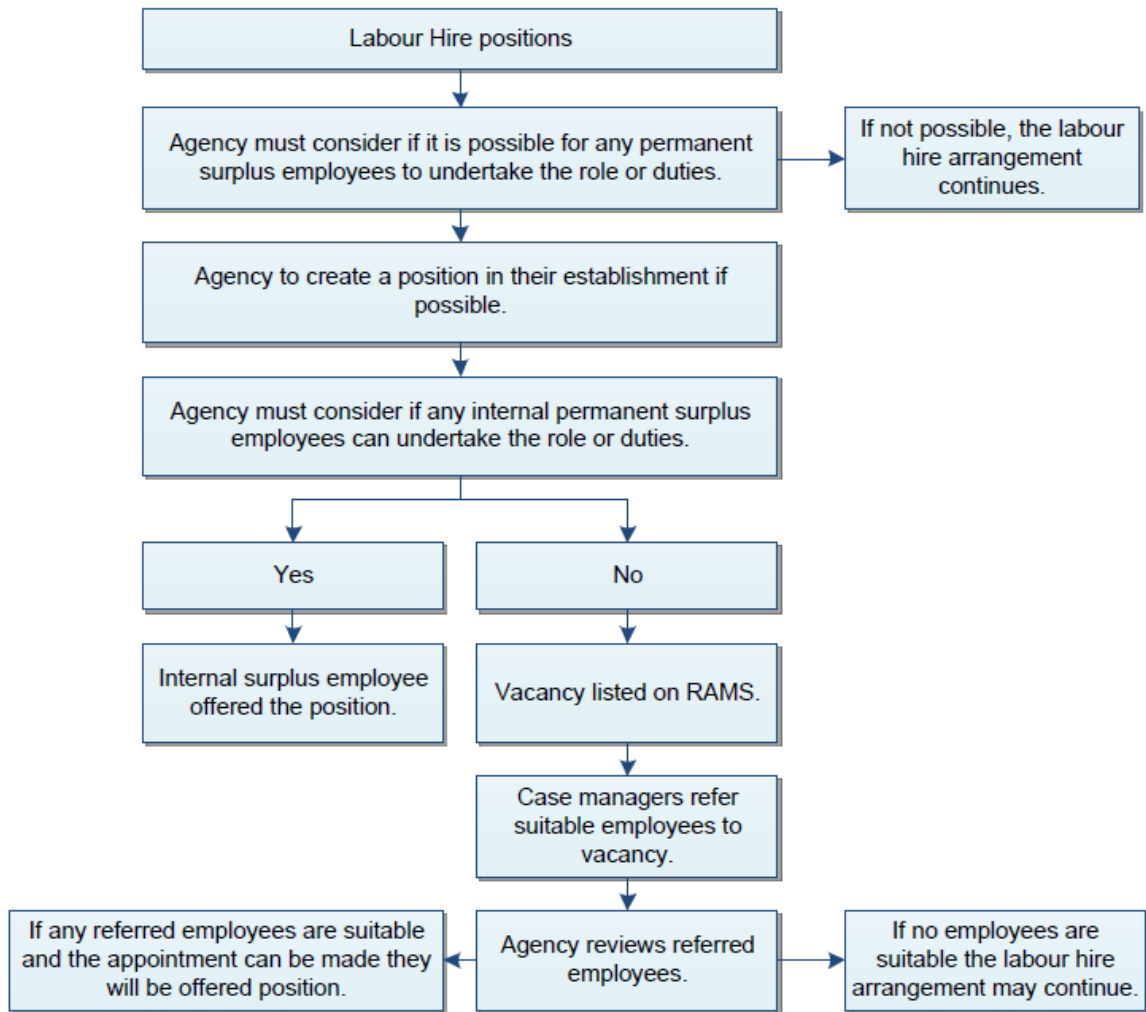
Approved Procedure 5 – Approved Contracts for Services Procedures (AP5), as issued by the Public Sector Commission (PSC), outlines the appropriate circumstances for entering into a labour hire arrangement. Further requirements arise from *CUATPS2014 – Temporary Personnel Services* as issued by the Department of Finance.

Under **clause 14.4**, employers are required to consider whether any permanent surplus employees can undertake the roles or duties of labour hire employees prior to:

- engaging or extending a labour hire employee; or
- entering into a new or extended labour hire arrangement.

The employer is also required to review the duties undertaken by labour hire employees every three months.

The following diagram provides an overview of the review process, incorporating the hierarchy for access to roles or duties established under **clause 14.5**.



Employers are encouraged to use existing mechanisms under the public sector management framework to meet the intention of amendments to **clause 14**. Options for consideration might include secondment, temporary deployment, fixed term contract or offer under regulation 22 of the *Public Sector Management (Redeployment and Redundancy Regulations 2014* (RR Regulations), for a registered employee.

The employer needs to identify whether the vacancy is ongoing or temporary.

Where the vacancy is temporary, the employer is to determine how the employment arrangement is facilitated under the employer’s legislative framework e.g. by secondment arrangement, temporary deployment or a fixed term contract (where appropriate).

Where the vacancy is ongoing, the employer could seek to permanently employ the employee under the employer’s legislative framework.

Employers will also need to consider the impact of adding positions to their establishment and any legal obligations arising from labour hire contractual terms.

Where an offer of employment will have an impact on the employee’s tenure the employee is to be advised.

Fixed term contracts

The use of fixed term contracts is limited to those circumstances prescribed under **clause 16.5**, clause 8 of the applicable award, Part 3 of the PSM Act, and any relevant Commissioner's Instruction.

Those circumstances include:

- covering one-off periods of relief
- work on a project with a finite life (subject to caveats)
- work that is seasonal in nature
- where an employee with specific skills is not readily available in the public sector is required for a finite period
- any other situation as agreed between the employer and CSA.

The following additional provisions regarding the use of fixed term contracts have been inserted into **clause 16**.

Assessment of arrangements

Under **clause 16.2**, employers need to consider whether any permanent surplus employee can undertake the role or duties required by a fixed term contract prior to:

- establishing a new fixed term contract
- extension of an existing fixed term contract.

This includes consideration of any surplus employees referred via the Recruitment Advertisement Management System (RAMS).

Employers are encouraged to use existing mechanisms under the public sector management framework to meet the intention of amendments to **clause 16**. Options for consideration might include secondment, temporary deployment, fixed term contract, offer under regulation 22 of the RR Regulations for a registered employee or utilising leave without pay arrangements where appropriate.

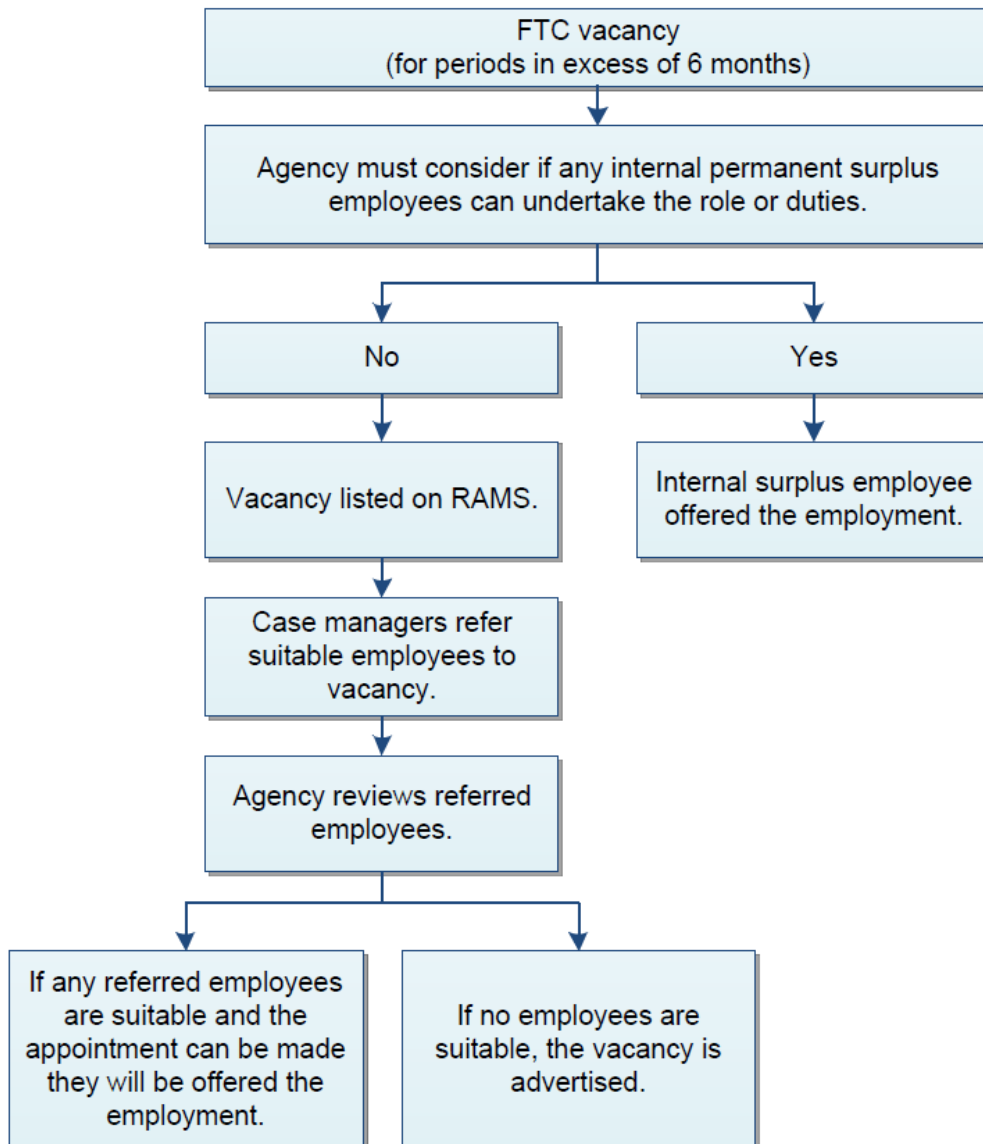
A registered employee who accepts an offer of employment on its terms and conditions under regulation 22 of the RR Regulations, ceases to be a registered employee on the day on which the employment commences in a suitable office, post or position (as per regulation 27).

Where an offer of employment will have an impact on the employee's tenure the employee is to be advised of the impact, if any to them.

Example

A surplus permanent employee may be seconded into a vacant fixed term contract at another agency, as opposed to offering the employee a fixed term contract. This enables the employee to maintain their permanent position with the original employer.

The following diagram provides an overview of the fixed term contract assessment process, incorporating the hierarchy for access to roles or duties established under **clause 16.4**.



Notwithstanding the above assessment process, employers have discretion under **clause 16.3** to renew an existing fixed term contract where:

- the employee has undertaken the same or similar role for more than two years, and
- the fixed term contract is being reviewed for conversion to permanency via the process referred to under clause 16.8.

Conversion

Clause 16.8 acknowledges that the development of criteria for fixed term contract conversion is subject to consultation and consideration by Government, and outlines high level principles on which the criteria will be based.

Conversion criteria and associated processes are currently under development. Separate advice will be provided to employers pending a future decision of Government.

Externally funded projects

Under **clause 16.5(b)(i)**, employers are required to present a business case to the JCC supporting the use of fixed term contracts where a project is substantially externally funded.

Terms of appointment

Under **clause 16.6**, an employee appointed for a fixed term is to be advised in writing of the circumstances of their appointment, and the dates of commencement and termination of employment.

Information requests

Under **Clause 16.7**, the CSA may request data in relation to the names and work locations of all employees on fixed term contracts. This data is to be provided by the employer within 28 days of a written request being made.

This data request does not extend to employees engaged on a casual basis.

Leave

Family and domestic violence leave

The Western Australian Government has committed to paid leave for all public sector employees (including casuals) experiencing family and domestic violence.

Clause 23 reflects this commitment, by providing ten non-cumulative days of paid leave per calendar year, access to an additional two days' unpaid leave on each occasion as required, and a framework to assist employees needing support as a result of family and domestic violence.

The employee is to be paid as if they had worked the hours claimed.

Further guidance on the provisions is available in Circular to Departments and Authorities No. 05 of 2017 - Family and Domestic Violence - Paid Leave and Workplace Support Guidelines.

Maternity leave

Clause 25.9 now provides access to 'unpaid special maternity leave' where an employee has:

- a pregnancy related illness; or
- been pregnant and the pregnancy ends within 28 weeks of the expected date of the child otherwise than by a living child.

Such leave is available where an employee has either exhausted or opted not to take, paid personal leave.

Other parent leave

The eligibility requirements for other parent leave under **clause 27** have been amended.

There is no longer a requirement for an employee to be the primary care giver to qualify for unpaid other parent leave. Instead, the employee only needs to establish that they have, or will have, a responsibility for the care of the child.

The employee must still be the primary care giver to access the 14 weeks' paid other parent leave entitlement.

If both parents are employed and intend to take a form of unpaid parental leave, only one parent can be on unpaid parental leave at the same time. This provision does not apply to circumstances for partner leave under **clause 28**.

Unpaid other parent leave is also accessible where the employee's partner is not employed or who is employed but intends not to take a form of parental leave.

Example

An employee's partner is self-employed and works from home. Following adoption of a child, the partner is responsible for the care of the child while receiving Commonwealth paid parental leave payments. The employee remains at work.

Three months after the date of adoption, the employee takes six months' unpaid other parent leave. The partner resumes working in their home-based business.

The employee and employee's partner share responsibility for care of the child during this six-month period.

Example

An employee's partner does not work. On the birth of their child, the partner undertakes the responsibility for the care of the child while the employee remains at work.

Three months following the birth, the employee takes one month's paid annual leave, followed by one month's unpaid other parent leave.

Both employee and partner share responsibility for the care of the child during the employee's leave period.

Partner leave

Clause 28.10(b) now clarifies that unpaid partner leave must conclude within the first 12 months following the birth or adoption of a child.

Christmas/New Year closedown

Clause 37 now confirms that an employee may access other types of paid leave during a Christmas/New Year closedown if they have insufficient flexi-time credits or banked hours, rostered days/hours off, and/or time in lieu of overtime.

Redeployment and redundancy

Provisions under **Clause 45** highlight the case management of surplus employees. This clause is read in conjunction with the PSM Act and RR Regulations.

The legislative framework prevails to the extent of any inconsistencies.

Suitability of surplus employees

Clause 45.2 clarifies that suitability of a surplus employee will be broadly assessed. Employers are to:

- acknowledge the employee's classification level illustrates core competencies for that classification level;
- place appropriate emphasis on the employee's overall knowledge, skills and experience
- recognise these skills are transferrable to roles that may not be seen as a direct fit.

This is to be read in conjunction with section 94(6) of the PSM Act, Regulation 7 of the RR Regulations and any relevant Commissioner's Instruction.

Recruitment Advertising Management System (RAMS)

RAMS is an online system that provides the electronic registration and management of surplus employees. It enables case managers access to public sector priority vacancies prior to external advertisement.

To assist with the referral process employers should make sure the details of their surplus employees are entered into RAMS.

Priority vacancies are vacancies for periods in excess of six months as provided under *Commissioner's Instruction 12 – Redeployment and Redundancy* (CI-12).

Notification of registration

Regulation 18 of the RR Regulations requires a registrable employee to be given written notice of the employer's intention to register the employee for redeployment at least 14 days prior to registration.

Clause 45.6 provides that the notification letter required under Regulation 18 includes the reasons for the intended registration and outlines any possible employment, placement, and training options.

Suspending the redeployment period

Both the RR Regulations and CI-12 allow for the suspension or revocation of the redeployment period of a registered employee.

Clause 45.7 confirms that an employer may suspend the redeployment period for a maximum of six months while a registered employee is participating in retraining, a secondment or other employment placement arrangement.

Registered employees actively participating in short-term training and employment opportunities should not be disadvantaged during the redeployment period. It is recognised that these opportunities can expand the knowledge and experience of registered employees, and enhance their overall employability.

Notification of impending termination

Clause 45.8 provides that the CSA be notified when a registered employee enters the last three months of their redeployment period. The information should not identify the registered employee, but details relating to their position.

Consultation

Workload management

Clause 47 outlines employer obligations to provide a safe work environment and ensure workload allocation is fairly managed.

It is a requirement that relevant workload indicators are monitored and recorded by the employer. The list of relevant workload indicators at clause 47.5 has been updated but is not exhaustive.

Employers need to consider appropriate indicators in the context of each agency and its workforce. The processes for collection of data will depend on what information can be monitored by each employer's payroll and other data management systems.

Employers should proactively and transparently examine workload issues raised via the JCC. Either the employer or CSA may request in writing that a review team be established when workload issues have been identified by the JCC. The review team must be convened within 21 days of the request, the composition of which must be agreed between the parties.

Clause 47.9 requires the review team to conduct a workload survey. Survey questions should be based on the criteria in clause 47.5.

Clause 47.11 clarifies that a workload survey may only be conducted once in a 12-month period.

The workload survey, including the results and findings of the review team, should be completed and provided to the JCC within two months of commencement so that broader consultation can occur.

Example

A JCC representative claims that employees in a specific branch are working excessive hours based on unreasonable management expectations. The concern relates to 20 employees across two different work teams.

Consistent with clause 47.5, the employer analyses time sheets, leave records and work allocations and output to determine if the claim has merit.

Analysis supports the JCC representative's concerns for one work team, resulting in the employer working with the team's manager to recalibrate work allocations.

The analysis proves inconclusive for the other work team, and the employer seeks that a review team is formed.

Once established, the review team conducts a workload survey. The survey content is based on the specific nature of the work team and some of the workload indicators under clause 47.5.

The review team provides survey results and findings to the JCC, and this information is used to rectify the identified issues.

Joint Consultative Committee

The JCC is the primary forum for consultation between the employer and CSA.

Under **clause 49.8**, the list of issues that may be discussed at JCCs was amended to clarify the use of fixed term, casual employment and labour hire arrangements; and agency implementation of recommendations from government decisions, policies and initiatives. Please note this list is not exhaustive, and discussion of other matters linked to improving business/operational performance and working environment is encouraged.

Other specific JCC functions are prescribed elsewhere under the GA7, and include:

Clause	JCC function
14.3	▪ Receive information regarding labour hire arrangements
16.5(b)(i)	▪ Receive business cases supporting the use of fixed term contracts for substantially externally funded projects
44.3	▪ Receive the findings of any review into regional training and development
47.7 47.8 47.12 47.13	▪ Various functions in relation to workload management

Definition of 'change'

Under **clause 49.4**, the definition of 'change' in relation to notification and consultation obligations has been amended to mean "*a situation where the Employer proposes to make a change(s) likely to affect an existing practice(s), working conditions or employment prospects of Employees*".

Principles for consultation

Clause 49.4(g) outlines the following principles to assist open and transparent consultation between all parties:

- access to the appropriate mechanisms and communication channels to facilitate consultation
- provision of clear information, including contextual information, so that issues are thoroughly understood
- the impacts of the change will be broadly assessed by the employer
- affected employees and the CSA are given adequate time, resources and support to consider the information provided and discuss with the employer
- the employer will evaluate and review implemented change(s) and inform the JCC of the outcomes.

Information on workforce composition

Where the employer is proposing change(s) that may result in surplus employees, information on the overall composition of the work area affected must be provided to the CSA and the affected employees. This includes information on fixed term contract employees, casual employees, labour hire employees, and contractors.

The information in relation to labour hire employees and contractors relate to labour hire arrangements and independent contractors as provided for under AP5.

The GA7 outlines the minimum information that must be provided as below:

- headcount according to each employment category;
- position or duties undertaken by each employee or person engaged;
- reason for the engagement;
- total duration of the person's engagement with the employer; and
- expiry date of individual contracts (excluding casual employees).

Provision of information under clause 49.4(h) should be considered on a case-by-case basis and should not contain any personal information.

Peak Consultative Forum

The Peak Consultative Forum (PCF) is the primary mechanism for Public Sector Labour Relations, the Public Sector Commission (PSC) and the CSA to consult on cross-sector matters.

Under clause 50.4, the PCF is required to conduct a review of existing redeployment and redundancy processes.

Clause 51.2 commits PSC to a compliance review of AP5. The findings of this review are to be reported to the PCF.