Suspension of Employees

Policy Number: E14 (QH-POL-400)
Publication date: January 2014
Purpose: To outline the suspension of employment arrangements within Queensland Health.
Application: This policy applies to all employees working in and for the:
- Department of Health
- non-prescribed Hospital and Health Services.
Delegation: The ‘delegate’ is as listed in the Department of Health Human Resource (HR) Delegations Manual and the Hospital and Health Services Human Resource (HR) Delegations Manual – HRM Functions of the Director-General, as amended from time to time.

Legislative or other authority:
- Public Service Act 2008
- Public Service Regulation 2008

Related policy or documents:
- Discipline HR Policy E10 (QH-POL-124)
- Suspension Report Form

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1 Suspension of employees

The provisions of the Public Service Act 2008 relating to discipline have been extended to health service employees via Public Service Regulation 2008.

Suspension from duty is not a disciplinary penalty, but an administrative action designed to temporarily remove the employee from the workplace.

1.1 Suspension other than as disciplinary action

Section 137 of the Public Service Act 2008 provides for the suspension of an employee as follows:

- 137(1) The delegate may, by notice, suspend an employee if the delegate “reasonably believes the proper and efficient management of the department might be prejudiced” if the employee is not suspended.

The period of the suspension under section 137 cannot be more than the period the delegate reasonably believes is necessary to avoid the prejudice to the proper and efficient management of the department.

1.2 Suspension of employee liable to discipline

Section 189 of the Public Service Act 2008 provides for the suspension of an employee as follows:

- 189(1) The delegate may suspend an employee if the delegate “reasonably believes the employee is liable to discipline under a disciplinary law”.

2 Consideration of alternative duties

Before suspending an employee, the delegate must consider all alternative duties the employee may be able to perform. The duties do not have to form part of an established role and can be outside the employee’s usual work.

Prior to suspending an employee consideration can also be given to (and is not limited to):

- temporary transfer to alternative duties (either in the employee’s workplace or at another workplace)
- directing the employee to work under close supervision or with another employee
- working from home
- asking the employee if they wish to access accrued recreation and/or long service leave (access to accrued leave is at the discretion of the employee).

In determining whether suspension is appropriate, consideration can be given to whether:

- the safety or well-being of other employees, clients or members of the public may be adversely affected if the employee were to remain in the workplace
- the alleged behaviour of the employee is so unacceptable it is likely to cause loss or damage to Queensland Health either physically or through public perception
- any investigation would be compromised if the employee were to remain in the workplace e.g. there a possibility that evidence will be destroyed or witnesses may be inappropriately approached or feel intimidated
• there is a likelihood the employee will continue with the alleged unacceptable conduct and the potential impact if this were to occur
• the significance of any effect on the proper efficient management of the department.

3 Notice of suspension

As required by the Public Service Act 2008 the delegate must give the employee notice of the suspension. The notice must state:

• when the suspension starts and ends
• the remuneration the employee is entitled to for the period of the suspension
• the effect alternative employment may have on the remuneration the employee is entitled to while suspended.

4 Normal remuneration

An employee suspended under section 137 is entitled to normal remuneration, less any amount they earn from alternative employment during the period of suspension. An employee suspended under section 137 cannot be suspended without pay.

An employee suspended under section 189(1) is entitled to normal remuneration, unless the delegate decides otherwise, less any amount they earn from alternative employment during the period of suspension.

Where a delegate decides the suspended employee (suspended under section 189) is not entitled to normal remuneration the employee may be suspended without pay. Before a decision is made to suspend without pay the employee must be afforded an opportunity to respond, in writing, to the proposed action. The principles of natural justice apply.

5 Alternative employment

If an employee engages in alternative employment during a period of suspension the employee must advise the employer.

Any amount earned from the alternative employment is to be deducted from the remuneration paid to the employee while suspended. The amount deducted must not be more than the amount of the employee’s normal remuneration during the period of the suspension.

6 Continuity of employment

Suspension does not break the continuity of the employee’s service.

7 Monitoring of suspension

An employee’s suspension must be monitored. Consideration should be given to a number of factors including, but not limited to, whether:

• the employee should remain suspended
• any circumstances have changed
• there are alternative duties the employee could perform
• the suspension should be without pay.
8 Ending suspension

The delegate may cancel the suspension at any time. The employee is to be advised of the cessation of the suspension in writing.

9 Reporting

The suspension of an employee needs to be immediately reported to suspensions@health.qld.gov.au in the prescribed ‘Suspension Report Form’.

In addition all suspensions, including information on the actions undertaken during the previous month, are to be reported to suspensions@health.qld.gov.au on a monthly basis.

Definitions:

| Alternative employment | Under section 191 (3) of the Public Service Act 2008, alternative employment does not include employment if—  
| | a) the employee was engaged in the employment at the time of the suspension; and  
| | b) the officer’s engaging in the employment was not in contravention of—  
| | I. this Act; or  
| | II. a standard of conduct applying to the officer under an approved code of conduct under the Public Sector Ethics Act 1994; or  
| | c) a standard of conduct, if any, applying to the officer under an approved standard of practice under the Public Sector Ethics Act 1994. |

| Normal remuneration | Means:  
| | • the ordinary hours worked by the employee; and  
| | • the amounts payable to the employee for the hours, including (for example) allowances, loadings and penalties; and  
| | • any other amounts payable under the employee’s employment contract.  
Where the employee is a shift worker, any decision to suspend the employee should not adversely affect their entitlements including remuneration, allowances, loadings or shift penalties provided for by the relevant industrial instrument. |

| Natural justice | Natural justice has two rules:  
| | Rule against bias: decision-makers are to be objective, free of bias, and have no personal interest in the matter being decided.  
| | Hearing rule: an individual is to be informed of the decision to be made and have the opportunity to present their case prior to a decision being made. |

History:

| January 2014 | • New policy developed. Suspension content removed from the Discipline HR Policy E10 and incorporated into this policy. |