



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

The MSD National Accounting Centre CYRAS/IEP Shared Services – Proposal for change

People Transition Protocol

22 April 2021

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1. Introduction

The Ministry's purpose is to help New Zealanders to be safe, strong and independent. The parties acknowledge that the Ministry operates in a dynamic environment and needs to be responsive to government direction, client needs and other environmental factors.

This protocol applies to employees in permanent positions (including those on secondment, parental leave, study leave, sick leave and employed on a full time or part time basis) who are 'affected' by decisions in the MSD National Accounting Centre CYRAS/IEP Shared Services – Proposal for Change.

The protocol outlines the process to transfer and/or reconfirm affected employees to positions in the new proposed Oranga Tamariki NAC structure; and the process to be applied in the event an employee is not transferred and/or reconfirmed to a position in the new proposed Oranga Tamariki NAC structure.

Employees are encouraged to read the change management provisions of their employment agreement and Sections 86-88 of the Public Service Act 2020. Where the People Transition Process and/or the employment agreement are not compliant with the Public Service Act 2020, the legislation will apply as the minimum.

Sections 86-88 of the Public Service Act 2020 will apply to determine whether or not an employee will be entitled to redundancy compensation. A copy of Sections 86-88 are attached as **Appendix A**.

2.Principles

The principles underpinning the process in this protocol are:

- an intention to make things better for employees and clients
- employees are central to the success of the outcomes
- change maximises opportunities
- stakeholders, including employees and the PSA, are engaged throughout the change process from the development through to post-implementation
- a proactive and appropriate communications strategy for managing the change is in place
- the process is flexible, timely, open and transparent
- the process minimises the impact on individuals and increases certainty as quickly as possible.
- employment security is maximised
- continuity of service provision to our clients remains a priority during the People Transition processes.

Employees and their representatives may raise options with the Ministry for discussion at any stage through the process. The Ministry will consider any reasonable option but is not obliged to agree to any such option.

3. Process

Reconfirmation is the process used to appoint/transfer affected employees to positions in the new Oranga Tamariki structure.

Reconfirmation Process

Reconfirmation is appointment to a position where the position description is:

- the same or substantially similar to the existing position
- the remuneration is the same
- a change in reporting line or minor change in title
- terms and conditions are no less favourable and
- the position is in the same location or vicinity

An employee will be reconfirmed into a position in the new structure (within or outside the Ministry) that is the same or substantially similar when there is one 'clear candidate' or when the number of clear candidates equals or is less than the number of positions available.

Employees will be notified individually in writing where they are reconfirmed.

Where an employee has met the reconfirmation criteria and declines the offer of reconfirmation, they will not be entitled to receive redundancy compensation and will end their employment with the Ministry by way of voluntary termination.

New job descriptions will be available prior to the commencement of this process.

Oranga Tamariki will offer employment to affected MSD employees upon the completion of above process. As employees do not automatically transfer their employment, this is an offer and acceptance process and, if the offer is accepted, the employee will transition to Oranga Tamariki via reconfirmation with effect on 01 August 2021.

Impact on Redundancy Entitlements

If an employee receives an offer of employment from Oranga Tamariki and is reconfirmed into their role, that employee will not be entitled to redundancy compensation.

If an employee decides not to accept the offer of employment from Oranga Tamariki that meets the criteria below, that employee's employment with MSD will conclude on the date of transition and they will not be entitled to redundancy compensation.

A declined offer from Oranga Tamariki will be assessed against the following criteria to establish an employee's entitlement to redundancy:

- The terms and conditions offered by Oranga Tamariki are substantially the same or more favourable than the employee had with MSD, including any service related, redundancy and superannuation conditions;
- The offer is to employ the employee in substantially the same or similar capacity than which the employee is employed by MSD; and
- The location is the same or in the same vicinity

People Transition Process for fixed-term arrangements

For employees on fixed-term arrangements that expire after the transition date, and the position is to be established in Oranga Tamariki, the MSD position will be disestablished effective on 31 July 2021, and the employee will be transitioned to Oranga Tamariki from 01 August 2021 for the remainder of their fixed-term employment via an new fixed term offer and acceptance process. Any further extensions of term will be at the discretion of Oranga Tamariki.

If the employee declines the offer of employment, their employment will terminate on the transition date and as with any other form of termination of a fixed term agreement, they will **not** be entitled to redundancy compensation.

For employees on fixed-term employment arrangements that expire on or before the transition date, the Employment Protection Provisions will not apply and those agreements will terminate as per the employment agreement specifications.

Process for seconded/acting arrangements

For an employee who is seconded from their substantive position or acting in another position who's seconded or acting role is affected by the transition of positions to Oranga Tamariki, the following process applies:

- the employee will be returned to their substantive position on the transition date unless otherwise agreed to in writing
- where the employee's substantive position is affected, the applicable process for their substantive role set out in the People Transition Protocol will apply.

4. The Change Process

This is an estimated timeline and may change as required.



5. Employee support

Our priority is to keep our people at the centre of our focus as we work through the separation and set up of MSD and Oranga Tamariki NAC functions.

We understand this time may be unsettling and you are encouraged to talk to your manager at any time if you're at all uncertain.

During this consultation and any change process that may follow, if for any reason you would like someone to talk to (about the change or any other pressure you may be facing) I encourage you to contact the free counselling service provided by MSD through our Employee Assistance Programme (Benestar).

You can use BeneHub to find a counsellor in your area and book an appointment. You can call Benestar on 0800 360 364 or by email counsellingsupportnz@benestar.com. You can find further details online by searching for Employee Assistance Programme on Doogie.

You can also speak with your MSD PSA rep. The PSA will be kept informed on the project throughout

You may also find the [s9\(2\)\(a\)](#) on Doogie useful.

6. Appendix A: Public Service Act 2020

86 Power to transfer employees between public service agencies

- (1) This section applies if there is a transfer of functions from one public service agency (**agency A**) to another public service agency (**agency B**).
- (2) The chief executive or board of agency A may in consultation with the chief executive or board of agency B, and subject to the relevant employment agreements, transfer any public service employee who was carrying out the relevant functions in agency A to a position in agency B, if the position in agency B—
 - (a) consists of the same duties and responsibilities as those of the employee's position in agency A immediately before the transfer; and
 - (b) is in substantially the same general locality or a locality within reasonable commuting distance; and
 - (c) is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and
 - (d) is on terms that treat service within the State services as if it were continuous service.

- (3) Before transferring an employee under this section, the chief executive or board must consult with the employee about the proposed transfer.
- (4) [Section 91](#) applies to an employee who is transferred under this section if the employee is moving from a position as an employee in a department or an interdepartmental venture to a position as an employee in another department or interdepartmental venture.
- (5) This section overrides [Part 6A](#) of the Employment Relations Act 2000.

87 No redundancy payment for employee transferred under section 86

- (1) An employee who is to be transferred under [section 86](#) is not entitled to a redundancy payment.
- (2) In this section and in [section 88](#), **redundancy payment** includes any payment or other benefit provided on the ground of a person's position being disestablished.

88 Other restrictions on redundancy payments

- (1) A public service employee who has received a notice of termination by reason of redundancy is not entitled to a redundancy payment if, before the employee's employment has ended, the employee—
 - (a) is offered and accepts another position as an employee in the State services (either in the employee's current department or interdepartmental venture or elsewhere in the State services) that—
 - (i) begins before, on, or immediately after the date on which the employee's current position ends; and
 - (ii) is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and
 - (iii) is on terms that treat service within the State services as if it were continuous service; or

- (b)** is offered an alternative position as an employee in the State services (either in the employee’s current department or interdepartmental venture or elsewhere in the State services) that—

 - (i)** begins before, on, or immediately after the date on which the employee’s current position ends; and
 - (ii)** is a position with comparable duties and responsibilities to those of the employee’s current position; and
 - (iii)** is in substantially the same general locality or a locality within reasonable commuting distance; and
 - (iv)** is on terms and conditions of employment (including redundancy and superannuation conditions) that are no less favourable; and
 - (v)** is on terms that treat service within the State services as if it were continuous service.

- (2) [Section 91](#) applies to an employee who (being an employee to whom subsection (1)(a) applies) is moving from a position as an employee in a department or an interdepartmental venture to a position as an employee in another department or interdepartmental venture.

- (3) This section overrides [Part 6A](#) of the Employment Relations Act 2000.