

Swan Information Bulletin

Entitlement differences between a 5 year contract extending post 24 November 2015 and a fixed term contract to 23 November 2015.

Issue	5 year contract concluding post 24 November 2015	Fixed Term Contract to 23 November 2015
Security of employment	Prima facie right to be redeployed. However, redeployment is not guaranteed as contracts can be terminated by DOH with 3 months' notice for reasons of redundancy.	Prima facie no legal obligation by DOH to offer further contract beyond contract completion date, subject to previous commitments given.
Contract Completion Payment (CCP)	<ul style="list-style-type: none"> Payable if contract not renewed on its completion. cl 20 (5) - 10% of base salary for each year of continuous service or part thereof to max 5 years; Not payable if resigning from contract prior to its expiration; currently subject to negotiation for CCP to be paid in lieu of transition payment; Payable/not payable if contract terminated with 3 months' notice? (untested) clause 20(5) see * below 	Payable if no contract is offered beyond finishing date of 23 November 2015 – 10% of base salary for each year of continuous service or part thereof to max 5 years
Annual Leave entitlements	<ul style="list-style-type: none"> Accrued leave payable on termination as well as resignation; If redeployed within WA Health, leave is transferred 	Accrued leave payable on termination as well as resignation
Long Service Leave	<ul style="list-style-type: none"> If no other work available within DOH, and practitioner is effectively "retired" by the DOH (made redundant), LSL is payable on a pro rata basis provided the practitioner has completed no less than 3 years' continuous service – cl 37(11)(b); If redeployed within WA Health, leave is transferred; If practitioner is redeployed, but does not like the redeployment given and therefore resigns prior to the expiration of 5 year contract, LSL is only payable if the practitioner has completed at least 10 years of continuous service - cl 37(1)(b). This scenario also applies to practitioners resigning to go to SJOG subject to current negotiations for payment out of pro rata LSL. 	Payable on expiration of fixed term contract provided practitioner has completed no less than 5 years' continuous service – cl 37(1)(d)
Job location choice	No or limited control over redeployment options available within the DOH	Redeployment within DOH not guaranteed subject to previous commitments given.
Personal Leave	<ul style="list-style-type: none"> Not affected if redeployed within DOH; If "retired" by DOH because no redeployment options available, all accrued personal leave is lost; If resign from DOH to go to SJOG Midland, all accrued personal leave is recognised (according to SJOG verbal advice March 2014) 	If able to secure employment with SJOG Midland, all personal leave is recognised and transfers across (according to SJOG verbal advice March 2014).

**clause 20(5) providing contract completion payments, is intended to apply to situations where contracts are not renewed. There is a merit argument that if the employer terminates the contract with notice (as in this case) it has the same result (ie redundancy) and therefore a contract completion payment should be made.*