

FAQs – Preparing for the Cessation of the Guiding Principles

Updated 15 June 2021

- 1. My facility was nominated by some staff under the Guiding Principles as their primary employer, with staff taking leave without pay from their other aged care facility employer/s. With the Guiding Principles coming to an end, what should I do?**

Answer: It would be helpful to directly communicate with your employees who have nominated your facility as their primary employer that the Guiding Principles are coming to an end, specifying both the formal end date and your roster change timeline. The purpose of this communication would be to:

- Inform them that as a result there would be no additional funding available to the facility to top up their pay after the end date so this would not be available to employees from that date; and
- Inform them that the temporary employment conditions would therefore be coming to an end as of the new roster period aligned as close as possible with the end date and they would return to their ongoing employment contract terms.

There is a template letter available for primary employers to use and this can be accessed from this [link](#).

- 2. Some of our staff went on unpaid leave to work for another RACF as their primary employer. We are their secondary employer. With the Guiding Principles coming to an end, what should I do?**

Answer: It would be helpful to directly communicate with any staff who took unpaid leave for this purpose and let them know that the Guiding Principles are coming to an end on the set date and discuss return to work options. The purpose of this communication would be to:

- Inform them that their unpaid leave was coming to an end as the Guiding Principles end and that they will be put on the roster after that date;
- Inform them that they will be sent their new roster by a set date (date must be compliant with the applicable modern award or enterprise agreement); and
- Inform them that if they do not intend to return to work at the facility by that time then they must advise a nominated member of management of this by a set date.

There is a template letter available for secondary employers to use and this can be accessed from this [link](#).

3. I'm the primary employer for an employee and the employee has stated that after the conclusion of the Guiding Principles and single site employment, they would like to return to working for us and another RACF. What should I do?

Answer: Firstly, if the employee is part time or full time, confirm that the employee understands how many hours per fortnight the employee will be rostered by your facility under their contract of employment. You must then ensure that the employee is rostered on for the contracted number of hours per week/fortnight. If they are a casual employee, you would be confirming that they will continue to be offered shifts which they can accept or reject. Given that they are a casual employee, you would not be guaranteeing them hours of work.

Secondly, you may want to consider how your facility is going to manage employees with multiple employers moving forward given the risks relating to COVID-19. As a RACF there are many OHS risks and considerations to identify and address, one of these issues is whether employees have secondary employment with other RACFs. Therefore, whilst the current COVID-19 situation continues, it is advisable that you require employees to inform you of any other employment that they have and that you keep a register of these other locations of employment. The best way to facilitate this is via communication with your staff and through the implementation of a secondary employment policy.

As part of your communication to staff and through your internal policies, it would be appropriate to require employees to advise a nominated member of facility management if there is a COVID-19 case at another place they are employed at. This information will allow you as the employer to take appropriate steps to protect residents, staff and all other people in the workplace. Risk assessments can be undertaken based on the information about the other employment and if there is a COVID-19 case at another place of work for an employee.

Finally, you may also want to consider how your facility manages fatigue in the workplace moving forward. Given that you are now aware that the employee is working a number of hours for another employer or other employers, it would be prudent to give this issue consideration. Safe Work Australia has issued a [Guide for Managing the Risk of Fatigue at Work](#) that can provide employers with assistance with this issue.

4. I am the primary employer for an employee and they have told me that after the end date of the Guiding Principles that they want to continue only working for us as their single RACF employer. What should I do?

Answer: It is important to confirm that the employee understands how many hours per fortnight the employee will be rostered by your facility under their contract of employment given that they may have been working greater hours for your facility under the Guiding Principles. There needs to be a clear understanding as to what your facility is contracted to provide to the employee. If they are a casual employee, then there is no guarantee of hours or ongoing employment.

If the employee wants to be permanently contracted to work more hours at your facility, consider this request carefully taking into account the operational needs of the facility. If your facility is unable to offer the employee additional hours on a permanent basis then this should be conveyed to the employee as soon as practicable.

If, however your facility is able to provide the employee with more hours, a written agreement, for example, a variation to their existing contract of employment, must be put in place to confirm the new weekly or fortnightly hours and a date on which this will commence. This should be signed by the employee to show their agreement to this variation to their contract of employment and it should be signed before the additional hours are worked.

5. An employee of our facility has been on unpaid leave to work for another RACF under the Guiding Principles. They want to come back to work for us and continue to work for the other RACF after the Guiding Principles come to an end. What should I do?

Answer: Firstly, confirm that the employee understands how many hours per fortnight the employee will be rostered by your facility under their contract of employment. You must then ensure that the employee is rostered on for the contracted number of hours per week/fortnight. You may also want to consider conducting an induction process for staff who have been away for a reasonable period of time to ensure that they are up to date with all necessary information to be able to work efficiently and effectively for your facility.

Secondly, you may want to consider how your facility is going to manage employees with multiple employers moving forward given the risks relating to COVID-19. As a RACF, there are many OHS risks to identify and address one if these issues would be whether employees have secondary employment with other RACF's. Therefore, it is advisable that you require employees to inform you of any other employment that they have and that you keep a register of these other locations of employment. The best way to facilitate this is via communication with your staff and through the implementation of a secondary employment policy.

As part of your communication to staff and through your internal policies, it would also be appropriate to require employees to advise a nominated member of facility management if there is a COVID-19 case at another place they are employed at. This information will allow you as an employer to take appropriate steps to protect residents, staff and all people in the workplace. Risk assessments can be undertaken based on the information about the other employment and if there is a COVID-19 case at another place of work for an employee.

Finally, you may also want to consider how your facility manages fatigue in the workplace moving forward. Given that you are now aware that the employee is working a number of hours for another employer or other employers, it would be prudent to give this issue consideration. Safe Work Australia has issued a [Guide for Managing the Risk of Fatigue at Work](#) that can provide employers with assistance with this issue.

- 6. An employee of our facility has been on unpaid leave to work for another RACF under the Guiding Principles and has asked to extend their unpaid leave beyond the end of the Guiding Principles. I want the employee to come back to work with us. What should I do?**

Answer: You must consider this request as you would any request for unpaid leave, taking into account the operational needs of the facility. If your facility is unable to accommodate the request then this should be clearly communicated to the employee as soon as possible. It should also be made clear to the employee as to what date they are required to attend work and that if they do not attend work on that day without reasonable excuse that disciplinary action may be taken against them.

If you can accommodate the request, then it is advisable that this approval is put in writing (an email to the employee is sufficient and this can be put on file as a record) along with the date on which the leave without pay will come to an end. It is recommended that the employee be contacted before the end date of the leave without pay to ensure that they are prepared and ready to return to work. This contact should be scheduled in by the employee's manager well in advance so that it is not forgotten.

- 7. An employee of our facility has been on unpaid leave to work for another RACF under the Guiding Principles and they told me that they want to work for us as their only RACF employer. What should I do?**

Answer: It is important to confirm that the employee understands how many hours per fortnight the employee will be rostered by your facility under their contract of employment. There needs to be a clear understanding as to what your facility is contracted to provide to the employee. You may also want to consider conducting an induction process for staff who have been away for a reasonable period of time to ensure that they are up to date with all necessary information to be able to work efficiently and effectively for your facility.

If the employee wants to be permanently contracted to work more hours at your facility, consider this request carefully taking into account the operational needs of the facility. If your facility is unable to offer the employee additional hours on a permanent basis then this should be conveyed to the employee as soon as practicable.

If, however your facility is able to provide the employee with more hours, a written agreement, for example, a variation to their existing contract of employment, must be put in place to confirm the new weekly or fortnightly hours and a date on which this will commence. This should be signed by the employee to show their agreement to this variation to their contract of employment and it should be signed before the additional hours are worked.

8. I'm concerned that some of my employees are working for a number of employers and that they are working high numbers of hours per week. I'm concerned that these two matters may be risks for my facility. What can I do?

Answer: As a RACF employer with a responsibility to identify and address OHS risks, these are potentially two areas of risk that you will need to deal with. In terms of the issue of multiple employers, it is advisable that you require employees to inform you of any other employment that they have and that you keep an up to date register of these other locations of employment. This can be facilitated via direct communication with the employee and via implementation of a secondary employment policy. You should explain to the employee that the reason for disclosing whether they have secondary employment is due to managing and assessing any OHS and COVID-19 risks.

It would also be appropriate to require employees to advise a nominated member of facility management if there is a COVID-19 case at another place they are employed at. This information will allow you as an employer to take appropriate steps to protect residents, staff and all people in the workplace. Risk assessments can be undertaken based on the information about the other employment.

In terms of the high number of hours that your employees may be working per week you may also want to consider how your facility manages fatigue in the workplace moving forward. Given that you are now aware that the employee is working a number of hours for another employer or other employers, it would be prudent to give this issue consideration even if you have not previously done so. Safe Work Australia has issued a [Guide for Managing the Risk of Fatigue at Work](#) that can provide employers with assistance with this issue.

9. I have a number of employees coming back to work at our facility after the Guiding Principles come to an end. A lot has happened at our facility while they have been away. Is there anything in particular I should do?

Answer: You may want to consider conducting an induction process for these staff given that they have been away from your facility for a reasonable period of time. This process should be the same for all employees and it would be practical to put it into writing to ensure uniformity of delivery. The process should ensure that the employees are up to date with all necessary information to be able to work efficiently and effectively for your facility from day one. This may include PPE donning (putting PPE on) procedure and doffing (taking PPE off) procedure, information about different types, styles, and brands of PPE currently in use at your facility, break times, physical distancing requirements and any other changes to policies and procedures that have recently taken place. Given the importance of these matters it is best not to assume that these employees are up to date with how your facility now operates.

10. I would like our facility to have its employees working with us as their single RACF site. How can we do this?

Answer: This can only be done with the agreement of the employee involved unless there are significant health and safety issues that otherwise necessitate it. If such issues arise, it is recommended that you seek legal advice before taking this step due to the contractual obligations between yourself and the employee.

There will be no further funding from the Commonwealth Government through the Support for Aged Care Workers in COVID-19 grant to support single site employment so this cannot be relied upon. You may wish to consider consulting with your employees on single site and what would lead them to agree to single site employment. As a RACF employer you can then consider the feedback from employees to determine whether there are any ways in which this can be facilitated. The consultation process can take all different forms from staff meetings to having a suggestion box in the staff room so that employees can be anonymous if they wish. Communication with employees will be key to a successful consultation process.

11. My employee has been working for another provider as their primary employer during the period the Guiding Principles have been in place. There remains an active COVID-positive case/s at the other employer's site. My employee wishes to return to work with us. Can they commence working with us again immediately or will they be required to isolate?

Your employee will be required to isolate for at least 14 days and return a "not detected" COVID test result prior to them being able to re-enter your workforce and facility. Your employee may be entitled to paid pandemic leave if they are covered by the *Aged Care Award 2010*, the *Health Professionals and Support Services Award 2020* or the *Nurses Award 2010*. If they are not entitled to paid pandemic leave then they may be entitled to the [Pandemic Leave Disaster Payment](#).