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| Notable Case |  |

## Conversion of a temporary employee to permanent; consideration of ongoing funding

Date of decision: 18 July 2017

## **Overview**

This is a decision about a refusal to convert a temporary employee to permanent employment under temporary employment directive 20/10.

A temporary employee, who had been continuously engaged within their agency for seven years, appealed the agency’s decision not to convert the employee to permanent employment. The agency advised that they could not convert the employee’s position to permanent because the position was subject to short-term external funding.

In appealing the agency’s decision, the employee argued that:

* the role had previously been funded as a permanent full-time position with 100% external funding;
* their experience and knowledge could be applied to different projects; and
* funding through another Queensland Government agency should be considered differently to funding from an industry body.

The agency argued that it did not receive base funding for the employee’s position and relied on funding from another Queensland Government agency. Funding for the position in question was provided under a Memorandum of Understanding that continued for approximately another 2 years. The agency also argued that practice of converting an employee to permanent employment when it relied on short term and external funding arrangements, if applied to a large number of staff in a similar position, exposed the agency to considerable risk with the potential to overcommit the agency beyond responsible funding management practices.

## **Decision**

The IRC member set aside the agency’s decision and substituted a decision to convert the employee to permanent.

The IRC member noted that to consider funding from another Queensland Government agency as 'external' would mean that funding from Queensland Treasury to any government department or agency could also be considered external, leaving limited opportunities for temporary employees to be converted to permanent.

The IRC member did not accept the agency's argument that to allow conversion of this employee would mean that the agency would have to convert all its temporary employees because the circumstances of each employee are different.

## **Implications for agencies**

Agencies should be mindful that a history of ongoing funding may be considered as indicative of an ongoing requirement for the role.

Agencies should consider the situation specific to each temporary employee when conducting a review to determine whether the employee should be converted to permanent.

Funding from other Queensland Government agencies is not likely to be considered an uncertain funding source.