

NEW SOUTH WALES: State of privatisation

The NSW Enabling Act – the uncomfortable truth for all public sector workers

The National Disability Insurance Scheme (NSW Enabling) Act has enormous implications beyond the future of staff in Ageing, Disability and Home Care (ADHC), with the Baird Government set to use the precedent it sets for all future privatisations.

For the first time, State Parliament has passed a law that facilitates not only the forced transfer of disability and home care staff and services to the private sector but also billions of dollars in NSW assets.

According to data prepared by FACS, disability support workers in the public sector earn approximately 25% more than their non-government equivalents.

The privatisation of ADHC sees the NSW Government pushing the envelope further than ever before by refusing to offer employees the same base protections it has offered to workers involved in past privatisations.

This sets a dangerous precedent for ALL public servants, denying:

- a right to choose not to transfer to a private employer
- redundancy payments
- transfer package

- a guaranteed minimum employment period.

Under the Enabling Act, staff have no immediate entitlement to transfer compensation and a transfer “does not constitute a retrenchment, redundancy or termination of employment at the initiative of the Crown”.

While the Act allows the Minister to enter into ‘transfer agreements’ with new providers which may provide an ‘employment guarantee period’, the scope of these agreements is limited to the terms and conditions of the transferred employees under their existing ‘industrial instrument’. This means accrued entitlements may be forfeited on transfer.

Long service leave may also be cashed out at the discretion of the Minister.

Further, any ‘transfer agreement’ is not deemed to be an industrial agreement. This means it is not obliged to meet the provisions of the Fair Work Act 2009 or any instrument under that Act.

Instead, the terms of a transfer agreement may only be enforced by a party to the agreement. That is, presumably, the NSW Government



DOCS caseworkers and supporters protesting Government plans to outsource key child protection services in March 2012.

and new private provider – not an employee or union.

Accordingly, a federal agreement made after the transfer may override the terms of the transfer agreement.

If the new employer re-negotiates industrial arrangements with its workforce after the transfer, this agreement may replace the transfer agreement.

The Act also prevents any legal

action to protect redundancy entitlements – for example via an award application.

Additionally, Part 2 of the Act allows for the establishment of implementation companies, the effect of which, presumably, is to break up the sector into neat and operational packages ready for the tendering process.

Under this model, staff entitlements may be forfeited if

the company goes bust.

The PSA has been working hard to secure the best possible deal for ADHC workers and will continue to do so.

The union is all too aware of just how serious the consequences will be for all public sector workers if the Government gets its way with the privatisation of ADHC.

SNAPSHOT Just some of the public services delivered by PSA members that have gone under the hammer since the Liberal state government came into power in March 2011.

MARCH 2011

Out of Home Care

Then Opposition Community Services Spokesperson Pru Goward reveals plans to outsource Out of Home Care (OOHC) services, which care for the most vulnerable children in the state, to the non-government sector. 700 job losses expected.

NOVEMBER 2011

Brighter Futures

NSW begins complete outsourcing of Brighter Futures, an early intervention service to support vulnerable children and families.

MAY 2012

Power

The Electricity Generator Assets Bill passes through the Upper House, enabling the Government to sell off Eraring, Delta and Macquarie generators.

OCTOBER 2012

TAFE

Smart and Skilled reforms announced. From 2015 TAFE NSW institutes will be forced to compete against private providers for students and funding.

NOVEMBER 2012

Land and Property Information

The Government will examine the potential for private sector investment in Land and Property Information, which provides land title registration, surveying, property information and more, risking loss of confidentiality.

DECEMBER 2013

NSW Supreme Court

Court reporters from the NSW Attorney General's Department stop work over plans to outsource court reporting. Court reporters provide fast, accurate transcripts of court proceedings which are essential to a timely and efficient justice system.

OCTOBER 2013

State Library of NSW

The Security Officer role is deleted. The 21 positions lost are replaced by private security guards.

Ageing, Disability and Home Care

Minister Ajaka announces plans to completely outsource Ageing, Disability and Home Care by 2018 – a move that affects 14,500 experienced carers and thousands of families across the state who rely on these services.

FEBRUARY 2013

Art Gallery of NSW

The Gallery Officer role is deleted in a restructure. The 45 positions lost are replaced by private security guards.

JANUARY 2013

Roads and Maritime Services

Roads Minister Duncan Gay proposes privatising nearly all road maintenance work, affecting roughly 500 RMS employees and reducing public safety.

APRIL 2014

Service First

Private providers are invited to tender for Service First, which provides finance, human resource and IT services to other government agencies.

JUNE 2014

Powerhouse Museum

Security Officer role is deleted from the Museum structure and the 26 positions lost are replaced by private security guards.

Power

Premier Mike Baird wins cabinet support to lease 49 per cent of NSW's poles and wires on a 99 year lease. If implemented, NSW can expect higher electricity costs, more blackouts and massive local job losses.

SEPTEMBER 2014

Housing NSW

Before an Inquiry into outsourcing was completed, Legislative Council report recommends expediting the transfer of public housing properties to the non-government sector via long term leases and reviewing the target that the community housing sector (NGOs) comprise at least 35% of all social housing.

OCTOBER 2014

State Fleet

Minister for Finance and Services, Dominic Perrottet, is reported to be trialling car-sharing services across the public service to replace State Fleet.