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In reply please quote: A14/1043

Mr Graeme Head
Commissioner
Public Service Commission
Bligh House
4-6 Bligh Street
Sydney NSW 2000

Dear Mr Head,

Government Sector Employment Rules 2014 Amendment re Temporary Employment

I refer to your letter dated 6 November 2014.

Thank you for the opportunity to provide comment on the draft Rules. As you are aware this matter has generated significant concern amongst members and it is pleasing the Public Service Commission has listened and responded appropriately on this matter.

On the whole the Association is supportive of the proposed changes to the Rules.

1. Successive four year temporary contacts

In our previous submissions in relation to the development of the GSE Rules the Association highlighted our concern over the extension of the maximum period of temporary employment.

As you are aware in the sector many employees have been kept in a perpetual state of temporary engagement through a series of rolling temporary contracts. We acknowledge the intention of the Public Service Commission to address this situation through the various changes that have been made to temporary employment arrangements. We understand this to be part of a strategy to encourage agencies to develop a planned approach to their workforce.

We are concerned by the proposed changes to Rule 10. The opportunity for agencies to re-engage a temporary employee on an unlimited series of successive four year periods may lead to a return to the problem of rolling temporary contracts.

To address this we recommend Rule 10(1A) be amended to require an agency to seek the approval of the Public Service Commissioner where it is proposed to offer a further period of up to 4 years.

2. Part time return to work

Members have raised concerns with the proposed draft in relation to the operation of the four year term and its potential impact on part time work arrangements where an employee returns to work after parental leave. These types of arrangements can continue for a maximum period of five years as a result there is a possible misalignment of the timeframes which may have an impact on employees' access to this entitlement.

It may be that this concern can be addressed through a determination under Rule 10(3). The Association would appreciate an opportunity to discuss this issue with you in more detail in the near future.

3. GSE Rule 20

The amendments to Rule 20 (clause [5]) should also apply to circumstances in which an employee is acting in a higher graded role outside of the agency in which they are an ongoing employee.

Clause [5](2) should include the following changes in order to allow this to occur:

- 2) The Commissioner may, on application by the head of a Public Service agency, determine that the decision to employ an existing non-executive employee in ongoing employment at a higher classification of work than the person's current classification in an agency is not required to comply with subrule (I). An existing non-executive employee is a Public Service non-executive employee (or class of existing non-executive employee) specified in the determination who:
 - (a) is currently employed in ongoing employment in the agency, and
 - (b) has been performing duties in the agency at that higher classification or at a classification similar to that higher classification; or
 - (c) is currently employed in ongoing employment in a public service agency, and
 - (d) has been performing duties in an agency at that higher classification or at a classification similar to that higher classification.

4. Advice to Agencies

To facilitate a smooth implementation of the Rule amendments, it is crucial that the Public Service Commission provide advice and guidance material to agencies. This should include:

- Directions to undertake an audit of temporary employees and employees acting/temporarily placed in higher graded roles;
- A requirement that agencies 'transitional plans' cover each temporary employee;

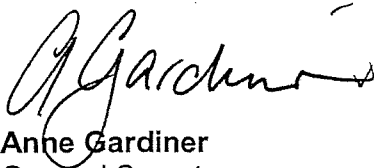
- That the intended action for each temporary employee is communicated to them;
- Instructions on how agencies may construct application pertaining to a 'class' of temporary employees; and
- Direction to consult with the PSA regarding their transitional arrangements.

5. Ongoing monitoring

The Association seeks a commitment to the ongoing monitoring by the Public Service Commission of the usage of temporary employment in the sector with a view to ensuring that temporary employment is only being utilised for a temporary purpose consistent with the GSE Act s43(3).

Should you wish to discuss this feedback please do not hesitate to contact Anthony D'Adam, Director, Strategy & Policy on 9220 0906.

Yours faithfully



Anne Gardiner
General Secretary

11 November 2014