



22 July 2015

Home Care Service update

On Monday 20 July 2015, the PSA finally received a response to a letter we sent to Government representatives on 1 May 2015. Since writing our letter we have been working hard to get the Government to address the serious concerns raised by members about the miserable proposal put forward by the Government regarding the transfer to a private employer.

Despite taking nearly three months to respond, the Government's letter completely fails to address the concerns raised.

However, in **their letter**, the Government does make a number of statements which concern the PSA.

<http://psa.asn.au/wp-content/uploads/2014/01/Letter-from-Telfer-re-Home-Care-Transfer-20-July-2015.pdf>

THE GOVERNMENT SAYS:

It has determined "the entitlements and arrangements" which will apply to PSA members transferring to a private Home Care Service employer will be what was originally agreed to by United Voice.

THE FACT IS:

These are the same arrangements that PSA members previously rejected because they did not provide adequate protection for your job security, wages and conditions.

THE GOVERNMENT SAYS:

Home Care Service employees will be transferred by ministerial order and therefore "consent will not be required".

THE FACT IS:

Despite being the largest employer in the southern hemisphere, the NSW Government

has refused to offer you the choice of redeployment or voluntary redundancy. You will be forced to work for the private employer that takes over Home Care, even if you don't wish to. This forced transfer goes against basic principles of fairness and the real choice the PSA and members have been campaigning for.

THE GOVERNMENT SAYS:

*It will **not** provide a "legal mechanism such as a Deed" to guarantee the conditions covering employees upon transfer.*

*and they will **not** follow the practice of previous transactions.*

THE FACT IS:

The Government refuses to commit to guarantee your salaries and conditions on transfer.

The last Government "transaction" involving the transfer of employees was NSW Ferries. Their conditions and transfer arrangements were, protected by both an enterprise agreement and a legally enforceable deed. In addition, as part of the Government's current privatisation of the Power Industry, the wages and conditions for employees have been protected by legislation. Home Care workers should not have to accept protections inferior to what the Government agreed to for NSW Ferries and what is now being offered to Power employees.

THE GOVERNMENT SAYS:

That their contract with the new private employer will include "a requirement that each transferring employee must receive individual written confirmation of the terms and

conditions" and that each employee will have this confirmed in a letter.

THE FACT IS:

The Government's response also says this letter will be developed between the Government and the new employer. You and your union will only be "consulted".

THE GOVERNMENT SAYS:

That the NDIS "NSW Enabling Act" protects you because it provides that you will be transferred on the same terms and conditions that you now have and that this cannot be changed for the term of the employment guarantee period other than "by agreement entered into by or on behalf of the transferred employee in accordance with applicable industrial law".

THE FACT IS:

You are being offered a Clayton's agreement. Under the Fair Work Act, the new private employer could seek to negotiate a new agreement for all Home Care Service employees, including Careworkers and even if your union doesn't agree to the terms and conditions this can be voted on by all employees. This means you could be put on an agreement which undercuts your current conditions and pay.

Because of the above, any talk of a 2 year employment guarantee and a 5 year preservation of the award is immediately meaningless.

THE GOVERNMENT SAYS:

That the PSA did not provide the Government's representatives with evidence of lost conditions.

THE FACT IS:

This is totally wrong. The PSA gave the Government representatives this information during the negotiations and in subsequent meetings between the PSA and

FACS senior management.

You will lose conditions from the Conditions Award and the Home Care Personnel Handbook.

In any case, it remains unclear to the PSA why Government representatives require evidence of *their own employees'* conditions and entitlements?

WHAT DID THE PSA ASK OF THE GOVERNMENT?

1. The choice of Home Care employees to transfer to the new employer or access redeployment within the public sector or voluntary redundancy.
2. A fair and reasonable transfer payment i.e. NSW Ferries employees were offered 30 weeks.
3. A legally enforceable deed to ensure members conditions and the transfer agreement were enforceable.

All of these requests have been rejected by the NSW Government.

Our position was well informed. It was developed in consultation with members via "live chats" and a survey of members. Delegates have always been present at all negotiations and caucusing is frequent. Throughout our consultation process members and delegates have reinforced that the PSA must continue to fight for our position.

Your elected representatives met recently to discuss escalating action in response to the Government's position.

Further communication about this will be circulated shortly.

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membership.psa.asn.au/join

