

Public Service Association of New South Wales  
General Secretary: Anne Gardiner • President: Sue Walsh  
160 Clarence Street, Sydney  
GPO Box 3365, Sydney NSW 2001

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ABN: 83 717 214 309



In reply please quote:

The Hon. David Elliott, MP  
Minister for Corrections  
Minister for Emergency Services  
Minister for Veterans Affairs  
52 Martin Place  
**SYDNEY NSW 2000**

Dear Minister

**Re: Correctional Officers Bravery at Wellington and 'Top up' Pay**

I write with respect to your public acknowledgment of the bravery of the Correctional Officers involved in the recent serious disturbance at the Wellington Correctional Centre.

As you stated, these Officers are “our last line of defence” they “are professionals” and have been nominated by you for bravery awards.

However, the pattern of dismissiveness demonstrated by your Government regarding the appeal of correctional officers for fairer workers' compensation and the reinstatement of their employment condition allowing them to access accrued sick leave to 'top up' workers' compensation payments, does not indicate the government's support for these officers.

In raising workers' compensation and 'top-up' payment matters on behalf of our members, the PSA has been referred from one Minister to the other and back again.

- 15 December, 2015, the PSA met with the Hon. Gladys Berejiklian, Treasurer and Minister for Industrial Relations and raised the issue of top-up pay. Treasurer Berejiklian advised the PSA to meet with you as Minister for Corrections. The PSA informed the Treasurer that it had already raised this matter with the former Minister responsible for Corrections, the Hon. Brad Hazzard (on 6 February, 2015) who had advised the PSA to write to the Minister for Industrial Relations. (Letter to Minister Industrial Relations Appendix 1.)
- On 22 December, 2015, following the advice of Ms. Berejiklian, the PSA met with you and discussed the issue of top-up pay. The PSA also wrote to you on that day to re-affirm its concerns. (Appendix 2.)

- 9 March, 2016, you responded to the PSA's letter of 22 December, 2015, advising the PSA that you had referred its concerns regarding top-up pay to the Hon. Gladys Berejiklian, Treasurer and Minister for Industrial Relations, as this issue fell within her portfolio. (Appendix 3.)

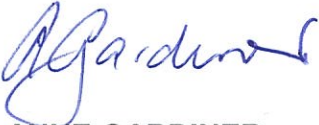
The Association once again calls upon the Baird Government to re-issue its policy advice to enable accrued sick leave entitlements to be accessed for the purpose of 'topping up' payments to employees who are in receipt of workers' compensation benefits.

Further, the PSA requests an urgent meeting with you to discuss the above and the critical overcrowding in prisons which has significantly increased the risk of injury.

If you wish to discuss any of the above-mentioned, please contact my office on 92200982.

I look forward to your response.

Yours sincerely



**ANNE GARDINER**  
**GENERAL SECRETARY**  
21 March, 2016

Public Service Association of New South Wales

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In reply please quote: AG:lt

The Hon. Andrew Constance, MP  
Minister for Industrial Relations  
GPO Box 5341  
SYDNEY NSW 2001

26 February 2015

by email: [office@treasurer.nsw.gov.au](mailto:office@treasurer.nsw.gov.au)

Dear Minister Constance

In a meeting on 6 February 2015 between the PSA, the Attorney General and Minister Perrottet, a number of concerns regarding workers compensation were raised on behalf of our members. It was agreed at the meeting that the PSA would write to you about the issue of "top-up" pay.

As Minister for Industrial Relations we draw your attention to the correspondence from Ms Vicki Telfer, Executive Director of NSW Industrial Relations, to Mr Mark Lennon, Secretary, Unions NSW, on 28 August 2013.

On the basis of the interpretation and advice summarised in this letter, agencies have restricted the access of employees to their accrued sick leave balances for the purpose of "topping-up" their workers compensation payments.

It is the position of the Association that this restriction is in breach of section 82.7 of the *Crown Employees (Public Service Conditions of employment) Award 2009* (the Award) which permits such payments to employees who are in receipt of workers compensation beyond the time in which their income drops below the replacement level.

Further to this, the predication of the position outlined in Ms Telfer's letter, upon Award references to statutory provisions, has resulted in inequitable access of public sector workers to "top-up" payments. We view this position to be inconsistent with the intention of the Award.

We request that your Department, as a matter of urgency, re-issues advice to enable sick leave balances to be accessed for this purpose.

Should you wish to discuss this matter further please do not hesitate to contact me on (02) 92200982.

Yours faithfully

ANNE GARDINER  
General Secretary

Cc Brad Hazzard, Attorney General



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In reply please quote: MW/A13/0949

The Hon. David Elliott, MP  
Minister for Corrections,  
Minister for Emergency Services,  
Minister for Veterans Affairs  
52 Martin Place  
SYDNEY NSW 2000

Dear Minister,

**Re: Worker's Compensation: "top up" pay**

I write to you following our meeting today where, among other issues, we discussed "top up" pay for injured workers on workers' compensation.

The Association has written to the Government in relation to the matter previously. The Association sent a letter dated 26 February 2015 to then Minister for Industrial Relations, the Honourable Andrew Constance. This was followed by a letter dated 27 April 2015 to the current Minister for Industrial Relations and Treasurer, the Honourable Gladys Berejiklian.

As you are aware, NSW Government Agencies, based on advice from NSW Industrial Relations, have restricted the access of employees to their accrued sick leave entitlements for the purpose of "topping up" their workers' compensation payments.

The Association is of the position that this practice breaches clause 82.7 of the *Crown Employees (Public Service Conditions of Employment) Award 2009* (the Award). The clause permits "top up" payments to employees who are in receipt of workers' compensation beyond the time in which their income drops below the replacement level.

Accordingly, we request that the Government, as a matter of urgency, reissue advice to enable sick leave entitlements to be accessed for the above purpose.

If you wish to discuss any of the above-mentioned, please contact my office by phone on 9220 0906.

I look forward to your response.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'A Gardiner', is written over the typed name 'Anne Gardiner'. The signature is fluid and cursive.

Anne Gardiner  
**GENERAL SECRETARY**

22 December 2015



**The Honourable David Elliott MP**

**Minister for Corrections  
Minister for Emergency Services  
Minister for Veterans Affairs**

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cc S.A.P. 3

Received  
9 MAR 2016  
Secretariat

Ms Anne Gardiner  
General Secretary  
Public Service Association of NSW  
GPO Box 3365  
SYDNEY NSW 2001

Dear Ms Gardiner *Anne*

Thank you for your letter of 22 December 2015 concerning employees using accrued sick leave to "top up" their workers compensation payments.

I have forwarded your letter to the Treasurer and Minister for Industrial Relations, the Hon Gladys Berejiklian MP, and asked her to respond, as this issue falls within her portfolio.

Yours sincerely

David Elliott MP  
**MINISTER FOR CORRECTIONS  
MINISTER FOR EMERGENCY SERVICES  
MINISTER FOR VETERANS AFFAIRS**

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09 MAR 2016  
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