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In reply please quote: *TP:ljm: A16/0408*

Vicki Telfer
Executive Director
NSW Industrial Relations
GPO Box 5469
SYDNEY NSW 2001

Dear Ms Telfer,

Re: Transfer of Disability Services to Non-Government Sector

I refer to your letter of 7 June 2016 regarding the transfer of disability services employees to the non-government sector.

We seek the following inclusions and/or amendments to the proposed employee transfer arrangements outlined in your letter:

1. No Forced Transfer

We seek to ensure that disability services employees affected by the transfer of FACS disability services to the non-government sector have the choice to continue employment in the NSW public sector.

2. An Improved Employment Guarantee Period

We seek an employment guarantee period of five years for transferring employees and two years for employees who choose to remain with the NSW public sector.

3. An Improved Transfer Payment

Consistent with previous NSW Government Sector transfer arrangements (see *Sydney Ferries, Road Maintenance Contestability Reform Program*), we seek a transfer payment of up to 30 weeks' pay for transferring employees (starting at four weeks' pay for employees with at least one years' service and increasing by two weeks for every year up to a maximum of 30 weeks).

4. The Protection of Excess Employee Entitlements

We seek to have the *Managing Excess Employees Policy (M2011-11)* included in any transfer arrangements with new employers.

5. Salary Maintenance for Non-Transferring Employees

We seek a two year salary maintenance period for non-transferring employees who secure alternative employment in the NSW public sector at a lower remuneration level.

6. Salary Increases

We seek to ensure all future salary increases from variations (including replacement or successor instruments) to the *Crown Employees (Public Sector - Salaries 2016) Award* are passed on to transferring and non-transferring employees.

7. Priority Assessment for Non-Transferring Staff

We seek 'priority assessment' arrangements for non-transferring employees across all NSW public sector entities.

8. Conversion of All Eligible Long-term Temporary Employees

We seek the conversion of all eligible long-term temporary employees to ongoing employment prior to the transfer of their employment.

9. Conscientious Objection Principle

Notwithstanding 1 (above), we also seek that in circumstances where an employee objects to a proposed transfer because of genuine religious, cultural, or other head of discrimination or for other significant personal reasons, the employee may refuse to be transferred and remain with the NSW public sector.

10. Rostering (Group Homes)

We seek to ensure that current FACS roosting arrangements are incorporated as part of any transfer agreement with new employers. Furthermore, transferring employees are given priority access to shifts which attract additional loadings (penalty rates).

11. Transfer Liability


We seek to ensure the NSW Government underwrites the liability of employee entitlements in the event that a transferred employee's new employer's business collapses.

12. Enforcement

We seek a deed or other legally binding instrument to ensure transferred employees (and the Association on their behalf) can enforce all relevant terms pertaining to the transfer of their employment.

I thank you for your attention to this correspondence and look forward to discussing it with you further. I can be contacted on 9220 0982.

Yours faithfully,


Steve Turner
A/General Secretary

6 July 2016