



13 April 2017

Community Services Inherent requirements for Caseworkers

Industrial Relations Commission directs FACS to consult with the PSA

The PSA wrote to the Secretary of FACS raising serious concerns about the use of inherent requirements for caseworkers, particularly in how they are applied when staff are directed to undertake Independent Medical Examinations. View the requirements [HERE](#).

http://psa.asn.au/wp-content/uploads/2017/04/170310_Attachment_InherentRequire.pdf

Concerns were also raised about the return-to-work process for caseworkers who have sustained an injury or have a medical condition. It is now the situation that caseworkers who are considered older, unfit or have health issues face being directed to attend an Independent Medical Examination and possible medical retirement.

The PSA's first letter, sent on 13 March 2017, requested the Secretary direct the immediate withdrawal of the inherent requirements for caseworkers. After not

receiving a response, a follow-up letter was sent on 24 March 2017.

View that letter [HERE](#).

<http://psa.asn.au/wp-content/uploads/2017/04/attach2.pdf>

The Secretary responded on 31 March 2017 and advised "FACS believes the document provides the basis for reasonable and fair decisions about employment, including those relating to employees who are returning to work from injury. We do not intend to withdraw the document".

View the response [HERE](#).

<http://psa.asn.au/wp-content/uploads/2017/04/attach3.pdf>

The PSA lodged a dispute with the Department and the matter was heard in the Industrial Relations Commission (IRC) of NSW on 12 April 2017. In its submission, the PSA stated the inherent requirements had been introduced without consultation and referred to Clause 65 of the *Crown Employees (Conditions of Employment) Award 2009* which states:

“There shall be effective means of consultation, as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and the Association.”

The Policy and Guidelines referred to in the Award are “The Consultative Arrangements Policy and Guidelines 1997”.

View the guidelines [HERE](#).

<http://psa.asn.au/wp-content/uploads/2017/04/1997-Consultative-Arrangements-Policy-and-Guidelines.pdf>

The PSA successfully defended this policy in 2014 in the IRC when the State Coalition Government made an attempt to replace it and reduce the need for consultation.

FACS argued the use of the inherent requirements was limited and the agency did not believe consultation was required. The PSA outlined problems with the inherent requirements experienced by members and inconsistencies with the basic physical

requirements outlined in the job pack on the *I work for NSW* website. The Commissioner emphasised Clause 65 and the need to consult about matters of mutual interest and concern. The Department indicated it would confer with the PSA but the Commissioner advised that genuine consultation must occur.

As a result of Commissioner Murphy’s assistance, a consultative process about the inherent requirements will now commence and the parties are to report back to the Commissioner on 15 May 2017. The PSA will keep members informed about the process and next steps.

This is a good outcome and demonstrates the importance of the consultation clause in the Award and the Consultative Arrangements Policy and Guidelines 1997. The employer’s obligation to consult with the PSA about matters of mutual interest and concern is clear.

