

Public Service Association of New South Wales
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In reply please quote: SE:mb

20 April 2017

Mr Richard Funston
Chief Executive Officer
Legal Aid NSW
323 Castlereagh Street
SYDNEY NSW 2000

Dear Mr Funston

Re: Payment of Annual Leave Loading

I refer to previous concerns expressed by delegates in relation to the payment of annual leave loading and consequent discussions in this regard.

It is now reasonably apparent that:

1. Where employees have transferred from one agency to Legal Aid, cheques sent to Legal Aid to cover the former agency's annual leave loading obligations have not been paid to the employee in a timely manner.
2. Prior to the commencement of the 2015/2016 leave loading year on 1 December 2015, annual leave loading was not paid to employees in accordance with the Award but, rather, soon after the commencement of the leave loading year. This has resulted in many staff being paid their annual leave loading of 17% on a lower salary than should have applied as the applicable salary at the correct time would have been higher, due to salary increases and/or incremental progression and/or acting up allowances, etc.

It is the PSA's view that it would be appropriate for management to undertake an audit to ensure that PSA members have been paid their annual leave loading at the correct rate during the entirety of their employment, advise members of the result of such an audit and pay any amounts due.

The PSA is, however, not prepared to breach members' privacy by revealing the identity of members to Legal Aid for the purpose of such an audit and would only be prepared to divulge such information to an independent auditor subject to appropriate protections being in place regarding members' privacy. The PSA feels that appropriate measure should be able to be advised in this regard.

The PSA also seeks your assurance that interest on any leave loading owing will accrue to members from the date of this letter.

The alternative, although from the PSA's view not the preferred alternative, would be for Legal Aid to undertake an appropriate audit in relation to all employees' annual leave loadings.

We would appreciate your response within fourteen (14) days of receipt of this letter. If no satisfactory response is received within this time the PSA reserves its right to lodge a dispute without further notice.

If you require any further information please contact me on 1300 772 679 or semery@psa.asn.au.

Yours faithfully,



Susan Emery
for STEWART LITTLE
GENERAL SECRETARY