



PUBLIC SERVICE ASSOCIATION
OF NEW SOUTH WALES

General Secretary Stewart Little
President Kylie McKelvie
ABN 83 717 214 309

In reply please quote: KA: *ljm*:

22 December 2017

Wendy Keith
Director Housing Contact Centre
Department of Family and Community Services
Level 4, 219 – 241 Cleveland St
STRAWBERRY HILLS NSW 2170

Via email: wendy.keith@facs.nsw.gov.au

Dear Ms Keith,

Re: Issues of Concern to PSA members

I am writing to you in my capacity as PSA industrial officer representing the interests and concerns of FACS Housing PSA members. Our members have raised two (2) key issues which we represented to Housing Contact Centre Management at our last Joint Consultative Committee meeting on 22 November 2017, from which your presence was missed. The concerns are minuted but I warranted to Sarah Starr (in attendance) that I would put these concerns to you in writing. The two issues are as follows:

1. Maintenance of employment contracts/Conversion of long-term temporary contractors to ongoing roles
2. Parental Leave Policy/Processes.

1. Maintenance of employment contracts /Conversion of long-term temporary contractors to ongoing roles

The Public Service Association of NSW (PSA) promotes that across all government agencies, delivery of quality public services to the community, is best delivered by experienced, capable and committed public servants in ongoing secure employment.

Unfortunately, government agencies in recent years have increased their reliance on temporary staff to fill public sector vacancies. Whether labour hire or directly employed by the Department, temporary insecure employees, have increasingly been utilised to fill vacancies, despite there being an established demand for the work to be done on an ongoing basis. This has resulted in an insecure public sector workforce, disproportionately comprising contractors; a situation not only suboptimal for the affected workers, but also for the public, reliant on insecure workers delivering essential public services. Corporate knowledge and skills are also lost when these contracts are not renewed.

The *Government Sector Employment Act 2013* (NSW) recognises that those employed in the NSW public sector in a temporary capacity are entitled to the same award conditions as other permanent public sector workers but for the fact that these public servants face insecure employment. It is the PSA position that public servants should wherever possible be employed on an ongoing permanent basis.

Conversion of long term temporary contractors to ongoing employment

It is the PSA's position that a number of long term temporary employees at the Housing Contact Centre are eligible for conversion to ongoing roles at grade, under Rule 12 of the *Government Sector Employment Rules 2014*.

GSE Rule 12 (4): Conversion can be applied where “a person has the qualifications, experience, standard of work performance and capabilities to enable the person to perform the duties of the role to which the person is to be assigned in the ongoing employment.”

We are informed that the HCC converted a cohort of Client Service Officers in May 2017 and has a regular process for reviewing conversion of long term temps to ongoing roles. It has been warranted that the next review for conversions will be at the end of the 2017-2018 financial year. On the basis of GSE Rule 12 (4), the PSA appreciates that a conversion process is in place at the HCC and we look forward to another conversion of long term temporary contractors to ongoing roles in 2018.

2. Parental Leave Policy/Processes

The PSA addressed the issue of parental leave for both permanent and temporary staff. We let management know that our members are concerned about how parental leave is handled at the HCC, both in terms of:

- a) entitlement to take parental leave and
- b) entitlement to return to a role after taking parental leave.

PSA delegates have cited examples where our members as long-term temporary staff have been advised that if they take parental leave, they will need to re-apply for their roles on their return.

Whilst HCC management conveyed confidence that their policy and processes are compliant with legislative requirements, we have examples where this appears not to be the case. It was asserted casual employees are not entitled to return to work at the HCC after a period of parental leave. The PSA disagrees on this point and verbally explained our position, which we now reiterate in writing, as follows:

a) Right to unpaid Parental Leave

The PSA cites the *Industrial Relations Act 1996* (NSW) (“*IR Act*”) (s54) and Clause 80 of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* (“the Award”) entitlement of an “employee” to 52 weeks of full time unpaid parental leave (or two years part-time) with the birth or adoption of a child.

The Act defines an “employee” (s5) to include part-time or casual contractors working on a regular, systematic basis. A ‘regular casual employee’ is a casual [employee](#) who works for an employer on a regular and systematic basis and who has a reasonable expectation of on-going employment on that basis (*IR Act*, s 53(2)).

b) Return to work after Parental Leave

The PSA cites s66 of the *IR Act* and Cl 75 of the *Award*, where a regular long term employee is entitled after parental leave to return to a role they were doing prior to leave – or if the role ceases to exist while on leave, then to return to another role at grade.

The Department has an obligation to grant parental leave and to re-engage employees after parental leave. The award specifies (at 12.5.4) that *regular casual employees* are entitled to unpaid parental leave under, s54, ‘Entitlement to Unpaid Parental Leave’, in accordance with the *IR Act*. It further specifies that:

- (a) The Department Head *must not fail to re-engage a regular casual employee* because:
- (i) the employee or employee's spouse is pregnant; or
 - (ii) the employee is or has been immediately absent on parental leave.

We request that Housing Contact Centre Management provide details to the PSA of how your policy and processes are compliant with the legislative and award requirements concerning parental leave.

Apparently HR Advice has been provided to HCC management on this matter. Please provide a copy of this advice and how parental leave entitlements are implemented at the Housing Contact Centre. We would appreciate if you provide examples (with the names removed of course) of staff on temporary contracts accessing parental leave entitlements.

I understand that the Department will be shut down for two weeks over the Christmas/New Year period. We hope to resolve the parental leave matter early in the New Year and will await your reply at that time.

Our members rely on PSA staff to represent their concerns to you and to seek resolution of issues on their behalf. I look forward to constructive and meaningful consultations between the PSA and the Housing Contact Centre in 2018. In particular I hope to see you at the Joint Consultative Committee meetings; and to build a positive constructive working relationship that mutually benefits your organisation and our members.

Yours sincerely,



Katy Ambler
for Stewart Little
General Secretary

cc Catherine Carvolth, Director, Employee Relations, Safety and Wellbeing