

## SafeWork NSW Inspectors – Appointment to Inspector roles and competencies dispute

There have now been three conferences before the Industrial Relations Commission (IRC) and two meetings with the Department. The matter is currently stood over and is listed for a further report back before the IRC on 4 February 2019. In addition to the Dispute on appointment to Inspectors re: Competencies it has also been decided by Chief Commissioner Kite to refer the current s.19 review of the Award to Commissioner Murphy. At this time, the Commission is not inclined to proceed with an s.19 review while we are in dispute over the Award.

### Particulars of the Dispute

The main issue raised by the PSA is concerns that the Department has signalled its intention to 'appoint' Inspectors who may not have the required competencies as stipulated by Clause 16.1 which states:

*Progression and appointment to the Inspector Classifications of Senior Inspector, Principal Inspector, Assistant State Inspector and State Inspector will be subject to, amongst other requirements, an Inspector holding the relevant competencies specified in the Memorandum of Understanding that have been awarded by...*

The PSA argument simply requests a strict interpretation and application of the Award and MOU. The Department has put forth a considerable response to the PSA as to its position. In short, the Department asserts its rights as the Regulator with reference to s.152, 153 and 156 of the Work Health and Safety Act 2011 to be able to appoint Inspectors.

They also make further reference to their ability under both the Government Sector Employment Act 2013 and the GSE Rules 2014.

### The Departments offer:

The Department has given seven (7) assurances or undertakings to the PSA regarding training, support and monitoring workloads. In addition to these they have provided the following responses to further issues raised by the Vocational Group (VG):

- » How many external people at ASI / SI level, who do not hold the relevant competencies, are currently progressing through to the next stage of recruitment?

*The following figures was provided to the IRC on 18 December 2018:*

*ASI – 68 applicants, 51 internal – 17 external (Approximately 40 roles required)*

*SI – 35 applicants, 26 internal – 8 external (1 external applicant possesses the Ad. Dip.)*

- » The VG requested the inclusion of the assessment centre "Role Play" as part of a rigorous assessment process for external candidates at the ASI / SI level  
*The Department was not opposed to the 'role play', but stated that the recruitment processes had progressed beyond this. They were happy to look at how it might be incorporated into the probationary period.*
- » The VG sought a commitment that all new inspectors at ASI & SI level who are external and do not hold the Diploma of Government from SafeWork NSW be required to attend ALL training sessions, assessments and field activities, as per the New Inspector Training Program (NITP) and clause 17 of the Inspectors Award.

*Agreed by the Department.*



## SafeWork NSW Inspectors – Appointment to Inspector roles and competencies dispute

- » The VG sought further details as to what the monitoring process will be.

*The Department is committed to the formal evaluation through the RTO and formal review processes with the Manager etc.,*

- » The VG sought for external ASI / SI to be put in the one NITP group (where possible) so as to ensure appropriate trainer at that level or higher is able to provide the training, ensuring junior inspectors are not training more senior inspectors.

*The Department raised a number of concerns with this and stated that “it could not commit to this operationally as it was not practical and it is a requirement to integrate and mix to avoid creating an ‘us and them’, mentality.” PSA concerns are still that you may have an Inspector who applied to be an ASI or SI, missed out and could be required to ‘train’ an external applicant. The Departments response was to say that Inspectors should raise concerns with the Department in relation to this and workloads etc.,*

- » The VG sought information as to how the Department will demonstrate their commitment to the ongoing development of the existing workforce?

*The Department was of the view that its existing programs were not promoted particularly well. There was a discussion of the role of the CRG to identify the gaps and look to set up appropriate training with new experience coming on board.*

### Arbitration or Discontinue

While we may have reasonable prospects of the Commissioner upholding our interpretation of clause 16.1 of the Award, the Department has put the PSA on notice that with the GSEA and WHSA provisions that it is prepared to seek declaratory relief in the Supreme Court in addition to a s.17 variation or rescission to the Award.

This could ultimately lead to an outcome less favourable than the current proposal by the Department.

### s.19 Review and New Award Negotiations

It has also been acknowledged by the IRC and both parties that the Award is now eleven (11) years old and given the ongoing number of issues that are being encountered that new Award negotiations in 2019 could be considered to address these problems.

There is also scope in the meantime to look to the s.19 review process to make limited variation to improve the immediate operation of the Award.

### Member Feedback

This is a significant dispute that affects all SafeWork NSW Inspectors. As such the PSA seeks feedback from PSA members as to whether we should proceed to arbitration or discontinue the dispute and proceed with the S.19 review.

To have your say please click on the following link:

<https://www.surveymonkey.com/r/H3J26KB>

