



PUBLIC SERVICE ASSOCIATION  
OF NEW SOUTH WALES

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

In reply, please quote: AW:vv

15 February 2019

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Dear Mr Gilmartin,

### **Service Improvement Program**

Thank you for the opportunity to provide a response to the Information Services, Change Management Plan ('Draft Change Plan') received at the Joint Consultative Committee meeting on 21 January 2019. We note in the Draft Change Plan it refers to Appendix 2, Grosvenor Public Sector Advisory Paper ('Advisory Paper'). We did not receive that document and are unable to apply it to the Draft Change Plan to ascertain if it accurately reflects the Advisory Paper.

The Draft Change Plan states at page 3, *This program of change....is not assessed as a significant organisational change with broad impacts*, AND at page 4 *...improve the efficiency and effectiveness of Reception and Information Services*. The PSA, based on our members' feedback and analysing the Draft Change Plan and proposed role descriptions, disagrees with both those presumptions. We provide our reasoning below and our members' feedback in Appendix 'A' attached to this letter.

The Public Service Commission's Employment Portal, Workforce transition states, *Until new workforce transition rules are made: PSEM Act policies on workforce transition will remain in force*. Those policies include the Agency Change Management Guidelines, NSW Premier & Cabinet, September 2014 ('Change Management Guidelines') and Case Management and Redeployment Guidelines.

### **Existing structure**

The current structure and in particular the Reception area has served well. The receptionists manage telephone calls coming into the CSO on the general line. That requires detailed knowledge of all of CSO's business areas. They also respond to calls and people arriving in person requiring skills in managing people's emotions and behaviour. Those skills should be recognised in terms of salary. It is not something that a Clerk grade 1/2 would be able to or should be expected to do.

### **Proposed structure**

The proposed structure and, in particular the Reception area, it appears the CSO is seeking a concierge service similar to private law firms. We understand that to mean a young well-groomed person portraying the law firm's image. It appears the reception area role is being dumbed down without considering the important role the current receptionists perform.

### **Excess roles**

There are potentially four (4) redundancies as detailed in the Draft Change Plan. However, an analysis of that document, the current to proposed organisational charts, and proposed role descriptions shows potentially more than 4 redundancies.

The following roles are stated to remain the same or have minimal change:

- Information Services Manger grade 9/10
- Records Manger grade 7/8
- 3 x Information Services Officer grade 7/8
- Senior Records Officer grade 3/4

Each of these roles in the proposed structure are required to *Obtain and maintain a Negative Vetting 1 security clearance*. It is an essential requirement in the relevant draft role descriptions. We contend that is a major change of employment conditions and not the same role in the current structure or a minimal change. Currently only specific solicitors have a Negative Vetting 1 security clearance having access to heavily restricted documents. Requiring support staff in Information Services to have it is a major change and that will cause problems to business operations. For example, no opportunity for other employees to act-up in those roles and more importantly who performs the role when the substantive occupant is sick. Further, what happens if a substantive occupant currently in those roles is vetted by the Department of Defence to not receive a clearance due to a long distant cousin having links to ISIS? Will that employee be made redundant?

Would the CSO state why the above roles and three (3) new proposed roles require to *Obtain and maintain a Negative Vetting 1 security clearance*?

Two other roles may also become redundant being:

- Trim Administrator grade 5/6
- Information Support Officer grade 3/4

That is, unless they are directly appointed to the new proposed roles at the same classification being:

- EDRMS Assistant Administrator grade 3/4
- Project Officer (Archives & Disposal) grade 5/6
- Service Centre Coordinator grade 5/6

We note the first two roles also require to *Obtain and maintain a Negative Vetting 1 security clearance* and is an issue as described above. Also, in being proposed new roles and under the Draft Change Plan at page 9 in *Filling Roles*, they will be required to undergo merit based recruitment. We assume (as it is not stated) that will be under the *Government Sector Employment Act 2103* and its General Rules.

Therefore, there are potentially twelve (12) existing employees to be declared excess and not 4 that the CSO constantly details in its Draft Change Plan.

### **Reception employees and Lodgement Officer declared excess**

Three (3) Client & Information Officers ('Reception staff') and one Lodgement Officer have been declared excess as fully detailed in pages 9 to 10 of the Draft Change Plan. It is unknown if the CSO has assumed that these employees will accept a voluntary redundancy. But in any event, the CSO has to follow the requirements in the Change Management Guidelines, which require at:

#### **5.1.3 Declaring affected employees excess**

During the lifecycle of organisational change there are often affected employees whose positions have been deleted, but who may yet be placed within the new structure. These employees should not be declared excess until all suitable redeployment opportunities within the new structure have been exhausted. Agencies must ensure that all internal placement processes associated with the organisational change, or the relevant phase of the organisational change, are finalised before any residual employees are made excess.

The Change Management Guidelines refer to salary matching and priority assessment principles in the Case Management and Redeployment Guidelines are to be used. Those guidelines state:

#### **6.3.6 Matching to positions below grade and salary maintenance**

An excess employee may choose to be matched to a position of lower grade or salary than their substantive grade or salary. If an excess employee is placed in a position of lower grade or salary they are entitled to three months salary maintenance at their former salary.

It appears the Reception staff have been given no opportunity by the CSO to be considered for the two lower graded Corporate Concierge roles.

Finally, The Draft Change Plan at page 9 states, *No Impact* of the restructure on EEO Groups of staff. Whereas, the Reception staff and the Lodgement Officer are older employees, but with a few years from retirement. The CSO has not properly considered the impact of this restructure on them. The Change Management Guidelines require at:

#### **4.1 Considerations**

Before any decision is made about the skills and competencies required and the positions to be retained, created or abolished, agencies should ensure that:

- Equal Employment Opportunity groups are not disproportionately affected and discriminatory decisions are not made (e.g. decisions based on age, sex, pregnancy, marital status, disability, race or ethnicity)

Would the CSO state and provide its evidence that it properly considered the impact of this restructure on the Reception staff and Lodgement Officer?

#### **Proposed means of filling roles**

It is obvious for the sustained operation of the CSO that it retains its well qualified, long term employees. They are acquainted with the intricacies of the CSO and its culture.

The Change Management Guidelines at pp.7-8 prescribes a change management plan should include information on the proposed means for filling positions and is elaborated in the template attached to that document. We note the draft Draft Change Plan at page 9 provides little detail on how roles in the new structure will be filled. That is:

- Where possible direct matches will be utilised to appoint individuals where there is a minor change to role
- Opportunities that may be a fit for those currently in roles deleted in the new structure will be communicated to these individuals first through the priority assessment process
- Merit based recruitment will be applied to ongoing roles not filled through direct match or priority assessment

As shown above with the essential requirement to *Obtain and maintain a Negative Vetting 1 security clearance* there is only one role (covering 3 employees) the Records Officer grade 1/2 that is not required to have that security clearance. Also as shown above, the 4 roles declared excess were given no real opportunity to be priority assessed. Therefore, there is only one role being Records Officer grade 1/2 that will be directly appointed. All the other roles in the new structure will be subject to merit based recruitment, based on the proposed means of filling roles in the Draft Change Plan.

We contend the CSO should revisit its Proposed means of filling roles and change its draft role descriptions requiring the security clearance. It should rigorously apply the requirements in the Change Management Guidelines, or liaise with other agencies on their process of filling roles in a restructure. A recent restructure at the Rural Fire Service ('RFS') is an example of the steps it followed in filling roles in its proposed

structure that were substantially changed and is enclosed at Appendix 'B'. We note RFS had further placement methods for employees not assigned to roles before being declared excess.

The priority assessment at pp.14 to 19 of the Case Management Guidelines are likely to be an issue. That is because CSO is applying Part 3 of the GSE Rules and s.46 of the GSE Act. That is based on merit recruitment using capability assessments. CSO may argue that the GSE Act and its subordinate legislation have precedence over government policy. However, the IRC found in many disputes filed by the PSA that was not the case. A priority assessment is different from merit recruitment using capability assessments. In a priority assessment affected employees are assessed for suitability for a job before the job is advertised and independent of other applicants. The assessment determines if the affected employees meet the selection criteria for the position or is likely to perform adequately in a reasonable period of time (usually three months) and receives appropriate training and support. Priority assessments at a minimum must comprise an interview (supported by a resume), and two referee checks. Given the difference between priority assessment and capability assessment under the GSE Act and Rules we strongly advise CSO become familiar with the priority assessment requirements.

We also advise that the mobility provisions under ss. 46(3) and (4) of the GSE Act should apply to direct appointments of affected employees to above grade roles. That prescribes:

**46 Assignment to roles in work classifications**

- (1) In this section: "assign" to a role includes assign to a different role.
- (2)
- (3) Public Service non-executive employees may be assigned to roles to enable the flexible deployment of staff resources within the agency and to develop the capabilities of staff.
- (4) A Public Service non-executive employee is not to be assigned to a different role unless the employee has been consulted. The remuneration payable to the employee is not to be reduced because of the assignment to the different role without the consent of the employee.

Further, under r.23 of the Government Sector Employment Rules 2014 in a major restructure where there is likely to be a significant number of employees declared excess, the agency head can limit advertising to internal advertising for roles, and limit recruitment to employees affected by the restructure.

Would CSO advise the PSA if the Crown Solicitor has accepted that this proposed realignment is a restructure and that a significant number of employees are likely to be declared excess?

Would CSO provide the PSA with specific detail that the Crown Solicitor is only advertising internally to only recruit employees affected by the restructure?

### **Development of proposed role descriptions**

The Draft Change Plan at page 5 states:

New Role Descriptions and role descriptions that have changed substantially are evaluated to determine whether the changes affect the classification and grade. The NSW Public Sector has approved the use of Mercer CED Job Evaluation system for this purpose and this framework has been utilised for the role changes proposed for the Corporate Concierge function and Information Services role.

The CSO has not provided detail about the job evaluation process it is pursuing. It has not disclosed who did the job evaluation, for example internally by CSO, or externally by a consultant.

Would CSO advise PSA if the job evaluations were done internally or externally?

If so, did the person performing the job evaluation have the required training in Mercer AND fully understand how the proposed roles will function with the rest of the CSO's operations?

### **Anticipated implementation date**

The Draft Change Plan states the anticipated implementation date of the proposed new structure is February to April 2019. The consultation period commenced in late January 2019 to continue through February 2019.

We are concerned that CSO is seeking to implement this organisational change in haste. We believe this haste for change will be the reverse of the Change Management Guidelines at page 5:

outcomes are fair and reasonable and employees managed with sensitivity to the pressures of change on themselves and their families'.

### **Approval of the restructure**

As detailed above there are potentially twelve (12) redundancies. The Change Management Guidelines at pp. 7-8 states:

the organisational change requires Ministerial approval where there is significant change including a proposed voluntary redundancy program.

We understand that approval of restructures has been changed by the Public Service Commission to the head of the agency.

The Draft Change Plan in its proposed timetable for implementation does not prescribe an *Approval process* by the Crown Solicitor. It states at page 3:

The Crown Solicitor, as head of the agency, has approved the recommendations from the review of the Service Improvement Program.

That is the Grosvenor Public Sector Advisory Paper referred to in Appendix 2 of your Draft Change Plan. We have not sighted it as it was not provided. That is not the same as the Crown Solicitor approving the draft Change Plan.

We understand that the CSO has an Acting Crown Solicitor ('Acting CS') whilst awaiting commencement of the new Crown Solicitor in April 2019. The appointment of the Acting CS is covered by s.29 of the GSE Act:

**29 Acting appointments as head of agency (other than Department)**

(1) The person authorised to appoint the head of a Public Service agency (other than a Department) may appoint a Public Service employee to act as the head of the agency if the office of the head is vacant or if the head is unavailable (and no other person has been duly appointed to act as a statutory officer who is the head of that office).

(2) A person, while acting as the head of any such Public Service agency, has all the functions of the head.

The person who appoints the Crown Solicitor is covered by s.28(2)(a):

**28 Heads of agencies other than Departments**

(1) The head of a Public Service agency (other than a Department) is the holder of the office specified in Part 2 or 3 of Schedule 1 in relation to the agency concerned.

(2) Appointments to an office of head established by this section are, subject to subsection (6A), to be made:

(a) in the case of a Public Service executive agency related to a Department--by the Secretary of the Department

Therefore, the appointment of the Acting CS is by the Secretary of Justice.

Would CSO provide the PSA with details and evidence of the appointment of the Acting CS?

Should that process not have occurred and the Crown Solicitor delegated her employer functions authority under s.32(1)(b) of the GSE Act.

Would the CSO provide to the PSA the instrument of delegation as required under s.32(2)(b) of the GSE Act?

Should that that process have occurred:

Would the CSO provide the PSA with details and evidence of the approval of this restructure by the Acting CS?

The PSA and its members contend that given the significance of this restructure, the new Crown Solicitor is consulted on the proposed changes. That means, the Draft Change Plan is put on hold until the new Crown Solicitor commences and has been given a reasonable opportunity to consider the issues of this restructure.

**Job search support to affected employees**

Many of our members have been long term employees of the CSO, and have not had to apply for a job for some time. We do not want them to be unfairly disadvantaged.

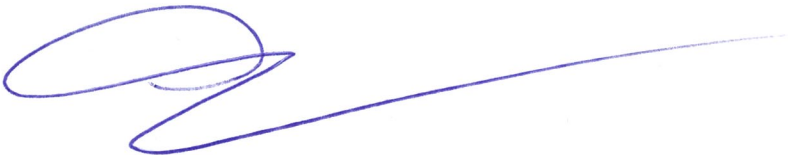
The Draft Change Plan does not provide any job search support before affected employees are declared excess and decline a voluntary redundancy and opt for the 3-month redeployment. The Change Management Guidelines at p.12 includes *assistance in applying for positions* as part of support services.

The PSA stresses again that CSO must provide face to face workshops for affected employees on writing applications and participating in behavioural interviews. The CSO must release affected employees from their work to attend these workshops. That will ensure maximum placement of affected employees through priority assessments if required for internal job placement, before redeployment.

We await the CSO's formal response.

Please feel free to contact me by email [aboulton@psa.asn.au](mailto:aboulton@psa.asn.au) in relation to any part of this feedback for consultation.

Yours sincerely



Andrew Boulton  
for **STEWART LITTLE**  
**GENERAL SECRETARY**



## Annexure 'A'

Our affected members provide their response to the draft Change Plan.

### 1. Existing structure

- Reception staff and Filing Clerk

I have asked reception to send emails for me to a difficult self-represented litigant. The litigant in question was prone to sending extremely long letters containing accusations and threats. I was concerned that if I emailed the litigant directly, I would come in each day to an inbox full of emails from this litigant. I was grateful to have skilled staff on reception who had the resilience to deal with difficult correspondents and the judgement to triage communications effectively.

I have worked on a litigious matter against a self-represented litigant who had mental health issues and made death threats to me. The litigant also came to the office asking for a meeting with me without prior arrangements. The ladies in the reception were most professional in the way they handled the situation. They telephoned me to advise me of the applicant's attendance and when I declined to meet him, they, with the assistance of security, were able to turn him away courteously and firmly. I did not have any negative ramifications from their actions, which speaks greatly of the reception staff's professionalism.

I have had to use the general CSO email and telephone number in my matters, where was an issue. In every instance, the reception ladies were most efficient in ensuring I received my correspondence and calls without delay.

I realise that they (Reception) often have to put themselves as our front line contact with our opponents, who many times, are unsavoury in their conduct. Yet they do so with such professionalism which comes only from their wealth of experience in dealing with self-represented litigants.

Also, in relation to our filing clerk, the regularity of having him do our filing is both a safety net and cost effective measure. We often have only part-time paralegal staff and sometimes no one available to doing any filing. It is very expensive to charge out paralegal staff to do filing. Also with experience, our filing clerk is able to navigate the myriad of Court rules which govern whether certain documents are accepted or not. This is particularly important when urgent Notices of Motion must be filed or timeframes would expire. Having a dedicated filing clerk on the CSO staff ensures that filing time frames and requirements can be met and in a cost efficient way.

In my experience, CSO Reception provides a one-stop-shop for the interface between:

1. Various parts of the CSO (if there is a query as to who to contact within the CSO for a particular problem, for example, a particular accounts problem, IT problem, or information technology problem, among others), then contact may initially be made with the CSO Receptionists who can provide an answer as to who, within the CSO, is best to contact);
2. Between CSO Solicitors and clients, especially meeting and greeting clients before informing solicitors or their secretaries to collect the client from CSO Reception;
3. Between CSO Solicitors and representatives of opposing parties, in particular dealing with unrepresented litigants who present to CSO Reception); and
4. Between CSO Staff and third party service providers (for example, couriers).

In addition, CSO Reception also handles.

1. Arranging conference rooms, including checking availability of rooms;
2. contact with First Aid Officers, in order to find a First Aid Officer who may be available to provide First Aid treatment;
3. registering electronic mail correspondence from third parties, or finding the appropriate "home" for the correspondence; and
4. answering general inquiries where there is no apparent first point of contact.

Overall, the current CSO Reception "one-stop-shop" model appears to have served the CSO well. Both of the current CSO Receptionists have many years of valuable corporate knowledge which may be lost if they were to be made redundant as a result of a new "conciierge" model which appears to strip back much of the benefits to be obtained from the current "one-stop-shop" model.

- Arrangements at Reception have evolved over the years from a concierge arrangement where there was one clerk at a desk (and nothing in the nature of security) to what we now have which requires senior clerks and a security presence, with secure doors requiring passes into the rest of the office.
- The drivers for these changes have been evolving technology and the need to scan and register incoming documents, increasing security needs and the need to be a 'face of government' for those with legal grievances against the State. The CSO is the address for service for court proceedings against the State and a place where members of the public regularly attend to lodge/serve documents.
- The CSO is therefore different to other private firms in terms of who it is likely to be dealing with requiring persons with suitable seniority and experience to deal with a more complex environment at Reception.
- Reception also help solicitors to field calls from vexatious litigants as the direct line for solicitors is not given out in such cases in order to avoid harassing calls and misrepresentations, and to encourage written communication.

- The teams are responsible for provision of refreshments to clients/counsel/other parties who attend the CSO.

## 2. Proposed structure

- Reception staff

I have worked in organisations without experienced, permanent staff on reception. In such organisations, the effect is not only greater stress on the reception staff. The effect is that a greater number of mistakes get made. Visitors get allowed in when they shouldn't, posing risks to the safety of staff and the security of files. Phone calls get transferred when they shouldn't, wasting time that should be allocated to other work. Visitors and callers also get turned away when they shouldn't, resulting in more wasted time and complaints about the organisation. The CSO would benefit from more experienced, permanent staff on reception, not from a downgrading of the existing staff.

Security issue with the way the reception area has been designed. At the moment if someone comes to the level 4 glass door, the receptionists have to make a call as to whether to let them in or not. Previously, the security guard would have assisted in this regard, but he now sits behind glass to the side of reception and therefore does not have direct visibility of people approaching the glass doors. I suggest that from a risk perspective this is concerning because if someone were able to see him, it may deter some of the undesirable characters who may attempt to gain access to reception.

- **Implementation of restructure**

I'm very concerned that change management processes are being implemented before the newly appointed Crown Solicitor has started. It seems like a highly inappropriate time to be making significant structural and organisational changes.

In order to understand the proposed changes (and obviously this needs to be the starting point of any meaningful consultation process) we need to know whether there will be a net gain or loss of roles, and what is the organisation's rationale for the changes (in their words). I would like to know whether, and if so, how the changes will improve services for our clients and precisely how the changes will assist solicitors to work more efficiently.

Have you considered whether the failure of the A/Crown Solicitor to consult with the entire staff (most, if not all, of whom will be affected by the changes) is a breach of s.47 of the *Work Health and Safety Act 2011*?

As an aside, I would also like to know whether any thought was given to the fact that the failure to consult on the decision to move to open plan appeared to be a breach of s. 47 of the WHS Act. Although there was some after the fact 'consultation', it was

made very clear to staff that the decision to move to open plan had been made and would not be changed, regardless of the concerns raised.

- *Obtain and maintain a Negative Vetting 1 security clearance*

The introduction of "Obtain and maintain a Negative Vetting Level 1 security clearance.

I disagree with this being an essential requirement to the role. There are two elements to this:

1. Personally do not really want to undergo an invasive vetting procedure, nor do I think it is necessary given my level of access to classified information – which is minimal to nil.
2. What happens if (for someone unknown reason), the ongoing staff were not successful in gaining a clearance? It is not currently an essential requirement to the role and I'd like to know what the possible consequences were if they were not successful in gaining a NV1. Also as I am in this role as a TA for 6 months 2 days per week would I have to go through this invasive vetting procedure or anyone else need to have this before applying for a TA for these roles.

As Grade 7/8 Information Services Officers I believe we would have very minimal exposure to classified material. We are not lawyers or secretaries and will not be involved in the day-to-day running of legal matters containing classified information.

**This could perhaps be a desirable requirement, instead of essential.** As stated above, I think more clear consequences need to be explained of the various outcomes for existing ongoing staff. Also, what if you hired someone, and they did not successfully gain a NV1. What happens then?

- At least 3-5 years' experience writing policies and procedures, designing precedents and managing information management related projects.

I think this should be a desirable requirement instead of essential. The CSO would be minimising potentially capable candidates applying for these roles via TA. Candidates may apply for the role as part of a career progression, and may not have 3-5 years' experience writing policies, designing precedents etc. However, they may have the potential to be strong in this area.

**Perhaps this could be a desirable requirement or a demonstrated ability to write policies, procedures etc...**

**I note there has only been 1 essential requirement on the current role description:**

1. Project Management Capability Name – Level changing from Intermediate to Adept and the Behavioural Indicators changing in line with this.

The "Adept" level seems to me to be more suitable to that of a Project Manager whose role is solely focussed on projects. Our roles are so much more varied and not focussed on one area. You may expect this of the officer in the Continuous Improvement role, but I don't believe it is fair to expect this level from each of the three occupants of the roles.

**I believe this should stay at Intermediate.**

## Appendix 'B'

### 1. Roles subject to significant revision

#### i. Roles subject to a job evaluation

The outcome of job evaluation will determine the next steps being:

- ii. Assigned to revised role if graded at same level; or
- iii. If new role is graded at a higher grade employee is assigned and receives Job Evaluation Allowance provided employee meets the requirements under Part 3 of the *Government Sector Employment General Rules 2014* ('GSE Rules'); or
- iv. If new role is graded at a higher or lower grade to employee's current grade considered for assignment to other at-level vacant roles within RFS under s.46 of the *Government Sector Employment Act 2013*; or
- v. Employees not assigned to roles by the above process managed under the Managing Excess Employees policy.