

Without prejudice

31 March 2023

HSU Position Paper – Hospital Scientist Award

Part 1: Introduction

- [1] This paper describes the current position of the Health Services Union (**HSU**) in relation to the Hospital Scientist (**HS Award**) and Technical Officer (**TO Award**) awards (**Awards**). The paper was developed to further discussions with the Ministry of Health (**Ministry**) and NSW Health Pathology (**NSWHP**) in relation to their applications to vary the Hospital Scientist Award.
- [2] Broadly, the HSU agrees that the Awards are no longer fit for purpose and major changes are required. The HSU's aim is to develop a single award covering all scientific workers engaged in the NSW Health system that properly recognises and remunerates our members for the work performed and that has clearly defined classifications based on qualifications and duties.
- [3] To achieve the best outcome, a structured process of negotiation and discussions should be entered into between the parties. The process is likely to result in an award which will be in place, largely unaltered, for decades. The award will provide the entitlements for thousands of employees. The conditions contained in the award will form one of the primary incentives for scientifically qualified workers to seek employment with NSW Health.
- [4] The HSU is mindful of the length of time the application has been on foot and that employees have been waiting a long time for a resolution. The HSU will utilise its resources to advance this process however, getting the award right is extremely important and this aim should not be sacrificed as a result of any arbitrary restrictions placed on the process.

Part 2: Issues to be addressed

- [5] As a starting point for discussions, the HSU has identified the following issues with the current Awards and the application of the current Awards which should be addressed in this process:
 - A. Hospital Scientists and Technical Officers have a significant overlap in duties, are often required to hold the same qualifications, but have different rates of pay and conditions;
 - B. the Ministry and NSWHP currently misclassify Hospital Scientist qualified individuals (those holding a science degree) taking on scientific work as Technical Officers;
 - C. the Ministry and NSWHP currently misclassify some Hospital Scientists taking on the duties of a Senior Hospital Scientist in charge of section or laboratory;
 - D. the HS Award does not recognise or properly remunerate Hospital Scientists holding the position of "Clinical Scientist";
 - E. the Awards do not recognise or properly remunerate Hospital Scientists and Technical Officers working for the Forensic and Analytical Scientific Service (**FASS**);
 - F. the Awards do not recognise or properly remunerate employees for administrative work;
 - G. the Awards do not recognise or properly remunerate employees for being on call;
 - H. the Awards do not recognise or properly remunerate employees for gaining relevant postgraduate qualifications;

- I. the HS Award includes some outdated provisions including: (i) the qualification of “Diploma in Medical Technology of the Australian Institute of Medical Technologists (before 1974)”, and (ii) the use of +/- 200 adjusted daily average beds in the related hospital to set the rates of pay for Senior Hospital Scientists in charge of laboratory;
- J. the TO Award contains no objective criteria to identify whether an employee is properly classified as Grade 1, Grade 2 or Senior;
- K. traineeships are underutilised; and
- L. NSWHP’s issues recruiting and retaining qualified Hospital Scientists and Technical Officers.

Part 3: Proposed solution

- [6] In short, the HSU’s position is that all current issues with the Awards can be resolved through negotiating a new award with a clearly defined classification structure.
- [7] As a starting point for discussions, the HSU suggests the development of a single award covering all scientific employees in NSW Health including, at least, all Hospital Scientists and Technical Officers with classifications differentiated by clearly defined and objectively determinable duties and/or qualifications at each increment.
- [8] That could be achieved in two ways: (1) amendment of the HS Award to include all Technical Officer classifications or (2) drafting an entirely new combined award capturing both classifications.
- [9] For ease of use and simplicity, the HSU suggests an entirely new award containing conditions and rates of pay for all scientific employees in NSW Health.
- [10] The difference in conditions for Technical Officers and Hospital Scientists (particularly penalty rates for work outside of business hours) and the NSW Government’s wages policy present significant hurdles to this. The HSU is prepared to work on these issues with NSWHP and the Ministry.

Part 4: Proposed process

- [11] The first step following the exchange of position papers should be a meeting between the parties involving Mr John Murphy as moderator.
- [12] That meeting should deal with process matters such as:
 - A. the frequency, mode, and timing of meetings,
 - B. the intended attendees at meetings,
 - C. the location of meetings, and
 - D. the points of communication following meetings.
- [13] Further meetings should follow. Within the first three meetings, the parties should aim to deal with:
 - A. each party’s key objectives and the reasons for those objectives,
 - B. any initial points of agreement and contention,
 - C. the impact, if any, of the wages policy on the negotiations and possible outcomes, and
 - D. the process to be adopted should some issues not be resolved during negotiations.

- [14] A non-negotiable factor is the involvement of HSU members throughout the process. HSU officials and HSU members are not separate entities. HSU officials are led by members and work exclusively for members.
- [15] HSU members will attend meetings and receive information about the process and positions of the parties in full throughout.
- [16] Where matters cannot be resolved between the parties, the HSU suggests joint referral of the remaining issues to the NSW Industrial Relations Commission for arbitration on discrete questions.

Part 5: Historical context and related issues

- [17] The HSU's position is based on the views of its members, but also informed by the historical and industrial context of the Awards.
- [18] Over time, the Ministry has increased the number of Technical Officers and reduced the proportion of Hospital Scientists, Senior Hospital Scientists (both in charge of section and laboratory) and Principal Hospital Scientists. The apparent primary drive for that reduction is that Technical Officers are less expensive to employ, particularly where out of hours work is required.
- [19] The reduction in the proportion of Hospital Scientists including Senior and Principal Hospital Scientists has been achieved in one main way: the misclassification of employees.
- [20] Over recent years the parties have been in dispute about the proper classification of a range of those employees. The disputes continue. The misclassification of scientific employees has arguably been caused, in part, by the scant detail provided in the Awards regarding proper classifications and a reduction in pathology graduates at the certificate and diploma level (i.e. those qualified as Technical Officers).
- [21] Currently, the disputes are at various stages, including some having been lodged in the Industrial Relations Commission and others one step away from being lodged in the Commission.
- [22] NSWHP has proposed that some disputes are tabled at these discussions. The HSU agrees with that proposal, but is concerned that because of the 6 year time limit in the Industrial Relations Act, that it may prejudice members' rights if discussions are extended. The HSU has proposed that all disputes are held over pending the finalisation of this process on the condition that the Ministry of Health and NSWHP agree to pay backpay 6 years from the date the dispute was raised with the Ministry of Health and NSWHP (as well as the period between the date the dispute was raised and the resolution of the issue).
- [23] The alternative is for the HSU to litigate each issue through the Industrial Relations Commission or courts in parallel to this process. That is not the preferred approach because it will break down trust between the parties and reduce the time and resources available to be deployed in this process.

Part 6: Wages policy

- [24] The NSW Government's wages policy is a significant hand break on the ability of the parties to freely modernise the Awards. The HSU is open to working with the Ministry of Health and NSWHP on strategies to allow the process to achieve the intended outcomes in that context.
- [25] An important related point is the impact of the above described misclassifications on the comparison between wages under the current Awards and any new award. Should the misclassifications identified by the HSU be rectified by the Ministry and NSWHP, the base value of wages will increase. Hence, if the misclassification issues are resolved, there will be more financial resources for the parties to work with to modernise the Awards. That would both increase the likelihood of successful reform and offers the opportunity for the parties to resolve potentially long running and costly disputes.

Part 7: Responses to major issues identified by the Ministry and NSWHP

- [26] The HSU's preference is that the process moves on from the previous years of non-productive litigation associated with the applications and addresses all issues faced by both parties in relation to the Awards. We are open to dealing with the issues identified by the Ministry and NSWHP within their applications and provide the below starting points.

Qualification requirements

- [27] The Ministry and NSWHP proposed to increase the qualification requirements in the HS Award in essence to formalise minimum qualifications which are currently applied through a qualifications policy to address a concern with the hiring of individuals not qualified in accordance with regulations.
- [28] The HSU understands this concern. However, the Awards set minimum entitlements for scientific employees. The Awards do not prevent the Ministry and NSWHP from properly recruiting suitable candidates to achieve a suitably qualified workforce and compliance with any regulations.
- [29] It is open to NSWHP and the Ministry to implement a policy that demands a preference for qualifications higher than the base Award requirements for any particular position (subject to consultation with the HSU). What is not open to NSWHP and the Ministry is to employ individuals that meet the minimum Award qualification requirements of Hospital Scientists as Technical Officers.
- [30] Consultation and the implementation of a new policy should commence after finalisation of the modernised Awards to ensure the policy is compliant with the new award. The HSU commits to fully engaging in that process with the Ministry and NSWHP.

Nomenclature

- [31] Although the HSU does not perceive there to be any major issue with current position titles, the HSU is open to working with the Ministry and NSWHP on appropriate nomenclature for all classifications, including those based in FASS.
- [32] The HSU has no official position on new nomenclature at this time, but continues to work with members on preferred terminology.

Lack of proper remuneration for managerial positions

- [33] A core issue raised by the Ministry and NSWHP in their application was that the Awards do not properly remunerate managerial employees.
- [34] The issue was expressed during meetings with NSWHP and the Ministry to be a “lack of a gradient” in the pay rates for managerial positions. That is, there are too few steps between the worst remunerated Senior Hospital Scientist positions and the best remunerated positions. It was also said that rates of pay and titles do not meaningfully correlate with the work and responsibilities performed.
- [35] A sensible solution would be to introduce a single or multiple higher level classifications (in terms of title and remuneration). Those classifications would sit above the position of Senior Hospital Scientist in charge of laboratory > 200 (or its newly negotiated equivalent).
- [36] There is no reasonable explanation or argument for reducing the remuneration associated with any current position now or into the future. If anything, considering the work performed by scientific employees and the financial success of NSWHP’s operations, the opposite is true.

Way forward

- [37] We look forward to working with the Ministry and NSWHP on this important and much needed modernisation of the Awards.

HEALTH SERVICES UNION NSW

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