

HSU NSW/ACT COUNCIL MEETING HELD AT THE YORK CONFERENCE & FUNCTION CENTRE, 99 YORK STREET, SYDNEY ON WEDNESDAY 25TH SEPTEMBER 2013 AT 10.58 A.M.

ATTENDANCE: G Hayes, R Dunn, J Holgate, S O'Riley, C Lee, P Iffland, S Haynes, G Partridge, C Charles, A Wilcock, G Reilly, P Mitchell, J Chester, P Reid and M Pike.

Teleconference: A Lillicrap & L Martin – Andrew Lillicrap dropped out part way through meeting.

CHAIRPERSON: M Sterrey (President)

APOLOGIES: D Neumann, S Davis, S Fraser, W Lloyd, S Joseph, L Burns, L Twyford, L Snow and L Burns.

Moved S O'Riley/C Lee that the apologies be accepted.

Motion put and carried.

VISITORS: A McDonald, W Boon, D Perry, S Champness, M Senthil, G Tyrrell and B Chapman.

Moved C Charles/J Holgate that the visitors as listed above be admitted to the meeting.

Motion put and carried.

DECLARATION OF INTEREST:

Nil

MINUTES: Moved A Wilcock/R Dunn that the Union Council minutes of 25th June 2013 be received and adopted.

Motion put and carried.

BUSINESS ARISING

Councillor C Charles advised that the council members' contact details that was requested at the last meeting was not provided.

SECRETARY'S REPORTS:

Over the past month there has been a lot of activity in relation to the ongoing O'Farrell cuts campaign. I have visited Albury, Bankstown, Prince of Wales and Broken Hill. Throughout these visits there still need to be more works done in relation to the engagement of members and the need for members to seek out information from the Union.

Each Local Health District is under pressure to reduce costs and I am firmly of the view that we will see more attacks upon our membership due to the State Government's focus on front line services.

The Committee will have noted the result of the federal elections and some of commentary in relation to where the Abbott Government will seek to make savings. An example is being 12,000 public sector jobs. This federal approach combined with the State Government that sees utility in acknowledging 48% of the health workforce in favour of focussing the remaining frontline services.

Clearly the State Government will continue to progress its privatisation and contracting out agenda and it has been particularly noticeable that the negotiations within the Public sector and Ambulance are becoming increasingly difficult.

We are progressing to resolution with respect to Albury Wodonga Health which should culminate its activity on the 26 September. It would appear that an imminent resolution to the ISS dispute will be forthcoming which will affectively see 45 positions created at Royal North Shore Hospital.

We are progressing to protected industrial action for the first time with respect to Australian Red Cross. It's interesting to note that this Organisation has now ceased payroll deductions for Union fees.

In terms of membership we have crossed the 30,000 member mark which is 3 months ahead of projection and we are now targeting 30,500 members prior to Christmas. This being said the staff were taken out for lunch as part of recognition of their hard work and as a team building exercise that brought everybody together particularly the 18 new staff that have been engaged over the last 9 months.

The Union is supporting the Alcohol Fuel Violence concerns of the people of Byron Bay area and as such we have written to support their activities and assist in any way we can to ensure that the Community of Byron Bay and out members at Byron Bay Hospital are able to live and work in a safe environment.

On my trip to Broken Hill I was able to meet representative of the Town Employees Union and Barrier Industrial Council. Both groups were keen to have a closer association with Union and the Barrier Industrial Council has requested that we affiliate.

RESOLUTION

Moved G Reilly/L Martin that the Secretary's report be received and noted.

Motion put and carried.

ASSISTANT SECRETARY/TREASURER'S REPORT:

- The refunds, waivers and new members report was tabled for Committee members' inspection and approval.
- CRM – Assistant Secretary/Treasurer has managed to get a very good out come with Bruce Daniel going forward he has been able to cut costs significantly.

- The sale of Level 4 at 370 Pitt Street was finalised. The sale of Level 3, 370 Pitt St is progressing at the moment.
- An urgent meeting will be called of Property Review Committee as soon as Assistant Secretary/Treasurer is back. The property at Botany is just sitting idle. A real estate agent was called in to have a look at the property. Wollongong and Newcastle properties are also not being utilised.
- It was also advised that the media tender had closed a week ago and more information will be provided at the next Council meeting.

RESOLUTION

Moved G Partridge/S Haynes that the Assistant Secretary's report be received and noted.

Motion put and carried.

FINANCE REPORT:

As per attached.

RESOLUTION

Moved M Pike/J Chester the finance report received and noted.

Motion put and carried.

AGENDA ITEM 1 – HONORARIUMS

As per attached.

RESOLUTION

Moved C Lee/J Chester that the Union Council endorses the proposed honorariums that are reflective of similar on a per capita basis of other Branches within the National Union. In endorsing this it is recognised that there is a significant saving from previous honorariums that have been applied.

Motion put and carried.

AGENDA ITEM 2 – INSURANCE BROKERAGE & POLICIES

As per attached.

RESOLUTION

Moved P Iffland/C Charles that the recommendations of the Audit and Finance Committee and endorsed by the Union Committee be accepted and that Coverforce be selected as the HSU insurance broker going forward. Further, that Coverforce be asked to place the insurance policies with the insurers proposed. Final details of the insurance policies will be negotiated between the HSU and Coverforce.

Motion put and carried.

AGENDA ITEM 3 –LEGAL SERVICES

As the Council would be aware the Finance Committee has been involved in the legal services tender. There were four law firms that tendered, those being Taylor & Scott, Maurice Blackburn, McNally's and Slater & Gordon. All 4 firms were interviewed by the Finance Committee with the exception of the Secretary. The Union Committee met to discuss the recommendations on the 20th August 2013 and came to the view that 2 firms should be engaged as they appeared to both be able to deliver the requirements of the Organisation. These firms were McNally's and Maurice Blackburn.

RESOLUTION

Moved P Iffland/R Dunn that the item be received and the Union Council endorses the decision of the Audit & Finance Committee recommendations and as discussed at Union Committee that McNally's and Maurice Blackburn be the Union's lawyers for the next 3 years.

Motion put and carried.

AGENDA 4 – SYDNEY DENTAL HOSPITAL SUB BRANCH AGM ELECTION REPORT

During the course of the AGM's Sydney Dental raised concerns in relation to the conduct of the Annual General meeting with respect to nominations put forward by particular members. This concern has been investigated twice and the Sub Branch has now accepted the findings from the investigations.

RESOLUTION

This item is for information purposes only.

AGENDA ITEM 5 – RULES

The Union Secretary has been involved in extensive ongoing discussions regarding the Rules of the Union at the National level and at the time of issuing the business papers, the National Executive is preparing to discuss and potentially endorse a range of Rule changes that will see consistency with respect to Rules across the Union Branches. These Rule changes will ultimately be referred to National Council and is envisaged that Union Council will also be in a position to consider similar changes to ensure consistency.

RESOLUTION

Moved M Pike/L Martin that the Union Council notes the advice with respect to the National Union and the NSW Union.

Motion put and carried.

AGENDA ITEM 6 – LITIGATION

The Secretary has been involved in mediations with the previous employees including Michael Williamson at the direction of the Supreme Court. That mediation process is ongoing and there may be an offer of settlement at some time the short to medium future in relation to some of these matters.

RESOLUTION

Moved S O'Riley/J Chester that the Council of Health Services Union notes that the Deed of Settlement which was expressly subject to Council approval was entered into on 24th September 2013 between Michael Alexander Williamson, Julieanne Williamson, J & M Investments Pty Ltd, Health Services Union NSW being a Deed which also operates as a Deed Poll in favour of others including certain Branches, Superannuation Trustees, and any insurer of the Union Deed and being resolved to approve the Deed to authorise the Secretary to issue a Certificate that the approval has been obtained.

Motion put and carried.

AGENDA ITEM 7 – FEES REDUCTION REVIEW

Over the last many months the Fees Review Committee has met to determine a recommendation in relation to fee reduction for the membership. The Fee Review Committee has considered a range of different approaches and whilst a tiered approach is of great interest at this time the Union does not have the necessary data from the membership to ensure sound financial decision making. A recommendation from the Audit & Finance Committee is that a fee cut of 50c per week should be applied and this should take effect from the 2nd of December 2013 or the nearest fortnightly cycle. Documents attached.

RESOLUTION

Moved P Mitchell/R Dunn that the Union Council endorses the reduction of Union fees with a cut of 50c per week to take effect from the 2nd December 2013 or the nearest fortnightly cycle.

Motion put and carried.

AGENDA ITEM 8 – MEMBER SERVICE CENTRE

The Union introduced a Member Service Centre as of 29th July 13. Initially the Service Centre will consist of 8 staff addressing general enquiries and assisting with all individual service requirements. There will be an Industrial Officer attached to this Department and Jodie Cowdrey will have responsibility for managing the Team. Initially the activity of the Department will be phased in with a Metropolitan and Regional area activated. This will be followed by the progressive basis to include all LHD's throughout the State.

RESOLUTION

This report is for information purposes only.

Council adjourned for lunch at 12.27pm.

Council resumed after lunch at 1.01pm.

Secretary presented membership growth chart for Council's information.

President called for suspension of standing orders to let Selwyn Black from Carroll & O'Dea to give a report on litigation matters.

Council adjourned for afternoon tea at 2.45pm.

Council adjourned at 2.50pm.

AGENDA ITEM 9 – SALARY ANOMALIES

It has come to the attention of the Union that there would appear to be inconsistencies in salaries by in particular 3 current staff. It's noted that many employees are being paid above the new structure. However, the 3 individuals that are referred in the document that will be supplied have salaries that are in extreme anomaly with respect to the position they hold.

RESOLUTION

Moved R Dunn/G Reilly that the Union Council endorses that the salaries of individuals should be consistent with the positions they hold and where possible sit within the new salary structure.

Motion put and carried.

AGENDA ITEM 10 – MEDIA TENDER

Following previous initiatives of the part of the Union the media tender has been advertised and closed on the 17th September 2013. It was advised that 2 expressions of interest were received and is currently in the process of being prepared for consideration by the Finance Committee.

RESOLUTION

This item is for information purposes only.

AGENDA ITEM 11 – RETURNING OFFICER

It is necessary to appoint a Union Returning Officer to oversee the good conduct of Sub Branch meetings and the general administration of the Union's Rules.

Rule 19 outlines necessity to appoint a Returning Officer to ensure any issues that relate to the elections within the Union are able to be dealt with in a manner that provides good governance and transparency.

RESOLUTION

Moved J Holgate/C Lee that the Union Council approves of Wayne Lewry being appointed as the Returning Officer for the remainder of this current electoral cycle.

Motion put and carried.

AGENDA ITEM 12 – PROPERTY UPDATE

The sale of Level 4 370 Pitt Street (\$4,100,000) settled on Tuesday 3 September 2013. After adjustments, legal costs (\$6,486.14 inc GST) and commission (\$112,750 inc GST) the cash gain on sale was \$3,984,041. CBA bank bill facility A was paid in full (\$3,350,000) and \$650,000 was transferred into the Business Online Saver account. The bank bill debt reduction amount to a decrease of 23.6% of the total facilities (now at \$10.8M).

On 16 September 2013 Drake Property issued Slater & Gordon a sales advice to draw a contract for sale of Level 3 370 Pitt Street for \$3,800,000 (excluding the car space) to A Fu Family Trust & Lam's Family Trust. This included a 10% deposit payable on exchange of contracts and a 90 days settlement period.

Negotiations will now continue to sell the existing car space located at 370 Pitt Street. This will then only leave Suite 1003 owned in this building by HSU.

RESOLUTION

This report is for information purposes only.

INDUSTRIAL REPORT

Public Health Salaries

The HSU, along with other Public Sector Unions, has continued to fight the NSW Government on its public sector wages policy.

The government's attempt to reduce its public sector wages policy cap by the 0.25% federal superannuation guarantee levy (SGL) increase, that kicked in on July 1, initially failed when the NSW IRC full bench ruled on June 25 that the ceiling only applied to the commission's awards and orders, not to increases at large.

The full bench was dealing with 39 applications by Public Sector Unions to vary Awards by 2.5%. Of these, 21 were applications by the HSU. The Ministry of Health (MoH) had also filed 22 counter applications for new Awards incorporating a 2.25% increase. The MoH was the only employer to file counter applications.

The government responded by amending the regulation enshrining the wages policy in a bid to incorporate SGL increases into the cap, but this also failed when the NSW upper house, on August 21, voted to disallow the legislation change.

In the interim, the IRC handed down consent orders for a variation to the Awards to incorporate a 2.27% increase and the MoH withdrew its counter applications.

Following the defeat of the Government's legislation the Unions went back to the IRC on Friday, 6 September, and asked the NSW IRC President, Justice Boland, to increase Award rates and allowances by 2.5%. The Government opposed this and sought to have the opportunity to argue that, due to budgetary and economic considerations, any increase above 2.27% was not sustainable. All Unions came out attacking this position.

Justice Boland, in his decision, said the unions' concerns were "understandable", but ruled that the Industrial Relations Act required the commission to have regard to the state of the NSW economy in performing its functions, the government could not be denied the opportunity to present its case.

However, he said that in light of the *prima facie* position that a 2.5% increase was available, the onus was on the government to show why a lesser amount was warranted.

The hearing of the Government's arguments has been set down for 13 and 14 November. In the meantime we continue to follow up on the payment of the 2.27% which will be backdated to the first full pay period on or after 1 July 2013.

Health Services Act 1997

In May this year the Health Services Act 1997 was amended to allow staff of the New South Wales Health Service to be suspended from duty without pay in certain circumstances:

- where an employee has been charged with a serious criminal offence punishable by imprisonment for five years or more;
- where a staff member who is a registered health practitioner has had their registration suspended or conditions imposed on their registration under section 150 of the Health Practitioner Regulation National Law; or,
- in the case of an unregistered health practitioner, where the Health Care Complaints Commission has imposed an interim prohibition order or placed interim conditions on the unregistered health practitioner under section 41AA of the Health Care Complaints Act.

The aim of the changes being to bring the New South Wales health system into line with other public sector staff regarding suspension without pay. The Ministry of Health are currently working on guidelines to be included in their policy on Managing Potential Misconduct.

Government Sector Employment Act 2013

The Public Sector Employment and Management Act has been repealed and replaced by a new Public Sector Employment Act which was assented by Parliament on 25 June 2013. It is expected that after regulations and Government Sector Employment Rules are drafted the Act will commence by proclamation early next year.

The Act creates a new Public Service which amalgamates the current Government Service with the current Public Service. The new Government Sector covers the Public Service, the Teaching Service, the NSW Police Force and the NSW Health Service and the Transport Service.

Government Sector Employment Rules

The Act removes the extensive and detailed employment requirements currently within the PSEM Act and replaces them with Government Sector Employment Rules. These rules can be created, amended and repealed by the Public Service Commissioner. In relation to the Public Service, the rules can cover any matter relating to employment. In relation to the Government Sector (which includes the Health Service) the rules can cover Workplace Diversity, Transfers and procedural matters for dealing with unsatisfactory performance. The regulations can also prescribe that the Rules apply to particular Government Agencies. They will replace all current Premier memoranda and circulars. A number of Health Awards refer to these circulars for setting of allowances.

Second Phase

There is also expected to be further legislation to align the Health Executive Service, the NSW Police Force Senior Service and the Transport Senior Service with the Public Executive Service.

Concerns

A major concern of the new Act is that for the Public Service it removes legislative protections such as:

- Merit selection provisions – requirement that a vacant position be advertised; eligibility lists.
- Probationary period.
- Restrictions on use of temporary employees and casual employees
- Staff being appointed to positions has been removed and staff are assigned to roles.

It is normally the case that the broader Government sector agencies, including Health, adopt the employment practices of the Public Service. This has recently occurred with the latest changes to the Health Services Act discussed earlier in this report. We will need to keep a close watch on what happens with the regulations and the rules and ensure we participate in the consultation of these.

NSW Health Draft Policy On Managing Potential Misconduct In late June this year the MoH issued its final draft of the *NSW Health policy on managing potential misconduct*. A significant inclusion in this policy is guidelines on the use of powers of suspension now available under section 1-20A of the *HealthServices Act 1997*.

The draft policy was distributed to Union members for feedback. The HSU has made submissions to the MoH in August. The main issues included:

- Mandatory and non-mandatory components

The draft policy is split into a ‘mandatory’ policy directive and a series of 15 ‘non mandatory’ guidelines. There should be a consistent approach across the NSW Health Service in the management of potential misconduct and the application and interpretation of the policy and guidelines. The Director-General, in exercising the employer function on behalf of the Government of NSW, should have a consistent approach when dealing with serious misconduct matters when these matters have the potential of dismissing an employee from the NSW Health Service. A non-mandatory component will lead to massive inconsistencies and confusion as to the application of the policy directive itself.

There are some critical matters that are dealt with in the non-mandatory guidelines for example, appropriate delegations, mandatory notification requirements and rights and responsibilities of parties etc that, if not applied, will leave our members being subjected to unfair practices.

- Remedial Action

The draft policy introduces the use of remedial action as an 'alternative to disciplinary action'. However the policy is inconstant as it also allows the use of remedial action 'in conjunction' with disciplinary action.

Whilst the use of remedial action is a new concept under NSW Health Policy, it has been used extensively in the NSW Public Service, not only as an alternative to disciplinary action, but as an option to deal with allegations of misconduct as a remedial matter. The two types of actions available, remedial or disciplinary have two different purposes and to impose both actions once a finding of misconduct is made defeats the purpose of these and, in fact, is an imposition of two lots of punishment.

- Suspension of Staff under Section 120A of the Health Services Act 1997.

The draft policy seeks to include guidelines on suspension of staff. It is though silent on where the delegation of this decision will sit. It is critical that the Director General should retain the exercising of this function and not delegate to the Chief Executives. At the very least, the Director General should not delegate the decision to suspend a staff member without pay.

It is of extreme concern that, in assessing whether the staff member is suspended with or without pay, a mandatory consideration under the policy directive is '*where a matter has not been, or is unlikely to be, resolved within six weeks, suspension without pay may be appropriate.*' This arbitrary length of time appears to be outside the parameters of the legislation and is not in keeping with the draft policy in respect of timeframes for the conduct of investigations, being twelve weeks.

- Final Decisions Regarding Any Salary Withheld

Whilst it is available to the Director General, under the Act, to not pay salary withheld during suspension, the draft policy is too focused on circumstances to not pay the withheld salary. These are again based on the timeframe that the staff member was unable to perform his/her duties. The timeframe for the conduct of investigations, in particular, those conducted by a regulatory body, is outside the control of the staff member. Again, the decision to not pay salary withheld should remain with the Director General and not be delegated.

- Investigating the Allegation

The rights and responsibilities of the staff member subject to the allegations and the employer are contained in a 'non-mandatory' guideline.

There are numerous court decisions which emphasise the importance of conducting fair and proper investigations and the adverse consequences that arise when investigators do not conduct their investigations in a fair manner. The principles of procedural fairness are a

mandatory requirement under Law and should not be relegated as a non-mandatory guideline under this policy.

The draft policy directive states that the decision maker should have no direct involvement with the matter subject to investigation and that they should be free from actual or perceived bias, it is vague however, in relation to the same requirements for the investigator. It is imperative that a clear policy directive be given that the same requirements apply to investigators.

The draft guidelines provide for a staff member who is subject to disciplinary action to make representations to the decision maker on the proposed disciplinary action. The same entitlement should be available to staff members who have been found to have engaged in misconduct but the decision maker is proposing remedial action.

The Union has requested that a staff member, who is required to respond to adverse findings, is provided with a copy of the full investigation report including attachments. Where the proposed disciplinary action is dismissal, the staff member should be entitled to make submissions directly to the Chief Executive as the only person who has the delegation to make such decision.

The draft policy provides for the entitlement of the staff member to have a support person present during the investigation process and that the role of the support person during the investigation is not as a spokesperson or advocate. In respect, however of representations to the decision maker, the HSU has requested that the staff member should have the right to be accompanied by a Union or other representative who may speak on their behalf.

- **Time Frame of the Investigation and Decision Making Process**

The timeframe for the completion of the investigation and the decision making again sits in a non-mandatory guideline. The HSU has requested that the guidelines become mandatory and that there be a requirement that the staff member be advised in writing if the whole process goes beyond, or is likely to go beyond, the recommended 12 week timeframe. If the staff member is not satisfied with the reasons for the delay they should have available to them the appropriate dispute settlement procedures.

Current Position: The HSU along with other Health Unions have requested further discussions with the MoH on the draft policy. We are still awaiting a response from MoH on our submissions.

Multiple Assignments

On 5 July, the Ministry of Health issued an information bulletin regarding Multiple Assignments - Public Health System Nurses' and Midwives' (State) Award.

Following earlier proceedings in the IRC, a consent variation was made to the Nurses Award to include a new subclause 4A which follows from their Clause 4, *Hours of Work and Free Time of Employees Other than Directors of Nursing and Area Managers, Nurse Education*.

Background: On 20 February 2012, the Ministry Of Health issued its policy in relation to 'multiple assignments'. Prior to this there had been a series of meetings between Health and the Unions to discuss issues.

Multiple Assignments is defined as situations where a person has two or more concurrent positions as an employee within NSW Health. The policy requires that each position is a separate contract of employment and the hours worked are not to be added up for the purposes of pay or leave entitlements.

The document *Multiple Assignments In StaffLink – A guide for LHD HR and HSS Service Centre Staff* provided details of the different multiple assignments scenarios.

The NSW Nurses and Midwives Association made an application before the Industrial Court for a Declaration under section 154 of the Industrial Relations Act. The nature of the Nurses application was quite specific to their Award and was not open for the other Health Unions to intervene.

Since that time, the HSU has made representations on behalf of a number of members who were on multiple assignments and were denied access to entitlements such as ADOs and Maternity Leave. The Union was successful in getting these members their Award entitlements. Whilst dealing with these matters, it appeared to be the expectation of LHD managers that the outcome of the Nurses case would be applied to the whole of the Health Service.

Summary of the Multiple Assignment Provisions of the NSW Nurses' and Midwives' (State) Award - effective date being 18 June 2013:

1. Multiple Assignments Within One Public Health Organisation
 - 1.1 The work performed in each of employees' multiple assignments is aggregated for all purposes of the Award.
 - 1.2 If the total hours of work in multiple assignments equate to full time ordinary hours as prescribed in the Award the employee is entitled to:
 - (a) Additional days off
 - (b) Six weeks annual leave if they are a 7 day shift worker
 - (c) Overtime is payable if the aggregate of ordinary hours exceeds the full time ordinary hours
 - 1.3 Staff who are engaged in full time or part time assignments cannot also be engaged as a casual employee. Any 'additional' hours worked by that employee would either be overtime or additional part time hours.
 - 1.4 All hours worked count towards an employee's leave entitlements and they can take that leave in any assignment.
 - 1.5 Where an employee has multiple assignments with different rates of pay:
 - (a) Different ordinary rates will be paid in each assignment
 - (b) Overtime will be paid against the assignment in which it is generated, at the rate relevant to that assignment
 - (c) Leave taken in an assignment will be paid at the rate applicable to that assignment
 - 1.6 There are some special arrangements regarding temporary and 'old part' employees, including employees automatically converting to permanent part time from 'old part time' if they take up a second assignment after the date of the making of the new clause.
 - 1.7 Managers having to collaborate to ensure:
 - (a) Additional days off are rostered across the assignments on a proportionate basis
 - (b) The rostering of hours across assignments complies with award provisions (eg minimum breaks between shifts).

- (c) The working of any additional hours or overtime in one assignment does not negatively impact on the other assignment.
- 1.8 Employees applying for additional assignments must disclose that they are already employed and provide details on that employment. Before accepting additional assignments they must also advise their current manager of the details of that additional assignment. A Public Health Organisation can elect to withhold approval of the additional assignment on reasonable grounds.
2. Multiple Assignments Across Different Public Health Organisations
- 2.1 Multiple assignments across public health organisations will have Award provisions applied separately to each assignment except in relation to some leave matters and incremental progression:
- (a) All hours worked are combined for incremental progression
 - (b) All service is combined for long service leave purposes
 - (c) Service in an assignment in another Public Health Organisation is recognised for the purposes of maternity, adoption and parental leave
 - (d) At the time an employee commences an assignment in another Public Health Organisation their existing leave credits will be apportioned across their assignments. Employees can elect that this not occur. Employees in existing multiple assignments may also elect for this leave apportioning.
 - (e) Where an employee terminates an assignment, any leave credits held in that assignment are transferred to the remaining assignment/s.
- 2.3 If there are existing multiple assignments across Public Health Organisations that have been combined for all Award purposes such as additional days off, overtime etc, these arrangements are to remain in place until one of the assignments is terminated.
3. Where employees are engaged in only casual assignments, the Award provisions are to be applied separately to each casual assignment.
4. Employees who are currently engaged in two assignments in one Public Health Organisation, with ordinary hours of more than 38 per week, are to be approached with a proposal to reduce those hours to a maximum of 38. However if this is not agreed, overtime will be payable in accordance with the Award overtime provisions.

The HSU has made representations to the Ministry of Health requesting that the current policy regarding multiple assignments be amended in light of the agreement with the Nurses and that discussions occur regarding appropriate variations to the HSU Awards.

Ambulance Service

Sick Leave Policy

The HSU was in dispute with ASNSW regarding sick leave policy. In proceedings in the Industrial Commission before Justice Backman the ASNSW agreed that the Health Department Sick Leave Policy would apply.

Rural Rosters

Recently a meeting was held between the parties to discuss a way forward for Phase 2 & 3 of the Roster Reform. At this meeting it was agreed that management would provide the FTE for the affected station's as well as a timetable for roster modelling to occur. First roster modelling meeting for North Coast 17 & 18 September 2013

Hunter Rosters

The HSU has been in dispute with ASNSW over Rosters in the Hunter region. In order for this matter to be settled without the need for arbitration management proposed a 12 hour roster which would require an additional 10 staff. It was agreed that the 12 hour principle be adopted and that roster models from the membership would be modelled against the proposed management roster. Unfortunately management reneged on this deal which led to a dispute in the IRC. A recommendation was made that the rosters are to be modelled before the midpoint of this roster cycle. The matter will be relisted in the IRC if the additional staff are not provided.

Aeromedical Paramedics

A section 106 application has been lodged with the IRC with respect to a claim for life insurance coverage as part of the contract of employment.

There is also an aeromedical review which in part will look at the role and skill set of the aeromedical paramedic. At this stage management have offered on an interim basis to pay these paramedics at Station Officer rate of pay in lieu of the Section 106 application and any other claim relating to skill sets. The members will accept offer if it only relates to the section 106 application. Meetings of members are being held in early September.

Public Hospitals - General

Central Coast Regrade Policy

The Central Coast LHD has appealed a decision of the IRC in respect of the LHD's regrade policy.

Background: On 12 June this year, Deputy President Harrison handed down a decision in relation to a dispute the HSU lodged against proposed changes to the Central Coast LHD's regrade policy.

The changes would have forced members to who were successful in their regrade to be forced to reapply for their position. The Union successfully argued that this would have discouraged members from applying for a regrade thus denying them due recognition for the work already performed.

The IRC ruled that any employee who was successful in a regrade application will be directly appointed if their current salary was within one grade or 5% of the regraded salary if they meet the inherent requirements of the position.

In his decision, Deputy President Harrison said "The consideration of the 'new policy' proposed by the Central Coast Local Health District is grossly unfair and holds strong potential to act as an impediment to co-operation and productivity in the workplace as employees withhold discretionary effort for fear it would lead to a regrade and redundancy."

The appeal is set down for hearing before a full bench of the IRC on 31 October.

Electronic Payslips

The HSU is preparing for a case in the IRC against the mandatory introduction of electronic payslips. Central to the issue is the fact that a group of members are being discriminated against by the introduction of electronic payslips. While the quality of information from

Organisers has been poor, a case will be prepared based on member feedback from SLHD and the NSLHD. Matter will be lodged ASAP and is ongoing.

ISS and RNSH

The HSU has a dispute currently before his Honour Justice Boland regarding the management of Health Staff by a contractor (ISS) engaged to manage them at RNSH. The matter is a repeat of the dispute from last year but has been escalated by the discovery of an amendment to the contract between the parties (Health and Contractor) that allow the contractor to employ staff directly. Matter is ongoing.

Security Officers

The Industrial Division is assisting in the development of a campaign for security officers with the providing the campaign committee with information on legislative changes and training requirements of security members. The division is also looking at the preparation of a claim in the Industrial Commission regarding the duties and responsibilities of security officers. This matter is ongoing.

The division has also been active with a number of disputes regarding our security officer members including:

Security RPAH

The HSU is currently before Commissioner Tabbaa and over a number of disputed issues affecting Security members at RPA. This dispute has been before the IRC on two previous occasions attempting to resolve a number of issues affecting Security members. To date the matter has successfully managed to resolve a large number of issues with only one outstanding issue remaining outstanding. Matter has been set down for Report Back on Friday 11th October and is expected to be settled by that date.

Security Wollongong

The HSU is in dispute with the LHD in relation to a claim by HSU members working in the Security Department of Wollongong Hospital to Meal Allowance when working on a rostered day off. The matter is currently before Commissioner Tabbaa and while HSU accepts the fact that the Allowance may not be applicable a new dimension to the dispute has been identified. This new dimension is that members are being recalled to perform overtime with minimal notice leading to an argument that this practice either cease or the employer pay the disputed allowance by administrative action.

Security Blacktown

HSU officials met with Security Officers at Blacktown Hospital and discussed the issues of rosters and overtime allocation. Following a meeting with members a plan is being developed to outline the best course of action. This will include representation to the MoH to discuss the possibility of amending the award to accommodate the intricacies of 12 hour shifts. In addition Industrial will be involved with a disputes committee regarding the use of casuals when covering planned vacancies as a potential breach of the HE Status of Employment Award. This matter is ongoing.

Lifehouse Greenfield Agreements

The Industrial Division has been working with members at RPA who will be moving to the Chris O'Brien Lifehouse. Specifically staff have been involved in the development of the Greenfield Agreements for the new workplace as well as worked with members in attempting to gain a transfer payment and/or an extension to their ability to return to a position in Health from the current 3 to the preferred 5 years. The three agreements have been presented to members and have been voted in favour of by the membership and the agreements have been lodged by the employer with FWC.

Public Health – Health Professionals

Industrial Staff have been working with Professional Vocational Committees and the Professional Delegates Committee on:

- Promoting the health professional workforce and the value that they add to the Health Service.
- Reviewing classification structures in Awards to make them more relevant to the present day workforce.
- Reviewing the current grading committee process to ensure that Award entitlements are enforced and there is consistency across the state.
- Establishing closer ties with the various health professional associations.
- Reviewing the way health professional members are represented in the Union to enable effective communication and consultation on matters specific to each profession as well as providing collective leadership and representation on common issues that impact on all health professionals.

Initially, our main focus has been to get around to the PVC's to meet delegates and find out what their issues are. We are aware that over the past few years many PVC's have been working on proposals for new awards for their profession. Unfortunately with the new industrial environment that we are working in under the O'Farrell State Government we do not have the ability to run award cases like we use to. We have been talking through these issues with the various PVCs and working out ways that can pursue some of their issues around classification structures.

Professional Delegates Committee (PDC)

The PDC has a planning day scheduled for 26 September to plan industrial activities and campaigns for the coming year. There will be a focus on organising of Professional employee members in the Union.

Allied Health Assistants Employment Framework

The HSU has, over the past 12 months, participated in the advisory committee developing the employment framework for Allied Health Assistants in NSW Health.

The Garling report recommended the expansion of the role of the assistant workforce to allow health professionals to focus on more complex service delivery tasks.

The Health Professionals Workforce Plan 2012 – 2022 *Strategy 7.8* is to “grow the Allied Health Professional workforce in line with forecast health service demand and delivery requirements”, within this is the development of the Allied Health Care Assistant Framework.

Currently there are approx. 787 Allied Health Assistants in the NSW Health Service. The Framework seeks to provide clarity around their roles, supervision and training. Discussion on the Framework have occurred at the PDC. The delegates who are currently working with allied health assistants reported of the benefits of having this resource.

The main concerns that PDC delegates have are:

1. Clarification of Award classification for the AHAs
2. Appropriate supervision of AHAs in remote and rural areas
3. Ensuring consultation occurs with Union and Health Professional staff regarding the creation of AHA positions to ensure the protection of Health Professional positions.

A significant issue is that AHA's under the framework are paid as Technical Assistant grade 1. Under the Hospital Employees' (State) Award, a TA 1 is defined as 'a person appointed as such who is wholly or substantially engaged in assisting a physiotherapist, occupational therapist or dietician with routine professional activities.' The Union's position is that the TA classification is not appropriate for AHAs as they are required to obtain Cert IV qualifications. There is also a differing rates of pay applying to employees who are currently working as AHAs.

Current position

The HSU is collecting information regarding current AHS employees to build a case for a new Award classification.

NSW Health Pathology

NSW Health Pathology has been set up as a separate entity reporting to the Director-General of Health. to provide a single state-wide pathology service. Over 4,500 staff have been transferred from the LHDs to the new organisation.

NSW Health Pathology is divided into five networks:

- SEALS
- SSWP
- Pathology North
- Pathology West
- Forensic and Analytical Science Services

Management structures in the Networks are still being finalised.

The HSU has met with the Chief Executive of NSW Health Pathology and discussions are currently underway to set up a USCC.

A new sub-branch for members employed in NSW Health Pathology is also underway with an interim committee of delegates having been established.

Restructure Pathology West

In August, NSW Health Pathology (NHP) convened a series of meetings with staff across the service to advise them of a proposed restructure. Concerned members immediately contacted

the Union. As there was no prior consultation, the Union prepared a dispute notification for the IRC which resulted in NHP agreeing to put on hold the implementation of the restructure and commence consultation. Pathology West covers the LHDs of Western Sydney, Nepean Blue Mountains, Far West, Murrumbidgee, Western NSW and Southern NSW. The proposed restructure included targeted redundancies, down grading of roles and creating new positions that are not part of the Award.

The HSU Industrial staffs have visited all the affected laboratories to consult with members on the employer's proposal. The first consultative meeting between the Union and the employer on this matter is set down for 17 September.

Lead Apron Allowance For Employees On MRS Award

With the progressive rollout of the StaffLink payroll system it was identified that number of employees under the Health Employees' Medical Radiation Scientists (State) Award (MRS Award) were receiving a lead apron allowance. Prior to the MRS Award being made in 1997, those employees were employed under the Health Employees' Technical (state) Award and were exempted from receiving the lead apron allowance.

When the MRS Award was made in 1997, the Conditions of Employment Award was not varied to continue to exclude these employees. The MoH sought to rectify this by applying to the IRC to now vary the Conditions Award. The Union was concerned that members had been receiving the allowance for a number of years as there was technically no prohibition for this to occur and that they now risked losing the entitlement. However, given the history of this it was difficult on its merits to argue against rectifying the omission.

Following conciliation proceedings in the IRC and discussions over the past few months, the MoH put a proposal to the HSU that it would continue the payment of the allowance to those employees who are currently in receipt of it and to those who had the payment stopped as a result of the rollout of Staff Link. The MoH also agreed to a process for back pay for those staff whose payments had been stopped. In exchange, the HSU would consent to the application to vary the Award.

The HSU contacted all its members who were employed under the MRS Award to ascertain where members were receiving the lead apron allowance and, where, as a result of the introduction of StaffLink, the payments stopped. Members were also consulted on the proposed offer from the MoH and have consented to the proposal by the MoH.

The matter is back before the IRC on 27 September.

Remote Recall Allowance for Junior Medical Officers

The Industrial Relations Commission is currently hearing an appeal by the Ministry of Health against a decision by Justice Staff in March this year in favour of the HSU.

Background

Employees classified as Resident Medical Officers and Registrars who are on call receive an allowance for being on call of \$13.70 per on call period. They receive overtime payment only if they were required to return to the Hospital and are then paid 4 hours at overtime rates.

The Award also provides that if RMOs and Registrars who are on call and can do a clinical appraisal remotely and thereby not have to return to the Hospital are to be paid a minimum of one hour's overtime. These occasions are commonly known as 'remote recalls'.

The NSW Ministry of Health had contended that this clause did not apply to medical officers under the Public Hospitals Medical Officers Award, unless they have remote technology set up at home to provide this service. The MOH did not recognise that a 'clinical appraisal', provided over the phone, attracted any payment

The HSU believed that Resident Medical Officers and Registrars required to work overtime remotely through the provision of clinical appraisals should be paid for such work at the appropriate overtime rate with a minimum payment of one hour. Following a hearing of the matter in February this year, Justice Staff made the following order:

Employees covered by the Public Hospital (Medical Officers) Award who provide a clinical appraisal over a telephone or by email, rather than via a computer, have provided a "clinical appraisal remotely without onsite presence" and are entitled to a minimum payment of one hour's pay at overtime rates pursuant to subclause 12(ix) of that award.

The MoH appealed this decision and successfully applied for a stay on the orders. Following a hearing of the appeal before the full bench in August, the President of the IRC referred the parties for conciliation. We have had two conciliation conferences to date with a further conference set for 26 September.

Grading Committees

The Industrial Division commenced a process this year, in conjunction with the Organisers, for the management of grading applications for our Professional employee members. It was observed that a number of LHDs were not complying with Award requirements when considering applications for regrading of Health Professionals and many were not providing correct advice on entitlements and appeal processes. By coordinating these regrade applications centrally at the HSU, we are able to ensure that the PVC delegates participate where required provide advice to members. Importantly we have been able to ensure the Award processes are complied with. We have also convened, for the first time in years, the Peak Level Grading Committee involving MoH to deal with appeals.

So far we have successfully achieved regrades for a Social Worker, two Psychologists, a Pharmacist and a Technical Officer. We have another seven pending at with the LHDs and two at the Peak Level Committee.

Aged Care & Private Health

Enterprise Bargaining

The Industrial Division has been actively involved in negotiations for agreements in the Aged Care and Private Health sectors. With the establishment of the Aged Care/Private Health Division our Industrial Officers will continue with this role and provide Industrial support for the new Division. Attached to this report is a table showing current EB negotiations.

Medicare Locals

In 2011, the Australian Government established new organisations, Medicare Locals, to plan and fund extra health services in communities across Australia. Medicare Locals have been established as independent companies and have created management and staff structures to suit the needs of their communities and organisations.

In NSW there are 17 Medicare Locals and 1 in the ACT employing a range of Health staff including:

- GPs
- Nurses
- Psychologists
- Physiotherapists
- Pharmacists
- Social workers
- Speech pathologists
- Aboriginal & Torres Strait Islander Workers

Currently there is an Enterprise Agreement for the ACT Medicare Local and we are in the process of negotiations with the North Coast Medicare Local.

HSU Industrial Staff and Organisers are working together to recruit and organise members and commence EB negotiations in other Medicare Locals.

Other matters

The Industrial Division is also currently managing a number of applications for unfair dismissal claims in both the State IRC and FWC. At present two unfair dismissal claims, both in the State IRC, have progressed to arbitration and are being run by staff in the Division. In future, a record summary will be kept of matters before the tribunals that the Industrial Division is running on behalf of individual members to form part of the industrial report.

GENERAL BUSINESS

- Councillor Holgate enquired about the Union's Ombudsman. Secretary advised that Mr John Grayson was nominated as the Union Ombudsman.
- Councillor Holgate also enquired about the planning day for the PVC. He also proposed that the resolutions, suggestions and ideas should be brought back to Council for approval. PVC and PAICT have lots of issues around the structural ones. How to improve it in taking an interest in participating. 4 people have applied to be in the Campaign Committee.
- Councillor Charles enquired as to when the Fairwork training for Federal Compliances would be organised. Secretary advised that the training would be held early next year to be conducted by ACTU.

There being no other general business the meeting closed at 3.28 p.m.

Chairperson