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In Reply please quote: AG:MG

14 February 2013

Committee Secretary  
Senate Education, Employment & Workplace Relations Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Secretary,

**Re: Senate Inquiry into the conditions of employment of State Public Sector employees and the adequacy of protection of their rights at work as compared to other employees**

Thank you for the opportunity to make a submission to this Inquiry. This Inquiry is timely. The cavalier approach currently being taken by a number of State Governments to the management of their workforces threatens to cause enduring damage to the capacity of State Governments to directly deliver vital services to the community.

The Public Service Association of NSW is an industrial organisation of employees which is registered under the *Industrial Relations Act 1996* (NSW). It represents 43,000 NSW Public Sector employees of the NSW Government in the service of the Crown, as well as employees of state-owned corporations, universities, and a number of former government entities since privatised.

The Association is also an "Associated Body" under the rules of the Community and Public Sector Union (CPSU), which is the Association's federally registered counterpart union.

The Association was involved in the preparation of the submission being made by the Community and Public Sector Union – State Public Services Federation Group (CPSU-SPSF) and supports the submissions of the CPSU-SPSF, particularly those made in respect of New South Wales. The

Association supports all the recommendations made in the CPSU –SPSF submission.

The members of my organisation have experienced significant industrial attacks by the O'Farrell Government. The Government has attacked the employment conditions, salaries, and job security of members. The NSW Government's legislative, regulatory and policy changes have been made with no consultation with public sector unions. The Government has also abandoned long-standing arrangements in relation to consultation with public sector unions.

The NSW Government has pursued, through successive budgets, wholesale reductions of Public Sector staff numbers. The cutting of fifteen thousand jobs has been announced in the two budgets handed down by the Government. This has occurred despite the lack of any significant debt problems in NSW.

Also of great concern has been the erosion of the NSW industrial relations system. This has been achieved through a direct assault on the independence of the system's key institution, the Industrial Relations Commission of NSW (IRC). The IRC has occupied a central place in the system of compulsory conciliation and arbitration that has operated in NSW for more than 100 years. This role has been undermined by the legislative changes dealt with in detail in the CPSU -SPSF submission. These legislative changes have reduced the role of the IRC to a mere tool for the implementation of government policy.

This situation is the culmination of the systematic dismantling of the States' industrial relations system which commenced under WorkChoices. That process has been hastened by the NSW Government's referral to the Commonwealth, in 2009, of its industrial relations powers over the private sector.

The creation of a merely residual industrial relations system that is used exclusively by Public Sector workers at state and local government level has enabled the NSW Government to use the industrial relations system to address its budgetary problems. It has thus relegated industrial relations policy to the status of a servant of the NSW Government's overall fiscal policy. This creates an inherent conflict of interest. In this scenario the government holds all the cards. It is both a player in the system and it also gets to write and interpret the rules of the game.

The asymmetry in the bargaining relationship that this creates is leading to the erosion of the salaries and conditions of employment of Public Sector workers in NSW. This will inevitably have long term consequences for the capacity of the State to maintain high quality service delivery. The attraction and retention of suitably qualified staff will become more difficult as the salaries and conditions of Public Sector jobs become less attractive relative to the private sector.

A dangerous threshold has been crossed by the O'Farrell Government. As employee-related costs constitute the single largest cost to government, the temptation to continue to use the tools that are now available to contain this



cost will prove irresistible. In a political choice between raising more revenue through taxes and charges, or further squeezing Public Sector workers, governments of every stripe will choose the latter.

The broader implications of this policy approach need to be explored. Governments have historically aspired to be 'employers of choice'. They have assumed the role of model employers which lead the way in progressive employment practices.

For instance, the public discussion around family-friendly workplaces has its origins in the innovative practices of Public Sector workplaces. 'Flexible working hours', paid maternity leave, lactation breaks, domestic violence leave, these are all practices that have been nurtured first in the Public Sector before their wider adoption in the private sector. It is right that taxpayers should expect that the services they fund should be delivered in a way that reflects public values around fairness. If Public Sector workplaces are not places where workers can expect to be treated fairly, then why should private sector employers be expected to act any differently? The government is an expression of collective will and should set a high standard of fairness.

Implicit in the approach taken by the O'Farrell Government is that achieving fair Public Sector workplaces is no longer a priority. The telling point, dealt with in more detail in the CPSU -SPSF submission, is that the Government's own legislation has overridden the obligation of the IRC to take fairness into account when setting wages and conditions. If a conflict arises with the Government's wages policy, then the IRC is bound by this legislation to give priority to the policy over considerations of fairness.

The O'Farrell Government's policy represents a strenuous reassertion of the absolute prerogatives of management. The efforts of the labour movement over the course of the last 150 years have been directed at placing limits on the capacity of employers to dictate absolutely the terms and conditions of employment. This has forced reluctant employers to offer just and fair wages and conditions. This trend in Public Sector industrial relations sends a dangerous message to employers in the private sector.

The Association's members have borne the brunt of the O'Farrell Government's attacks.

The job cuts have been directed at so-called 'non frontline' staff – police, nurses, and teachers having been insulated from the announced cuts. There is no question that the adoption of forced retrenchment and the associated inequities of the Government's policy on Managing Excess Employees have been undertaken to facilitate the achievement of the Government's savings-driven cuts to Public Sector employee numbers.

The Association's salaries claim in February 2011 was the trigger for the Government to legislate its wages policy. Our salaries application to the IRC was also the platform for our challenge to the validity of the legislation in the High Court. The High Court held that the NSW Government's legislation was

valid. Despite it being lawful, the NSW Government's legislation remains unfair and the Association continues to campaign against it.

Thank you again for the opportunity to make a submission to this Inquiry. A representative of the Association is available to appear before the Inquiry if required.

Yours faithfully,

 15.2.13

ANNE GARDINER  
GENERAL SECRETARY