

COMMUNITY AND PUBLIC
SECTOR UNION

SPSF GROUP NSW BRANCH
ABN 11 681 811 732

Ms Susan Hudson
Executive Director
Office of Human Resources
Western Sydney University
Locked Bag 1797
PENRITH NSW 2751

By email: S.Hudson@westernsydney.edu.au

Dear Susan,

Re: Eligibility for \$500 Sign-On Payment

I am writing in relation to the University's recent decision not to honour the \$500 sign-on bonus for staff who will cease employment at the end of 2017.

As you know, there are a number of staff who have accepted redundancies as a result of both the Shared Services restructures and the outsourcing of Campus Security. Many of these staff have given more than 20 years of service to the University. It is important to note they are not leaving of their own volition, but due to a decision of the University to delete their positions. A number of them have expressed that they would have preferred to stay on. However, due to a paucity of suitable job opportunities in their fields, desired locations, or at their level they saw no realistic chance for redeployment, leaving them with little choice but to accept a redundancy.

CPSU NSW believes that given the circumstances, the University has both a legal and a moral obligation to honour the payment of the sign-on bonus for these particular staff.

In the first instance, we assert that they are eligible to receive the payment for the same reason that they were eligible to vote in the all-staff ballot- namely, that they are current University employees who will be covered by the new agreement (*Fair Work Act*, s 181(1)).

Section 182(1) of the *Fair Work Act* provides that "*The agreement is made when a majority of those employees who cast a valid vote approve the new agreement*". And as the High Court has recently held, employees are covered by a new agreement as soon as that agreement is made (*ALDI Foods Pty Limited v Shop, Distributive & Allied Employees Association* [2017] HCA 53). Thus, the new *Western Sydney University Professional Staff Agreement 2017* was made when staff returned the 98.58% yes vote on 14 December, and covers staff from that date.

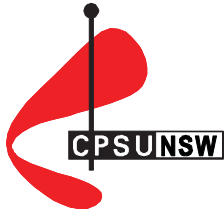
Granted, the entitlements in the new Agreement are ordinarily not available until the Agreement applies (7 days after Fair Work approval). However, clause 17.2 of the new Professional Staff Agreement provides:

17.2.1 Full-time Employees will receive a one-off gross payment of \$500 (pro rata for part-time and casual Employees):

(a) *in the last full pay period of 2017; ...*

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Our understanding of the consensus reached at the bargaining table was that the drafting of the phrase "*the last full pay period of 2017*" was intended to clarify which pay period was being referred to, rather than conferring an obligation for staff to have been employed for the whole duration of that period. It was on this basis that CPSU NSW agreed to the clause.

CPSU NSW have been advised by a number of the affected staff that their end date will be 20 December 2017. The last pay period of 2017 runs from 15 December to 28 December. Therefore, these staff will have been employed by the University for no less than 4 days of the required period, during which time they will also have been covered by the new Agreement.

CPSU NSW maintains that clause 17.2.1 creates a legal obligation which, although it does not crystallise until the Agreement is approved, must apply retrospectively to those staff covered by the new Agreement up to and including the last pay period of 2017 (or part thereof). As such, the staff members we are referring to will continue to have a claim, even if the payment is not made prior to Christmas 2017.

Finally, the University indicated at the Shared Services briefing on 20 December that as few as 20 staff had elected redundancy as a result of those restructures. CPSU NSW do not have the final figures for the outsourcing of Campus Security, however, the final Change Plan suggests that a total of 31 positions were deleted from those affected areas. We also know that not all of these staff will have remained in the University's employ during all or part of the final pay period of 2017. Discounting these staff, it seems fair to place the final estimate of staff who CPSU NSW believe are owed a sign-on payment to somewhere between 40 and 50. Arguably, this is not a very large cohort, so the financial impact for the University would not be significant.

Given what we assert are the clear legal obligations, as well as the small number of affected staff (and associated costs), and the unique nature of their departure, CPSU NSW respectfully requests that the sign-on bonus payment be honoured for those employees affected by the Shared Services and Campus Security restructures who were employed for all or part of the last full pay period of 2017.

Please don't hesitate to contact me in relation to this matter, either via email (jmitchell@psa.asn.au) or on 0499 799 954.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Jen Mitchell', written over a light blue horizontal line.

Jen Mitchell
Industrial Officer, CPSU NSW

20 December 2017

In reply please quote: 98441

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