

Hunter Valley Disability Services update

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1. HVDS transfer of business working party meeting – 28/11/19

On Thursday 28 November 2019, your delegates and industrial staff from the CPSU NSW met again with Hunter Valley Disability Services (HVDS) at Warabrook for a Transfer of Business working party meeting.

The CPSU NSW raised member concerns in relation to the following matters:

- i. Omission of salary packaging arrangements in the HVDS FAQ to staff. The CPSU NSW is investigating the legality of denial of variations to existing salary packaging options for transferred staff comparable to the salary packaging offered to non-transferred staff.
- ii. Request for Joint Consultative Committee and work health and safety consultation arrangements with the individual consortium partners. CPSU NSW is attempting to commence consultation with individual member organisations regarding JCC arrangements and Health and Safety arrangements, including HSRs and H&S Committees, in an attempt to ensure adequate arrangements are in place at transfer and to avoid the lengthy delays that were experienced with HVDS.
- iii. Ongoing access to payroll information by the Roster Support Unit across the

individual consortium partners during the period of transfer of the business. The CPSU NSW is committed to ensuring that staff have ongoing access to information about their pays, including the capacity to raise concerns about pays after the transfer of business.

- iv. Incomplete leave balance information on payslips in particular the omission of Family and Community Service leave balances;
- v. Requested an advance draft of the proposed employment contract before circulation to members in order that we can review the contents; and
- vi. Requested an updated HVDS FAQ's to staff.

HVDS has now provided an updated Bulletin for staff and FAQs found [HERE](#).

The HVDS Bulletin lists a number of key dates from 9 December 2019 commencing with HVDS beginning to contact staff regarding your new employment contracts.

The CPSU NSW has written to HVDS following up our request for the draft employment contract which HVDS assured us two weeks ago that it would provide. Once members do receive your proposed new employment contracts, you are encouraged to read the contents carefully and if you have any concerns you should contact your union delegates or through the Member Support Centre on telephone 1300 772 679 or by email to membersupport@psa.asn.au and quote reference number CN122927.



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The CPSU NSW also wrote to HVDS and requested a further meeting for the transfer of business working party in order to raise ongoing member concerns relating to the transfer of business. HVDS has declined to schedule a further meeting and claims incorrectly that consultation has 'concluded'.

The CPSU NSW has therefore contacted HVDS and reiterated to it their ongoing consultation obligations under the copied State awards and we have listed a number of member concerns including the false claim by HVDS in their Bulletin that 'after the 5yr period has elapsed the Social Community Home Care and Disability Services Award 2010 (SCHCADS) will be the industrial instrument that covers transferring staff'. This extraordinary claim by HVDS flies in the face of every management assurance made by HVDS in the past 2 years that it would adhere to its lawful obligations under the copied State awards and particularly as to ensuring that your conditions of employment are maintained. Your union will strongly dispute any attempts to dilute your award conditions of employment.

Members are reminded that pay and conditions of employment for employees who transferred from ADHC will continue to be covered by the copied State awards for a period of up to five years (December 2022) or until a new enterprise agreement is negotiated with your new employers.

The only way that your pay and conditions will change is if you, the CPSU NSW and your new individual employer (either Ability Options, Connect Ability or Finding Yellow) agree to do so.

Should an enterprise agreement be negotiated in the time between 1 December 2019 and the five-year anniversary of transfer from ADHC, you will have the opportunity to vote on whether you agree with what is proposed. If you are a union member, the CPSU NSW will work with you and negotiate for you.

The CPSU NSW will provide further updates once we have received a response from HVDS. We will also review whether it is necessary to notify a dispute with the Fair Work Commission.

2. Federal Circuit Court prosecution

The CPSU NSW recently advised members that we have commenced prosecution proceedings against HVDS and MNCDS in the Federal Circuit Court of Australia ('FCC').

The CPSU NSW commenced the FCC proceedings because both HVDS and MNCDS breached the Crown Employees (Public Service Conditions of Employment) Award 2009 ('the Award') by failing to establish an effective means of consultation as required by the award and despite numerous representations from the CPSU NSW throughout 2018-19. Recent communications (and lack of) by the HVDS consortium partners regarding future consultation arrangements appear to reflect that HVDS still fails to understand its consultation obligations under the copied State awards.

The CPSU NSW and our lawyers attended a Court ordered mediation conference with HVDS, MNCDS and their lawyers on 4 December 2019.



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The mediation did not finish and the parties will meet again for a further mediation conference on 23 January 2020.

If HVDS and MNCDS do not sensibly agree to resolve the matter by adhering to their award obligations, then we will notify the Judge in order to request a hearing date and seek orders against HVDS (and MNCDS) for payment of penalties for breaching the Award.

Your CPSU NSW staff

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What can I do in the meantime?

You can support the work of the CPSU NSW by asking your colleagues to JOIN their union [HERE](#). If you are not a member, there has never been a more important time to join your union.

Having your union and its collective strength behind you in the workplace is the only way to make sure you get fair outcomes.

