

HVDS – Transfer of Business update

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| <ol style="list-style-type: none"> 1. HVDS transfer of business working party meeting – next meeting 5 March 2020 2. HVDS Transfer of Business – Issuing Contracts of Employment 3. Next Workplace Group Meeting – 4 March 2020 | <ol style="list-style-type: none"> (iii) The consortium members have conceded that staff will be able to continue their existing salary packaging arrangements and enter into new salary packaging arrangements that were available when staff worked for Ageing Disability and Home Care. |
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HVDS transfer of business working party meeting

On Thursday 16 January 2020, your delegates and industrial staff from the CPSU NSW met with Hunter Valley Disability Services at Warabrook to continue discussions regarding the Transfer of Business (TOB) and joint consultative committee matters. The CPSU NSW continued to raise a number of members concerns in relation to the following matters:

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| <ol style="list-style-type: none"> (i) Technological change will be required; including the use of new systems and the transition of records.

The CPSU NSW sought support and training to be provided on work time to those employees where there will be technological changes (FindingYellow and ConnectAbility); the consortium members have guaranteed this will occur.

Records, such as emails and computer drives which are essential to disability staff carrying out their role will need to be transferred onto the new computer systems or access still be provided. The CPSU NSW were assured that these records would be kept and access to email records would be maintained. An ICT project has been set up; if there are any issues post transfer these can be continued to be raised. | <ol style="list-style-type: none"> (iv) With the new effective transfer date of 19 February 2020 the CPSU NSW sought confirmation as to when the last superannuation payment will be made. We have been assured that the superannuation payments will be made to transferred staff within 4 weeks of the transfer. |
| <ol style="list-style-type: none"> (ii) HVDS have advised that any pre TOB payroll enquiries are to be sent to payroll@hvds.org.au. Whilst a specific address to send these enquiries is needed, the CPSU NSW raised that there will also need to be communication between payroll and roster support. We were assured that the line of communication between the consortium partners will still be open. | <ol style="list-style-type: none"> (v) With the transfer of business there will be staff at most sites on both the copied state award and the Modern Award (Social, Community, Home Care and Disability Services Award). It was suggested to assist transferred staff who will be required to navigate both industrial instruments that materials be developed that will assist them in doing so; it has been agreed this will be undertaken in consultation with CPSU NSW representatives. (vi) The lack of responses from info@hvds.org.au has continued to be raised. (vii) There has been confusion from staff regarding the transfer and it was suggested that there be further communication with staff updating them on the transfer process, including the new effective transfer date. HVDS agreed to do that and sent out communication to |



HVDS – Transfer of Business update

transferring staff, this was undertaken in the team bulletin published on 17 January 2020.

- (viii) Working With Children Checks (WWCC) have remained in the contracts of employment despite the CPSU NSW pointing out that it is not a legislative requirement, in fact an exemption, for staff who do not have direct contact with Children. The CPSU reiterated it not a check for staff's suitability to work with vulnerable people, it is specifically children.

The consortium members explained they want to ensure their clients and families that 100% of their staff are safe to work with children. It was their belief the extra probity check is to protect their clients and it will ensure that staff who do not currently have contact with children who may in the future will have the appropriate checks.

After much discussion, it was conceded that if staff are experiencing financial difficulty each of the consortium members will on a case by case basis look to financially assist the staff member in paying for the check.

- (ix) HVDS eventually provided draft copies of the contracts of employment to the CPSU NSW. The CPSU NSW Legal Services team have been corresponding with HVDS and the consortium members. If you would like to read more about your contracts, there is further information below.
- (x) There was some discussion concerning meals whilst working. HVDS assured they understood their obligation under clause 12(vi) of the Copied State Award to provide meals or an allowance and would ensure that there is communication to all staff regarding their entitlements under the copied state award. This was sent on in the team bulletin on 17 January 2020.

Transfer of Business

The consortium members have begun sending transferring employees information packs which includes policies, a contract of employment, a 'welcome letter' and various other documents.

(i) Contract

As you may be aware there has been correspondence between the CPSU NSW and HVDS regarding the contracts of employment. The CPSU NSW has provided extensive feedback and comment on the terms of the contract, noting that the CPSU NSW has not come to an agreement with HVDS or the consortium members on the final version. The outstanding issues and matters members may wish to be aware of:

- i. A clause will remain in the contract which provides that the employer may reasonably direct you to perform your duties at another location without any direction as to what will be considered reasonable. As such any direction to work at another location will have to be assessed on a case by case basis. We advise if you are directed to attend work at another location you find unreasonable to seek advice from the CPSU NSW.
- ii. After seeking for transferring employees to have access to the policies that will apply to their employment, as referenced in the contract, before signing it has been determined by the consortium members that HVDS policies will continue to apply post transfer. Keep an eye out for any changes to those policies.
- iii. A clause has remained in the contract in regards to your duties during employment. The CPSU has objected to this clause as it not necessary and vague in its terminology. You should be aware that such a clause could be used in the future for misconduct and performance management.
- iv. The clause relating to the WWCC remains and you will be required to get/retain these checks whether or not the legislation requires you to do so. If you are experiencing financial difficulty and are unable to get this check you should make



HVDS – Transfer of Business update

contact with HR at the consortium member you are transferring to.

Buried in the documents, it has been requested that you provide a signed copy of your contract to HVDS by 7 February 2020. CPSU NSW will be raising with HVDS the inadequacy of not only the difficulty of finding this information but the short consideration period this is allowing transferring employees. If you require further time contact the employer whom you are transferring to and request it as soon as possible.

If you have any questions in relation to your contract you can contact the CPSU NSW.

(ii) Other Documents

There have been several other documents with the contract of employment sent to transferring employees. In reviewing these there is an apparent typo within the 'welcome letter' stating:

“Unless you decide not to take up the new offer of employment and resign from your position with HVDS before the 18th of February 2020, we will pay you under your new employment terms and conditions from the 19th of January 2020”

These matters are being raised with HVDS with clarity to be provided to transferring employees.

Team leaders have advised that in documentation received to direct them in regards to the TOB they have been directed to advise

“[a]All staff's leave balances are now printing on their payslip. If there are any concerns regarding balances, these must be raised before transfer with payroll@hvds.org.au. Balances cannot be corrected after transfer.”

This assertion by HVDS appears to indicate they believe this transfer of business allows them to avoid paying their staff members their legal entitlements. Rest assured if HVDS do not pay their employees their accrued entitlements after transfer the CPSU NSW will challenge this underpayment in court if necessary.

Next Workplace Group meeting

The next workplace group meeting will be held on Thursday 5 March 2020 at 4:30pm at the Hunter Workers. This will be the first meeting post transfer of business and will be a great opportunity to discuss the problems being experienced by staff.

What can you do?

1. Talk to your workmates about what is happening.
2. Contact the CPSU NSW's Member Support Centre on 1300 772 679 to organise a members meeting
3. Share this Bulletin with other staff.
4. Join the CPSU NSW: cpsunsw.org.au/join

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