

GENERAL PURPOSE STANDING COMMITTEE NO. 1

REVIEW OF THE INQUIRY INTO ALLEGATIONS OF BULLYING IN WORKCOVER NSW

Responses to Questions on Notice – Mr John Hubby – 28 October 2014

1.

The Hon. ADAM SEARLE: Recommendation 8, particularly in your response to the Committee at pages 11 and 12, deals with the memorandum of understanding [MOU] with the Department of Trade and Investment. You indicate that there is a draft which you hope to soon execute. The PSA, in their response, say that they have a number of detailed views about how this arrangement could work or should work, but in their evidence this morning they said that they had not seen a draft and had not been consulted by your organisation about the contents. Do you intend to consult with the PSA and your workforce more generally about the contents of the memorandum before you enter into it?

Mr HUBBY: I will defer to Vivek, who will manage the way the MOU relationship works between the Department of Trade and Investment, Regional Infrastructure and Services [DTIRIS] and WorkCover, but the MOU has now been executed, so it is in place. In response to your question, my comments to Vivek and the way I would work with him on it is, yes, we should consult and, yes, we should engage. If there are problems about the way the MOU is structured or drafted, or executed, or implemented, then there is no document that cannot be amended.

Mr DAVID SHOEBRIDGE: Can you table the MOU?

Mr HUBBY: I will take that on notice.

Answer:

The Memorandum of Understanding provides a high level head of agency agreement which has been agreed between the Department of Trade and Investment and WorkCover.

The draft operational protocols that give effect to the MOU are being developed and the unions will be consulted on those arrangements before they are finalised.

A copy of the Memorandum of Understanding is provided at Attachment A.

2.

Mr HUBBY: I am the employer of the non-executive staff of Safety, Return to Work and I have delegated most of those employment functions to the chief executive officer of Safety, Return to Work.

Mr DAVID SHOEBRIDGE: Which functions have you delegated and which have you not delegated?

Mr HUBBY: I have delegated the vast majority of functions, so most day-to-day management functions of staff. I have got a simple list here of delegated functions that are retained by me as the Acting Chief Executive: misconduct—so any management of misconduct matters I retain the delegation for; a decision following conviction on criminal conduct; employment matters in terms of establishment variations, appointing temporary acting arrangements and higher commencing salaries; appointment of long-term temporary employees as permanents—so the shift from temporary employees to permanent; declaring employees excess; decisions following declaration of bankruptcy; and approval of travel overseas, which is also subject to ministerial approval.

Mr DAVID SHOEBRIDGE: *I assume that is a written delegation?*

Mr HUBBY: Yes.

Mr DAVID SHOEBRIDGE: *Could you provide a copy of that to the Committee?*

Mr HUBBY: Yes.

Answer:

To clarify the answer given on 28 October 2014 in relation to delegations and those responsibilities that have been sub-delegated, the Chief Executive has sub-delegated the operational management of non-executive staff to OFS senior management as detailed in the OFS HR Delegation Manual August 2012. As set out in the delegations manual the Chief Executive retains delegation for a range of general employment related to the senior executive cohort. This includes conduct and matters related to workplace behaviour.

The OFS Delegation Manual and Instruments of Delegations that relate to sub-delegating of employment functions are provided at Attachments B and C respectively.

3.

(a)

Mr DAVID SHOEBRIDGE: *Mr Hubby, in your responsibility and the Office of Finance and Services, do you know how many or what proportion of your employees are in that category of temporary employee?*

Mr HUBBY: *No, I do not know. I will have to take that on notice.*

Answer:

The Office of Finance and Services has 323 temporary employees as at 6 November 2014 per sections 27 and 29 of the *Public Sector Employment and Management Act* (PSEM Act).

(b)

Mr HUBBY: *I am happy to take it on notice and come back to you with the specific plan across OFS and how temporary staff will transition and the transition plans. I cannot lay out the exact process to you today.*

Mr DAVID SHOEBRIDGE: *On notice is fine. I am perfectly happy to get the answers on notice.*

Answer:

The Office of Finance and Services (OFS) is in the process of analysing the impact of changes under the *Government Sector Employment Act 2014* (GSE ACT) on temporary employees as defined by S.27 and S.29 of the (PSEM Act). As each of OFS's divisions has different business requirements, the process for transition will vary based on the area of the organisation and employees affected. OFS is currently managing decisions about temporary employees directly with each business to ensure compliance with the GSE Act and to understand the implications of the changes on their temporary workforce.

Current GSE Regulations – Schedule 4 transitional provisions state that a person may not be employed in temporary employment under the former recruitment provisions for a period that extends beyond 24 February 2015. The Public Service Commission (PSC) has recently released new draft rules for consultation in relation to transitional arrangements for temporary employees under the GSE Act. The changes proposed will impact how temporary employees are managed moving forward and provide greater flexibility than currently provided for under the present Rules. OFS will implement transition plans for temporary employees compliant with GSE Act rules and requirements once clarity around transitional arrangements has been provided by the PSC.

(c)

The Hon. ADAM SEARLE: *Just on that, obviously on notice we would like to know how many temporary employees you have, how many you intend to keep, and all those you are intending to keep. What is the process?*

The Hon. CATHERINE CUSACK: *Just to be positive about this, can I suggest, because not all the temporary employees are affected, maybe you want to ask how many of the temporary employees—*

The Hon. ADAM SEARLE: *I said "How many are you going to keep?"*

The Hon. CATHERINE CUSACK: *But not all of them are affected by the change. So how many are affected? Do you see what I am saying?*

The Hon. ADAM SEARLE: *I understand what you are saying, but working through the detail sector by sector does not necessarily mean they are going to keep them just because they have been employed for less than five years. I want the full picture.*

Mr DAVID SHOEBRIDGE: *I think all those elements are required, and we will get the answer, I am sure. Is that right?*

Mr HUBBY: *That is right. We will take that on notice and we will provide a response.*

Answer:

Please refer to the answer to question 3(a) for the number of temporary employees in OFS.

Please refer to the answer to question 3(b) for the process for transitional arrangement for temporary employees under the GSE Act.

The number of temporary employees who will be retained post 24 February 2015 will vary across OFS divisions based on business need as outlined in the answer to question 3(b). The retention or otherwise of the temporary staff is determined by a number of factors including the GSE transition.