



28 November 2016

Mr Stephen Palethorpe
Secretary
Senate Education and Employment References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

by email: eec@aph.gov.au

Inquiry into Impact of the Government's Workplace Bargaining Policy and approach to Commonwealth public sector bargaining

Dear Mr Palethorpe

I write in response to the Department of Human Services (DHS) correspondence of 21 November 2016 commenting on the evidence provided by the CPSU DHS Bargaining Team on Tuesday 15 November 2016.

We provide the following comments regarding the DHS comments.

Evidence

- Ms Faith stated that "Most of us in the department are women and over 60 per cent of us earn \$50,000 to \$60,000 a year".

Response

- As outlined in the department's 2015/16 Annual Report, the department employs some 8,371 or 22.88 per cent of its staff at the APS Level 2 and APS Level 3 classifications. The salary range for these two classifications is between \$50 580 and \$62 492. Therefore, at most, 22.88 per cent of the department's workforce earns between \$50 000 and \$60 000 a year.

CPSU: The Department have not taken into account part time workers of which there are 12,344 or 34% of staff that are part time, with the vast majority earning less than \$60,000.

Evidence

- Ms Faith cites an example of an employee, "One of my friends at work coaches his son's junior soccer team, as an example, and has to finish early every Thursday afternoon. Under the department's proposed agreement, he would have to renegotiate his normal hours every four weeks".

Response

- Given this employee currently finishes early every Thursday afternoon, they are most likely a part-time employee or a non-rostered employee who has a regular hours agreement. Under the proposed Agreement, part-time work agreements and regular hours agreements will apply for a minimum period of six months and may apply for up to 12 months. Part-time work agreements and regular hours agreements can only be changed earlier with mutual consent. Therefore, this employee would not need to renegotiate their working hours every four weeks.

CPSU: Elida's co-worker negotiated an early finish every Thursday under previous hours arrangements however the new rostering processes that support the new Genesys system mandates that up to 60% of an individual's roster preferences will have to be individually negotiated with their supervisor regardless of demand. This has introduced an increased level of unpredictability of hours that has resulted in this person's decision to forego his soccer coaching.

Evidence

- Mr Hargreaves stated that "The CPSU was ready to start negotiations and consultation in December 2013, 12 months before the end of the current agreement".

Response

- The Department of Human Services Agreement 2011-2014 nominally expired on 30 June 2014. Therefore, the CPSU was ready to commence negotiations some 6 months prior to the nominal expiry of the current Agreement.

CPSU: Yes. This is correct. Mr Hargreaves mistakenly said 12 months instead of 6 months.

Evidence

- Mr Hargreaves stated that "By the time the customer walks in the door, they are already unhappy and stressed and often take it out on the staff. This has seen an escalation in the incidents of customer aggression both on the phone and in front of house".

Response

- Between 2014/15 and 2015/16 the rate of customer aggression reported by staff decreased by 6.5%.

CPSU: The 2015 CPSU survey on customer aggression showed 78% surveyed have witnessed client aggression in the last 12 months. 63% did *not* report the client aggression they witnessed. We believe under reporting of customer aggression in DHS is a serious and ongoing problem.

Evidence

- Mr Hargreaves stated in relation to the National Health and Safety Committee that "during the last 18 months, it has become increasingly strained, with the management representatives becoming more prescriptive and less willing to negotiate with the elected reps" and that "We have actually sought intervention from Comcare, the administering body, with hopes of a resolution".

Response

- The National Health and Safety Committee has operated effectively throughout the bargaining process, noting that it is not in any way linked to the bargaining process nor the Enterprise Agreement. One of the CPSU representatives on the Committee raised a concern regarding the proposed agenda for a particular meeting. The chair of the committee noted this concern and invited the CPSU representative to propose an alternative agenda for the meeting. Instead, the CPSU representative lodged a complaint with Comcare. Comcare have finalised their investigation. They have not made any adverse findings against the department, and they have advised the CPSU that this is not a matter that should have been escalated to Comcare.

CPSU: The fact that Staff Representatives sought the assistance of Comcare to assist with the function of the National Health and Safety committee is evidence of the committee's dysfunction.

Evidence

- Ms White stated that "we do it with pride and with significantly less resources than we did five years ago".

Response

- As outlined in the department's Annual Reports over the past five years, overall staffing numbers have remained relatively steady year on year. Staffing numbers are based on the work allocated to the department by Government and can change based on the commencement or cessation of particular initiatives:

As at	Total Headcount
30 June 2012	36,977
30 June 2013	35,838
30 June 2014	34,773
30 June 2015	34,890
30 June 2016	36,594

CPSU: The Department relies on headcount rather than Average Staffing Levels (ASL) to refute the CPSU evidence. ASL from budget papers indicate that there has been a decline in staff resourcing.

Financial Year	ASL	Headcount
2010-11	34,839	
2011-12	32,714	36,977
2012-13	32,048	35,838
2013-14	29,989	34,773
2014-15	30,017	34,890
2015-16	30,102	36,594
2016-17	29,292	

Also of relevance to this issue is the change in non-ongoing staffing. Since 2011 non-ongoing staff in the Department have increased from 4.2% to 13.6% and 63% of the current non ongoing staff are casual. These jobs have replaced permanent trained staff and do not provide the same level of service. The decrease in permanent staffing has directly affected service delivery standards within the Department.

Ms White's evidence about "doing it with significantly less resources than we did 5 years ago" is correct.

Evidence

- Ms White stated that "with this proposal from the department we see them pitting one group of employees against another based on the type of work that they do".

Response

- The department's current Agreement already provides specific and different conditions of service for rostered and non-rostered employees. These arrangements are not new arrangements that the department is seeking to introduce. It is quite appropriate, and quite usual, for different conditions of employment to apply to employees undertaking different work or working in different environments. For example, the department provides remote locality allowances and additional leave to employees who work in designated remote localities in recognition of the challenges and financial cost of working in such locations. These arrangements are supported by the CPSU, despite it meaning that some employees have access to these arrangements and others do not.

CPSU: The Department is seeking to reduce rights for rostered employees which would result in different rights for this group as opposed to all other employees. The example used of remote localities is inconsistent with the argument put forward by the Department. Further the Department has introduced business rules that treat casual workers differently to all other employees by insisting they give their availability to work in full days only. This has reduced available work availability to working parents with children at home, students and others.

Evidence

- Ms White states that "Morale is at an all-time low".

Response

- The department tracks employee attitudes and opinions through the annual Australian Public Service Employee Census. This year's results indicated that levels of employee engagement have improved across all 4 indicators since 2012, and have continued to increase since 2014 when negotiations for a new Enterprise Agreement commenced. In relation to conditions of employment, 75% of staff are either satisfied or respond neutrally that they are fairly remunerated and 84% are satisfied or respond neutrally with their non-monetary employment conditions.

CPSU: Ms White's comments on the low employee morale is reflective in the feedback received from 700 delegates in 400 sites.

Evidence

- Ms Faith stated that "It is a definite reality that we will have to look at negotiating our hours every four weeks under the department's proposal".

Response

- Under both the current Agreement and the proposed Agreement there are different working hours arrangements for non-rostered and rostered employees. Under the proposed Agreement, working hours for non-rostered employees will be set for a minimum of six months and a maximum of 12 months. At the end of each period working hours will be reviewed, as they are now. Under both the current Agreement and the proposed Agreement, rostered employees will work to a roster which is set for a four week period. Rosters may be developed up to 12 weeks in advance. For each roster period, employees have the opportunity to request their preferred pattern of hours. Every rostered employee who enters preferences, is guaranteed 60% of their preferences, which means that shift allocation will be in line with their preferences for at least 12 out of every 20 days that they work. Since implementation however, all schedules have been built with 85% of preferences being granted, meaning staff are allocated shifts in line with their preferences for 17 of the 20 days they work. All modelling suggests that under normal and expected circumstances, this will continue to be the case into the future as well. Rostered work environments enable the department to adjust its staffing resources to meet customer demand. Approximately 36 per cent of employees work in a rostered environment, with the remaining 64 per cent working in a non-rostered work environment.

CPSU: The Department has implemented a rostering tool which has removed the ability of staff to have predictable patterns of work and the type of work they are doing. Previously they had certainty and reliability that they could use to plan their lives; they now have uncertainty and stress. The new rostering rules which support the Genesys system mandates that up to 60% of an individuals roster preferences will have to be individually negotiated with their supervisor regardless of demand. This has introduced a new and increased level of unpredictability in hours for many staff.

Evidence

- Ms White stated that “If they classify you as a rostered employee, you just work the hours that you are given between 7 am and 7 pm. There is no opportunity to negotiate those hours of work”.

Response

- The bandwidth of ordinary hours is 7am to 7pm Monday to Friday in both the current Agreement and the proposed Agreement. The department has not sought to make any changes to the existing bandwidth. The bandwidth is a concept that differentiates between ordinary employees and shift workers, and denotes the times at which penalty rates will be applied. The bandwidth does not denote the hours that most employees work. Services Centres generally operate between 830am and 430pm Monday to Friday. Call Centres generally operate from 8am to 5pm Monday to Friday. There are a small number of Call Centres who operate with extended hours, either 8am to 8pm Monday to Friday or on a 24 hour basis Monday to Sunday. The Call Centres who operate with extended hours are generally staffed with around 100 staff out of the department’s total staffing of 36 594 (as at 30 June 2016). For the significant majority of employees, there is no business requirement to commence work prior to 8am nor finish later than 5pm. In relation to rostered employees, who generally work in the Call Centres which operate from 8am to 5pm, there is a three phase rostering process in both the current Agreement and the proposed Agreement. This process enables employees to request their preferred pattern of hours. Every rostered employee who enters preferences, is guaranteed 60% of their preferences, which means that shift allocation will be in line with their preferences for at least 12 out of every 20 days that they work. Since implementation however, all schedules have been built with 85% of preferences being granted, meaning staff are allocated shifts in line with their preferences for 17 of the 20 days they work. All modelling suggests that under normal and expected circumstances, this will continue to be the case into the future as well.

CPSU: In relation to negotiation of hours of work for rostered employees, the new Genesys system has removed the ability to set either a start or finish time and therefore introduced unpredictable patterns of hours for staff regardless of their preferences. These changes have seen morale and service standards in decline. The lack of consultation on the impacts of this system has added to the distrust staff have of management's motives.

Evidence

- Ms White stated that "When we merged, Medicare particularly had the extended hours around Thursdays and Saturdays" and "When you start to talk about our telephony lines, there is a whole range of differences. For example, our family line is open from 8 am to 8 pm".

Response

- Medicare services no longer operate extended trading hours on Thursday evenings and Saturdays and have not done so for some years. Services Centres generally operate between 830am and 430pm Monday to Friday. Call Centres generally operate from 8am to 5pm Monday to Friday. There are a small number of Call Centres who operate with extended hours, either 8am to 8pm Monday to Friday or on a 24 hour basis Monday to Sunday. The Call Centres who operate with extended hours are generally staffed with around 100 staff out of the department's total staffing of 36 594 (as at 30 June 2016).

CPSU: Ms White stated 'when' we merged.

Evidence

- Ms White stated that "The big difference is that there is currently a default set of hours that, where agreement cannot be reached, you fall back on, which is an older APS standard of 8.30 until five, with a one-hour lunch".

Response

- The current Agreement provides for default hours for non-rostered employees where they cannot reach agreement on their working hours with their supervisor. There are three different sets of default hours which are set by the supervisor based on business requirements: 830am to 5pm with a 60 minute lunch break; commencement 15 minutes before the opening time of the workplace or 7.45am (whichever is the later), with a lunch break of 30, 45 or 60 minutes; or finish 15 minutes after close of a customer contact period or 5.15pm (whichever is the earlier), with a lunch break of 30, 45 or 60 minutes. Default hours do not currently apply to rostered employees. Default hours arrangements continue to apply to non-rostered employees under the proposed Agreement.

CPSU: Ms White was specifically referencing rostered employees, the Department's response relates to non-rostered staff. The current agreement doesn't differentiate between rostered and non-rostered full time staff, where the 3 sets of default times apply. The draft agreement removes this default for rostered employees.

Evidence

- Ms White stated that “Currently, the process allows for the negotiation of those hours. It does not provide for split shifts”.

Response

- The only reference to split shifts in the current Agreement relates to shift workers. The current Agreement states that shift workers will not be required to work split shifts but may choose to do so. The proposed Agreement maintains these same arrangements. The department has not sought any changes to these arrangements.

and

Evidence

- In relation to split shifts Ms Newman stated that “This is a new and, I would argue, completely retrograde ability that is being sought by the department”.

Response

- The only reference to split shifts in the current Agreement relates to shift workers. The current Agreement states that shift workers will not be required to work split shifts but may choose to do so. The proposed Agreement maintains these same arrangements. The department did not propose to introduce split shifts more broadly during bargaining for the September 2016 draft Agreement.

CPSU: As a result of the implementation of Genesys and the Department’s recent decision to remove access to default hours for rostered employees, there are no limitations to the implementation to split shifts.

Evidence

- In relation to the department’s new rostering tool, Ms Newman stated that “We have seen a new scheduling or rostering software system implemented which has thrown up very odd patterns of hours for people. People are scheduled on tea-breaks an hour after they start a shift, lunchbreaks two hours after starting a shift and then no breaks for the remainder of the day. I think staff have been treated, through the implementation of that rostering tool, to a vision of the future and what it is that the department actually seeks to do”.

Response

- The department has acknowledged that with the introduction of the new rostering tool, there were some teething problems that resulted in some incorrect schedules being generated for some employees. Communications were sent to staff prior to the first schedules being released explaining that this may be the case and for staff to ensure they fully check their schedules and discuss any concerns with their team leaders. These irregularities were corrected by the department when identified or raised by employees. Every rostered employee who enters preferences, is guaranteed 60% of their preferences, which means that shift allocation will be in line with their preferences for at least 12 out of every 20 days that they work. Since implementation however, all schedules have been built with 85% of preferences being granted, meaning staff are allocated shifts in line with their preferences for 17 of the 20 days they work. All modelling suggests that under normal and expected circumstances, this will continue to be the case into the future as well.

CPSU: The new rostering rules which support the Genesys system mandate that up to 60% of an individual's roster preferences will have to be individually negotiated with their supervisor regardless of demand. The Department maintains 85% of preferences have been granted with the new rostering tool. This is not reflected in our member's experience which would indicate there is either a problem with the definition of 'preferences' or 'being granted'. This is currently subject to a formal dispute on behalf of CPSU members and the Department.

Evidence

- In response to a question by the Chair who stated that "I can just see that, if you were not a favourite employee, someone would have the power to determine this roster", Ms White responded that "We are a large organisation, with 400-odd offices, so those sorts of outliers are something that we do experience".

Response

- There is no evidence to support this assertion. Proposed rosters are generated centrally within the department based on the preferences lodged by staff and the forecast customer demand. Staff have the opportunity to seek adjustments to their draft roster with their supervisor, and can escalate any concerns with their draft roster. Every rostered employee who enters preferences, is guaranteed 60% of their preferences, which means that shift allocation will be in line with their preferences for at least 12 out of every 20 days that they work. Since implementation however, all schedules have been built with 85% of preferences being granted, meaning staff are allocated shifts in line with their preferences for 17 of the 20 days they work. All modelling suggests that under normal and expected circumstances, this will continue to be the case into the future as well.

CPSU: The new rostering system was implemented without consultation with affected staff and their representatives and as such, staff have no overview of the result of the implementation and are suspicious of what the preferencing analysis has stated as it is not reflecting their preferences.

Evidence

- In relation to guaranteed planned days off, Ms Faith stated that "Under the draft agreement, that has been removed".

Response

- Under the terms of the proposed Agreement, employees have the right to request that their pattern of working hours includes a planned day off each four week period. Approval is subject to the employee's needs and preferences and the capacity of the workplace to meet its service delivery requirements. The proposed Agreement specifically states that "Your supervisor will make reasonable efforts to accommodate your requests when seeking to reach agreement on your working hours".

CPSU: The Department's response to our evidence has made our point more forcefully than we did. The current agreement guarantees staff a minimum of 1 rostered day off (RDO) per month.

Evidence

- In relation to the introduction of the department's current rostering tool, Ms Newman stated that "It was implemented, unfortunately, with no consultation or input from the union".

Response

- Since 31 August 2012, the department has engaged extensively with the CPSU and our employees in relation to the introduction of the Managed Telephony Service. The department engaged with the CPSU and our employees ahead of the implementation of the current rostering tool, Genesys Workforce Management – one component of the Managed Telephony Service, which commenced in May 2016.

CPSU: Consultation over the Managed Telephony System is subject to a dispute. The CPSU's position is that The Department has failed to consult as per the current agreement.

Evidence

- In relation to training for casual employees, Ms Newman stated that "It is absolutely problematic for service standard levels, which are dropping because casuals do not receive the training that full-time staff receive".

Response

- Casual staff undertake functions that differ from full-time staff, therefore they are provided with different training. The work undertaken by casual staff is generally of a lower complexity. Appropriate training is provided to casual staff to enable them to fully and competently perform the duties that they undertake.

CPSU: Casuals are trained to answer calls from telephone queues in order to manipulate the Department's service standard KPIs and do not address the reasons customers contact DHS. However the increased proportion of casuals has had a significant effect on the Department's standard of service delivery. This is why we continue to campaign that casual workers be given a pathway to permanency so restore the number of permanent well trained staff.

Evidence

- Ms Newman stated that "We had to wait, and not just at the start of our initial negotiations, but generally there has been a long wait ever since. People make their own conclusions about the basis for those delays, but I can tell you that many delegates respond quite cynically to them".

Response

- The *Department of Human Services Agreement 2011-2014* nominally expired on 30 June 2014. In July 2014, the department sought to proceed to a staff vote however the CPSU took action in the Fair Work Commission to prevent the department doing this. The department continued to bargain and progressed to a staff vote on 4 September 2015. Staff chose not to endorse that proposal. Following the release of the Government's revised Workplace Bargaining Policy, the department proposed a revised Agreement which progressed to a staff vote on 5 February 2016. Staff chose not to endorse that proposal. Following a further period of bargaining, a revised proposal progressed to a staff vote on 7 November 2016. Staff chose not to endorse that proposal. The department has held 57 bargaining meetings since commencing bargaining on 11 June 2014. During bargaining, the department has put forward five different pay offers in July 2014, February 2015, September 2015, December 2015 and September 2016. The department has facilitated three staff votes in September 2015, February 2016 and November 2016. The department cannot be held solely responsible for the time taken to bargain for a new Agreement. The CPSU's action to prevent the department proceeding to a staff vote in July 2014 and the choice of employees not to accept any of the offers put forward by the department are contributing factors.

CPSU: The CPSU has not been in a position to dictate the timing of negotiations. The Department and Government have been solely responsible for when they have negotiated and what they negotiate. The CPSU had to seek the assistance of the Fair Work Commission when DHS sought to progress to a vote without allowing our members an opportunity to consult with their union about the content of the proposed agreement. This consultation delayed the proposed date of the vote but did not change the outcome which was a rejection of 83%.

Yours sincerely

Lisa Newman
Deputy National President
Community and Public Sector Union