

Submission on conditions of employment in the Queensland public sector.

Summary

The Newman Government's stripping away of job security from Queensland public servants has not only destroyed over 160 years of Westminster principles protecting the independence of public servants; it has now placed employees like me at increased risk of disciplinary action under relevant Queensland public sector ethics legislation

Relevant legislation.

Industrial Relations Act 1999 (Qld)

691C Particular provisions are of no effect

(1) The following provisions of a relevant industrial instrument are of no effect—

- (a) a contracting provision;
- (b) an employment security provision;
- (c) an organisational change provision.

(2) In this section—

contracting provision—

(a) means a provision about the contracting out, or in, of Services.....

Examples—

The following provisions, as in force on 30 July 2012, are examples of contracting provisions—

- clause 7.3 of the State Government Departments Certified Agreement 2009

employment security provision—

(a) means a provision about job security or maximising permanent employment, including a provision that applies all or part of a government policy about employment security;

Examples—

The following provisions, as in force on 30 July 2012, are examples of employment security provisions—

- clauses 7.1 and 7.2 of the State Government Departments Certified Agreement 2009.....

State Government Departments Certified Agreement 2009

PART 7: EMPLOYMENT SECURITY AND PERMANENT EMPLOYMENT

7.1 Employment Security

The Government is committed to maximum employment security for tenured public sector employees by developing and maintaining a responsive, impartial and efficient public service as the preferred provider of existing services to Government and the community.

7.2 Permanent Employment

The parties are committed to maximizing permanent employment where possible. Casual or temporary forms of employment should only be utilized where permanent employment is not viable or appropriate. Agencies are encouraged to utilize workforce planning and management strategies to assist in determining the appropriate workforce mix for current and future needs.

7.3 Organisational Change and Restructuring

(1) The Government is committed to providing stability to the public sector by limiting organisational restructuring and contracting-out of services.

Public Sector Ethics Act 1994 (Qld)

12H Compliance with code and standard of practice.

A public official of a public service agency must comply with the code of conduct for public service agencies and any standard of practice that applies to the official.

187 Grounds for discipline

(1) A public service employee's chief executive may discipline the employee if the chief executive is reasonably satisfied the employee has—

(f) contravened, without reasonable excuse—

(i)

(ii) a standard of conduct applying to the employee under an approved code of conduct under the Public Sector Ethics Act 1994;

Relevant provisions from the Qld Public Service Code of Conduct (Bold emphasis mine)

The Public Sector Ethics Act 1994 states:

In recognition that public office involves a public trust, public service agencies, public sector entities and public officials seek to promote public confidence in the integrity of the public sector and -

a. are committed to the highest ethical standards;

b. accept and value their duty to provide advice which is objective, independent, apolitical and impartial;

Principle and values

Standards of conduct

1.1 Commit to the highest ethical standards

As public service employees we are required to ensure that our conduct meets the highest ethical standards when we are fulfilling our responsibilities.

We will:

a. ensure any advice that we provide is objective, independent, apolitical and impartial

b. ensure our decision making is ethical

c.

d. meet our obligations to report suspected wrongdoing, including conduct not consistent with this Code.

Accountability and transparency

The Public Sector Ethics Act 1994 states:

In recognition that public trust in public office requires high standards of public administration, public service agencies, public sector entities and **public officials** -

b. are committed to using public resources in an effective and accountable way;

Standards of conduct

4.3 Ensure appropriate use of official resources, public property and facilities
We are accountable for all resources that we use in the course of our duties.

We will:

a. be economical, and avoid waste and extravagance in the use of public resources for proper purposes

Independence of the public service

I expect that the Senate will be swamped with many submissions adopting recent social media "blogging" as well as learned commentary on the negative impact of the Newman government legislation cited above on the independence of the public service. Below is just a sample of this blogging and commentary which I endorse without qualification:

<http://nah-seriously.blogspot.com.au/2012/08/rise-of-government-yes-man.html>

The amendments remove the job security of all Government workers, except police (they obviously didn't have the guts to take on the police union), and means there is now no 'permanency' associated with public service positions. My own job is therefore in jeopardy and the notion of having some security in my employment and financial situation by having a public servant job is in dust.

So the Government's cheer squads in the media and in blogs and on forums rally and start screaming "so what, we in the private sector don't have any security, why should public servants?".

And therein lies the cause of my frustration and the cause of my growing anger. Because it comes down to choice. I chose to become a public servant because I rated things such as job security, flexible working hours and work-life balance over other things such as salary, bonuses, etc. Maybe I could earn more money in the private sector, but I chose the public sector because I believe in work-life balance and job security over earning another \$20,000-\$40,000 a year.

And in turn, people in the private sector make a choice too. They decide that salary and other benefits that private enterprise gives them - bonuses, travel, paid-for work functions, more autonomy over their roles - are more important than job security and access to flexible working hours, etc. Different people make different choices. The essence of economics.

But the main issue I take with the call for public servants to be treated no differently to private sector employees, is the lack of any understanding whatsoever as to what the public service is there for and what it actually does. Because there is a real

reason why public servants have traditionally had job security and been granted a level of permanency in their positions. And no, its not because of the previous Labor Government and some deal done with the unions.

The notion of permanency for public servants actually goes back to the 19th century and is a core principle of the Westminster system of government (that's our system of government for those who need explaining). Up there with the Separation of Powers no less. It's been around for over 160 years and is in place in governments and nations all over the democratic world.

The reason for it, is so that public servants can offer their political masters 'fearless and frank' advice without fear of being sacked for doing so. The whole point of having a permanent public sector is to create a professional civil service that can base its analysis and advice on the long-term and not the electoral cycle like politicians do. Basically, so they don't live in fear of being sacked just because they said to a Minister or a Premier "sorry sir, but that idea is not a good one".

Instead, with public servants now having no job security, that sort of counsel and that sort of examination of an issue will be diminished and the Government will no longer get 'fearless and frank' advice about what it wants to do and the things it's involved in. And believe me, from someone on the inside, the public service is actually the quality control measure that stops some of the crazy and inappropriate things politicians want to do.

Perhaps that's why this current Government dislikes the public service so much. They want to be surrounded by 'yes men' and they don't want advice of the 'fearless and frank' kind. They're a 'Can-Do' team after all. "Don't think. Don't examine. Don't consider. Just do!" seems to be their mantra, with apologies to the late great Hawthorn coach, John Kennedy.

And public servants are nothing but desk jockeys and no-one will miss them. We've got 20,000 too many apparently so let's change a system that's been in place for 160 years and forms the basis of our system of government just so this year's Budget can look a little better. All against the foundations of Queensland's public administration and one of the basic tenets of our democracy.

So to all those crying out and saying "why should public servants have permanency when I don't?", there's your answer. The public service is not the private sector and it should never operate like it either. You want the 'best' and most considered advice being given to government, not the advice that the Minister or the Premier wants to hear. And that's why the notion of permanency for public servants has, until now, been in place since Queensland became a functioning democracy. Not even Joh tried on what this Government is doing.

<http://www.news.com.au/national/comment-public-servant-fear-risks-system/story-fndo4ckr-1226459215084>

"This destroys the 160-year-old spirit of a Westminster public service and suggests the Newman Government understands neither history nor public administration.

Permanency of employment was set down as a core principle in the landmark Northcote-Trevelyan Report in 1853, designed to create a professional civil service in which workers could offer frank advice to political masters without fear or favour.

The benefit of permanency was created as compensation for the withdrawal of other rights, such as the liberty to speak publicly on political issues.

It has stood all Westminster civil services in good stead for one and a half centuries, but has now been removed in Queensland for the spurious reason of "providing an affordable public service for Queensland".

Few would quibble with any government's demand for public efficiency, but the removal of job security has as much in common with affordability as a premier does with a paper clip.

The Cabinet's zeal to enshrine in law the power to remove any public servant - free from Supreme Court appeal - can lead only to speculation Newman's job reductions will exceed his own target of 20,000.

But a shrunken public service must inevitably lead to more outsourcing outside ministerial control. And we all know how that ends. Remember the health payroll scandal?

Disciplinary action

The Code of Conduct provisions as cited above govern my employment in the Queensland public service. The next time I draft a Briefing Note to the Minister of the day or to the Director-General of my department, I will be looking over my shoulder knowing full well that if I provide advice "without fear or favour" it may well result in me being placed on the dreaded Employees Requiring Placement (ERP) List pursuant to the Public Service Commission Directive No 6 of 2012:

<http://www.psc.qld.gov.au/library/document/directive/2012/2012-6-employees-requiring-placement.pdf>

Pursuant to the terms of that directive, I would have only four months (in some cases less than that as stipulated in the directive) to find placement elsewhere in the public service and if another position cannot be found, I would then be made redundant without further notice.

So what choice do I have as a public servant? Very little it seems if the Code of Conduct provisions are any indicator. For example, I have an obligation under that Code to provide "objective, independent, apolitical and impartial" but how can I discharge that obligation when I face being placed on the ERP list if my political master takes a disliking to my advice?

Likewise I have an obligation under the Code to using "public resources in an effective and accountable way" and to report any suspected wrong doing in that regard. Now that the Newman government has rendered all "contracting-out" provisions as of no effect in industrial instruments (see above IR legislation as cited), I may well witness the outsourcing of formerly core public service work to contractors who submit invoices well above the cost of employing public servants to provide the same service. Do I now choose to ignore the reporting of such invoices as a waste of public monies under that possible scenario because I risk being placed on the ERP list as a result of such reporting? If I so choose to ignore it and a subsequent investigation of any related complaint about excessive contractor charging reveals my knowledge of the matter and my failure to report it, don't I face possible dismissal under the Code of Conduct / Public Sector Ethics legislation cited above?

Would private sector workers in my situation face the same disciplinary risks? I would respectfully submit in the negative.