



Mr Terry Moran AO
Secretary
Department of the Prime Minister and Cabinet
PO Box 6500
CANBERRA ACT 2600

Dear Mr Moran

We write on behalf of the CPSU members who are employed by State and Federal governments concerning the impacts of the transfer of functions between tiers of government. Consideration of industrial implications of any proposed change is critical to ensuring seamless transfer between jurisdictions, and trouble-free administration and regulation of those national goals.

The CPSU, representing both Federal and State public sector employees, proposes that the Federal and State governments negotiate and conclude a Memorandum of Agreement with the union, on the Principles for the Transfer of Employees affected by COAG and other inter-jurisdictional agreements.

Background

State and Federal Governments have made agreements to simplify regulatory arrangements or to rationalise public services and activities between the jurisdictions. Some of these agreements were made under the former Federal government, and some continue to be made through the continuing COAG deliberations.

The harmonisation of regulation that was traditionally the preserve of the States has involved the exchange of functions or the centralisation of services between the State and Federal Governments.

Transfers of functions between jurisdictions invariably involves the transfer of employees. However, the impact on employees and their union of harmonisation of a function that had resided in the States is rarely considered in COAG deliberations, if at all. Presently, there is no nationwide agreement on the transfer of employees nor a common understanding of the effect on important entitlements such as length of service, superannuation and accrued leave entitlements including long service leave, and parental leave. Further, there is no COAG commitment to consult with the unions who represent affected employees.

The absence of an agreed process for any transfer of employees is of concern. There is a serious risk that without an agreed approach, an inefficient process of repetitive agency by agency renegotiation for individual employees or groups of employees will develop. There is also a risk that employees may be disadvantaged or have current entitlements removed.

As the union representing these Public Sector employees both at the State and Federal level, we have recently observed unacceptable processes being adopted by some agencies who are implementing decisions of COAG, in respect of certain areas of regulatory reform.

Already, at least one Federal agency has representatives visiting individuals who are employees of some State departments and agencies, to discuss the employment and industrial relations arrangements they might find themselves under in Federal government employment.

These programs of "visits" are being undertaken without the knowledge of the State Public Sector Management Authority which is the ultimate employer, nor the State Public Sector Union which is their representative, and party to the State Employment Award and Agreement.

A Memorandum of Agreement

A Memorandum of Agreement should deal with:

- the employees' right to consultation and representation by the union in any transfer discussions
- no loss or disadvantage in employment arrangements including continuity for accumulated service entitlements,
- access to comparable superannuation.
- Prohibition on forced transfer of employees from one jurisdiction to another and employees are to have rights to redeployment without loss of status if they decline an offer of transfer.

State and Federal Agencies should be advised of the proposed Agreement and any transfer of employees should be subject to it.

Negotiating the industrial and other service entitlements arising from transfer of functions and changes of employer for Public Sector employees between the Commonwealth and the States is not novel. Over the last 25 years we have done the same in areas such as AQIS and Meat Inspection Services, Corporate Affairs and Legal Aid to name a few.

The union understands that there are several areas where transfer may arise in the future. These include Trade Measurement, Personal Property Security Register, Workplace Relations Inspectorates, and in Rail Safety Regulation. In some cases timetables have already been set and staff have been approached.

An agreement on the transfer of staff will be necessary for these and other Government functions in the future.

We would welcome the opportunity to progress discussions with you as soon as possible.

Yours sincerely



Stephen Jones
CPSU – PSU Group



David Carey
CPSU – SPSF Group

25 November 2008