



Industrial Relations Commission New South Wales

2022/00106180 LIVERPOOL CITY COUNCIL v NEW SOUTH WALES LOCAL GOVERNMENT, CLERICAL, ADMINISTRATIVE, ENERGY, AIRLINES AND UTILITIES UNION

RECOMMENDATION

As things stand, it is my understanding that ASMOF wishes to engage in mutual gains bargaining albeit in two streams, as it were. The first, which would be dealt with perhaps on a more expedited basis, would be to deal with the dispute which is the subject of the 2022 proceedings. The second would be to address the Health Secretary's application for variations to the award in the 2023 matter.

The Health Secretary is open to mutual gains bargaining within the meaning of Ch 2A of the *Industrial Relations Act 1996* but does not agree to the separation of the two matters. Her position is that the matters arising out of the dispute the subject of the 2022 proceedings and the award variations that are sought have implications and resonance beyond the Sydney Children's Hospital Network, and so therefore the bargaining should be dealt with holistically.

Since I issued to the parties my statement in the 2022 matter, the Health Secretary has made it clear that the matters arising from that statement have implications beyond the Sydney Children's Hospital Network. The Health Secretary flagged at an early stage that an award application would be made to address the matters arising. That application was filed on 26 June 2023, giving rise to the 2023 matter.

I understand and have some sympathy for the Federation's position, which is that the staff specialists the subject of the 2022 proceedings have been waiting some time for

their particular issues to be addressed. However, the commencement of mutual gains bargaining at the broader or more holistic level to which I have referred ought not necessarily preclude any matters affecting those staff specialists being dealt with in a particular way as part of the bargaining process. I am not suggesting that that will necessarily be the case in all respects or in any respect, but it is in the nature of bargaining between parties that they can determine what it is that they ought to be addressing as a priority.

Consistent with these comments, and with what Mr Taylor identified as something that I have described several times as my “soft preference”, it is my recommendation that the parties enter into mutual gains bargaining pursuant to Ch 2A of the *Industrial Relations Act* in respect of all of the matters arising out of both the 2022 and 2023 proceedings and that, in the meantime, each of files 2022/9840 and 2023/204348 be stood over generally pending the outcome of that bargaining.

Consistent with what I understand to be the effect of the terms of the *Industrial Relations Act*, it will be a matter for the parties to determine whether they wish to appoint a facilitator to assist in the bargaining and whether that facilitator is to be a member of the Commission. Suffice it to say, notwithstanding the terms of the Act making it mandatory for the Commission to be involved if requested, the Commission would obviously be only too willing to assist, if required, to facilitate the bargaining in the hope of resolving the matters which have now been outstanding between the parties for some time.

Damian Sloan

Commissioner

18 March 2024