

March 2016

Submission to the Future of Work Commission

Introduction

The New Zealand Public Service Association : Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand, representing 62,000 members across the country who work in the core public service, the state services, DHBs, community-based public services and local government. Approximately 54,000 of our members are either directly employed by the state, or work for service providers who are funded by the state. The balance of our members work in local government which raises its funding through rates.

We support the submission of the New Zealand Council of Trade Unions : Te Kauae Kaimahi and were part of the discussions on it. We know that other unions will be putting forward their thinking to the Commission; this brief submission aims to make points that are specific to the PSA membership and supplements the substantive CTU submission.

We welcome the discussion papers published by the Commission and look forward to participating in the conference at the end of March.

The PSA's vision of transformed workplaces

PSA members have said that they want to work in workplaces that are: fair and secure; healthy and safe; enable career development; personalised; and high-trust and effective. These 'Transforming our Workplaces' themes have a broad similarity to the Future of Work Commission's objectives. We believe that progressive thinking (and transformative action) about the roles of work and workers is needed to realise the vision of the workplace of the future. Workplaces are central to the consideration of the future of work, and we think that this should have much greater emphasis in the next iteration of the suite of papers that the Commission has issued.

Summary

We have a number of suggestions for the Future of Work Commission about what could contribute to transformed work and workplaces for the public sector.

- Placing workplaces at the centre of Future of Work thinking
- Being explicit about the need for equal pay, and in particular using the levers at the disposal of the state to ensure that it happens in the state services and in jobs funded by the state
- Getting the right settings for employment legislation (including repealing most of the Employment Relations Act amendments), and strengthening the role of unions
- Making the state services an exemplar Future of Work employer:

- Requiring responsible contracting for jobs and contracts funded by the state
- Boosting employment relations and human resource capability in the state services
- Advancing high performance / high engagement workplace practices, with union involvement, in the state services
- Using levers such as Government Workplace Policy Statements and Letters of Expectations to Crown entities to support the objectives of the Future of Work in the state services.
- Establishing common terms and conditions of service, including portability of service, in the public service
- Establishing a mechanism for sourcing work across the state sector system, so that workers whose jobs are changing can maintain employment security

Equal pay

The PSA recently made a presentation to the Jobs & Growth Caucus on equal pay. We believe that the Future of Work Commission should include an explicit reference to the necessity of achieving equal pay both in the state services and in the wider economy. Unequal pay impacts across the wage spectrum; from low paid women in female-dominated occupations through to higher paid women in professions. While negotiations are currently underway which we hope will lead to a settlement of the Terranova court case and to positive outcomes for a group of very low paid women, the issue will remain one of the most pressing ones for all women workers, now and in the future. We believe that the state services should be an exemplar in leading the way for equal pay for women state servants, and for women in jobs funded through contracts with the state.

The state as an exemplar employer

The PSA believes that the state has both the opportunity and the duty to lead by example on the objectives of the Future of Work: it should use the levers at its disposal as an employer and funder to realise them in the state and in jobs supported by funding from the state. By demonstrating that best practice delivers on the Future of Work objectives, government will be in a much stronger position to influence the wider economy.

The state is the largest employer in New Zealand ...

The state is the largest employer in the country¹; it includes the core public service which is closest to ministers, and widens out to the education sector, health sector, state owned enterprises, mixed ownership model companies, police, and the defence forces. The state sector employs 13% of the New Zealand workforce (296,100 people in 2013). It is a significant urban employer – 28.2% of the Auckland workforce; 19.1% in Wellington – and in the regions. Many of these regional jobs (particularly in education, health, and public service) require higher educational qualifications which are reflected in wage levels above the regional average, and these are important contributors to local economies².

¹ <http://www.ssc.govt.nz/sites/all/files/statesector-workforce-key-facts-june15.pdf>

² Since 2009 there have been a number of public service job cuts in the regions and the PSA has argued that this has a significant local economic impact, not just on affected families but also on the local businesses where they spend their wages.

State funding supports many more jobs ...

The state is not only a direct employer; it also funds private and not for profit providers to deliver services that were previously provided directly by the state (such as home support, disability support, aged care, social services, health, social and justice sector services, mental health and addiction services). Contracts for these services are issued and monitored by government agencies, including DHBs and the Ministry for Social Development. The workforce in this sector is predominantly female, and mostly paid at minimum wage or slightly above. Many of them have precarious and insecure work, with irregular hours, and little or no access to training and development. Given that the social services sector is one of the principal growth areas of the labour market, it is important that this work is stabilised and improved.

Security of work, and maintaining income security, is properly a strong focus in the Future of Work thinking. The impacts on workers of outsourcing jobs are well known, and research in the UK³ puts it very plainly: *The most salient consequence of outsourcing, indeed, is not to drive up quality but to drive down wages. Low paid workers bear the brunt, in one case losing up to 40% of take home pay after being transferred to new employers*⁴. The state services of course has mostly contracted out its low-paying jobs a long time ago – such as cleaning and catering, as well as home support, and the New Zealand experience is no different to the UK experience in the research.

The PSA believes that the current contracting model needs fundamental re-examination to support multi-year contracts and responsible contracting principles, which include secure work, decent terms and conditions, adequate and fair wages (Living Wage as a minimum), access to training and development, and fully funded contracts. Responsible contracting principles should also include social and environmental responsibility.

The state is also a major purchaser of goods and services, and government should use its procurement and contracting powers to ensure that suppliers act in accordance with the objectives of the Future of Work. This should also include commitment to equal pay.

Develop the system's capability and capacity in employment relations ...

For a long time, we have observed a lack of employment relations and human resource capability in the state services (it is a common theme in the SSC's Performance Improvement Framework reports on agencies). We believe that an incoming government should make it clear to chief executives that it requires ER and HR capability to be boosted, and that working productively and positively with unions on the employment relationship and outcomes is expected.

Significant changes to the mediation service are underway, including reducing both the numbers of specialist mediators and the locations where the services can be accessed. We believe that this is a retrograde step, denying workers access to effective and efficient employment dispute resolution services. We advocate further investment in the service and in specialist mediators.

³ <https://smithinstitutethinktank.files.wordpress.com/2014/09/outsourcing-the-cuts-pay-and-employment-effects-of-contracting-out.pdf>

⁴ <http://www.theguardian.com/society/patrick-butler-cuts-blog/2014/sep/22/outsourcing-same-job-same-hours-less-pay>

Getting the right policy and legislative settings ...

We believe that economic departments should be directed to focus on policies and programmes that not only support businesses to grow and become more productive, but also support the well-being of the workforce. The Future of Work rightly focusses on the need to create more and different jobs to grow the economy, but the right balance so that work is decent and fairly paid must also be part of the equation. Getting the right employment legislation settings is part of this; we believe that the amendments to the Employment Relations Act introduced since 2009 should be mostly repealed (the exception being the flexible working arrangement improvements). They stand in the way of decent work, and promote low pay and insecurity. There should be strong legislative and political support for collective bargaining and for the role of unions.

High performance / high engagement work practices ...

Flexibility and flexicurity will only flourish in workplaces and situations where there is high trust between employers and workers. The PSA is a strong advocate for high engagement / high performance work practices, where workers and their unions are fully involved in working with management to improve productivity, efficiency, work design, and autonomy over tasks and decisions, leading to mutually respectful and effective work relationships and a strong workplace culture that normalises flexibility and flexicurity. Max Ogden has put in a thoughtful submission on this, via E tū, which we support.

Levers that can promote the Future of Work in the state services

The government has a number of levers at its disposal which do not require legislative change, and we suggest that the Future of Work Commission should consider how they might be used effectively to further the objectives of the Commission in the state services, and in the wider economy.

The State Sector Act 1988 (the Act) is the principal legislation for the state services (with the Public Finance Act 1989 and the Crown Entities Act 2004). The Act sets out employment arrangements for the core public service and for the state sector. At the time of the 2013 amendments to the Act we made a major submission stating how the legislation could be amended to support better and more productive employment arrangements, and we had a number of useful conversations about the thinking that underpinned our proposals with the Labour state services spokesperson of the time. It would be good to revisit these recommendations for legislative change at some point, but there are more immediate actions that can be taken short of amending the Act.

One of the objects of the Act is “to uphold a State sector system that... is supported by effective workforce and personnel arrangements; and meets good-employer obligations...”. These obligations are cascaded through the State Services Commissioner’s functions to “promote strategies and practices concerning government workforce capacity and capability; and promote good-employer obligations in the Public Service” and then again through the obligations of chief executives.

The 2013 amendments gave the Minister of State Services the ability to issue Government Workforce Policy Statements (GWPS) for single or groups of departments or crown entities. The intention is that these should relate to workforce (including employment and workplace matters for the purpose of fostering a consistent, efficient and effective approach across the state sector).

For Crown Entities, responsible Ministers issue an annual Letter of Expectations to the Chair of the Board setting out how the entity is expected to deliver on government policies and priorities.

Both the Government Workforce Policy Statement and the Letter of Expectations are tools that are available to Ministers to issue policy directives, and we recommend that they should be considered as possible levers for achieving the objectives of the Future of Work in the state services.

Getting the right settings for flexicurity and flexibility in the state services ...

The PSA supports the emphasis in the discussion papers on flexicurity and flexibility and on 'just transition'. Jobs are changing; work is changing and current and future workers must be supported to adapt to these changes. But this must not be at the cost of decent work; flexibility should not be imposed on workers by the employer. It should be a genuine choice mutually agreed by the worker and the employer, with outcomes that are good for both parties. Many workers are relatively powerless in the face of zero hours contracts, fixed term and short term agreements and the other manifestations of insecure and precarious work that suits the employer's model of work.

The role of unions is crucial in ensuring that the terms and conditions of flexicurity and flexibility do not disadvantage workers. The Danish approach to flexicurity is seen as a model; we point out that it operates in a high union density environment. For many New Zealand state services workplaces (and in the wider economy), we start from a lower base and building up the presence and role of unions is needed. Having an employment relations framework and legislative settings that establish a fair and just balance of power between workers and employers, and strengthens the role of unions, should be a major objective for the Future of Work.

The State Sector Act has established the chief executive of each department as the employer, with delegations from the State Services Commissioner to set the employment terms and conditions for his / her agency within the requirements of the Act. Effectively this means that there is considerable variation and lack of consistency in the public service. The PSA believes that this works against flexibility and employment security in the public service and we recommend that an incoming government should look early on in its term at the levers it can use (including legislative change), such as:

- Setting up common terms and conditions across the public service, including portability of service (currently a person who leaves one department to work for another loses any service entitlement, such as more annual leave)
- Establishing a mechanism for sourcing work across the state sector system, so that workers whose jobs are changing can find new jobs while still maintaining security of employment.

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