

6 April 2020

At 5.00 pm

Item 3.2 - Minute by the Lord Mayor - Managing the Workforce during the COVID-19 Pandemic



Council

Agenda

- 1. Confirmation of Minutes**
- 2. Disclosures of Interest**
- 3. Minutes by the Lord Mayor**
 - 3.1 Pyrmont Peninsula Place Strategy
 - 3.2 Managing the Workforce during the COVID-19 Pandemic
- 4. Memoranda by the Chief Executive Officer**
 - 4.1 Emergency Delegations to the Lord Mayor - Coronavirus Pandemic
- 5. Matters for Tabling**
- 6. Report of the Corporate, Finance, Properties and Tenders Committee**
 - 6.1 Disclosures of Interest
 - 6.2 Investments Held as at 29 February 2020
 - 6.3 Post Exhibition - Smart City Strategic Framework
 - 6.4 Policy - Adoption - Fraud and Corruption Internal Reporting Policy
 - 6.5 Lease Approval - Part 540 George Street, Sydney and Stratum Stair Access Town Hall - Woolworths Group Limited
 - 6.7 Exemption from Tender - Supply and Installation of Hoardings for Fig and Wattle Streets Depot and The Bulk Store at Bay Street Depot
- 7. Report of the Environment Committee**
 - 7.1 Disclosures of Interest
 - 7.2 Project Scope - Ernest Pedersen Reserve, Glebe
- 8. Report of the Cultural and Community Committee**
 - 8.1 Disclosures of Interest

Agenda

Cultural and Creative Sub-Committee

8.2 Memorandum of Understanding - ANZAC Day 2020-2022

8.3 Public Exhibition - Archives Collection Management Policy

Healthy Communities Sub-Committee

8.4 Public Exhibition - Draft Mobile Voluntary Services Policy and Guidelines

9. Report of the Transport, Heritage and Planning Committee

9.1 Disclosures of Interest

9.2 Award of Heritage Floor Space - Capitol Theatre, Haymarket

9.3 Fire Safety Reports

10. Questions on Notice

11. Supplementary Answers to Previous Questions

12. Notices of Motion

12.1 Congratulations Lucy Turnbull AO

12.2 COVID-19 Guidelines for Strata Buildings

12.3 Coal Mining under Woronora Reservoir

12.4 Just and Resilient City

12.5 Pyrmont Peninsula Place Strategy

12.6 Powerhouse Museum

Item 3.2

Managing the Workforce during the COVID-19 Pandemic

File No: S051491

Minute by the Lord Mayor

To Council:

The City has acted swiftly to respond to the COVID-19 pandemic, including closing a large number of our facilities in accordance with Federal Government mandates to slow the spread of the virus. We have also put in place a range of support measures to mitigate its impact.

In addition, the City prioritised measures to secure the health and safety of its staff. Since 16 March 2020 all City staff who could work from home were asked to do so. IT access was fast-tracked and now supports all City staff with access to email, calendars, and video conferencing. Over 1,600 staff can connect into the city network to access key business systems.

For essential workers who cannot work remotely, such as our Rangers and Cleansing and Waste staff, Work Health and Safety risk assessments have been undertaken and new work procedures introduced.

While some of our staff are working harder than ever, the closure of so many of our facilities has left some staff with little or no work to do. The City has maintained pay to all permanent full time and part time staff, and is working on redeployment opportunities where possible. Staff are already being redeployed to other activities such as managing the new enhanced grants program and concierge service.

This pandemic has underlined the inherent problems with the ongoing trend to casualisation of Australia's workforce. It is something that the City has endeavoured to avoid.

However, there has been a need to employ casuals to fill irregular needs and vacancies, such as a permanent staff member being on sick leave. I am advised the City employs 135 casual staff, a small fraction of our total number of almost 2000. I believe we have responsibility to support our casual staff, and I take this very seriously.

Our casual staff were advised that many of our operations have been suspended due to the global COVID-19 pandemic, but approximately 45 casuals are still receiving shifts – such as after school care and childcare centres and Meals on Wheels. This may of course change as the situation further evolves.

All casuals are still on our system and considered employees of the City. The work is only suspended while some operations have temporarily ceased due to new measures restricting services. At no time did the City terminate the employment of any casual.

It has been my expectation that all our casuals would continue to be paid by the City until they are able to access government assistance.

On 25 March 2020, Local Government NSW (LGNSW) and the three relevant unions – the United Services Union, the Local Government Engineers Association and the Development and Environmental Professionals Association – signed a statement outlining a collective approach on how to manage casual staff. The agreed guidelines for councils across NSW were to pay casuals affected by closures four weeks' pay, and the City moved to adopt this approach. This statement is attached to this Minute.

While it is important that councils try and act collectively on these matters, it will be impossible if collective agreements cannot be reached and honoured.

It is now clear that the closure of our facilities could be for up to six months. With the uncertainty of Federal and State Government support for local government workers and the likelihood of longer term closure of our facilities, it is clear that the agreement signed by Local Government NSW and the unions does not go far enough.

Therefore I am asking Council to request the Chief Executive Officer to maintain the employment of existing City employees, including all casuals, on their current pay and employment conditions until the Council is able to fully consider the implications of the Federal and State government support packages and how they apply to councils, and the financial implications of the options that council may consider.

There will be many challenges for the City in managing its workforce throughout this period, including reallocating staff to areas experiencing high or new demands due to the Pandemic, finding enough productive work for all employees whose normal work has ceased or decreased, and maintaining employee's ongoing connection to the workplace.

There is also a significant financial cost to the City, given more than half the City's operating expenditure is salaries and wages.

It should be noted that the Victorian Government has announced a \$500 million Working for Victoria Fund that will help workers who have lost their jobs to find new opportunities. Through this Fund, Victorian councils who are maintaining their workforce will receive funding to employ staff in key essential roles and deliver critical community functions. It is an oversight that such an initiative has not been negotiated with the NSW Government, and should be a top priority for Local Government NSW.

The Chief Executive Officer should consider the measures required to manage the workforce during the pandemic and bring a report back to the next Council meeting on a package of measures, inclusive of their cost.

Recommendation

It is resolved that:

- (A) the Chief Executive Officer be requested to maintain the current pay and employment conditions of our existing casual employees impacted by the closure of our facilities until Council considers the financial impact of the COVID-19 pandemic at its next meeting; and
- (B) Council note that the Victorian Government has announced a \$500 million Working for Victoria Fund that will provide funding to local councils to employ workers who have lost their jobs, and request the Lord Mayor write to the Premier seeking financial support for NSW councils to enable them to continue to provide essential services to the community and support the local government workforce.

COUNCILLOR CLOVER MOORE

Lord Mayor

Attachments

Attachment A. Joint Statement by Local Government NSW and the Unions

Attachment A

**Joint Statement by Local Government NSW
and the Unions**

Joint Statement (Revised): Responding to the Coronavirus (COVID-19) pandemic

Introduction

On 17 March 2020 Local Government NSW (LGNSW), the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union (USU), Local Government Engineers Association (LGEA) and Development and Environmental Professionals Association (depa) issued a Joint Statement to provide guidance to Local Government employers and employees on how to respond to the COVID-19 pandemic. Since then, the situation has developed at a rapid pace and we have determined that it is necessary and appropriate to issue this revised **Joint Statement**.

We recognise that a uniform approach is not possible and timely decisions need to be made that are appropriate to the specific circumstances and available resources.

This Joint Statement establishes what we consider to be the minimum standards that should apply. Employers may wish to supplement the provisions of this Joint Statement.

Work Health & Safety (WHS)

Work Health & Safety (WHS) is paramount and must be at the forefront of everyone's mind when responding to the COVID-19 pandemic.

Employers (persons conducting a business or undertaking) have a primary duty of care under section 19 of the *Work Health and Safety Act 2011* (WHS Act) to ensure, so far as is reasonably practicable, the health and safety of workers, contractors and other persons at the workplace, and that persons are not put at risk from work carried out as part of the business or undertaking.

Workers and every other person at a workplace (including councillors) have a health and safety duty under sections 28 and 29 of the WHS Act to take reasonable care for their own health and safety, to take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons, and to comply, so far as they are reasonably able to, with any reasonable instruction that is given by the employer or to allow the employer to comply with the WHS Act.

Unable to work due to illness associated with COVID-19

If an employee is sick, current sick leave entitlements and conditions apply as per clause 21A [Sick Leave] of the *Local Government (State) Award 2017* ("**Award**").

Where an employee's paid sick leave entitlement is exhausted, additional sick leave may be granted in accordance with clause 21A(ix) of the Award. Alternatively, the employee may apply to use other forms of accrued leave under the Award (e.g. annual leave and long service leave).

Where the employee has exhausted all accrued leave entitlements under the Award, the employee may apply to the employer for special leave, either with pay or without pay, as per clause 21L [Special Leave] of the Award. Any such requests shall not be unreasonably refused by the employer.

Working flexibly

Employers are encouraged to explore flexible work arrangements to help reduce the spread of COVID-19 and to enable employees to better manage their work and family responsibilities during the crisis, taking account of any protection measures recommended by NSW Health and/or Commonwealth health authorities. Requests for flexible work should be managed in accordance with clause 22 [Flexibility for Work and Family Responsibilities] of the Award.

Where employees are working from home whilst also providing care to a family member, it is expected employees can balance caring responsibilities with their ability to undertake productive work, or other leave provisions can apply.

Where there is a requirement to ensure that each workplace remains open at all stages, employers may deploy employees into other roles of the business where possible, in accordance with clause 8 [Use of Skills] of the Award. Employees may be required to undertake different work (most likely for essential work) as directed by their employer.

Exclusion from the workplace due to isolation requirements

Where an employee is not sick but is directed not to attend the workplace due to isolation requirements, employers should identify options for employees to work from home during the quarantine period.

Where work is unable to be provided to employees who are required to self-isolate (in accordance with isolation requirements set by State and/or Commonwealth health authorities), the employees should be paid as normal and placed on paid special leave for the length of the isolation (which as at 19 March 2020 is 14 days) provided that:

- (i) Employees have a right to request an extension to, or further period of, paid special leave, and such requests shall not be unreasonably refused by the employer;
- (ii) Employers may refuse to grant paid special leave to employees who are required to self-isolate on more than one occasion as a result of not adhering to the [social distancing guidance](#) of State and/or Commonwealth health authorities. An employer bears the onus of establishing that an employee did not adhere to the [social distancing guidance](#) of State and/or Commonwealth health authorities; and
- (iii) Employers may refuse to grant paid special leave to employees who, after 16 March 2020, leave the country to travel to a country or region which requires the employee to self-isolate on return to Australia.

Unable to work

Up to two (2) weeks paid special leave will be provided before other leave entitlements need to be accessed to employees who, due to the COVID-19 crisis, are unable to work because they are:

- caring for family members due to closure of schools and caring facilities; or
- unable to attend work due to transport disruptions.

After the two (2) weeks of paid special leave has been used, employees may access accrued leave entitlements (e.g. sick, carer's, annual and/or long service leave). Where the employee has exhausted all accrued leave entitlements under the Award, the employee may apply to the employer for special leave, either with pay or without pay, as per clause 21L [Special Leave] of the Award. Any such requests shall not be unreasonably refused by the employer.

Employers shall not unreasonably refuse requests for carer's leave in excess of two weeks which arise as a result of the COVID-19 crisis.

Workplace is closed

Where the workplace is closed the following approach will be taken:

- (i) the employer will make arrangements for employees to work remotely;
- (ii) where it is not possible for the employee to work remotely, the employee will be placed on paid special leave for the entirety of the closure unless:
 - (a) the employee is directed, within the limited circumstances of sub clause 21D(v) of the Award, to take annual leave; or
 - (b) the employee is directed, within the limited circumstances described in sub clause 21E(iii) of the Award, to take long service leave.

Regular casual employees

A "regular casual employee" means a casual employee who, in the preceding period of 6 months, worked a pattern of hours on an ongoing basis without significant adjustment and who, but for the COVID-19 pandemic, had a reasonable expectation of ongoing employment.

Where a regular casual employee is unable to perform their regular shift due to self-isolation requirements (in accordance with isolation requirements set by State and/or Commonwealth health authorities), the regular casual employee should be paid as normal and placed on paid special leave for the length of the isolation (which as at 19 March 2020 is 14 days).

Where a regular casual employee is unable to perform their regular shift because of a workplace closure that is attributed to the COVID-19 pandemic, the regular casual employee should be placed on paid special leave for the following length of time:

- the period of the closure or a period of four (4) weeks, whichever is the lesser period; or
- in the case of a seasonal employee, the balance of the season or a period of four (4) weeks, whichever is the lesser period.

In the case of long term regular casual employees (i.e. greater than 5 years continuous service), employers are encouraged to consider more beneficial arrangements than the arrangements recommended in this Joint Statement.



Further contact

For further information:

- Employers should contact LGNSW's Workplace Relations Unit, and
- Employees should contact their union or HR representative.

A handwritten signature in blue ink that reads 'Linda Scott'.

Cr Linda Scott
President LGNSW

A handwritten signature in blue ink that reads 'Graeme Kelly'.

Graeme Kelly OAM
General Secretary USU

A handwritten signature in blue ink that reads 'Gordon Brock'.

Gordon Brock
Director, LGEA

A handwritten signature in blue ink that reads 'Ian Robertson'.

Ian Robertson
Secretary, depa

20 March 2020