C O R R E C T E D V E R S I O N

ECONOMIC, EDUCATION, JOBS AND SKILLS COMMITTEE

Inquiry into portability of long service leave entitlements

Melbourne — 19 October 2015

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Mr David Eden, Assistant Secretary, and
Mr Kamal Bekhazi, Research and Projects Officer, Health Workers Union.

The CHAIR — Welcome to the public hearing for the Economic, Education, Jobs and Skills Committee's Inquiry into portability of long service leave entitlements. All evidence taken at this hearing is protected by parliamentary privilege. Any comments you make outside the hearing are not afforded such privilege. Hansard is recording today's proceedings. We will provide a proof version of the Hansard transcript so that you can correct any typographical errors.

I would now like to invite you to make a statement and then in the end we will ask you some questions. Please state your name before you start.

Mr EDEN — Thank you very much for this opportunity. I believe we have 5 minutes to present some information, so what Kamal and I thought we would do is go halves, so probably around 2½ minutes each. I am David Eden. I am currently the Assistant Secretary of the Health Workers Union. I have been working in the health industry since 1988, when I qualified as an enrolled nurse, and I have never had long service leave.

The problem with long service leave accrual, I believe, is that we have a transient workforce in the health sector. I have worked in public sector aged care for close to 10 years. I then moved to the Union, where I worked for a period of five and half years. I then returned back to the public sector and worked in aged care, then moved into private sector aged care, private sector acute, community health services and now back to the Union. In all that time I have not been able to accrue any long service leave. Most training providers these days also offer dual qualifications—for example, they may offer qualifications in aged care and disability services, or community services and aged care, or even nursing and paramedic sciences. What we see is employees potentially not just working in one sector but also working in disability or aged care, for example.

We do see a high burnout rate within the sectors, whether it is physical burnout, where peoples wear and tear on their bodies does not allow them to continue to work in that sector, or mental exhaustion as well and they have decided to make a change of career for a short time before going back into their area of expertise, such as aged care or disability.

The NDIS has also impacted on people's ability to accrue long service leave throughout the disability sector as it is predominantly a contractual base, so many employers will have contractual arrangements between themselves and directly with the client that requires those services. If a client decides that they want to change those services, it certainly impacts on those employees who are working for those companies.

The contracting out of services in general affects the ability of our members to accrue long service leave. The pathology sector is one of those areas. We included as part of our written submission where Dorevitch, for example, Healthscope and St John of God apply for contracted services within pathology within the hospital sector; they may have that position for four years and it is out for tender again and you might have another provider step in. Those individuals will lose any long service leave entitlements. We provided an example; I will not go over it again so as not to waste our time.

There are also many services that are based on funding, so direct funding from the federal or state governments. If that funding dries up, then those employees' contracts also dry up. Therefore they have to go and search for positions in other areas of the health stream, which may well affect their long service leave accrual.

I have also spoken extensively to Aboriginal health providers. They would like to see their staff more employed between the mainstream health system and Aboriginal health. This will be a sharing of knowledge, so it is not just about maintaining the skills of those working in Aboriginal health, it is also about those working predominantly in Aboriginal health sharing their knowledge with mainstream health providers. At the moment there is no formal agreement between mainstream providers and the Aboriginal health care sector, so we see people leaving Aboriginal health and working in the public hospital system for a while before returning to Aboriginal health.

We also have a number of employers—the Red Cross Blood Service, for example, and Lyndoch Nursing Home in Warrnambool, which currently no longer see themselves as benevolent associations; they are no longer defined as such and therefore they do not recognise service that was given by the employee prior to them arriving and working for their organisation. So Lyndoch Nursing Home in Warrnambool used to pick up a lot of staff from Warrnambool Base Hospital and that service was recognised up until recently, but now they no longer consider themselves a benevolent association so they will no longer recognise service from the public hospital in Warrnambool to the public sector nursing home within Warrnambool. So you can see there are a lot of problems with not having a portable long service leave. Now over to you, Kamal. I think I have used up my 2½ minutes.

Mr BEKHAZI — Thanks, David. My name is Kamal Bekhazi. I work as a Research and Projects Officer at the Health Workers Union. Like David, I have worked for more than a decade in the health services industry, as a clinical psychologist. I have also not had long service leave. The main reason for that is because I have moved from public hospitals to private hospitals and I have also spent some time in a mental health research institute, which is not a hospital.

One of the things the Health Workers Union is pushing for is for portable long service leave throughout Victoria's health services. That includes people who work for hospitals, private or public, and in particular those who work in disability and aged-care facilities and community services sector such as healthcare centres. I think health workers deserve portable long service leave because working in the health industry is very different to working in many other sectors. It is quite stressful, and it could cause a lot of emotional strain. I will give you an example. People working in emergency departments are exposed to people's life and death situations that play out on a daily basis. They are exposed to the carer's trauma and it can have an impact on you. You can take some leave, which will not affect your long service leave entitlements. But what if you wanted to take more than three months, which is the limit; what if you wanted to go overseas? Or what if you just wanted to go into another sector—like I have on a number of occasions, for instance into marketing or into customer service? You lose your long service leave.

At particular disability services, we are getting a lot of members being assaulted by people with autistic disorders, people with intellectual disabilities. In the disability sector a lot of our members and workers in general are being assaulted and being exposed to trauma. A lot of people think that particular services are not running their services well and decide to go to another one. An example of this is Golden City Support Services I think they are up in Bendigo, are they?

Mr EDEN — That is right.

Mr BEKHAZI — They do not run a very good disability service. They have had a number of staff members actually suicide, and as you could imagine that has a significant impact on the other workers. Some of the other workers say to themselves, 'I don't want to see myself go in that direction'. They leave and go to another, private disability provider once they have recovered from the trauma. In that scenario they lose their long service leave, but if we had a portable long service leave system, they would not have lost it.

I am not going to talk much more; I think I have already said 2½ minutes worth. David was talking earlier about some organisations that run on grants. We know that the federal government cut funding to the hospitals, but not only to hospitals. They have also cut funding to a lot of preventive services. They have also cut funding to a lot of places that depend on grants. I will give you an example: Arts Access in South Melbourne, right next to where we work, basically operate on funding grants. In fact my sister was working there as a Finance Manager recently. She was told that due to the lack of a funding contract that they had missed out on they could not offer her a job anymore. Again, the next job she gets is not going to be with them and she is not going to be able to carry over her long service leave.

Another example of one of those organisations that requires funding in order for them to employ staff would be Neami. That organisation, as compared to Arts Access—Arts Access works with people with disabilities—works with people with mental health issues. They have a shop up in Preston where they have a professional artist come in and disability support workers who work with these people to try to help them

improve their quality of life and develop some skills. That is another example of an organisation that depends on funding and, as a consequence, that has a significant impact on the employees they are able to hire and whether or not they can keep their jobs. I think David and I combined have talked for more than 5 minutes.

The CHAIR — That is okay.

Mr EDEN — Thank you for giving us a little bit of leeway.

The CHAIR — Thank you very much. Can you outline the current long service leave arrangements for your members who work in the public sector, and do these workers currently have portability of long service leave entitlements?

Mr EDEN — They can gain six months long service leave after 15 years of service, but at 10 years they can receive payments on a pro rata basis—so 17.5 weeks at 10 years. They do not have portability outside the public hospital stream. I will use the example of Lyndoch Nursing Home. Although it is a public sector organisation and has always been listed as such, they no longer will recognise people working at the hospital and bringing their service across. With the Red Cross Blood Service, once again, many nurses reach a physical burnout within the job, because it is quite stressful and heavy. They go to the Red Cross Blood Service because it is not as physically demanding work. Until recently, any service that was served within the public hospital system would be recognised by the Red Cross, but because they are no longer considering themselves a benevolent association they will not recognise any service prior to their employment at Red Cross. That may well jeopardise their ability to attract new staff as well.

The CHAIR — Some submissions have argued that the portable long service leave scheme would increase employers costs and therefore lead to job cuts. Do you see this as a possible outcome for the health sector?

Mr EDEN — I do not believe so. In fact some of the smaller providers who are finding it difficult to attract staff now might have a benefit in having portable long service leave, because it is a large investment for many employees. In fact some employees will remain in a very difficult workplace because of that investment they have got in long service leave. If you are a smaller provider in regional Victoria, for example, and finding it difficult to attract staff with experience and not just straight out of university, if you were able to recognise their service towards long service leave through the portable long service leave scheme you may be more likely to attract staff into those rural and remote areas—if you are smaller provider, you may have the ability to attract those staff.

Having not been paid long service leave myself, my understanding is that if you have accrued long service leave, you do not necessarily have to be paid out your long service leave when you stop working for one public sector employer and commence work with another. If you were a smaller provider, say Heywood Hospital right down in the bottom corner of the Western District, and you wanted to attract someone up from Warrnambool, they might well leave working for the Warrnambool Hospital and have a long service leave entitlement sitting there of 17.5 weeks. As soon as they start working for Heywood Hospital, there is an immediate liability there for that small hospital now to pick up. If there was a portable long service leave fund, that certainly would not be an issue when it comes to employment.

Mr BEKHAZI — Can I add to what David has said? The McKell Institute in 2013 made a comprehensive submission in relation to portable long service leave. In addition to them, Macquarie University—I think Professor Ray Markey—noted that portable long service leave would actually increase productivity, because happy workers are workers who are going to work harder and are workers who feel like they have been looked after. So, yes, you have a number of academic institutes, as well as the McKell Institute, that would argue the opposite—that in fact it would increase productivity.

Ms RYALL — I had my nursing education just three years before yours, and the ANF agreed with me when I said to them there is very little crossover between public and private hospitals. Generally you stay with one or the other, and they were in agreeance with that.

Mr EDEN — Can I make a quick comment there. We are seeing with salary packaging, for example, many nursing staff in particular choosing to work part-time in private and part-time in public to maximise their salary packaging benefits. So we are seeing more and more crossover between public and private, and quite often you will see a private sector hospital right next door to a public sector making that happen much easier.

Ms RYALL — In addition to that, we also agree that often the reason that you choose another employer is not because of the long service leave, and it is not something that you consider when you leave it behind. Like you, I changed employers. I made the choice. I knew with long service leave that I would lose what I had accrued and that was a decision and choice I made in an informed way—because you take other pathways or look at other roles that may suit you better. There was general agreement about that.

What I understand is that you are saying really that the health sector is now expanding to include disability and a whole range of others. There seems to be some contention about whether they are in fact health services and so forth. Can you explain that to me?

Mr EDEN — Firstly, I will suggest that I moved employers from Ballarat Health Services, who are under the microscope at the moment, due to being a victim of workplace bullying within that organisation. I moved to St John of God Health Care in Ballarat, who were a premium employer and looked after their staff. Secondly, on the mention about the disability sector, it really concerns us at the moment what is going on in disability with the NDIS, where they have essentially earmarked funding to the point of someone with a certificate III with 12 months experience, and that is the funding that is basically being put out across the disability sector. For anyone with qualifications or years of experience above that, the employers are picking up the tab. Now we have—and I have observed this across the disability sector—people with a certificate III or less, and sometimes no qualification, administering medications.

I will give you an example of Healthscope in Bendigo. I was visiting that work site and I was having a members meeting. There was a client who was non-verbal, sitting in a grey reclining chair because they could not move, with a lifting machine sitting sling underneath him. He was moaning and groaning and carrying on and I said to the staff, 'Look, you'd better go out and see what is going on with this individual'.

Much to my surprise they went over there and had a bit of a glance at him, walked over to the medication cupboard, got out medications that were not in a Webster pack but just in a general medication box—it just happened to be Panadol, nothing more serious than that, but there was no check as to when he last received Panadol—and I thought, 'They're going to pop him a couple of Panadol. He's obviously uncomfortable; he's in pain'. They then proceeded to crush that medication and mix it with water. I was thinking, 'Maybe he's got some swallowing difficulties; no problem'.

They wandered over to the client, pulled up his shirt and exposed a tube hanging out of his stomach. With my knowledge of nursing I immediately recognised that was not a PEG tube sitting in his stomach; it was actually a male catheter. A male catheter is designed to sit in a bladder, not sit inside stomach acid. Sometimes they do use catheters to dilate the hole for a PEG tube to go in, and it is maybe in there for up to a week to 10 days. I asked the staff how long that had been in for. 'I don't know. Been there as long as I've been here'.

The male catheter is around this long—30 centimetres. There was this much of it—5 centimetres—sitting out of his stomach. I said, 'Where do you reckon the rest of that catheter is?'. On the end of any catheter you have a balloon filled with saline; that is to hold it in the bladder so it does not come back out. 'Where do you reckon the rest of that catheter is?'. 'It's in his stomach'. I said, 'No, that's not in his stomach. Peristalsis has caused that to be digested, and it's sitting down in his bowel, so every meal you're

providing him through that tube and every medication you're providing him through that tube is going directly into his bowel. I'm not surprised that he's sitting there moaning and groaning and uncomfortable'.

Mrs FYFFE — There can be a bowel blockage, too.

Mr EDEN — It is pretty serious to see. And it is no reflection on the staff. They have only been trained to a certain level. Is there a crossover between health and the disability sector? My word there is. You have people living in these facilities who probably require people with a higher level of expertise in caring for these individuals than are currently working in there.

My understanding is that the employers have even recently written to the training providers, indicating that there is no need or call for a diploma or advanced diploma in disability. Why? Because they no longer want to make up the difference between a certificate III and a diploma and an advanced diploma. There is a deskilling going on across that sector and it is really disturbing. From what I have seen there is certainly a need to have nursing staff or at least people with a diploma or an advanced diploma working in disability.

Ms RYALL — I hear what you say and I think that is probably another area for another time, as opposed to portable long service leave.

Mr EDEN — Yes. These clients come and go. Should they be able to bring nurses in, for example, to look after these types of individuals in the term they are still in there and have not passed away, for them to then be able to move back into the public sector? I think there needs to be that portability for the flexibility that the industries need.

Mr BEKHAZI — Can I just add to David's comments? If you look at disability services, just like the hospitals, they employ doctors, they employ allied health clinicians, they employee nurses, they employ diversional therapists. They have the same staff. They look after patients who have health needs that need to be looked after, so I do see disability services as being part of a broader health system.

Mr BOURMAN — How do you guys see this working with independent contractors?

Mr EDEN — As in the clients themselves signing up individuals to work directly for them?

Mr BOURMAN — A carer, for instance.

Mr EDEN — Or through Yooralla, for example?

Mr BOURMAN — Think of it as I am Jeff Bourman and I am a worker and I want to start my own business, for whatever reasons. So I go and get my insurance and register and all that. How would this long service leave actually work with someone who has got very limited administrative backend; it is all their own?

Mr EDEN — You are really a contractor in that regard, as you say. But if you were to have employees working with you as a contractor, I think there should certainly be a contribution into a portable long service leave fund.

Mr BOURMAN — But I want to know how that works.

Mr EDEN — If you own the business and you are operating the business as an owner, should you be squirrelling away funds for your own long service leave? I think it would be wise to do so, but it would be up to you as an in individual, I suppose, to make that choice. It is something I have never considered.

Mr BEKHAZI — At the moment CoINVEST, which looks after some of the construction industry, is able to cater for independent contractors. So what we are suggesting is that a working party or committee be set up to teeth certain aspects of how a portable long service leave scheme will work and take into consideration what you have just asked. It obviously can be done; it just needs some heads to be put together and it will be sorted out.

Mrs FYFFE — If I could just explore this. In your submission you talk about voluntary contributions, which is surprising—contributing $2 per day towards the administration of a portable long service leave scheme. Can you expand on how that would work?

Mr BEKHAZI — David and I were just brainstorming and looking at ways of setting up a scheme and seeing how it could be economical. Initially we thought it would require some government funds to be invested just to set it up to begin with, and we were thinking about administration costs. We thought that, similar to superannuation companies, a person can contribute a few dollars a week just to make sure the fund is properly administered.

Mrs FYFFE — It is very refreshing to see that.

Mr EDEN — I suppose in the late 1980s when super was set up for employees, a partial pay rise was negotiated away as part of the implementation of the super scheme. Would our members entertain a similar idea to establish portable long service leave? They may well.

Mrs FYFFE — We are exploring all options here. It is interesting.

The CHAIR — A portable long service leave scheme for the community services sector in the ACT and the scheme set out in the 2010 Victorian bill excluded aged-care workers. Why should these workers be included in any new scheme?

Mr EDEN — I definitely think aged-care workers should be included in a portable long service leave scheme. We are seeing a lot of consolidation of aged-care providers across Victoria, if not Australia, at the moment. There are some providers that are larger buying out the smaller providers and building their portfolios, so we are seeing a lot of transmission of business going on there.

Also one of the spin-offs, I suppose, from an employee point of view—as I touched on before—is that your long service leave is a really big investment for an individual. If you were at a workplace that was not treating you right, whether it is through workplace bullying or workloads or they just simply were not paying as well as the organisation down the road, and you no longer needed to consider the portable long service leave element, would you continue to work for an organisation that simply just does not treat you as well as the company down the road? I think it would have a benefit by uplifting all the aged-care sector, because not only are they competing to draw new staff, they are competing to continue to maintain their staffing levels as well. I think there would be a massive cultural shift across aged care, where people are seen as a commodity that the company has, not a liability. I think it would go a long way to stamping out workplace bullying and atrocious workplace conditions within aged care.

Mr BEKHAZI — Our take is that aged-care workers also belong to the health sector. If you look at the type of work that a lot of nurses or aged-care workers are doing in aged-care facilities today, especially with people who have dementia and who have particularly high needs, and especially with people who have end-of-life care needs, I think these workers are exposed to a lot of complex and difficult work and it would be disappointing if they were excluded from any kind of prospective portable long service leave scheme that included hospital workers, disability workers, healthcare centre workers, but which excluded aged-care workers. I feel they belong in there with the rest of the healthcare workers.

Ms RYALL — How many disability workers do you represent?

Mr BEKHAZI — I think it is about 160 providers in Victoria we would have membership in.

Ms RYALL — So how many members would be disability workers of yours?

Mr EDEN — That is taking out all the disability providers where we would not have membership in. There are about 160 providers left now. Like aged care, they are popping up and they are closing down quite often.

Ms RYALL — Do you know how many disability workers are in your union?

Mr EDEN — Put it this way: the largest disability provider in Victoria is Yooralla and they have got 264 sites. There would be at least 10 staff per site. They are negotiating an enterprise bargaining agreement with us at the moment, and they have admitted that they are currently paying their staff $2.5 million under the modern award requirement as we speak.

Ms RYALL — I am just referring to your members: how many members you have.

Mr EDEN — There are about 1500 disability support workers we have across a number of them.

Mr BEKHAZI — And that does not include the other classifications that actually work within the disability services, such as diversional therapists.

Mr NARDELLA — In your submission you said that workers earning less than $450 a month should not be covered. Why is that, especially when you get a lot of casualisation or part-time work, casual work and agency work? Why did you hit the $450?

Mr BEKHAZI — I guess that that mark basically came from the superannuation limit. We were trying to make it comparable to superannuation. If you look at superannuation, the employer is obliged to contribute once you reach that limit, not below it.

Mr NARDELLA — That is standardising it.

Mr BEKHAZI — We thought we would put it on par with it.

The CHAIR — On behalf of the Committee, I would like to thank you for your contribution.

Mr EDEN — Thank you for giving us this opportunity.

Mr BEKHAZI — Thanks for having us here.

Witnesses withdrew.