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Something for everyone in this issue: contracts, food, we want more trainees, PI declarations, cars, who'd bother being a CCP, who makes the best complaints against private certifiers and great news on superannuation returns

The Government thinks it knows best when it comes to employing senior staff

It was the then Local Government Minister Tony Kelly who decided that councils needed to be regulated in the way they employed their general managers and other senior staff.

He was incensed that one employment contract for one general manager provided a severance payment beyond what he thought was reasonable and he was going to do something about it. What he did was, by regulation to the Local Government Act, provide a power to override termination payments in excess of 12 months pay.

We don't think this is a good idea. Councils are entitled to make arrangements with people they would like to employ as attractive as possible. If a country or otherwise remote Council wants to pay to attract employees and their families, to a new location, then it is not unreasonable to have a generous severance payment if the employment doesn't work out.

We are not talking here about terminating general managers who are hopeless or crooks. We are talking about when the employment relationship doesn't work or the council just decides that they are incompatible.

Over recent years the Local Government (State) Award has introduced a commitment to family friendly work. Local Government is an industry where historically career paths require moving from one Council to another. These moves involve uprooting kids from schools and friends and partners from family, work and social networks.

Why can't there be an acknowledgement of the family obligations that flow from employing senior staff who need to transfer from town to town, location to location etc?

To get the right person (and that person's family) councils should be able to offer more than 12 months pay if things simply don't work out.

How ironic, that the NSW Government opposes WorkChoices precisely because it prevents employers and employees from reaching agreement on things that should be incorporated in the employment relationship, but thinks it quite appropriate to do precisely that in local government.

As part of telling councils how it should be done, the Department of Local Government has prepared a model contract for general managers and other senior staff. Prepared with the assistance of the LGSA (the councillors' organisation) and the LGMA (the general managers' professional

organisation) the process was carried out without input from unions operating in the industry.

There was no one involved in the exercise with any expertise in looking after the interests of employees who are senior staff. That is neither the role of the LGSA nor the LGMA - no matter how imperialistically the LGMA might believe it can expand its role.

It was not until there was a relatively final document that the Department invited the unions to respond. We relished the opportunity, sending them eight pages, in a process they advised was "confidential". No wonder they wanted to keep it, confidential, the final draft we saw was a shocker.

Anyway, the Department believes it knows best and now these contracts (they say with half our suggestions adopted) are mandated by law and will be the only contracts available for the employment of general managers and other senior staff.

Just so you know how bad their draft was, our submission in response is now on our website www.depa.net.au/dlg submission from [depa.pdf](#)

We take this opportunity to remind members that we continue to give advice on employment contracts - just as we have since 1993.

Some news about food and food inspection

With the disappearance of the AIEH, we are now the organisation representing the largest number of council employees working in food surveillance and education.

In this role we have been acting as a member of a Food Regulation Partnership (FRP) established by the NSW Food Authority. The FRP was charged with the responsibility of delineating food regulation responsibilities between Local Government and the Food Authority.

There has always been a question mark about whether councils need to provide this service or not. Penny-pinching general managers and directors of corporate services have often taken the view that as it is not a legislative requirement, then councils shouldn't do it. It has been a function difficult to resource properly because of the lack of

legislative requirement and because many councils don't like busting dirty food shops until someone gets poisoned in them.

We were pleased to support the idea that the Food Act should mandate a role for Local Government but believed, of the three levels of surveillance offered, that councils should as a minimum maintain their current level or Category B and be encouraged to proceed to the next level up.

Category A was the minimum, requiring councils to do little more than assist in emergencies like retrieving dangerous Mars Bars. Category B adds inspections and is generally the role carried out by most councils. Category C is a higher level still, providing inspection, educational and broader food health and safety services.

depa was originally concerned at the first draft of the Report because there appeared to be an opportunity for councils to opt out entirely - choosing category A when they might already fall within category B. The Food Authority agreed that there should be oversight of the introduction of the system to ensure that councils didn't take the opportunity to reduce the level of services they already provided to the community in this important area.

The FRP has now decided to conduct a three-month pilot of the proposed programme with 12 councils - Blue Mountains, Broken Hill, Campbelltown, Deniliquin, Dubbo, Griffith, Gunnedah, Lismore, Newcastle, Pittwater, Shoalhaven and Sydney City starting on 17 July 2006.

One of the members of the FRP is the LGSA. Their representative has been anxious about the cost to councils in providing this service. There is a warning here.

Members at the councils involved in the trial are encouraged to participate in it and maximise the category B role.

Other members interested in health surveillance can contact depa Vice President Andrew Spooner for advice and assistance. Andrew is our representative on the FRP and can be contacted on 4645 4328 or by email to

andrewspooner@campbelltown.nsw.gov.au

At last, for all those patient foodies out there, some news on food!

Trainees are an answer to the skills shortage

Don't be fooled by the heading, we still won't accept there is a shortage of building, planning or environmental professionals in councils until we see lots of vacant \$80,000 jobs, but we do regret the loss of the days when every Council had a trainee or two.

When the current Minister for Local Government Kerry Hickey was appointed, we met with him fairly quickly and he enthused about the need for councils to revive the history of traineeships in the professions.

They were the good old days, when nearly all councils (and we can remember when Shoalhaven, for example, had three trainees) had a trainee or two. Many councils recruited from local schools, some councils provided training programs to ensure that trainees were provided with work that ran parallel with what they were learning at university or TAFE and some people even began their careers at councils and trainees and ended up as directors.

The Forum on the Skills Shortage (sic) convened in June by Planning Minister Frank Sartor saw traineeships as an option. We agree and the Committee of Management at the July meeting resolved that we should do something about it too.

Over the next few weeks we will be surveying all councils by contacting our delegate to find out how many councils have trainees, how they are selected or recruited, whether they end up remaining with the Council, whether they end up with a full range of professional work or whether they are used as cheap clerical labour.

We know some councils abandoned the idea because they found they couldn't restrain the trainees from going elsewhere when they had finished their training. What a pity they didn't think that paying them properly would be a good option.

We are committed to the importance of employing trainees in all professional areas. There should be trainee building surveyors, trainee health and building surveyors, trainee planners, trainee environmental health officers and trainee everything else.

Councils in remote areas can embrace a traineeship as a way of dealing with the difficulties they experience in attracting staff from elsewhere.

We will publish the results of our survey and a strategy to encourage more trainee employment.

As an aside, the Secretary of depa has been appointed by the Minister for Local Government to the newly created Ministerial Advisory Committee. We will pursue trainee employment through the MAC using the information you provide.

Any councils with innovative solutions to recruiting trainees will be applauded and used as an example to the industry of good practice.

"Do I have to fill in a pecuniary interest declaration?"

We would expect that all members who have a role that involves a delegated authority to approve or reject will be required by the Council to fill in a pecuniary interest declaration each year.

While we think the ICAC is often heavy-handed, we support the ICAC's recommendation for this part of the Local Government Act to be strengthened when the 1993 Act was introduced. We have regularly encouraged members to err on the side of caution and include anything and everything which could be perceived as a pecuniary interest. Better to declare it and have it regarded as unnecessary than not declare it and find it a cause of trouble later.

The authoritative Harvey Grennan in the Local Government section of the Sydney Morning Herald on 25 July noted that the Department of Local Government was going to audit councils to ensure that this process is being carried out properly.

We encourage members to cooperate fully. We discourage members from thinking themselves too smart for the process (like one ex member did) by divesting interests, declaration for a particular date when no interest existed, and then subsequently reacquiring them. Really, this did happen.

This is not the time to be too clever, it is a time to declare everything which could be seen to be a pecuniary interest.

There is also an opportunity to exercise a discretion and declare other things which may be seen potentially by an officious bystander (and there is no shortage of them in the community) and are better declared than not. You can declare things that are not necessarily a pecuniary interest but may be seen as a potential conflict of interest.

If your sister draws plans, while you may have nothing to do with her and you may never see an application in which her plans are filed, but it makes good sense and good risk management to declare it as a discretionary declaration, just to be on the safe side.

Cars, cars and more cars

As petrol skyrockets through \$1.50 a litre it is a bad time to have an argument trying to keep leaseback fees down. It's no coincidence that many councils are currently reviewing their formulas and trying to jack up weekly fees.

If we had a dollar for every time a member had phoned asking us if we had a database of leaseback practices, we would have enough money to keep one.

Nevertheless, despite the practicalities associated with databases that you would like to think authoritative but can easily become out of date, the Committee of Management at the July meeting resolved that we would establish one.

In the next couple of weeks delegates will be asked to supply us with details of leaseback arrangements at each Council. We will be asking for information about:

- type of cars
- leaseback fee

- full petrol or otherwise
- use restrictions-geographic
- used restrictions-who else can drive
- excess
- salary sacrifice available?
- who gets cars and who doesn't?
- change-over arrangements
- arrangements for extras
- alternative arrangements to a car

The plan is to have an authoritative database for as many councils as we can manage, on our website, up-to-date and available to everyone. To do that, we are in your hands.

We can't provide an authoritative database to allow the industry to manage leaseback arrangements if we can't scratch together a critical mass of councils.

Delegates are encouraged to assist in the provision of this information and members are urged to provide encouragement to the delegates to make sure that they do!

What's happening about WorkChoices?

Not much. While there are famous cases at places like Spotlight where employees get sacked and offered re-employment on reduced entitlements, councils are taking it carefully.

Together with the USU and the LGEA we encourage councils to sign and referral agreements to allow us to continue to manage disputes in the NSW Industrial Relations Commission. As this issue of the Bulletin is published, we have signed referral agreements for general issues and unfair dismissals with:

- Cessnock
- Coonamble
- Cootamundra
- Dungog
- Gilgandra
- Lake Macquarie
- Narromine
- Newcastle
- Singleton
- Warren
- Warrumbungle

We remain of the view that it is preferable to amend the Local Government Act to have all local government employees employed by the general manager but there is resistance within both the USU and the LGSA for this to happen.

While we are happy to sign up as many councils as we can to referral agreements, the critical question is what will happen in November 2007? That's when the Local Government (State) Award expires and even with all councils signed up, WorkChoices won't allow a new Local Government Award, nor will it allow "pattern bargaining" to have the Award used as a template for minimum conditions in local arrangements.

That is the big gap in the strategy to protect council employees from the excesses of WorkChoices and the gap, for us, makes changes to the Local Government Act the only effective solution for everyone.

Most councils seem to be taking the advice of the NSW Ministers for Industrial Relations and Local Government that they shouldn't do anything until the High Court has resolved current challenges.

While we had a scare recently with Campbelltown, no one much is raising the jurisdiction of the NSW Commission as we continue to take issues there. But, it will happen one day.

Want to be a Certified Practising Planner?

Why bother? Seized upon by the Planning Institute of Australia as a solution to many problems, including a perceived lack of respect for the profession and a shortage that could be addressed by greater respect, the concept of being a Certified Practising Planner (CPP) is being encouraged.

Well, it's being encouraged by PIA. And why wouldn't it be, when much of the requirement to be a CPP involves PIA membership and participation.

Just as we scoffed (and continue to scoff) at the AIBS for advocating accreditation of Council employees using AIBS courses as being self-seeking, we think this PIA initiative is, while not quite as blatant, self-serving but also inconsequential and misconceived.

We will be talking to PIA, consistent with the Strategic Alliance agreement between ourselves and the Local Government Network of PIA, about this initiative soon. A few members have asked questions and so we have decided to address the issues in the Bulletin just so you know.

We think it unnecessary. If PIA wants there to be more respect for planner positions in councils they would do better encouraging the NSW Government and the LGSA to pay them properly. There is nothing that engenders respect like a big pile of cash. Who wouldn't want to part of the highest paid profession and have a chance to make the world a better place?

In the meantime, we will oppose the introduction of this concept into councils just as we have opposed the accreditation of building surveyors. If councils want to have their staff accredited, councils can choose to do this understanding that they must pay for the accreditation and the necessary training. And, if they don't, depa will make sure that they do.

Who makes the best complaints to the Building Professionals Board?

It's always handy to know what those who would do you most harm or up to. That's why everyone should be keeping an eye on BPB bulletins at <http://www.bpb.nsw.gov.au/publications/bulletin.s.html>

BPBulletin Issue Six carries an analysis of complaints made about private certifiers in 2005. There were 102 determinations made and 60% of those determinations found against the private certifier.

There were 45 cautions issued, eleven reprimands, one "report on practice" plus a caution and six referred to the Administrative Decisions Tribunals.

Councils made the majority of complaints (61.8% of the total) of the 63 complaints, there were 30 cautions, eight reprimands, one report and five referrals to the ADT. This means that Council complaints led to the majority of punitive actions - five of the six referrals to the ADT.

Keep those complaints rolling in. With proper acknowledgement to Don Chipp, you need to keep the b*stards honest (word change to stop mail filters blocking us).

Draft Building Professionals Regulation 2006 and draft accreditation scheme released

The Department of Planning has released the Building Professionals Regulation 2006 and the draft accreditation scheme for private certifiers under the Building Professionals Act 2005. They will remain on exhibition for public comment until 25 August.

The new scheme will replace the four existing accreditation schemes and create comprehensive criteria for everyone seeking accreditation to work as private certifiers.

There is also a series of workshops to attend so that everyone can have their say to establish a proper regulatory mechanism for those who need regulating the most.

Local Government Super declares great returns for 2006

Finance news has become part of the mainstream. News bulletins tell us about the All Ordinaries, the ASX 200 and we all know that footsie is actually FTSE and it's not at all what people play under the table at the AIBS annual conference.

So, it will come as no surprise to members that superannuation funds will provide good rates of return on for members for the 2005/2006 financial year. And your own fund, the Local Government Superannuation Scheme, is no exception.

The LGSS will credit to members the following returns for 2005/2006:

Division B	17.31%
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Division B is the Defined Benefit Scheme which was closed to new members in December 1992. It has outperformed State Super since the separation from State Super in July 1997 by around 2% every year and this year is no exception, with State Super returning 15.8%.

Division A investment options paid:

High Growth	18.69%
Diversified	14.65%
Balanced	10.96%
Capital Guarded	7.47%
Cash	4.63%

These returns will all be in the upper quartile of superannuation funds returns for the financial year. Division A Diversified was listed as one of the great performers in a supplement prepared by the Financial Review in the Herald on 23 July.

We are thrilled with these returns. depa supported the separation of LGSS from State Super in July 1997 and the Secretary has been a director on the LGSS Board and a member of the Investment Committee since that time.

Part of the Howard Government's campaign against trade unions is their attack upon Industry Superannuation. The LGSS is an Industry Superannuation fund as it shares the common characteristic of industry funds of having equal number representation from members (normally nominated by unions in the industry) and employers.

Those who attack industry funds must hate seeing returns like this from funds run where all profits are returned to members.

No councillors behaving badly!

The May issue of the Bulletin noted that depa had secured an apology to members at Cooma Monaro Shire from a councillor who had treated them unreasonably. We also pointed out that we have had a long history of dealing with errant and badly-behaving councillors and we regard as part of our charter to remove the toxicity from work.

Somewhat astonishingly, there have been no reports from members of councillors behaving badly since May.

This is great news, of course, and must be evidence that councillors are now committed to the fair, reasonable and respectful treatment of staff.

Kerry Hunt
President

Ian Robertson
Secretary