



6 August 2010

Industrial Registrar
Industrial Relations Commission of NSW

Dear Sir

FAXED

Notification of s130 dispute

Pursuant to section 130 of the Industrial Relations Act I advise that depa, a registered organisation of employees, is in dispute with Wagga Wagga City Council. Employees of the Council are employed under the Local Government (State) Award.

The dispute arises from the inadequate handling by the Council of a complaint made by a local developer about members of this union and other employees in the Council's Planning Directorate. This complaint in turn arises from a commitment by the Council to properly manage development control in the city after a long period of a "relaxed" attitude by the Council to development compliance.

The complaint by developer Peter Hurst was publicised by the complainant in the community and has drawn significant critical and, probably defamatory, comment against the Council and council employees in the local press. The complaint has been broadcast widely in the region and has led to a conglomerate of local builders and developers making unsubstantiated accusations against staff and complaints to the Minister for Planning.

The Council has taken more than eight weeks to consider the response provided by the employees concerned which, comprehensively and using Council's own statistics, effectively rebuts the allegations made. Some of the allegations are personally offensive and easily disproved.

depa has been pressing the Council's General Manager to expedite the investigation he is conducting and has reminded the Council of their obligations under clause 31A Disciplinary Procedures of the Local Government (State) Award to "properly conduct and speedily conclude" any investigation. The response of the General Manager to our first approach was that things will be done in time and no timetable was provided and the GM has ignored entirely our second approach this week.

The allegations could have been investigated and a conclusion found within a fortnight. A meeting with the employees to advise of the findings was scheduled for today but was cancelled by the General Manager until next week.

Following in this transmission is an e-mail sent yesterday to the GM and the HR Manager in anticipation that the meeting would have proceeded today and making it clear that a proper action plan to publicly rebut the allegations needed to be concluded as part of the meeting anticipated today.

During this period the local media has run a concerted campaign against staff and the Council has failed to properly protect them and discharge the duty of care in circumstances where clearly vexatious and incorrect allegations are made. There are occupational health and safety issues involved in the Council's failure to provide a safe and hazard-free workplace as well.

As Wagga Wagga City Council falls within the responsibilities of Panel S, I respectfully request that this dispute be referred to Deputy President Grayson for the convening of a compulsory conference, initially in Sydney, as soon as possible.

Parties to the dispute are Wagga Wagga City Council General Manager Mr Phil Pinyon phone 1300 292 442, the Local Government and Shires Association, Director of Workplace Relations Ms Lillian Tiddy phone 9242 4147, USU General Secretary Graeme Kelly, phone 9265 8211 and the LGEA's Gordon Brock phone 9263 6516.

Yours etc



Ian Robertson
Secretary

Ian Robertson

From: Ian Robertson [ian@depa.net.au]
Sent: Thursday, 5 August 2010 3:21 PM
To: 'Flack, Laurie'; 'Phil.Pinyon@wagga.nsw.gov.au'
Cc: 'Farmer, Colby'; 'Cook, Steven'
Subject: RE: Complaint by Peter Hurst

Thanks Laurie.

I think this investigation has gone too long and depa's legitimate concerns have been ignored. I should have received a reply to my e-mail on Tuesday and find it unacceptable that I haven't.

I find it even more unacceptable that the Council has done nothing to protect the employees targeted in this vexatious exercise and remind you that the Council has a duty of care to these employees when they are defamed, threatened or injured by members of the community. I believe you are breaching a duty of care now and remind you that general principles of an employer's duty of care are being very well publicly ventilated in the current David Jones case.

I have a legitimate role here acting for employees affected by the Hurst complaints and am confident that the employees affected will be exonerated when the results of the enquiry are known. I understand that the GM is meeting with the Director and Manager most concerned (although this mud-slinging at Council professional staff affects all of our members) tomorrow at 12:30 PM.

The critical question will be what plan the General Manager has, once he has in his hands the exoneration we anticipate, to publicly, loudly and proudly announce the results of the enquiry in a way which guarantees that all of those people involved in the community at Wagga Wagga who have been privy to the bullying complaints by Peter Hurst and others, hear the truth. And also those further afield such as the Minister for Planning.

I will extend my deadline now until 2 PM. If there isn't a constructive and aggressive plan to put these critics in their place in a way which acknowledges the Council's responsibility to protect its staff against excesses, defamation and threat, I will file a dispute with the Commission that afternoon.

Ian Robertson
Secretary
depa

Ph: 9712 5255
Fax: 9712 5427
www.depa.net.au

From: Flack, Laurie [mailto:Flack.Laurie@wagga.nsw.gov.au]
Sent: Thursday, 5 August 2010 3:05 PM
To: Ian Robertson; Phil.Pinyon@wagga.nsw.gov.au
Subject: RE: Complaint by Peter Hurst

Ian

I know the GM is away today

thanks

Laurie Flack
Manager Human Resources
Wagga Wagga City Council

02 6926 9216
0438 623 749
Flack.Laurie@wagga.nsw.gov.au

From: Ian Robertson [mailto:ian@depa.net.au]
Sent: Thursday, 5 August 2010 13:25 PM
To: Phil.Pinyon@wagga.nsw.gov.au
Cc: Flack, Laurie
Subject: FW: Complaint by Peter Hurst

Phil

Please respond to the request conveyed on Tuesday by 3pm today.

Ian Robertson
Secretary
depa

Ph: 9712 5255
Fax: 9712 5427
www.depa.net.au

From: Ian Robertson [mailto:ian@depa.net.au]
Sent: Tuesday, 3 August 2010 1:56 PM
To: 'Phil.Pinyon@wagga.nsw.gov.au'
Cc: 'Flack, Laurie'; 'Farmer, Colby'
Subject: FW: Complaint by Peter Hurst

Phil

Another week has elapsed and I wonder whether we are any closer to a resolution of the investigation into the Hurst complaints?

It will be eight weeks this week and most of the allegations are refutable based on statistics held by the Council.

Please advise me:

- Who is conducting the investigation and what happens on a day-to-day basis to conclude it
- What is the proposed timetable to conclude the investigation and
- When you expect to receive the report and when it will be available to employees subject of the complaint.

These are clearly damaging allegations which I understand are easily refutable but which are festering in the community and are developing a momentum and life of their own. They should be speedily answered.

Please advise me by 5pm tomorrow.

Regards

Ian Robertson
Secretary
depa

Ph: 9712 5255
Fax: 9712 5427
www.depa.net.au

From: Ian Robertson [mailto:ian@depa.net.au]
Sent: Monday, 26 July 2010 9:07 AM
To: 'Pinyon, Phil'
Cc: 'Flack, Laurie'; 'Farmer, Colby'
Subject: RE: Complaint by Peter Hurst

Thanks Phil, and that would be about when?

Ian Robertson
Secretary
depa

Ph: 9712 5255
Fax: 9712 5427
www.depa.net.au

From: Pinyon, Phil [mailto:pinyon.phil@wagga.nsw.gov.au]
Sent: Saturday, 24 July 2010 10:34 AM
To: Ian Robertson
Cc: Flack, Laurie; Farmer, Colby
Subject: RE: Complaint by Peter Hurst

Dear Ian,

Thank you for your email of 22 July 2010 referencing Clause 31B(ii) of the Local Government State Award.

As you would be aware the Clause in its full context provides for the Employer's Rights and Obligations to *"Properly conduct and speedily conclude an investigation into the alleged unsatisfactory work performance or conduct."*

No doubt you appreciate there is a need to ensure that due process is adhered to with any investigation, which in this case includes the requirements of Council's Code of Conduct. As quoted above, the Award states that Council must ensure that the investigation is properly conducted as well as the investigation being speedily concluded.

I am in the final stages of completing the investigation regarding the Code of Conduct issues with input from Council's Internal Auditor.

As a matter of priority, the parties will be advised formally of any outcome once the investigated is properly completed.

Regards,

Phil Pinyon
GENERAL MANAGER

From: Ian Robertson [mailto:ian@depa.net.au]
Sent: Thu 22/07/2010 4:57 PM
To: Pinyon, Phil
Cc: Flack, Laurie; Farmer, Colby
Subject: Complaint by Peter Hurst

Phil

It's now 6 weeks since Colby responded to the allegations by Peter Hurst.

Can you please advise me by Monday afternoon of your intended timeframe to resolve this issue. I understand that your Internal Auditor has been given the task of investigating the allegations and the responses but, given local political pressure from those who don't appreciate being regulated, we think this should be finalised sooner rather than later. And six weeks seems tonnes of time for this to have been finalised.

Please note the Council's obligations under Clause 31B(ii) to "speedily conclude" any investigation into alleged unsatisfactory service etc.

Regards

Ian Robertson
Secretary
depa

Ph: 9712 5255
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www.depa.net.au

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