

# What do the Industrial Relations Commission Recommendations mean for me?

Hornsby & Ku-Ring-Gai Branch has been working closely with the NSWNMA to investigate problems and seek improvements to workloads and staffing levels at Hornsby Ku-Ring-Gai Hospital.

Following concerns from members, the NSWNMA obtained data from Northern Sydney Local Health District (NSLHD) indicating it had not complied with the minimum nursing hours in Nursing Hours Per Patient Day (NHPPD) units. Problems also appeared in non-NHPPD units and the NSWNMA acted quickly to:

- Seek documents under 'Right of Entry' powers to fully understand the workloads and breaches by NSLHD in all units and wards;
- Commence legal proceedings in the Industrial Relations Commission of NSW on your behalf and to enforce the Award.

## Latest update

As of 20 December 2017, the Industrial Relations Commission of NSW has made 15 Recommendations both NSLHD and the NSWNMA support. This is a very positive outcome and will ensure improvements are implemented across Hornsby Ku-Ring-Gai Hospital.



## Dispute hearings

On 12 and 18 December 2017, the Industrial Relations Commission of NSW heard the NSWNMA's dispute about staffing levels and other workload issues.

Following discussions, the Industrial Relations Commission of NSW issued 15 Recommendations which are supported by the NSWNMA and NSLHD. Both parties will return to the Industrial Relations Commission of NSW on 1 February 2018 to report progress on the agreed improvements.

The NSWNMA is pleased NSLHD has agreed in a constructive way to rectify significant workload problems at the hospital.

## Recommendations provide Nursing Unit Management with clear direction and support on workloads compliance

The NSWNMA believes most Nurse Unit Managers/Nurse Managers want the best staffing levels they can get for their staff and patients. Unfortunately, we believe NSLHD placed significant pressure on or directed Nursing Management to make cuts, some of which were unlawful.

A number of the Industrial Relations Commission of NSW Recommendations make it clear that directions by a manager (i.e. to a Nurse Unit Manager) which breach clause 53 Staffing Arrangements or the minimum Nursing Hours Per Patient Day in units, are unlawful.

The Award is the law and Nursing Management should be free from directions by NSLHD which compromise this. As a result, the following Recommendations were handed down:



Authorised by B.Holmes, General Secretary, NSW Nurses and Midwives' Association, December 2017

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### Recommendations

- NSLHD shall write to all Nurse Unit Managers, Nurse Managers and Hospital Management at Hornsby-Ku-Ring-Gai Hospital indicating to them that they are to comply with the staffing provisions of Clause 53 the Award.
- NSLHD shall communicate with and instruct Nurse Unit Managers, Nurse Managers and Hospital Management that budgetary concerns should never override the legal requirement for award compliance.
- No Manager shall make a direction that breaches the NHPPD.
- The correspondence referred to in paragraph 1 above shall be agreed upon by the Association before it is sent to Hornsby-Ku-Ring-Gai Hospital Management. The parties will confer regarding the correspondence. Further, NSLHD shall meet with Nurse Unit Managers, Nurse Managers and Hospital Management to discuss and where necessary, clarify the intent of the correspondence.

## Nursing Hours Per Patient Day units

Some units in your hospital are what is known as NHPPD units. These units have a set minimum level of staffing. These wards are Geraghty and Mary Giles with 5.0 NHPPD and Wards 3A and 3B with 5.5 NHPPD.

These four units were found to be below the minimum staffing levels. We believe NSLHD may have been using NHPPD as a mechanism to achieve budgetary targets, rather than meeting Award requirements.

### Recommendation

- Importantly, NSLHD shall inform Nurse Unit Managers, Nurse Managers and Hospital Management that the relevant 5.0, 5.5 or 6.0 NHPPD is the **minimum** number of hours possible in NHPPD wards and that there may be occasions where patient need will require additional staffing.

## Nursing Hours Per Patient Day units - seeking additional staff

NSLHD had policies and procedures in place which made it difficult for Nurse Unit Managers to obtain additional staff above the minimum NHPPD level.

NSLHD has agreed some of its policies (such as those around Specials) were non-compliant and worked against the Award provisions and the clinical judgement of Nurse Unit Managers to make decisions about additional staffing when they needed it.

### Recommendation

- NSLHD shall agree and accepts that in NHPPD units, when the Nurse Unit Manager (or in-charge of shift) considers that patient care needs cannot be sufficiently met from the nurses immediately available, the Nurse Unit Manager and Nurse Managers will together consider and where possible implement solutions in accordance with clause 53(iv) Section II(r). Policies and practices of NSLHD which are inconsistent or contrary to clause 53(iv) Section II (r) such as policies dictating particular staffing solutions or constraints (such as for 'specials') or requiring authorisation beyond the Nurse Manager for the implementation of solutions (other than bed closures) will be changed so that they comply with the award provisions.

## Nursing Hours Per Patient Day units - Spot checks for 3 months

Spot checks are an arrangement where NSLHD must post the previous week's staffing levels on the noticeboard for all nurses in the unit to see.

The Industrial Relations Commission of NSW has recommended Spot checks occur each week for three months, until the week commencing 12 March 2018.

## Non-Nursing Hours Per Patient Day Units - Spot checks for 3 months

NSLHD made assessments of what the correct staffing levels should be in all non-NHPPD units (i.e. all units other than Geraghty, Mary Giles, Wards 3A and 3B).

The NSWNMA identified that even on NSLHD's estimations of proper workloads in some of these wards, NSLHD was not providing sufficient staffing and therefore nursing workloads were heavy.

The Industrial Relations Commission of NSW has recommended spot checks for 3 months in all these wards to be posted for staff and provided to the NSWNMA. We will continue to follow up with you about workloads in these non-NHPPD units.

## Recruitment of Nurses, Casual Conversion and Increases in contracted Part-Time Hours

The NSWNMA was concerned there was simply not enough staff employed to meet workload demands. We understand rosters sometimes go out with gaps, even before the usual sick leave/FACS replacement occurs.

### Recommendation

- NSLHD shall assess all requests from part-time employees seeking increased contracted hours in accordance with Clause 29 Part 1 (xii) and subsequently commence a casual conversion process in accordance with Clause 29 Part 1 I(B) of the Award.
- NSLHD shall review the base permanent hours allocated and review annual leave relief with a view to examining whether further permanent employment is required. NSLHD shall undertake to report its findings back to the Commission. NSLHD will fast track current recruitment to Hornsby-Ku-Ring-Gai Hospital.

## Replacement of Absences - All Units and Wards

A practice developed in NSLHD of replacing absent Registered Nurses too readily with Assistants in Nursing. Whilst there is certainly a place for Assistants in Nursing within the health system, maintaining the right skill mix is vital. The default position of the Award is a replacement should be the same as the nurse that is absent.

### Recommendation

- NSLHD shall agree and accepts Clause 53 Section 1(c) of the Award with respect to the default position of "backfilling the absence of nurses at the same classification". Only when all avenues to backfill the absence with a nurse at the same classification are exhausted (including overtime and agency staff) can the option to backfill the absence with a nurse of a lower classification be considered.

We have also raised concern over short-changing the replacement of 8.5 hours shifts with 7.5 hours shifts (casuals) or 6.5 hours (agency). The NSWNMA and NSLHD do not agree on this issue at all. We believe the default position should be to fully fill and not partially fill the absence.

The Industrial Relations Commission of NSW has requested discussions take place with the Ministry of Health.

## Safeguard on too much overtime

NSLHD and the NSWNMA have agreed fixing the workloads at your hospital will take time and, in the transition period of three months, it is not productive to have already exhausted nurses working additional overtime just to meet the minimum Award standards.

### Recommendation

- It is the intention of the parties that nurses obtain a reasonable workload. NSLHD agree that during the transition period (3 months) towards award compliance with clause 53, NSLHD will not unreasonably require nursing staff to perform overtime solely in order to meet the NHPPD staffing levels. The Association accepts that during this transition period (whilst additional recruitment of nursing staffing occurs) some level of non-compliance may occur and whilst regrettable is only for a transitional period whilst more staff are being employed.

## Disciplinary matters because of workload matters

Some nurses may have made clinical errors or had problems and been disciplined over these matters partly because NSLHD was unlawfully understaffing the wards. If in part, these errors were because NSLHD was not providing the minimum staffing levels, the NSWNMA will raise these matters with NSLHD.

On a confidential basis, any member who had such disciplinary actions should come forward to the NSWNMA for assistance.

### Recommendation

- NSLHD shall review all disciplinary matters on a case by case basis and consider the implications of understaffing on that particular disciplinary matter with respect to whether any warnings or the like should be withdrawn.



**Need more info? Call Nicole Mason on 0428 041 586 or Laura McKone at the NSWNMA on 02 8595 1234**

