

AUSTRALIAN SERVICES UNION

LOCAL GOVERNMENT & ENERGY DELEGATES CONFERENCE 2020

EBA MODEL CLAUSE - TRANSMISSION OF BUSINESS

1. In this clause “business” includes any trade, function, process, business or occupation and includes part of any such business, and “transmission” includes transfer, outsourcing, conveyance, assignment or succession whether by agreement or operation of law, and “transmitted” has a corresponding meaning.
2. Where a business or part of a business is transmitted from the Council to another employer (in this clause, called “the transmittee”) and an employee, who prior to such transmission was an employee of the Council, becomes an employee of the transmittee, the Council will ensure that:
 - a. the transmittee employs the employee on terms and conditions of employment which are no less favourable than those provided by Council; and
the employee will suffer no disadvantage in their remuneration or terms and conditions of employment with the transmittee, compared to those provided by the Council.
3. Council will ensure that a transmittee:
 - a. Will recognise the service with Council (or any predecessor entity) of an employee who becomes an employee of the transmittee, for all purposes;
 - b. Will not deem the continuity of the employee’s employment to have been broken by reason of the transmission;
 - c. Will deem the period of employment which the employee has served with the Council (or any predecessor entity) to be service of the employee with the transmittee; and
 - d. Will not require an employee who becomes an employee of the transmittee to be subject to any probationary period with the transmittee.
4. Council will ensure that an employee who becomes employed by the transmittee carries with them all accrued personal leave, annual leave, and long service leave entitlements. Time in Lieu and RDOs should be taken prior to the employee transmitting, if possible. If not, Council will pay out all untaken Time in Lieu and RDOs.
5. Employees who become employed by the transmittee will be provided with a statement by Council specifying the entitlements that will carry across to the transmittee.
6. An employee may refuse an offer to become employed by a transmittee.
7. Council employees affected by the transfer of business to a non-local government organisation will be eligible for redeployment or redundancy in accordance with the provisions of this Agreement.

