

New Zealand Public Service Association:Te Pūkenga Here Tikanga Mahi

Model Bargaining Process Agreement

1. Parties to the Agreement

1.1 The “Employer”:

1.2 The “Union”: New Zealand Public Service Association:Te Pūkenga Here Tikanga Mahi (PSA)

2. Preamble

The Parties note that:

- S.32(1)(a) of the Employment Relations Act 2000 (ERA) requires the parties to use their best endeavours to enter into an arrangement that sets out a process for conducting the bargaining in an efficient and effective manner as soon as possible after the initiation of bargaining
- The object of the ERA is to build productive employment relationships through the promotion of good faith in all aspects of the employment environment and of the employment relationship, and that this includes: the recognition that that employment relationships must be built not only on the implied mutual obligations of trust and confidence, but also on a legislative requirement for good faith behaviour; the need to acknowledge and address the inherent inequality of power in employment relationships; and the promotion of collective bargaining.
- The third Partnership for Quality Agreement (PfQ3) commits the parties to meeting the objectives of the Employment Relations Act (ERA) 2000 through the promotion of collective bargaining and union representation.
- While bargaining remains an important activity for the parties, it is only one of many ways in which the parties engage to further relationships in the workplace. Partnership for quality enhances the effectiveness of ...[name employer] and its ability to provide quality services and outcomes. It involves active participation and dialogue between ...[name employer], managers and the PSA to:
 - enable workers to collectively participate in decisions in their workplaces through the PSA;
 - provide for common ownership of plans, issues and problems and to generate solutions taking an interest based or problem solving approach.

3. Bargaining Process

In relation to S.32(1)(a) of the ERA and clause 2.2 of the Code of Good Faith in Collective Bargaining, promulgated by the Department of Labour on 11 August 2005, the following is agreed.

3.1 *Advocates* -

The Union’s advocate: [name of advocate]

The Employer’s advocate: [name of advocate]

The parties may change their respective advocate during the negotiations, provided reasonable notice of the change is given to the other party. In such case the party making the change shall ensure that its new advocate is thoroughly briefed on the progress of negotiations to date.

3.2 *Negotiating Team*

3.2.1 The union’s negotiating team will be comprised of PSA advocate, the PSA Assistant Secretary and ...[X number of] elected PSA delegates and members’ representatives.

- 3.2.2 The union shall advise the employer prior to negotiations of the names of [name of employer] employee members of the union negotiating team in order to facilitate their release for the negotiations.
- 3.2.3 The employer will ensure that employee members of the union's negotiating team are paid at normal rates (including overtime, call back and other applicable provisions) for the time spent in negotiations, at agreed employee meetings related to the negotiations, and travelling to and from the negotiations.
- 3.2.4 The employer's negotiating team will be advised prior to the commencement of negotiations.
- 3.2.5 The parties may change the composition of their negotiating teams during the course of negotiations, provided that the other party is given reasonable notice of such changes.
- 3.2.6 The parties may bring in additional members in response to specific claims or matters under discussion.
- 3.3 *Observers*
The presence of any observers will be agreed between the parties.
- 3.4 *Timeframe for the bargaining process and frequency of meetings:*
- 3.4.1 Both parties have committed to progressing the bargaining as quickly as possible with due regard for process.
- 3.4.2 A timetable for bargaining will be agreed which includes scheduled times and dates that are sufficient, timely and aimed at concluding bargaining as soon as practicable, following submission and consideration of all issues.
- 3.5 *Advice on preferred position in respect of the type and scope of agreements*
A single collective agreement is sought by the parties. The structure of any such agreement shall be resolved as part of the bargaining process.
- 3.6 *The manner in which proposals will be made and responded to:*
The parties agree to take a common-sense approach. Both parties commit to considering proposals and responding, but will not repeatedly revisit the same issue if it has been responded to. Generally offers and responses will be made verbally but in some cases an offer or claim will be given in writing.
- 3.7 *Ratification, authority to enter into an agreement and limits of authority*
- 3.7.1 **Employer:** The Employer's negotiating team shall have authority to refer any proposed settlement to the Chief Executive of ... [name of employer] for ratification. The employer's acceptance of any proposed settlement shall require ratification by the Chief Executive.
- 3.7.2 **Union:** The PSA is the employee party to bargaining and has a national bargaining strategy that provides a framework for all settlements. The PSA has decided the following system of authority:
- The union's negotiating team has the authority to refer any proposed settlement to the PSA secretariat for consideration.
 - Only after the PSA secretariat is satisfied that any proposed settlement is consistent with the PSA bargaining strategy and policy shall refer the proposed settlement to PSA members covered by the proposed collective agreement for ratification.
 - Ratification shall be by ballot. Ratification requires 50% or more of the votes cast in the ballot to be in favour of accepting the proposed settlement [threshold may be raised by decision of the membership].

- The Union will advise the employer of the dates and times of any ratification meetings with its members. In setting the dates and times for any ratification meetings, the Union will take into account the normal business operations in the workplace.

3.8 *Venue and costs*

Venues for bargaining sessions are to be arranged by the employer in consultation with the union. Lunch, tea and coffee will be provided by the employer. The employer will arrange and pay for the airfares and accommodation and any incidental expenses on an actual and reasonable basis for any out of town members of the union's negotiating team.

3.9 *Record of agreement*

Both parties will retain their own notes. On occasions some documentation may be exchanged. At the conclusion of each bargaining session the parties will summarise, in writing, the position reached.

Any proposed settlement reached will be recorded in writing.

3.10 *Signing-off procedures*

3.10.1 Following ratification by both parties, the parties will agree on who is responsible for the drafting of an agreement to incorporate the ratified terms of settlement.

3.10.2 The draft document shall be thoroughly checked by each party to ensure that it accurately records the agreement between them. Any apparent discrepancy shall be notified to the other party and resolved before the agreement is signed. An electronic version shall be made available to all parties.

3.10.3 The employer shall be responsible for sending a copy of the signed agreement to the Department of Labour.

3.11 *Communication between the parties*

3.11.1 The employer will not directly or indirectly communicate with union members in relation to any matter which directly or indirectly relates to bargaining unless the union's advocate has given written authority to do so. Whether or not the union advocate gives written authority is entirely at the discretion of the union.

3.11.2 The union will not directly or indirectly communicate with the senior management team or the Chief Executive in relation to any matter which directly or indirectly relates to bargaining unless given written authority by the employer's advocate. Whether or not the employers advocate gives written authority is entirely at the discretion of the employer.

3.11.3 Notwithstanding the above, the parties agree that communication between a National Secretary of the PSA and the Chief Executive to discuss progress will not be seen as undermining the authority of the other party. Such communication may be initiated by either of these individuals. Similarly, if either the Chief Executive or a National Secretary of the PSA declines to respond to such communication, that will not be seen as a breach of Good Faith.

3.11.4 The employer shall allow the union to communicate with PSA members via its channels of communication, including email and teleconference facilities.

3.12 *Communication via the media*

3.12.1 At all times during negotiations, care will be taken by both parties to observe the provisions of the ERA 2000 in making media statements with respect to good faith bargaining, not undermining the role of either bargaining agent and not communicating directly to union members by bypassing the union.

3.13 *Provision of Information*

3.13.1 In accordance with Section 32(1)(e) of the Act, the parties must provide to each other on request and in accordance with Section 34, information that is reasonably necessary to support or substantiate claims or responses to claims made for the purposes of the bargaining.

3.13.2 Where either party requests information in terms of Section 34 of the Act, and the other party considers such information to be confidential, the parties will agree on the appointment of an independent reviewer.

3.13.3 The cost associated with the independent reviewer will be borne equally by the parties, that is, one half by the Employer group and one half by the Union group.

3.14 *Process to apply in event of disagreement.*

3.14.1 Should a disagreement arise that cannot be resolved by the negotiation teams, the following process will apply:

(i) The Director General and a National Secretary or Assistant Secretary of the PSA will endeavour to resolve the issue.¹ They can in turn use whomever they wish to assist them to resolve the disagreement. The parties may agree to skip this step.

(ii) The parties will use the services of a mediator.

3.15 *Appointment of a mediator*

When appointing a mediator the following process will apply:

- A mediator may be requested by either party at any time.
- The mediator will be from the Employment Relations Service of the Department of Labour and will be the first mediator available.
- Notwithstanding the above points the parties may agree to a mediator, other than a member of the mediation service.

3.16 *Completion of bargaining*

Bargaining will be completed when a Collective Agreement is ratified.

3.18 *Breach of Good Faith Bargaining:*

Where a party believes there has been a breach of good faith in relation to collective bargaining, the parties will, wherever practicable, indicate any concerns about perceived breaches of good faith at an early stage to enable the other party to remedy the situation or provide an explanation.

4. Variation of this Bargaining Process Agreement

This Bargaining Process Agreement can be varied by agreement in writing between the parties.

¹ For the avoidance of doubt, such communication will not be seen as undermining the authority of the other party. Similarly if either party declines to respond to such an attempt, that, will not be seen as a breach of the Duty of Good Faith.

Signed on behalf of the New Zealand Public Service Association:Te Pūkenga Here Tikanga Mahi

Date

Signed on behalf of...[name of employer]

Date