

# Queensland Public Sector Protocol for Good Faith Bargaining

## Application

The protocol will apply to the Government, its agencies and their officers, and unions covering employees in the Queensland Public Sector and their officers who are engaged in collective bargaining in accordance with Chapter 6 of the *Industrial Relations Act 1999*.

The protocol will cover employees in Government departments, agencies and offices that are covered by State registered certified agreements. It will not apply to Government Owned Corporations and bodies listed in Attachment A.

The parties acknowledge the Government's commitment to collective bargaining with unions as representative of public sector employees and to the union encouragement provisions contained in agreements.

Bargaining for a certified agreement means all the interactions between the relevant parties to the bargaining that relate to the bargaining; and includes negotiations and communications or correspondence (between or on behalf of the parties before, during, or after negotiations) that relate to the bargaining.

## Preamble

Each negotiating party to a proposed agreement will take part in negotiations in good faith and genuinely try to reach agreement with the other negotiating party or parties.

While noting the statutory periods in relation to bargaining, meaningful negotiations shall commence at least 3 months prior to the expiry of any existing agreement covered by this protocol (or earlier where required by the agreement) and the parties should aim to reach agreement prior to the expiry date.

It is agreed that regular and ongoing consultation involving senior officers of agencies and all public sector unions should not be limited to bargaining processes to assist to develop and maintain positive relationships between the parties.

This protocol cannot require a negotiating party to agree on any matter for inclusion in an agreement.

## Development of an agreed bargaining process

The parties to any agreement covered by this protocol shall agree on a bargaining process for the conduct of such negotiations. A copy of the agreed

process shall form an attachment to the advice provided to the QIRC two (2) weeks prior to the commencement of negotiations.

The following matters should be considered, and where relevant and practicable, be included in a written agreement on the bargaining process;

- a. The size, composition and representative nature of the negotiating teams and how any changes will be dealt with
- b. The names of individuals comprising the negotiating teams
- c. The presence, or otherwise, of observers
- d. The authority of the negotiators and any limitations to their authority
- e. The proposed frequency of meetings
- f. The proposed venue/s for meetings
- g. The proposed timeframe for the bargaining process including the making of claims and the response to claims made.
- h. The manner in which proposals will be made and responded to
- i. The manner in which any areas of agreement are to be recorded
- j. Advice on ratification and signing-off procedures
- k. Communication to interested parties during bargaining
- l. The provision of relevant information and costings
- m. Any process to apply for matters for which there is no agreement
- n. When the parties consider the bargaining process is exhausted.

### Meetings

The parties agree to meet regularly to expedite the bargaining process.

The frequency of meetings should be reasonable and consistent with any agreed bargaining arrangements.

The meetings will provide an opportunity for the parties to discuss proposals relating to the bargaining, provide explanations of proposals relating to the bargaining, or where such proposals are opposed, provide explanations which the relevant party considers support the proposals or opposition to it. This will include relevant information and costings.

The parties are not required to continue to meet each other about proposals that have been considered and responded to.

Attachment B details regular meetings that will occur outside the enterprise bargaining process.

### Bargaining Behaviour

The parties will adhere to any agreed process for the conduct of the bargaining.

The parties must consider and respond to proposals made by each other.

The agency and unions will provide to each other, on request, and in a timely manner information that is reasonably necessary to support or substantiate claims or responses to claims made for the purposes of bargaining.

The parties will consider the other's proposals for a reasonable period. Where a proposal is not accepted, the party not accepting the proposal will offer an explanation for that non-acceptance.

Where there are areas of disagreement, the parties will work together to identify the barriers to agreement and will give further consideration to their respective positions in the light of any alternative options put forward.

The parties should attempt to reach an agreed settlement of any differences arising from the collective bargaining.

Good faith bargaining requires that the parties do not capriciously add or withdraw items during the negotiation process.

### Breach of good faith bargaining

Where a party believes there has been a breach of good faith in relation to the bargaining process the party will detail 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.

Where a party has detailed its concern that there has been a breach of good faith and the other party/s have not responded in a satisfactory or timely manner, that party may refer the matter to the QIRC to seek its assistance or intervention.

### Timeframes and reporting processes

Negotiations are to commence at least three months prior to the nominal expiry date of the existing agreement. The parties are to advise the QIRC two weeks prior to the commencement of negotiations. Such advice shall include a copy of the agreed bargaining process.

One or more of the parties may access the QIRC for assistance in negotiations if they believe that another is not "bargaining in good faith", if agreement cannot be reached on procedures or if negotiations have not commenced three months prior to the expiry of the existing agreement.

Two weeks prior to the nominal expiry the single bargaining unit (SBU) is to provide a written report to the QIRC on the progress of the negotiations. The

QIRC may convene a meeting of the parties to consider the progress of negotiations.

From the conclusion of the peace obligation period the SBU will provide a weekly written status report to the QIRC.

If an agreement has not been reached 4 weeks after the expiry of the peace obligation period, one or more of the parties may request that the QIRC convene a meeting of the parties to determine the prospects of the parties reaching agreement without conciliation.

#### Conciliation and Arbitration

In accordance with s148 of the *Industrial Relations Act 1999*, either party may seek the assistance of the Commission by way of conciliation.

The Commission may abandon the conciliation or arbitration process if the parties reach agreement during the processes.

Nothing in this protocol prevents the parties from agreeing to move more quickly to conciliation and if necessary, arbitration.

This protocol does not seek to limit the application of sections 148, 149, 150 and 174 of the *Industrial Relations Act 1999* but is to provide guidance to the parties and the Commission.

#### Review Process

The parties agree that this protocol applies for a period of four years after which time it will be jointly reviewed.

The parties further agree that any changes to this protocol during the period of its operation require the agreement of the parties to the protocol.

Bodies not covered by this Protocol

- All Government Owned Corporations
- Tourism Queensland
- Queensland Performing Arts Trust
- Greyhound Racing Authority
- Brisbane Turf Club
- Queensland Institute of Medical Research
- Any other Board, Fund, Trust, Tribunal or Foundation established under statute.

## REGULAR MEETINGS WITH PUBLIC SECTOR UNIONS

### BACKGROUND

- The Hawke Report recognised a lack of regular discussion between senior public sector management and unions about workplace issues arising during the life of an agreement, and suggested that a constructive and enduring relationship between government agencies, employees and their unions requires regular interaction and consideration of contemporary and emerging issues affecting them.
- It is essential that chief executives of government agencies recognise the benefits arising from regular dialogue and sharing of information with unions to resolve contemporary issues. If benefits are to be gained from regular meetings, government representatives must be committed to the objective of resolving issues as they arise rather than refusing to address issues on the grounds that 'no further claims' provisions of agreements negate any obligation to manage day to day industrial matters.
- To rectify the lack of regular interaction between agencies and unions, Mr Hawke recommended that:
  - the Director-General of the Department of Industrial Relations (DIR) and Senior Officers of the Queensland Council of Unions (QCU) and the Australian Workers' Union (AWU) meet formally at least quarterly to discuss broad industrial issues affecting the Queensland public sector; and
  - the chief executives of each Government agency and secretaries of unions with coverage in that agency meet formally at least quarterly to address issues specific to that agency.

### AGENCY MEETINGS

Chief executives of each government agency are to convene regular meetings between the chief executive (and other relevant management representatives) and the secretaries of each union having coverage in that agency. Separate meetings will occur with each union, unless otherwise agreed at the agency level.

The meetings will occur in accordance with the following principles:

- The agency and unions can identify any workplace issue of concern to either party, apart from wages and basic conditions of employment, which are dealt with during the bargaining process and cannot be reopened during the term of an agreement. It is not intended that matters which have significant budgetary implications to the agency will be resolved through these processes.
- Issues identified by either party will be recorded on an agenda for the scheduled meetings, however, where the issue is of an operational nature, it should not be included unless resolution has not been possible at the local level.

- Issues will be discussed in accordance with the principles of good faith bargaining.
- Every attempt will be made to resolve agenda items at the meeting in which they are raised, or at the latest, at to the subsequent scheduled meeting.
- The meetings will also provide an opportunity to share information about developments and concerns relevant to each of the parties.
- The meetings are to occur at least quarterly. The Chief Executive must attend the regular quarterly meeting. This role cannot be delegated.
- A report of the issues, actions and responsible officers, arising from each meeting will be prepared by the chief executive and provided to the Directors-General of the Department of the Premier and Cabinet and Industrial Relations, and to the portfolio Minister within three weeks of the meeting.
- Working groups of the agency-union meetings may be established to review, investigate and resolve specific issues raised in the meetings.
- Issues that are not resolved at meetings between agencies and unions by the conclusion of each meeting, and continue to be outstanding after the subsequent meeting may be referred to the Director-General of DIR to be discussed at the quarterly meeting with the QCU and AWU if they have broader implications or to the QIRC in accordance with dispute resolution procedures contained in relevant agreements or awards.

## **PUBLIC SECTOR MEETINGS**

The Director-General of DIR will convene regular meetings with Senior Officers of the QCU and the State Secretary of the AWU. These meetings will address sector wide industrial issues affecting more than one agency or matters referred from an agency meeting.

The meetings will occur in accordance with the following principles:

- Issues identified by either party will be recorded on an agenda for the scheduled meetings, however, where the issue relates to a single agency, it should not be included unless resolution has not been possible at the agency level.
- Issues will be discussed in accordance with the principles of good faith bargaining, and in consideration of the industrial relations legislative framework and the Government's industrial relations policies.
- Every attempt will be made to resolve agenda items at the meeting in which they are raised, or at the latest, at to the subsequent scheduled meeting.
- The meetings will also provide an opportunity to share information about developments and concerns relevant to each of the parties.
- The meetings at both the agency are to occur at least quarterly. The Director General of the Department of Industrial Relations will attend the regular quarterly meeting. This role will not be delegated.

- A report of the issues, actions and responsible officers, arising from each meeting will be prepared and provided to the Director-General of the Department of the Premier and Cabinet and to the Premier and Minister for Industrial Relations.
- Working groups may be established to review, investigate and resolve specific issues raised in the meetings.