

MEMORANDUM OF UNDERSTANDING

This memorandum dated 23 December 2002 records certain understandings and agreements reached between the Legal Aid Commission (“the Commission”) and the Public Service Association (“PSA”).

1. PREAMBLE

The Crown Employees (Public Service Conditions of Employment 1997) Award (“the award”) provides, among other things, that:

- a) “there shall be effective means of consultation as set out in the Consultative Arrangements Policy and Guidelines document, on matters of mutual interest and concern, both formal and informal, between management and the trade unions represented in the department;
- b) the departmental management shall consult with the relevant trade union prior to the introduction of any technological change;”

To comply with the award and to strengthen consultation in the workplace the parties have agreed to establish the Legal Aid Peak Consultative Committee (PCC) as the mechanism for formal consultation between them.

Nothing in this memorandum is intended to derogate from the Award.

2. PRINCIPLES

- 2.1 The Commission recognises that although the primary responsibility of management is to take decisions to achieve the objectives of the organisation, the effectiveness and implementation of such decisions will be significantly enhanced by the involvement of employees.
- 2.2 The Commission acknowledges that its employees are its most valuable resource and accepts the PSA as the representative of its employees and the channel for negotiations.
- 2.3 Employees who are both informed and given the opportunity to participate in decision making that directly affects them are more likely to achieve a higher level of satisfaction, and are more likely to identify and contribute to the success of the organisation.
- 2.4 Regular staff meetings are to be held by managers to inform employees in their workgroup on any issue which directly or indirectly affects their employment or working conditions.

- 2.5 Communication, information sharing, consultation and negotiation are the key to developing cooperation and a spirit of trust between management, employees and the PSA. Information sharing involves all employees and a participative and cooperative relationship at all levels of the organisation. Consultation and negotiation are only meaningful on a collective basis, with PSA representatives able to speak for employees collectively.

Effective organisational communication involves information sharing, consultation and negotiation which are all interdependent. It is important to note that information sharing is the first step to consultation. Consultation is the next step to negotiation. All parties need to clearly understand when they are either consulting or negotiating.

- 2.6 The key to establishing effective consultative arrangements is planning and attention to process. There must be adequate meeting procedures in place and the parties must take all reasonable steps to vest adequate authority in their nominees to consult fully and frankly with the view to reaching final agreement where practicable on matters under consideration. There must be a long term perspective and commitment.
- 2.7 Provision to the PSA and its representatives of relevant and appropriate information and appropriate relief is necessary to enable them to make an informed contribution to issues. The appropriate time to supply information and consult with the PSA is at the time of contemplation of proposals, not the time of introduction.
- 2.8 While recognising that consultative arrangements do not necessarily eliminate differences of opinion, the development of a consultative and co-operative approach to issues should reduce the level of potential dispute.

3. PURPOSE AND OBJECTIVES

The purpose and objectives of these consultative arrangements is to establish a formal frame work for the conduct of co-operative industrial relations which is aimed at:

- providing an opportunity for consultative decision making by the full involvement of the PSA in the decision making process;
- enhancing job security by improving the productivity, efficiency and effectiveness of the Commission's services and operations;
- strengthening the working conditions of the Commission's employees; and
- building a fair, cooperative and satisfying working environment for employees

4. CONSULTATIVE ARRANGEMENTS

4.1 Frequency of meetings

Meetings of the PCC shall be on a frequent basis, at least every two months, or at the request of the Chief Executive Officer of the Commission and/or his or her nominee or the PSA.

The PCC will normally meet in the Boardroom unless otherwise agreed.

4.2 Membership

The following persons are members of the PCC:

4.2.1 Management Representatives

The Chief Executive Officer, two nominees and the Manager, Human Resources.

4.2.2 PSA Representatives

The President or General Secretary of the PSA or nominee, an Industrial Officer or Organiser nominated by the PSA and two Commission PSA workplace delegates.

Other employees of the Commission and/or officials of the PSA may be co-opted to join the PCC from time to time to inform the PCC on particular matters of mutual interest. This is to be done by agreement with the PCC.

4.3 Executive Officer

The Manager, Human Resources and/or delegate will act as the PCC's executive officer.

4.4 Matters for Consultation

Agreement should be reached on those matters that the Commission undertakes to discuss with the PSA. There needs to be a commitment to ensuring that there is an opportunity for the parties to consult on a matter prior to the implementation of any proposed changes. Without limiting the scope of consultation, the primary matters for consultation by the PCC shall be strategic and operational issues such as:

- organisation objectives and their implementation;
- organisation restructuring;
- organisational systems and procedures;
- organisational personnel and staffing practices;
- enterprise bargaining;
- accommodation and technological change issues;
- workload issues;

- training and development;
- initiatives for change including trials within the organisation; and
- other issues specified in any sector-wide framework agreement.

4.5 Conduct of meetings

All meetings shall be chaired and rotated between the Chief Executive Officer or his or her nominee and the General Secretary or President of the PSA or his or her nominee.

The meetings shall have a formal agenda and associated papers shall be prepared and distributed to the committee members at least five working days before the meeting. This arrangement should not preclude the tabling of additional information which might come to hand after the preparation of the agenda papers.

A formal record of the discussions at the meeting shall be prepared by the Commission and jointly agreed upon by the PCC members.

The executive officer is to prepare a record of the proceedings of all meetings and is to use his/her best endeavour to submit the record to all members five working days after the conclusion of each meeting.

If urgent business arises and it is mutually agreed that it is impracticable to follow this arrangement the urgent matter is to be attended to as soon as possible.

4.6 Use of sub committees

To further the process of consultation, sub-committees or working groups may be established from time to time to research, examine and make recommendations on issues to the PCC. Those participating in these groups would provide the PCC with special expertise and broaden the opportunity for other PSA members and managers to participate in the consultative process.

4.7 Confidentiality of meetings

The parties will determine how they will deal with matters of a confidential nature. To assist in deciding when a matter is confidential, the parties may need to consider the following issues:

- the availability of information on the matter from other sources;
- the level of sensitivity of the matter;
- the likelihood of action in discussing the information; and
- the need for the PSA to consult the affected members.

4.8 Recommendations made or Agreements reached by the Committee

The parties agree that the process to be followed at PCC meetings in making recommendations or achieving a final decision is to be in line with the process set out in the annexure to this memorandum.

The parties acknowledge that there will be some matters that either party is unable to finalise at the meeting and such matters will need to be deferred for a decision.

4.9 Future meetings

The date of the next meeting of the consultative committee should be set at the close of business of the previous meeting.

4.10 Training of Committee Members

The Commission shall, if requested by the PCC, arrange training (e.g. in meeting procedures and dispute resolution) for some or all of the members of the PCC and sub committees.

4.11 Reporting Arrangements

The parties shall agree on report back arrangements to employees on outcomes of the PCC meetings.

5. RESOURCES AND SPECIAL LEAVE

The Commission will allow the PSA's workplace delegates reasonable resources to enable them to participate fully in the cooperative arrangements referred to earlier in this memorandum. This will include allowing delegates necessary paid time to consider management proposals and to formulate union proposals, including feasibility studies; access to all necessary office equipment, printing and other facilities (including such access as is necessary to enable the PSA to communicate with members and staff). It will also include allowing time in normal business hours for meetings of members to consider management proposals.

The Commission agrees to pay all actuals up to the maximum of daily allowance set by the Public Sector Management Office for fares, accommodation and travelling costs of delegates to attend the PCC and any sub-committee established by the PCC.

6. GOOD FAITH BARGAINING

The Commission and the PSA agree that good faith bargaining can only be conducted in a climate of mutual trust and industrial harmony.

Up to and during the negotiations phase the PSA agrees not to implement any form of industrial action relating to the matters under consideration and the Commission agrees not to take steps to implement any proposal relating to the matter.

These undertakings do not limit either party from taking whatever action is available to them under existing legislation in relation to matters under consideration by the PCC once the negotiation phase has come to an end and the party seeking to take action has advised the PCC accordingly. Nor do they prejudice any rights at law to take industrial action in respect of OHS issues.

ATTESTATION

SIGNED for and on behalf of the
LEGAL AID COMMISSION in the
presence of:

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Dated:

SIGNED for and on behalf of the
PUBLIC SERVICE ASSOCIATION
OF NEW SOUTH WALES in the:
presence of:

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Dated:

ANNEXURE

Steps to making recommendations or achieving a final decision in a consultative committee

