



## **Consultative Committee formation principles**

23 August 2016

When the 1992 Local Government State Award was made, clause 20 required, for the first time, that each council develop a consultative committee which needed to be a “credible consultative mechanism” on workplace change generally.

While the ‘92 Award provided improved flexibility for councils, there was some rigidity and less flexibility available under clause 20. We did this because the industry had a poor history of consultation and it was recognised that many councils would need to be dragged into a consultative approach.

Clause 20 prescribed minimum representation from the three Unions party to the Award - at least one representative from the USU wages, one from the USU salaried staff, one from depa and one from LGEA. It was always available to expand beyond the minimum representation by agreement between the Council and the unions’ “local representatives”.

Over the years some councils have claimed the union representatives are not sufficiently representative of the workforce and have wanted to add workplace or staff representatives without the agreement of the local union representatives at times and, sometimes, in numbers which would outnumber the union representatives. Some have been able to reach agreement with the local representatives to provide additional representatives but on other occasions agreement has not been able to be reached.

To respond to this issue, the Award clause was amended in 2014 to provide that the size and composition of consultative committees must be representative of the employer’s workforce and agreed to by the employer and local union representatives. Agreement is not to be unreasonably withheld.

This means that it’s important for councils to first establish that the union representation doesn’t properly reflect the workforce and explain the reasons why. Then it’s important for the unions to find ways of addressing any recognised deficiency.

The three unions have met to determine some guidelines for their local representatives faced with claims by the council that the union representation may not be “representative of the employers’ workforce”. In principle the three unions have traditionally rejected a view that there is not one employee in the industry who is not eligible to join one or more of the three unions. However, the principles outlines below are designed to assist our local representatives to respond to this issue at their council.

### **The principles**

- 1 No designated “non-union” representatives. The unions are opposed to including designated “non-union” representatives on any consultative committee. That is any

purported workplace representatives, or the election of employees who are non-union members on behalf of an electorate of non-union members.

- 2 No representatives are to be directly appointed. The unions acknowledge that management/council nominates management representatives but it is inappropriate, and the unions will contest, proposals by management to appoint employees to anything other than management positions on a consultative committee.
- 3 A Council wanting to provide “workplace representatives” to supplement the union representatives must demonstrate that the existing representation is not representative of the workforce. The onus is on the council and this is critical to reaching agreement.
- 4 If a council is able to demonstrate this, then the unions (predominantly the USU, who are able to cover everyone in the industry) will provide additional representation from those areas where the employer believes representation is lacking and the Committee can expand the USU membership accordingly.
- 5 If it is agreed that there be staff representatives, the maximum number allowable for workplace representatives will be no more than 50% of the union representatives.
- 6 Any staff representatives must be elected by electorates agreed to by the local union reps.

This information will make the lives of local union representatives easier and provide clear advice to management at councils of our preparedness to defend the representation provided for the past 24 years in the Award.



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