

Consultation and Representation Protocol

This protocol constitutes an agreement between the Department and the Community and Public Sector Union (CPSU) for the purposes of the *Fair Work Act 2009*. It may be varied by agreement between the department and the CPSU.

Either the department or the CPSU may seek a review of the protocol at any time and both the department and the CPSU will participate in such a review in good faith.

This protocol replaces the agreed Workplace Delegate Protocols in full.

Consultation

Consultation in the workplace operates on the basis that managers, employees and, where they choose, their representatives establish working relationships which support day-to-day interaction on workplace matters.

“Major change” or “Changes to rosters or ordinary hours of work”

The *Department of Agriculture and Water Resources Enterprise Agreement 2017-20 (EA)* and the *Department of Agriculture and Water Resources Meat Inspection Enterprise Agreement 2015-18 (MIEA)* provide a framework for consultation with employees and, where they choose their representatives when the Secretary either:

- a) Makes a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to the department that is likely to have a significant effect on employees (refer EA Clause 11.6 and MIEA Clause 8.5); or
- b) Proposes to introduce a change to the regular roster or ordinary hours of work of employees (refer EA Clause 11.7 and MIEA Clause 8.6).

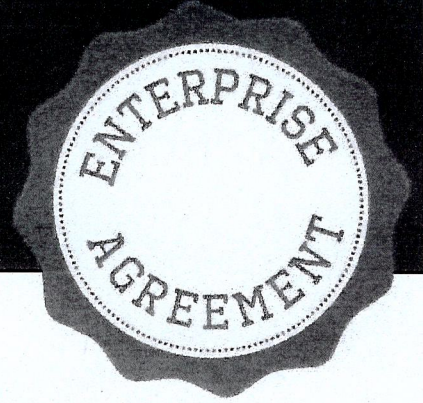
Other workplace matters

Notwithstanding the department's consultation requirements in circumstances of a “Major change” or “Changes to rosters or ordinary hours of work”, the department remains committed to communicating and consulting directly with employees and, where they choose their representatives on any workplace matter which may affect them.

To facilitate workplace matter consultation, the department will provide a genuine opportunity for employees and their representatives to influence the decision maker prior to a decision being made and in doing so, provide:

- a) Relevant information about the workplace matter including the nature of any change proposed;
- b) Information about what the department reasonably believes will be the effect of the change on employees; and
- c) Information about any other matters that the department reasonably believes are likely to effect the employees.

Following provision of information, any feedback received from employees or their representatives, will be considered as part of the decision making process with employees and their representatives



being advised of the outcome and in particular how the feedback received was considered in the decision making process.

Examples of what constitutes a "workplace matter" for the purposes of this consultation includes, but is not limited to, proposed changes to:

- a) Policies, procedures and enterprise agreement guidelines (refer EA Clause 6 and MIEA Clause 5);
- b) The biosecurity broadband competency based assessment (refer EA Clauses 34.5(f) and 34.6);
- c) The mechanism for review of certain allowance rates in the absence of the Allowance Subscription Service (refer EA Clause 31.1(c));
- d) Superannuation arrangements or entitlements following any legislative amendment (refer EA Clause 37 and MIEA Clause 28);
- e) The health and fitness reimbursement eligible activities and equipment (refer EA Clause 33.4 and MIEA Clause 25.3); and
- f) Performance standard descriptors (refer EA Clause 46 and MIEA Clause 34).

Freedom of Association and Representational Rights

As required by the *Fair Work Act 2009* and under the EA (refer EA Clause 13) and MIEA, the department recognises that employees are free to choose whether or not to join a union.

Employees may have an employee representative, who may be a union delegate to represent them in workplace matters including, but not limited to, the following:

- a) Consultation (refer EA Clause 11.3 and MIEA Clause 8.2)
- b) Resolving workplace issues (refer EA Clause 14)
- c) Dispute resolution (refer EA Clause 15.4 and MIEA Clause 10.5)
- d) Flex-time arrangements (refer EA Clause 20.13)
- e) Performance not meeting expectations (refer EA Clause 47.2)
- f) Redeployment, reduction and retrenchment (refer EA Clause 71.3 and MIEA Clause 57.3)

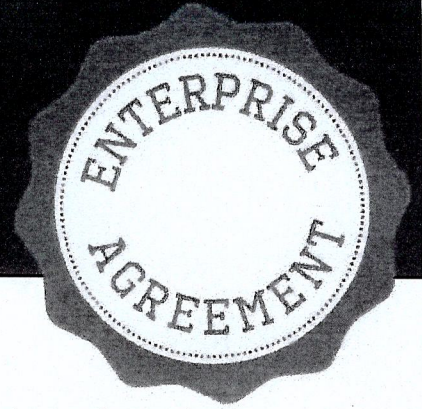
The role and rights of union employee representatives will be respected and facilitated in accordance with *Attachment A: Workplace delegate principles* which will also apply as appropriate to other recognised employee representatives.

With rights comes responsibility and employee representatives must act in good faith and do the best they can for the employees they represent. Employee representatives will engage with their manager and then periodically thereafter to agree as to the general application of the *Workplace delegate principles* noting the following:

Paid time

Subject to operational and service delivery requirements employee representatives will be provided with reasonable paid time to perform the following in the workplace:

- a) Representational duties;
- b) Meetings with management, employees, other union representatives or union officials concerning employment related matters in the department;



- c) Consultation with, seeking feedback from or providing information to employees in the workplace
- d) Attendance at consultative committee meetings;
- e) Attending union representational training; and
- f) Attendance where required at industrial proceedings that directly involve the department.

It is acknowledged that requirements of employee representatives may fluctuate from time to time which may require specific facilities. After consideration of the circumstances, management will endeavour to accommodate in the spirit of the Workplace delegate principles, but not to the detriment of operational and service delivery requirements. Any adverse decision in this regard will be communicated to the employee representative together with reasons and suggested alternative arrangements.

Use of facilities

Employee representatives will be provided with appropriate facilities to perform their role in accordance with that agreed following discussion between the representative and management, including access to:

a) **Telephones and conference facilities;**

To use teleconferencing facilities representatives must seek the prior agreement of management and follow local booking procedures.

b) **Meeting rooms**

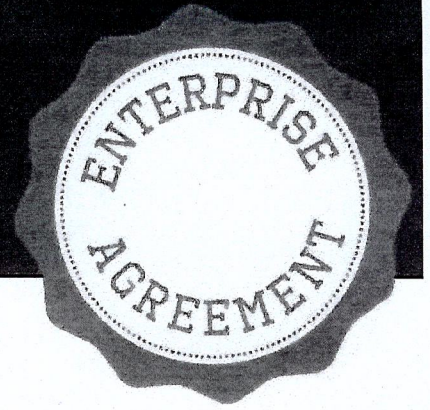
Representatives must seek prior agreement of management, follow local booking procedures and comply with local security and visitor access requirements.

c) **Email and intranet**

- Representatives may use the department's email facilities (other than for "All Staff" emails e.g. All Staff, All Region, All Division to communicate with each other and to employees in the workplace.
- Any use of electronic facilities by representatives must comply with the department's Email and Internet Code of Conduct and the information Communications and Technology (ICT Security) Policy.
- On request from a union, the Assistant Secretary, People Service may approve inclusion of union references and/or links to websites in "All Staff" emails in the interest of progressing a "major change" having a significant effect on employees or during enterprise bargaining.

d) **Notice boards**

- Existing designated notice boards in the workplace are available to be used to display union employee communications.
- The display of union material is to be progressed through management and will not compromise operational requirements.



e) Desk top drops

Given employee representatives have access to email facilities and notice boards to facilitate communication in the workplace, desktop drops are not permitted.

f) Orientation

- The department will make available up to 45 minutes for union officials or employee representatives to present to interested new employees (including graduates) who attend the department's formal face-to-face orientation program.
- The department will provide union information to new employees on request.

Resolving disputes and workplace issues

Workplace delegate principles

Any dispute concerning the application, interpretation or implementation of the Workplace delegate principles, can be raised with the department's Director Workplace Relations for resolution.

Changes to policies, procedures and enterprise agreement guidelines

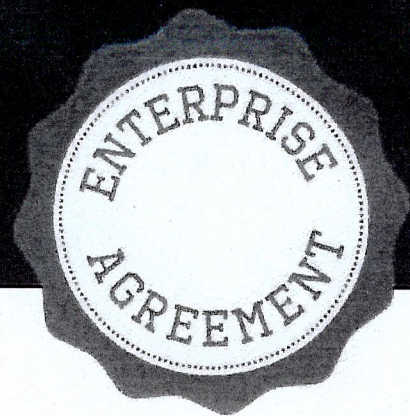
Where, following a process of consultation, there is a dispute over the content, application or interpretation of a policy, procedure or enterprise agreement guideline which support the operation of the enterprise agreement, the dispute resolution provision at EA Clause 15 or MIEA Clause 10 will be taken to apply.

Review of Action

If an employee has a complaint about an action relating to their employment they can take formal action under the *Public Service Act 1999* (refer EA Clause 14). Before taking any such action the employee should attempt to resolve the matter at the workplace level through discussions with management.

Dispute resolution

If a dispute relates to a matter under the enterprise agreement, or the *National Employment Standards* the dispute resolution provision at EA Clause 15 or MIEA Clause 10 will apply.



Attachment A: Workplace delegate principles

The role of union workplace delegates and other elected union representatives is to be respected and facilitated.

In discharging their representative roles at the workplace level, the rights of union workplace delegates include but are not limited to:

- a) the right to be treated fairly and to perform their role as workplace delegates without any discrimination in their employment
- b) recognition by the department that endorsed workplace delegates speak on behalf of their members in the workplace
- c) the right to participate in collective bargaining on behalf of those whom they represent, as per the *Fair Work Act 2009*
- d) the right to reasonable paid time to provide information to and seek feedback from employees in the workplace on workplace relations matters in the department during normal working hours
- e) the right to email employees in their workplace to provide information and seek feedback, subject to individual employees exercising a right to 'opt out'
- f) undertaking their role and having union representation on the department's consultative committee
- g) reasonable access to departmental facilities (including telephone, facsimile, photocopying, internet and email facilities, meeting rooms, lunch rooms, tea rooms and other areas where employees meet) for the purpose of carrying out work as a delegate and consulting with members and other interested employees and the union, subject to department policies and protocols
- h) the right to address new employees about union membership at the time they enter employment
- i) the right to consultation, and access to relevant information about the workplace and the department
- j) the right to reasonable paid time to represent the interests of members to the employer and industrial tribunals.

In discharging any roles that may involve undertaking union business, the rights of union workplace delegates include but are not limited to:

- a) reasonable paid time during normal working hours to consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace
- b) reasonable access to appropriate training in workplace relations matters including training provided by a union
- c) reasonable paid time off to represent union members in the department at relevant union forums.

In exercising their rights, workplace delegates and unions will consider operational issues, departmental policies and guidelines and the likely effect on the efficient operation of the department and the provision of services by the Commonwealth.

For the avoidance of doubt, elected union representatives include employees elected to represent union members in representative forums, including Section Secretaries, Governing Councillors and Section Councillors.