

Independent review into the NZNO/District Health Boards Nursing and Midwifery Multi-Employer Collective Agreement (NZNO/DHB MECA) bargaining process March 2017 to August 2018 and supporting campaigns.

Terms of reference

A Background

1. The NZNO/DHB MECA expired on Monday 31 July 2017. At the commencement of bargaining 30,000 NZNO members were covered by the DHB/NZNO MECA. The parties to the NZNO/DHB MECA bargaining are NZNO and the 20 DHBs. Bargaining commenced in May 2017. The NZNO/DHB MECA negotiations were led by a negotiation team which was endorsed by NZNO members in April 2017. The negotiation team was comprised of two advocates (NZNO staff) –appointed by Industrial Services Manager (one is required to be the Industrial Adviser for the sector), two other staff selected by the DHB Industrial Adviser and six delegates who were selected following an expressions of interest process by the national delegates committee.
2. The claims/issues for bargaining were canvassed from members during April 2017 through a survey designed by a DHB sector organiser after the sector group process was signed off by NZNO DHB Industrial Adviser. The collated claims/issues were presented to members and endorsed at endorsement claims meeting across all DHBs in May 2017. The role of the negotiation team is to represent members in bargaining and to present the claims/issues for bargaining as endorsed by members. The negotiation team conducted bargaining and represented members in accordance with the NZNO Bargaining Policy.
3. During the NZNO/DHB MECA bargaining process DHBs put forward five different offers. Four were voted against or declined by members. The fifth offer was accepted by members following a ratification ballot which closed on 6 August 2018. The negotiation team made recommendations on three offers (- two of which were voted against.) Ratification voting on the first three offers was conducted through workplace meetings. Ratification voting on the last two offers was conducted using online voting. An online ballot for strike action was also conducted and members voted in favour of two separate 24 hour strikes on Thursday 5 July and Thursday 12 July 2018. Strike action proceeded on Thursday 12 July 2018 preceded by extensive planning and development of plans with DHBs for life preserving services.
4. During the NZNO/DHB MECA bargaining process a number of campaigns highlighted the impact of underfunding of health on services. The themes highlighted included retention and recruitment of the nursing workforce, safe staffing, patient safety and valuing the nursing workforce. The campaigns included Shout out for Health, I Heart Nurses and #HealthNeedsNursing. Nationwide rallies took place over a two week period in April 2018 as part of the #HealthNeedsNursing campaign.

5. The NZNO/DHB MECA bargaining process was protracted and complex. Communication was challenging in regard to the use of social media channels by members and the emergence of new Facebook pages/groups. This created some tensions including the prevalence of misinformation, and the nature of the picture painted by the media about the NZNO/DHB MECA negotiation process. At the conclusion of each DHB MECA negotiation process NZNO routinely undertakes a review of the process to establish what went well, what can be improved on and what can be learned. NZNO intends to undertake a review of the NZNO/DHB MECA bargaining process and associated campaigns. In doing so, it has decided to engage an external independent person to carry out the review.

B Scope of review

6. The reviewer will:
 - a. Enquire into and report on the NZNO/DHB MECA bargaining process and the NZNO Bargaining Policy within the context of the Employment Relations Act 2000;
 - b. Enquire into and comment on NZNO's preparation, planning and delivery for the NZNO DHB MECA bargaining process including the gathering and collation of claims/issues, the bargaining strategies and processes applied, decision making processes, including the use of online voting, and if appropriate make recommendations about how the processes could be improved;
 - c. Enquire into and comment on NZNO's preparation, planning and support for life preserving services, and if appropriate make recommendation about how this could be improved;
 - d. Enquire into and comment on NZNO's preparation, planning and delivery of NZNO/DHB MECA associated campaign methods and processes, processes for communications (internal and external) including the use of social media and if appropriate make recommendation about how these could be improved;
 - e. Provide recommendations on the Bargaining Policy, and how this could be improved;
 - f. Make any additional comments and/or recommendations that are appropriate and relevant to the review.
7. For the avoidance of any doubt it is not the purpose of this review to ascertain whether there are employment matters arising from the NZNO/DHB MECA negotiation process. The review is to determine what can be learned from the NZNO/DHB MECA negotiation process, what worked well and what can be improved upon.

C Process and form of review

8. The review will be conducted strictly in accordance with these Terms of Reference. Any deviation from the Terms of Reference must only occur with the consent of NZNO's Industrial Services Manager and Chief Executive. The reviewer will complete a thorough, unbiased and procedurally fair review.
9. The reviewer will make the final decision about any persons who will be interviewed as part of the review but is required to speak to members of the negotiation team, representatives from the national delegates committee, representatives from the Board

and staff representatives from industrial services team, professional services team, communications, campaigns and corporate services teams.

10. The review will include, but is not necessarily limited to, the following tasks:
 - a. Review of all relevant documentation pertaining to the NZNO/DHB MECA bargaining process, including appropriate plans and strategies. The reviewer may request any documentation they consider is necessary.
 - b. Gathering information from NZNO members covered by the NZNO/DHB MECA and staff involved in the bargaining processes.
 - c. Gathering information from other stakeholders and unions relevant to the NZNO/DHB MECA negotiation process for example communications, social media etc
 - d. Interviewing any other additional persons deemed to have historical knowledge that can inform the review.
 - e. Considering the application of Employment Relations Act 2000 and any legal principles/ principles relating to collective agreement bargaining.
11. The reviewer will provide a draft report to the Industrial Services Manager and NZNO's Chief Executive. The Industrial Services Manager or Chief Executive will forward the draft report to the Board, the negotiation team and anyone else they consider ought to be given the opportunity to comment. Any comments made by the parties involved will be provided to the reviewer and will be taken into account by the reviewer when preparing a final report. Any comments and information gathered by the reviewer through interviews will be confidential and presented in a way which does not identify the contributor.
12. The reviewer will present the final report including written findings and recommendations to the Industrial Services Manager and Chief Executive.
13. NZNO's Chief Executive will provide the final report to the Board and any other person who, in the opinion of the Chief Executive, should receive the report.
14. The Chief Executive is the final decision-maker as to the adoption and implementation of any recommendations in the report and/or any further action that may be needed following receipt of the report.

Expected timeline

The following are the key milestones for the Independent review:

Milestone	Estimated Completion Date
Draft Terms of Reference signed off by Chief Executive	Completed 5 November 2018
Draft Terms of Reference presented to the Board	Completed 30 October 2018
Revised Terms of Reference signed off by Chief Executive	Completed 13 December 2018
Reviewer appointed and confirmed	Completed 19 December 2018
Confirm final terms of reference with reviewer	Completed 19 December 2018
Final Terms of Reference presented to Board	Completed 13 February 2019

Information gathering and interviews by reviewer	January 14 – 30 March 2019
Reviewer provides draft report to Industrial Services Manager and Chief Executive	2 April 2019
Chief Executive provides draft report to Board	Board Meet 17 April 2019
Any comments on draft report to be provided to reviewer	End of April 2019
Final review report to Industrial Services Manager and Chief Executive	Mid-May 2019
Final review report to Board	Board Meet 19 June 2019

D Confidentiality

The purpose of the information gathered during the review process including the review report is intended to enable and inform the Industrial Services Manager and Chief Executive as part of operational decision making processes; and should not be disclosed to any other party or persons without the express permission of the Industrial Services Manager and Chief Executive.

Individuals interviewed for the purpose of this review will be advised by the reviewer to keep the content of the interview (including the questions asked and answers given) confidential to prevent 'undue influence' they must not discuss relevant matters with any other person, unless advised otherwise.

E Contact Persons

For the purposes of this review, the reviewer's contact person in NZNO will be:

- a. Cee Payne, Industrial Services Manager
cee.payne@nzno.org.nz
027 229 5500
04 494 6831

Date: 20 December 2018

END