



# **Review of the New Zealand Nurses Organisation District Health Board MECA Bargaining and Campaign Process 2017-18**

**Independent reviewer's report and  
supporting documentation**

**27 August 2019**

## Introduction from the Chief Executive

The New Zealand Nurses Organisation (NZNO) commissioned an Independent Review of its 2017-2018 bargaining process around the DHB MECA, which was ratified by members in 2018. It is normal procedure for us to review processes around major negotiations, but in this case, an Independent Review was considered appropriate because the bargaining process was considerably longer and more complex than similar negotiations have been in the past. The purpose of the Independent Review was so NZNO could learn what went well in 2017/18 and what we could improve on in future negotiations.

I received the final report from the independent reviewer in July 2019 and on Friday 8 August I informed the NZNO Board and senior management of my decision to release the report in full. This decision was made in the interests of transparency, and because there has been a high level of member and stakeholder interest in the results of the Independent Review.

Some redactions have been made to the released report to protect the identity of contributors and the privacy and confidentiality of NZNO members and staff. This is to honour a promise made to contributors in the Terms of Reference for the independent review and to protect the privacy and confidentiality of NZNO staff. Every effort has been made to leave information un-redacted where it is essential to understanding the report.

While the report is critical of some of NZNO's organisational procedures, I am pleased to confirm that it clearly upholds the skills, experience and professionalism of the Negotiation Team and acknowledges the difficulties under which they were operating. It also acknowledges that the settlement was approved by members and that this should be a foundation on which to build improvements in policies, processes and relationships.

I remain proud of the work the team did and of what they achieved for members in 2017/18. I also acknowledge the efforts of members and staff who worked under difficult circumstances to ensure members' views were at the forefront of our approach.

The report makes 15 recommendations. We have adopted each of them and will work together to implement them as an organisation. We accept that we need to do some things better and the findings from the report will help us do just that. We are confident that, having learned what went well and what could be improved, we are in a strengthened position as we begin preparation for the 2020 DHB-MECA negotiations.

This document is in a number of sections as follows:

1. The framework of recommendations and our responses to them
2. Questions and answers about the Independent Review and its release
3. The redacted Independent Review report by reviewer Ross Wilson
4. Online survey responses and analyses.

Memo Musa, Chief Executive, NZNO  
27 August 2019

## HB/NZNO MECA REVIEW REPORT: Proposed response and actions

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
<p><b>Number 1.</b></p> <p><b>That the NZNO invest in an internal reconciliation and dialogue process for employed NZNO staff, independently managed and facilitated, to address the issues arising from the 2017- 18 DHB MECA Bargaining process and any damage done to personal and working relationships, with the objective of restoring respect, communication and cooperation within the NZNO paid workforce.</b></p>	<p>Constructive working relationships and communication between NZNO staff is fundamental and plays a crucial role in enabling effective co-operation and co-ordination of NZNO activities/functions like collective employment bargaining and negotiations. This recommendation re-affirms NZNO's commitment to supporting NZNO staff to work constructively and co-operatively by placing high value in trusting relationships and open communication.</p>	<p>Prepare a scope of the staff reconciliation and dialogue process which identifies the issues arising from the 2017/18 DHB MECA Bargaining process.</p> <p>Identify and appoint an independent expert to manage and facilitate the staff reconciliation process.</p> <p>The appointed independent expert to manage and facilitate the staff reconciliation and dialogue process</p>	<p>August 2019</p> <p>September 2019</p> <p>October 2019 – Mid November 2020</p>	<p>Chief Executive</p>	
<p><b>Number 2.</b></p> <p><b>That the NZNO obtain legal advice to confirm that the good faith provisions of the ERA 2000 do not constrain NZNO advocates and/or spokespeople from appropriately reporting on negotiations to</b></p>	<p>Appropriately reporting on negotiations to members and/or making public comments during negotiations has always been a priority for NZNO. We agree with this recommendation. Legal advice will be obtained to inform NZNO's stance and</p>	<p>Seek legal advice from employment lawyers.</p> <p>The legal advice to inform NZNO approach to reporting on future negotiations to members/and making public statement.</p>	<p>August 2019</p> <p>September 2019</p>	<p>Industrial Services Manager</p>	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
members and/or making public statements regarding them.	approach on reporting on negotiations to members and/or making public comments to ensure that appropriate and accurate information is made available within the good faith provisions of the ERA 2000.	Communicate internally and to members the legal parameters for future reporting on negotiations to members/and making public statements.	October 2019		
<b>Number 3.</b> That the NZNO discuss and determine the appropriate bargaining model taking account of the existing commitments under the HSRA, and other relevant considerations.	NZNO will discuss and review the current bargaining model and refresh or revise it taking into account other relevant factors like the role of, and commitments under, the HSRA, the health sector code of code faith etc. Discussion will involve the industrial adviser group in consultation with other staff, state sector unions including the PSA, PPTA and NZEI and other expert input as appropriate.	<p>Discuss and review the current bargaining model by industrial advisers in consultation with other staff.</p> <p>Discussion with the PSA, NZEI and PPTA on relevant factors and considerations to include in any revisions of the current bargaining model.</p> <p>Develop and present options paper on bargaining models and recommend the appropriate model.</p> <p>Include the agreed bargaining model into the NZNO Bargaining Policy. Member</p>	<p>August 2019</p> <p>September 2019</p> <p>October 2019</p> <p>February 2020</p>	Industrial Services Manager	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
		consultation will then take place as part of NZNO's routine document development process.			
<b>Number 4.</b> <b>That the NZNO Board of Directors, as part of its responsibility for 'governance, supervision of management and control of the affairs of the NZNO' ensure that for future DHB MECA negotiations a comprehensive and properly resourced plan is approved which addresses all significant risks and contingencies.</b>	<p>The current DHB MECA expires on 31 July 2020.</p> <p>A comprehensive DHB MECA negotiation plan specifying resources (research campaigns, communications etc), contingencies and associated risks and respective accountabilities will be developed by management. In developing this plan input will be sought from staff teams. This plan will be presented to the Board for consideration and approval prior to start of negotiations.</p>	Develop with input from staff teams a comprehensive DHB MECA negotiation plan (including bargaining, communications and campaign plans) that specify research, campaigns and communication resources; and includes contingencies, risk and accountabilities.	August – Mid October 2019	Industrial Services Manager	
		Consult with key staff and member stakeholders on draft comprehensive DHB MECA negotiation plan facilitated by external project expert.	October - Mid November	Industrial Services Manager	
		Present a draft comprehensive DHB MECA negotiation plan to the Board for consideration.	December 2019	Chief Executive	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
		Adjust any changes as recommended by the Board	December 2019	Industrial Services Manager	
<p><b>Number 5.</b></p> <p><b>That the Chief Executive ensure that, before future DHB MECA negotiations, a comprehensive plan, with adequate resourcing proposals, developed with the joint input from Industrial and Professional Service Teams and DHB Sector bodies within NZNO, is put before the Board of Directors for consideration.</b></p>	This will be addressed as part of the response above in No.4	See actions under recommendations 4 above.	As per recommendations 4 above.	As per recommendations 4 above.	
<p><b>Number 6.</b></p> <p><b>That future MECA bargaining preparation include a comprehensive campaign and communications plan with proper funding and resource allocation. This should include provision for professional research and communications expertise to be</b></p>	This will be addressed as part of the response to recommendations 4 and 5 above.	See actions under recommendations 4 and 5 above.	As per recommendations 4 and 5 above.	As per recommendations 4 and 5 above.	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
contracted, if the necessary level of resource is not available internally, to supplement the NZNO staff.					
<b>Number 7.</b> <b>That the current NZNO process for claims gathering and bargaining strategy development be reviewed by representatives of the Industrial and Professional Service Teams and include appropriate consultation with the objective of designing a more inclusive process</b>	<p>NZNO will discuss and review the current process for gathering claims and refresh or revise it taking into account other relevant factors like the role of, and commitments under, the HSRA, the health sector code of code faith and Employment Relations Act. Discussion will involve the industrial adviser group, consultation with other staff, other state sector unions including the PSA, PPTA and NZEI and other expert input as appropriate.</p>	<p>Discuss and review the current process for gathering claims with the industrial adviser group and in consultation with other staff.</p> <p>Discussion with the PSA, NZEI and PPTA on relevant factors and considerations to include in any revisions of the current claims process.</p> <p>Develop and present an options paper on claims process facilitated by an external subject matter expert to obtain input from key staff and member groups.</p> <p>Include the agreed claims process into the NZNO Bargaining Policy. Member consultation will</p>	<p>August 2019</p> <p>September 2019</p> <p>October - Mid November 2019</p> <p>December 2019</p>	Industrial Services Manager	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
		then take place as part of NZNO's routine document development process.			
<b>Number 8.</b> <b>That consideration be given to increasing the size of the Bargaining Team taking into account the value of ensuring a fair geographical representation.</b>	NZNO will discuss and review the size of the bargaining team and refresh or revise it taking into account any relevant factors. Discussion will involve the industrial adviser group, consultation with other staff, other state sector unions including the PSA, PPTA and NZEI and other expert input as appropriate.	<p>Discuss and review the size of the bargaining team with the industrial adviser group and in consultation with other staff.</p> <p>Discussion with the PSA, NZEI and PPTA on relevant factors and considerations to include in any revisions of the current size of the bargaining team.</p> <p>Develop and present an options paper on claims process facilitated by an external subject matter expert to obtain input from key staff and member groups.</p> <p>Include the agreed claims process into the NZNO Bargaining Policy. Member consultation will then take place as</p>	<p>August 2019</p> <p>September 2019</p> <p>October – Mid November 2019</p> <p>December 2019</p>	Industrial Services Manager	



Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
		part of NZNO's routine document development process.			
<b>Number 9.</b> <b>That organizational consideration be given to changes in process and practice to ensure optimal cooperation, and sufficient access to appropriate research, communication, and policy resources, between the Industrial, Professional Services, and Corporate Services Teams within the NZNO and to obviate the risk of siloing, and uncertainty and ambiguity of roles, and the consequent weakening of effectiveness around such issues as Safer Staffing and CCDM.</b>	This will be addressed as part of the response to recommendations 4 and 5 above.	See actions under recommendations 4 and 5 above.	As per recommendations 4 and 5 above.	As per recommendations 4 and 5 above.	
<b>Number 10.</b> <b>That the NZNO undertake, or commission, the necessary work to</b>	NZNO will discuss and review the recent process for the online discussion of offers for	Discuss and review the recent process for the online discussion of offers for ratification and	August 2019	Industrial Services Manager	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
<p><b>assess the options and decide whether a suitable model of delivering and discussing information online, and providing for online voting, at least as an option, is workable and democratic. This should include getting information from unions and other democratic organisations in other countries who have implemented such systems.</b></p>	<p>ratification and online voting and refresh or revise it taking into account other relevant factors like the role of, and commitments under, the HSRA, the health sector code of code faith and Employment Relations Act. Discussion will involve the industrial adviser group, consultation with other staff, other state sector unions including the PSA, PPTA and NZEI and other expert input as appropriate.</p>	<p>online voting with the industrial adviser group and in consultation with other staff.</p> <p>Discussion with the PSA, NZEI and PPTA on relevant factors and considerations to include in any revisions of the current size of the bargaining team.</p> <p>Develop and present and options paper on online discussion of offers for ratification and online voting, facilitated by an external subject matter expert to obtain input from key staff and member groups.</p> <p>Include the agreed claims process into the NZNO Bargaining Policy. Member consultation will then take place as part of NZNO's routine document development process.</p>	<p>September 2019</p> <p>October –Mid November 2019</p> <p>December 2019</p>		

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
<b>Number 11.</b> <b>That a Professional Nurse Adviser be appointed to future DHB MECA bargaining teams.</b>	A Professional Nurse Adviser was involved in the Independent Panel process as part of the DHB MECA negotiation. A Professional Nurse Adviser will be included as a member of the DHB MECA bargaining team and the NZNO Bargaining Policy will be reviewed and amended to reflect this addition.	<p>Discuss the inclusion of a Professional Nurse Adviser as a member of the DHB MECA bargaining team with the industrial adviser group in consultation with other staff including the Manager, Nursing and Professional Services and Associate Manager Professional Services.</p> <p>Revise the Bargaining Policy to include the role of Professional Nurse Adviser as a member of the DHB MECA bargaining team.</p>	<p>August 2019</p> <p>December 2019</p>	Industrial Services Manager	
<b>Number 12.</b> <b>That the 2018 experience of implementing the Life Preserving Services (LPS) obligations under the Code of Good Faith for the Health Sector be de-briefed and contingency planning developed, jointly with the</b>	NZNO will discuss and review the recent process for the implementation of LPS and refresh or revise it taking into account other relevant factors like the role of, and commitments under, the HSRA, the health sector code of code faith and	Discuss and review the process used in 2018 for the implementation of LPS with the industrial adviser group and key representatives professional services team and consult other NZNO staff.	<p>August 2019</p> <p>September 2019</p>	Industrial Services Manager/ Associate Industrial Services Manager	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
<b>DHBs, to ensure that in any future situation of industrial action agreed arrangements can be implemented and quickly implemented, and at the same time ensure that as many NZNO members as possible are able to exercise their legal right to strike</b>	Employment Relations Act. Discussion will involve the industrial adviser group, consultation with other staff, other health unions, DHB employer representatives and other expert input as appropriate.	<p>Discussion with other health unions on relevant factors and considerations to include in any revision of the implementation of LPS</p> <p>Develop and recommend the appropriate process for implementation of LPS; facilitated by an external subject matter expert to obtain input from key staff and member groups.</p> <p>Include the agreed implementation of LPS procedures into the NZNO Bargaining Policy. Member consultation will then take place as part of NZNO's routine document development process.</p>	<p>September 2019</p> <p>October - Mid-November 2019</p> <p>December 2019</p>		
<b>Number 13.</b> <b>That a communications policy be developed, with external</b>	This will be addressed as part of the response to recommendations 4 and 5 above.	See actions under recommendations 4 and 5 above.	As per recommendations 4 and 5 above.	Professional Services Manager/Industrial Services Manager	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
professional input if necessary, which takes account of the prevalence of social media and ensures that clear, accurate and consistent information is provided both internally, and externally to members, making the best possible use of the NZNO Member Support Centre and social media, and facilitating appropriate dialogue with and between NZNO members.					
<b>Number 14.</b> That the current Bargaining Policy be reviewed by an independently chaired group of representatives from the Industrial and Professional Team.	This will be addressed utilising the responses in recommendations 2, 3,7,8,10,11,12,15	Revised Bargaining Policy drafted  Present a revised Bargaining Policy for consideration by the Board. Member consultation will then take place as part of NZNO's routine document development process.	December 2019/January 2020  February 2019	Industrial Services Manager	
<b>Number 15.</b>	A united and single public voice during DHB MECA	Review and consider the involvement of the	September 2019	Chief Executive	

Recommendation	NZNO Response	Proposed Action	Indicative completion Timeline	Lead Responsibility	Status/progress
<p><b>The roles of the President and Kaiwhakahaere, in the context of DHB MECA bargaining and wider bargaining and representation processes, should be reviewed and discussed and the Chief Executive, President and Kaiwhakahaere should work together to ensure that there is one public voice on behalf the members articulating their concerns within the framework of policies and strategies approved by the Board of Directors</b></p>	<p>bargaining and in wider bargaining and representation processes is essential for effective communication and articulation of member concerns arising through the bargaining process.</p> <p>The involvement of the President and Kaiwhakahaere will be reviewed and discussed with them and the Chief Executive to establish the part they play in the bargaining processes and communication.</p> <p>Perspectives from other state sector unions, PPTA, PSA and NZEI will be sought.</p>	<p>President and Kaiwhakahaere in DHB MECA and wider bargaining and representation processes including communication and articulation of member concerns.</p> <p>Develop with input from industrial advisers, the President, the Kaiwhakahaere, and consultation with staff teams a comprehensive DHB MECA negotiation plan which include the involvement of the President and Kaiwhakahaere in presenting a united and single public voice in communicating member concerns.</p>		<p>Industrial Services Manager</p>	

# Questions and answers – Release of Independent Review report on the NZNO/DHB MECA bargaining process March 2017-August 2018

## 1. Who commissioned and paid for the independent review?

The review was commissioned by the NZNO Chief Executive with the approval of the Board. NZNO met all costs arising from it.

## 2. Why did NZNO call for this review?

The DHB MECA bargaining process was considerably longer and more complex than similar negotiations have been in the past. We wanted a thorough, unbiased and procedurally fair review to determine what could be learned from the negotiation process, what worked well and what could be improved. We also wanted to acknowledge the high level of interest in the 2017-18 DHB MECA bargaining process and results.

## 3. Can I read the Terms of Reference for the review?

The Terms of Reference for the review are [available on the NZNO website](#).

## 4. What was reviewed?

The review looked into matters such as:

- how well our bargaining policy conformed to the requirements and scope of the Employment Relations Act 2000
- our preparation, planning, strategy, delivery, decision-making processes, the use of online voting, campaigns and communications including the use of social media during the bargaining process
- how we supported planning and delivery of life-preserving services during strike action.

The purpose of the review was not to decide whether there were employment matters arising from the negotiation process.

## 5. When will the review report be released?

We will release the report on 27 August via our website. NZNO members employed at DHBs have been informed of this and will be reminded by email when the report is put on the website.

## 6. Did the review make recommendations and how has NZNO responded to them?

The reviewer made 15 recommendations in his report on the review. We have adopted each one and developed a framework of responses describing how each will be implemented and how we will work together in this. Staff working in areas where there have been recommended improvements are keen to take those recommendations on board as we prepare for the 2020 bargaining process.

## 7. Why has NZNO chosen to release the report at this time?

On Friday 8 August the Chief Executive informed the NZNO Board and senior management of his decision to release the report in full. The decision was made so we could be transparent, and because there has been a high level of member and stakeholder interest. However, some time was still required to complete the framework of responses to the recommendations and finalise the redaction process.

## 8. Why did it take some time for a decision about releasing the report to be made?

The report was independent so the Chief Executive could not be certain about what was in it until it had been received. Under the Terms of Reference for the review, contributors to the review were promised that their anonymity would be respected. We also have an obligation as a good employer to protect the privacy and confidentiality of our staff. No guarantee to release the report could be made until the Chief Executive was certain these two obligations could be met.

### 9. Why is the report redacted?

We have an obligation as a good employer to protect the privacy and confidentiality of our staff. We have made redactions to the report in places where individual staff members could be identified by the circumstances described. Every effort has been made to leave information un-redacted where it is critical to the understanding the report.

### 10. Does NZNO consider the review to have been a positive experience?

Yes. We accept that there are areas where we could improve and we are taking the report's recommendations seriously as we begin planning for DHB MECA bargaining in 2020. NZNO is feeling very confident about those negotiations because of the review which has helped us identify what went well last time and what could be improved upon.

### 11. Why did the review not focus on the individual performance of staff members involved in the DHB MECA Bargaining process?

The focus of the review was about the performance of the organisation as a whole in terms of the bargaining process, and never about individuals. We are satisfied that each and every member of staff, including all members of the negotiation team consistently acted to achieve the very best for members. We are proud of the performance of all those involved in the bargaining process and the report acknowledges the "level of commitment which every one of them demonstrated".

### 12. Who led the review?

The review was led by Ross Wilson who is the current Board Chair of WorkSafe, the Chair of UnionAID and a former President of the New Zealand Council of Trade Unions. He has extensive governance experience and is a lawyer with a strong interest in employment and workplace health and safety.

### 13. Who did the reviewer speak to and were NZNO members heard?

The reviewer interviewed members of our negotiation team; representatives from the national delegates committee; representatives from the Board and staff; and from our industrial services, professional services and corporate services teams.

To ensure an accurate representation of members' views a randomly chosen and statistically representative number of members and delegates employed by DHBs were surveyed. All NZNO members employed at DHBs were also invited to express their views in a separate online survey.





# **Review of the New Zealand Nurses Organisation District Health Board MECA Bargaining and Campaign Process 2017-18**

**Ross Wilson**

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**Independent Reviewer**

**July 2019**

## **Report Contents**

	<b>Page</b>
<b>Introduction</b>	<b>3</b>
<b>The Review Process</b>	<b>6</b>
<b>Surveys</b>	<b>8</b>
<b>Matters Raised by the Terms of Reference</b>	<b>9</b>
<b>Recommendations</b>	<b>44</b>
<b>Appendix I (Terms of Reference)</b>	<b>47</b>
<b>Appendix II (Survey Reports)</b>	<b>51</b>

# 1. Introduction

This is an independent review of the 2018 – 2019 NZNO MECA campaign and process commissioned by the New Zealand Nurses Organisation (NZNO) and undertaken in accordance with the Terms of Reference (TOR) attached as an appendix to this report.

The background to the review is summarized in the TOR as follows:

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.

The reasons for appointing an independent reviewer were stated to be as follows:

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.

As can be noted in the TOR the scope of the review was as follows:

- 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.

## **2. The Review Process**

### **a) The Prescribed Process**

The terms of reference stipulated that the review must be conducted strictly in accordance with the terms of reference which provides:

9. 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.
10. 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.
11. 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. Interviewing any other additional persons deemed to have historical knowledge that can inform the review.
  - d. Considering the application of Employment Relations Act 2000 and any legal principles/ principles relating to collective agreement bargaining.
12. 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.
13. The reviewer will present the final report including written findings and recommendations to the Industrial Services Manager and Chief Executive.

14. 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.

15. 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.

## **b) Confidentiality**

The reviewer conducted the review in accordance with the above requirements. Copies of an extensive range of relevant documentation were reviewed and interviews were undertaken with the staff, member groups and external persons identified in the terms of reference. In addition other interviews were undertaken and all NZNO staff were invited to provide the interviewer, confidentially, with comments relevant to the terms of reference and many did so. As reported in the next section two online surveys were conducted and an online opportunity was provided to all NZNO members in DHBs to provide comments reflecting on their experience of the MECA Bargaining Process and supporting campaigns.

All information gathered was carefully considered and assessed, and taken into account in addressing the specific matters raised by the TOR. To ensure the confidentiality and anonymity of contributors to the review the evidence gathered is not specifically reported but is referred to (without attribution) in the section of the report which addresses the issues raised by the TOR and provides specific comments and/or recommendations.

In accordance with the Terms of Reference I have endeavoured, as far as possible, to present comments and information gathered through interviews in a way which does not identify individual contributors. When the report refers to "NZNO leadership" this is a reference to, collectively, the President and Kaiwhakahaere as the governance leaders of the NZNO, the Chief Executive who is charged with ensuring that the NZNO is a credible, high performing health workers' union, and the Industrial Services Manager who is charged with leading the industrial activities of NZNO. "NZNO management" is a reference to, collectively, the Chief Executive and the Industrial Services Manager.

### **3. Surveys**

Information was also gathered by survey as follows:

- An online sample survey with specific questions was conducted of a random sample of NZNO members of DHBs.
- An online survey with specific questions was conducted of all NZNO delegates in the DHB sector.
- An online opportunity was provided to all NZNO members in DHBs to provide comments reflecting on their experience of the MECA Bargaining Process and supporting campaigns.

The findings and recommendations in this Review Report are based primarily on interviews, and direct communications with staff, member groups and external persons identified in the terms of reference. However, the survey information provides both the Reviewer, and readers of this report, with an important extra dimension of views on the critical questions raised in the terms of reference.

Technical assistance with the online aspects of the Review, and analysis, was provided by three NZNO staff, each of whom signed confidentiality agreements not to disclose any information from the work.

The analysis reports on each of the above three surveys prepared by the technical staff are attached as appendices to this report.

## **4. Matters Raised by the Terms of Reference**

### ***a) General Comment and Overriding Recommendation***

As the reviewer of the long and complex DHB MECA campaign and bargaining process I have the huge advantage of hindsight assisted by the willing perspectives and reflections of the many people I interviewed and surveyed both within the NZNO and from outside.

With the benefit of that hindsight, and the information I have been able to gather, there are lessons which can be learned to inform future bargaining and campaign processes and I will comment on those later in the report.

However, before I do that I would like comment on the overall situation which the NZNO is left with after emerging from the very stressful and difficult 2017-18 DHB MECA Bargaining and Campaign process. The first impression I have from every person I spoke to, from the Directors through to delegates and members, was the level of commitment which every one of them demonstrated in their respective roles during this long and arduous process.

Everyone, from their own perspectives, were doing, or trying to do, what they thought would be in the best interests of the NZNO members and organisation. The pressure which came onto the organization and individuals during this time was intense and, at times, almost overwhelming. This sort of pressure reveals weaknesses in planning, structures, organisation, resourcing and policies and, with hindsight, there were many.

The pressures had consequences in strained relationships between key individuals and groups within the organisation which have not yet been adequately addressed. The NZNO is left with a situation where individuals and groups feel exhausted, frustrated and sometimes alienated by the experience.

In my judgment there is a need for an investment to be made in a reconciliation and development process, independently managed and facilitated, which can assist the NZNO to discuss and hopefully resolve the many issues which emerged and to support an internal dialogue which, in a safe environment, can restore the smooth functioning of structures and relationships. This will enable a strong consensus to be formed around a



strategy to rebuild a strong professional and union organisation within NZNO. My recommendation is that this process would be for employed NZNO staff, but may also include elected representatives who participate in the relevant NZNO DHB forums within the NZNO as part of the DHB Bargaining process.

In addition to this overriding recommendation I have identified the issues which have emerged from my interviews and discussions across the organisation, but in doing so I am not purporting to know more than the very able staff and delegates who work in this environment on a daily basis, and particularly those involved in the DHB Sector who worked their way through this very difficult period.

It is best that there is an open, safe and transparent process through which the issues can be discussed and resolved in a constructive way, by the very able and committed people who make up the leadership at the various levels of the NZNO. My recommendations will be made in good faith but more for the purpose of flagging the issues which I have identified in the course of my discussions than as a blueprint for future policies and organisation.

I should add that my recommendations, and the concerns underlying them, reflect a generally common view across the organisation among the many people interviewed both individually and in the DHB sector group.

It is also appropriate to acknowledge that the final outcome of the 2018 MECA negotiation was a settlement which members approved, and that there has been a significant increase in NZNO membership during the DHB MECA process. That is something which everyone in the union can feel pride in as a foundation on which to build improvements in policies, processes and relationships.

The NZNO is a very special organisation, which plays a very important industrial and professional role on behalf of the nurses, midwives and other health professionals who we as a society, rely on so much. I am confident that, with support from an independently managed and facilitated reconciliation and development process, the good people who have chosen to work on behalf of NZNO members collectively have the capacity to rebuild relationships and address the many issues which have arisen during the DHB MECA

process, and to strengthen the organisational policies, structures and relationships so that the best possible industrial and professional outcomes for NZNO members can be achieved in the future.

**Recommendation:**

That the NZNO invest in an internal reconciliation and dialogue process for employed NZNO staff, independently managed and facilitated, to address the issues arising from the 2017-18 DHB MECA Bargaining and any damage done to personal and working relationships, with the objective of restoring respect, communication and cooperation within the NZNO paid workforce.

***b) Bargaining Policy, Process and legal context.***

- ***The Legal Context***

Collective Bargaining is conducted under the Employment Relations Act 2000 which has a specific ‘Code of Good Faith for Public Health Sector’ in Schedule 1B. This contains some important mutual obligations as well as an obligation on employers during industrial action to provide for patient safety by ensuring that life preserving services are available.

The mutual obligations include (s10):

- (a) give thorough and reasonable consideration to the other’s proposals; and
- (b) not act in a manner that undermines the other or the authority of the other; and
- (c) not deliberately attempt to provoke a breakdown in the bargaining;

And also recognize that collective bargaining and collective agreements need to—

- (a) provide for the opportunity for participation of union officials, delegates, and members in decision-making where those decisions may have an impact on the work or working environment of those members; and
- (b) provide for the release of employees to participate in decision-making where appropriate, acknowledging the key role of union delegates in the collective representation of union members; and

- (c) provide for union delegates to carry out their roles, including the time needed for communication and consultation with members, and for union delegate education.

It has been suggested to me that there has been discussion within the NZNO on whether the good faith provisions in the Act, and specifically the s10 Code obligations, constrain the bargaining advocates and/or spokespeople from reporting on negotiations to members, and making public statements regarding them.

In my opinion the good faith requirements of the Act and the Code do not constrain reporting to members and reasonable media comment. There is in fact a provision (s4(3) of the Act) which states that the obligation of good faith does not prevent a party to an employment relationship communicating to another person a statement of fact or of opinion reasonably held about an employer's business or a union's affairs.

However, this is merely my opinion of the law and my recommendation is that the NZNO obtains independent legal advice on this matter to provide guidance for the future.

This is all consistent with the clause in the NZNO Constitution (Clause 11.1.3) which states that:

11.1.3 The negotiating team has the responsibility:

11.1.3.1 to consult with the members concerned during preparation of the claims;

11.1.3.2 to make progress reports as appropriate

11.1.3.3 to report back to those members the proposed terms of settlement and to make recommendations where appropriate.

It would appear that there may have been some divergence of views regarding whether progress reports provided to members from the bargaining were frequent enough and sufficiently detailed, with some NZNO staff and members expressing dissatisfaction that insufficient detail of dialogue and positions within the negotiations

were being included in the update reports to members. The frequency and detail of the progress reports is a matter for the judgment of the bargaining team taking account of a number of factors which will include the need for transparency and maintaining the confidence of members, while at the same time maintaining integrity in the relationship with the employer negotiating team and any specific commitments agreed in the Bargaining Process Agreement.

### **Recommendation**

That the NZNO obtain legal advice to confirm that the good faith provisions of the ERA 2000 do not constrain NZNO bargaining advocates and/or spokespeople from appropriately reporting on negotiations to members and/or making public statements regarding them.

- ***The Relationship Context***

In 2003, the New Zealand Government, the district health boards (DHBs), the New Zealand Council of Trade Unions (NZCTU) and the NZNO and other affiliated health sector unions agreed a framework for tripartite and bipartite engagement in the public health sector. The 2003 framework (“Health Sector Tripartite Steering Group – a Framework for Constructive Engagement”) focused on the common interests of the three parties in the delivery of the goals of the New Zealand Health Strategy, healthy workplaces, and an effective public health sector. A number of important pieces of work were undertaken under the 2003 framework, including the development of a health sector code of good faith (which sits alongside the code that was embedded in legislation in 2004), and the delivery of a series of facilitated workshops at DHBs nationally, aimed at introducing or strengthening local workplace consultative committees.

In 2007 the parties entered into the Health Sector Relationship Agreement with the stated objective of facilitating:

- constructive engagement between the parties, based on good faith principles
- increased engagement between the parties on matters of national substance, including input by all parties into estimating the potential cost and service impact of proposed health and disability policy and into resource allocation

deliberations

- the parties' behaviour being consistent with an interest based partnership relationship rather than an adversarial relationship
- the promotion of shared responsibility for decision-making between the parties within the legislative accountability framework for DHBs, including union participation in the development and improvement of the public health and disability sector on the basis of a mutual interest and desire to enhance the sector's overall value
- the identification of collective challenges and opportunities
- an operational focus to delivering shared aims

Since then significant work has been undertaken under the auspices of the Health Sector Relationship Agreement (HSRA) and the National Bi-Partite Action Group (NBAG) including work since 2016 on the development of a central framework that will underpin any High Performance High Engagement work undertaken in DHBs.

The current NZNO Bargaining Policy and practice reflects, at least notionally, the commitment to an interest based partnership relationship which has endured over the past ten years of National led Government funding constraints which have, I am informed, put a serious strain on the relationship which has been reflected, at times, in a more adversarial approach in the DHB MECA bargaining relationships. I am informed that the 2015 MECA negotiation had been more adversarial, with good faith issues arising, and an apparent lessening of commitment by the DHBs to an interest-based approach.

The two models of collective bargaining have been described as follows:

Generally, "traditional" bargaining refers to a situation where each side places their demands and proposals on the table and the other side responds with counter-proposals. The process is characterised by a struggle of give and take.

"Principled" or "interest-based" bargaining, on the other hand, aims to solve the problems raised at the bargaining table as the negotiators focus on the interests underlying the issues and seek to satisfy all parties' interests. Interests include the needs, desires, concerns and fears important to each side. They are the underlying reasons for a position. Teasing out an interest involves exploring "why?" – why do they want this/why don't they want this?

It seems clear that an interest based bargaining approach has worked well in the past but it requires a mutual commitment by the parties and a considerable investment in education and training work to ensure that the process is understood by the respective employer and union bargaining constituencies. In the early years some joint work was done under the auspices of the Partnership Resource Centre which was established within the Department of Labour.

An interest based bargaining approach also requires each party to retain a clear view on its interests and the need to ensure they are not inappropriately compromised against the objective of maintaining a strong partnership between the parties. The accusation has been made that the NZNO failed to call time on the DHBs when they repeatedly failed, over the past decade and more, to deliver upon Safe Staffing/CCDM commitments made as key elements in previous MECA bargaining settlements, recommended by the NZNO negotiating team on the basis of the good faith and legal commitments made by the DHB. I was informed that the NZNO made efforts at all levels and that there may have been political factors which resulted in the failure to get agreement on a timeframe for delivery. It is also acknowledged that the legal advice was that the clauses were too weak to enforce. Nevertheless, it may have been appropriate to attempt to raise the profile of the issue by calling the DHBs publicly to account, and to have attempted legal enforcement, when the DHBs failed to deliver on those commitments. It is noted that the NZNO has negotiated, in the new DHB MECA, to agree a timeframe for completion and a number of other commitments.

Indications are that the loss of faith by many members in the ability of NZNO to secure the essential means of delivering safe and healthy workplaces was an important factor in members' rejection of the settlement offers NZNO recommended.

A strong case can still be made for interest-based negotiating for NZNO and DHBs but both parties need to anticipate there may be occasions where a party may renege on an agreement, possibly for some reason considered legitimate, and agree how such events will be notified to the offending party and what the means of redress will be. Alternatively, the contingency of legal enforcement needs to be provided for and, if considered necessary, exercised.

The NZNO management view is that they have been working in a blended model of

bargaining which leveraged off interest-based bargaining and more traditional bargaining approaches concurrently.

It is for the NZNO to determine for itself what is the most appropriate, and effective, bargaining model for it to adopt and this may, of course, be a model unique to the NZNO.

This is an important bargaining policy issue for the NZNO to decide on an ongoing basis. At present the Bargaining Policy implies an interest based bargaining approach.

### **Recommendation**

That the NZNO discuss and determine the appropriate bargaining model taking account of the existing commitments under the HSRA, and other relevant considerations.

#### ***c) Bargaining Policy and Process***

- ***Preparation and planning***

- *Governance and the Board of Directors*

Governance, supervision of the management, and control of the affairs of the NZNO are vested by the NZNO Constitution in the Board of Directors which is bound to exercise its power in accordance with the Constitution and the resolutions of the NZNO in general meetings (Rule 11).

I have been provided with a copy of the NZNO Strategic Plan for 2015 – 2020 which includes a focus on strengthening nursing workforce planning, sustainability and leadership by actively campaigning and collectively bargaining for fair pay and decent working conditions for members, and campaigning for employers to implement systems for safe staffing in the workplace.

I consider that the Board's governance and management supervision responsibilities include ensuring that a comprehensive, and properly resourced, plan is in place for a major collective bargaining negotiation, such as the DHB

MECA, affecting such a large proportion of the NZNO membership. As one Director acknowledged when I met with the Board “we need to hope for the best but plan for the worst”. The plan which was produced to me was light on detail and, in my opinion, inadequate in details around accountabilities and resourcing.

It is reasonable to expect that the Board of Directors, with the support and expertise of the Chief Executive, would have required the preparation of a comprehensive plan for the MECA negotiations and campaign which spelled out how planning would cascade down through the organization, how it would align with everybody’s work, and which would demonstrate how the campaign and negotiation process would work in practice. Such a plan would reasonably be expected to clearly demonstrate an overarching strategy which would provide guidance for implementation by Organisers, reinforced by their Lead Organisers, with effective delegate and membership engagement being built from the beginning. Such a plan would identify accountabilities, and expected outputs, at the various leadership levels throughout the organization. The plan would also identify the resourcing to ensure that the plan could be effectively implemented.

[REDACTED]

[REDACTED]

## **Recommendation**

That the NZNO Board of Directors, as part of its responsibility for ‘governance, supervision of management and control of the affairs of the NZNO’ ensure that for future DHB MECA negotiations a comprehensive and properly resourced plan is approved which addresses all significant risks and contingencies.

- *Chief Executive*

The Chief Executive’s accountabilities, as set out in the Position Description include ensuring that “[t]he strategic aims as defined from time to time are achieved in accordance with the resources available, specified priorities and within agreed timeframes” and that “NZNO is a credible, high performing



health workers' union". Those accountabilities, in my opinion, would include supporting the Board by ensuring that a comprehensive, and properly resourced plan is in place, or at least proposed to the Board, for a major collective bargaining negotiation affecting such a large proportion of the NZNO membership. As mentioned above the plan for the DHB Negotiations was inadequate in detail around accountabilities and resourcing.

## **Recommendation**

That the Chief Executive ensure that, before future DHB MECA negotiations, a comprehensive plan, with adequate resourcing proposals, developed with the joint input from the Industrial and Professional Service Teams, and DHB Sector Group and National Delegates Committee within NZNO, is put before the Board of Directors for consideration.

- *Industrial Management, Sector Group and National Delegates Committee*

The processes for preparation for bargaining are prescribed by the NZNO Bargaining Policy and appear to have been generally complied with. Draft issues for bargaining were prepared by the DHB Sector Group and Industrial Adviser and discussion and endorsement followed with the National Delegates Committee. This formed the basis of the proposed issues for negotiation as the Policy requires. The Policy does not require any consultation directly with members (the NZNO Constitution does at 11.1.3.1.) but a survey and consultation was undertaken on the issues.

With the benefit of hindsight, the DHB Sector Group members I spoke to generally agreed that the signs of member frustration were clearly evident in 2015 and that the recommendations in the subsequent internal campaign review report should have been implemented, more resources allocated, and work undertaken, to prepare more comprehensively for the 2017 DHB MECA bargaining. There were lessons from the 2015 bargaining which weren't implemented. There was reference to the 2017 bargaining strategy being a 'cut and paste' of the 2015 one, to the lack of a comprehensive plan or a plan B to enable the NZNO to be proactive rather than reactive, to members not

understanding the ‘issues’ approach to claim development, and the desire to have seen their case put clearly to the public (including paid TV advertisements – the Resident Doctors Association TV advertisements were noted).

- *Organisers and Delegates*

Although the Bargaining Policy process doesn’t mention involvement of Organisers and Delegates the NZNO Delegates Handbook (available on the NZNO website) clearly envisages (at p 28) a role for the Organisers and Delegates in putting claims together. (Management observed that this would more generally apply to the 125 private sector collective agreements and single/multi employer sites where it is not possible to consult a National Delegates Committee for a single collective agreement as in the DHB sector). The Handbook also notes (at P 4) that “Yours is a leadership position, working with members to resolve issues in your workplace and engaging members on NZNO campaigns to achieve fair wages and conditions.....Delegates are the life-blood of the NZNO” and (at p31) “your main point of contact is often with the organiser allocated to your workplace site”.

I should mention here that I understand that there are three teams within the NZNO, Industrial Services team (IST), the Professional Services team (PST), and the Corporate Services team (CST) However, my interviews have left me with the impression that, in practice, there may not have been the integration and cooperation necessary both within the IST and between the IST and the PST. The Strategic (7 staff)/Operational (45 staff) arms of the IST are joined through a number of structures – the key one being the Industrial Lead Group where the DHB MECA was a standing item. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

████████████████████.

The Organisers (and lead Organisers) informed me that there have been healthy and productive relationships between Delegates and Organisers and that the ‘Super Six’ group of national delegates demonstrated the value of investing in delegate training. However the Organisers felt that there could have been a closer connection’ between the General Election “Shout Out for Health’ campaign and the DHB MECA bargaining. Lead Organisers spoke of the need to have a clear common understanding of the strategy. The management view is that the strategy was clear and set by the DHB Sector group (which has two PNAs and Organisers from each office) and the National Delegates Committee as per the bargaining policy and the LOs had been informed of this. Management also pointed to the March 2018 meeting when Industrial Advisers, Campaigns and AISM all met together along with the DHB Sector group staff to review and adjust the strategy.

- *Research preparation*

The Bargaining Policy also requires that prior research be undertaken and it has been acknowledged that this was inadequate. The Industrial Services Manager noted in a report to the Board of Directors that a draft DHB MECA research paper was:

“done in haste, and contained a number of errors including out of date data and had not been finalized. The situation was unusual and not ideal.”

As this report implies it seems clear that the research preparation and support for the 2017 DHB MECA round was quite limited and, particularly with the benefit of hindsight, inadequate for such a major negotiation on behalf of a large proportion of the NZNO membership. I understand that this was partly due to staff changes. While it should be acknowledged that the ██████████ themselves are very experienced and knowledgeable about the history and conditions of employment of nurses and midwives, it seems reasonable, for a negotiation of this size and complexity (including the industrial and political environment), that extensive research support should be provided in house, or

commissioned from an external source, to assist with risk assessment and analysis and to provide the strongest possible evidential support for claims. On this occasion it was apparently largely left to the DHB MECA bargaining advocates to do their own research, although management note that approval was given for external research to be commissioned.

- *Communications and campaign preparation*

The communications preparation and support during 2017 was quite 'light' and, with hindsight, inadequate to meet the challenges which were faced as the events of that year unfolded. This appears to have been due to limited staff resource.

A submission on a draft NZNO Communications Review Report in June 2017 from the Industrial Services Manager expressed concern that "the lack of personnel resource into the social media, digital campaigning and design work.....has hampered our current campaigns work". The submission expressed concern that the draft report did not articulate "NZNO's unique approach to campaigning where we combine the organising model with a campaigning model to generate member growth, member activism and member leadership through our campaigns" and that "the recommendations in this report in relation to campaigns resourcing will have a detrimental effect on our ability to continue to be a campaigning union".

Management notes that due to increasing demand on campaign resources the [REDACTED] was bolstered with additional temporary 0.3FTE co-opted from another union during the latter stages of the Shout Out for Health campaign due to workload of the permanent 1 FTE. With the secondment of [REDACTED] to the CTU in late 2017 the additional existing temporary 0.3FTE Campaigns Adviser hours were increased to 0.5FTE to cover over the Christmas break and to allow for recruitment for the fulltime [REDACTED]. During November 2017 through to end of February 2018 this was supplemented by assistance from an experienced [REDACTED] who was eventually appointed to [REDACTED]

[REDACTED]

I understand that it is acknowledged by senior management that the resourcing of the communications work was inadequate. The Industrial Services Report to the Board of Directors in March 2018 expressed concern that “increased workload has not been matched by sufficient additional organiser or campaigns/communications resources”, that “[t]he Industrial Lead Group remain critically concerned”, and that “[w]ith the proposed DHB MECA offer the increase in the workload from CCDM alone will be extremely difficult for us to resource even if the other sector work was to remain at the current business as usual status”. In a later Memorandum to the Board of Directors dated 25 September 2018 it was noted that the Chief Executive had “previously reported on the need to invest in communications and to move towards digital campaign methods and member engagement processes”. It was also noted that the original 2017/18 budget for the DHB MECA was \$80,770 and \$20,000 for the Shout out for Health compared with actual expenditure to date of \$108,827 and \$15,686 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

There is also the fundamental question of what the purpose of the ‘campaign’ was. The criticism raised by many internal critics was that there was an inadequate linking of the Shout Out for Health campaign and the DHB bargaining. The modern model of union campaigns is for the communication and campaign work to drive the bargaining rather than for campaign activity to be initiated in support of the bargaining if the employers fail to produce an acceptable offer. The new campaign model requires not only adequate resourcing, but also a clear identification of the campaign goals and strategies and leadership within the organisation. There was evidence of growing dissatisfaction among NZNO members as the MECA bargaining proceeded without visible public leadership and articulation of their concerns and aspirations (although independent observers have observed that this was done well in 2018, in the later stages of the bargaining, by the Industrial Services

Manager). Delegates spoke of their desire to see their leaders publicly articulating their concerns and ensuring, through paid television and other advertising if necessary, that the general public understood and supported them. They pointed to the public advocacy by teacher union leaders, and the bargaining related campaign activity by those unions.

In response management observed that the NZNO had a clear plan in advance of the bargaining and the General Election to establish the groundwork for increased health funding. The Shout Out for Health campaign focused on educating the public on the need for additional health funding and building member engagement. It asserts that this was successful and influenced Health funding to emerge as a priority issue during General Election campaign. Member engagement, through signed letters, phone calling and protests outside hospitals and at Te Papa, was positive. The NZNO also partnered with the PSA in the Yes We Care campaign and nurses were visible in cut out and real form to emphasise the need for additional Health Funding. The I Heart Nursing action followed over the Christmas period utilising the CTU Together platform as a way of building support for Nurses after the first two rejected offers while a [REDACTED] was being appointed. However, management acknowledged the need for increased campaigning resource for the size and demand within NZNO although it couldn't afford TV advertising – it was noted that the best advertising is members taking action and getting free TV coverage.

## **Recommendation**

That future MECA bargaining preparation include a comprehensive campaign and communications plan with proper funding and resource allocation. This should include provision for professional research and communications expertise to be contracted, if the necessary level of resource is not available internally, to supplement the NZNO staff.

- *Gathering and collation of Claims/issues*

As noted above the NZNO Bargaining Policy process does not require any

consultation directly with members on claims and issues for bargaining but a survey was undertaken on the issues in March 2017. About 4,000 members responded to this pre-bargaining survey. This was, for the first time with a survey, an on-line survey, although it took the same format as the 2015 pre-bargaining survey. The survey asked members to indicate yes/no support for the Bargaining Strategy which was stated as follows:

### **Bargaining Strategy**

#### **Wages and Salary rates**

Achieve a fair pay increase recognising appropriate relativities/ equal pay

Fair recognition for extended and new scopes of practice e.g. Prescribers and Nurse Practitioners

#### **Safe Staffing and Healthy workplaces**

Improve roster provisions to reduce fatigue & improve work life balance including when rostered on- call

CCDM is up and running during the term of the MECA in all DHBs

#### **General**

Amend the MECA to reflect recent employment law changes and requirements

No reduction to any other MECA terms and conditions

#### **Term of the MECA**

The term like all other matters is negotiable and will be ultimately decided at ratification by the members, taking into account the overall content of the proposed new MECA. Please indicate your preference as to the term of the MECA.

1 year term ☐

2 year term ☐

3 year term ☐

*(please tick one box)*

Members were also asked to list 'the most important issues you would like addressed at the MECA negotiations' and a thematic analysis was provided

to the Industrial Advocates.

I have been informed that the Organisers had advocated for a more comprehensive online survey of members but the decision was made to proceed with the same survey questions as had been asked in 2015. I have also been informed that very strong concerns had been expressed by [REDACTED] for some years in some areas, such as [REDACTED], about the limited nature of the survey and confirmation process. In response it has been pointed out that the survey responses from 4000 members identified more than 30 claims and issues for bargaining which were then put to more than 400 one-hour meetings of members for endorsement supported by a PowerPoint presentation with a rationale and comparator wages including teachers. The suggestion that the survey process and consultation was brief is rejected and it was noted that members clearly endorsed the strategy.

- *Bargaining Strategies and processes*

The Bargaining Strategy, as reflected in the DHB Sector Plan notes that the intended outcome for the 2017 MECA Bargaining was to 'reach a settlement and a ratified MECA without the need to resort to industrial action' [REDACTED]

[REDACTED] The relationship which had developed between the NZNO and the DHBs over the years since the first MECA in the early 2000s was a constructive one with a commitment to an 'interest-based' bargaining approach in the earlier negotiations. With the change of Government in 2008 the subsequent MECA negotiations were more adversarial and reflected the funding pressures on DHBs imposed by the Government. Expectations were tempered by this environment and this appears to have been understood by NZNO members despite a steadily building concern and resentment about the negative impact of the cost pressures on staffing levels and the capacity of the professional staff to ensure safe and professional care.

At NZNO management level an overall risk assessment identified the following key risks or issues:



- 2017 was a General Election Year so political risk which may affect DHB funding (particularly if no change of Government).
- NZNO bargaining campaigns which highlighted underfunding of health and flow on effect to pressure on salary increases.
- Unresolved claims and issues from previous (2015) bargaining and how this would be managed. These included remuneration levels, safe staffing, failure of DHBs to implement CCDM, impact of restructuring on senior nursing roles, lack of support for professional development and training, and remuneration for Nurse Practitioner role.

However, although the claims preparation processes identified pay, safe staffing and other issues as expected, there was an apparent expectation at the industrial leadership level that the 2017 bargaining would proceed in much the same way as the 2015 round had.

At this stage I would also observe that the following statements were made in the PowerPoint Slide presentations to DHB members at the August 2015 MECA ratification meetings:

“The wording improvements in the proposed MECA strengthen DHBs obligations to deliver CCDM and provide NZNO with greater enforceability.”

“The shorter term means that we will be back in negotiations a year earlier and during the lead up to the General Election. Our bargaining strategy will include campaigning during the lead up to the General Election. This is the time when politicians are most attentive and agreeable.”

There was no apparent identification of the possible need to exercise the right to strike provided for in the Employment Relations Act 2000 and no contingent planning for that possibility. It is said that it was thirty years since there had been such a strike and there was an ongoing commitment in the Health Sector Relationship Agreement dated 17 November 2007 to ‘behaviour consistent with an interest-based partnership relationship rather than an adversarial relationship’. This reflected the provisions of the Code of Good Faith for the public health sector

which had been inserted as Schedule 1B of the Act in December 2004, and was apparently interpreted to preclude contingency preparation for industrial action.

It appears that there was some indication of member expectations at the DHB member meetings when Organisers reported back in mid 2017 for endorsement of the intended claims (issues) for bargaining. In fact, it is reported that there has been a high level of dissatisfaction expressed about their working conditions by [REDACTED] for several years. It is said that at meetings with members the publicly reported Care and Support Worker pay equity settlements had been raised in response to the report to members that the State Sector pay settlement norm was about 2%. Organisers also report that members recalled the assurance at the 2015 MECA ratification meetings that 'safe staffing would be enforceable'.

Management states that it was very aware of the upward pressure the Care & Support Workers Settlement would have on the DHB MECA negotiations (it had worked out the immediate gaps and impact which sat around 6%) but given the tight funding it believed the NZNO's best approach was to secure a Pay Equity outcome within a reasonable timeframe to address this. This seemed to be an acceptable approach initially to members but even after achieving the commitment to implementation of Pay Equity members needed to see real pay increases to settle the collective agreement. And although the early work done through the tripartite group secured timeframes for all DHBs to complete CCDM implementation, it became clear that NZNO members had lost trust in their DHB employers and the NZNO realised it had to lock down pay increases to move forward.

The internal review report of the 2014-15 DHB campaign which had been conducted included quite a number of recommendations, including research and survey support, building Delegate capacity to participate in the next DHB bargaining round ('increase delegate involvement and ownership of campaign planning, engagement and activities'), and use of more online resources and Facebook campaigns. Although the bargaining process was out of scope of the review, there was significant feedback on NZNO exploring options for increased opportunities for voting including online voting and simplification and shortening of ratification

material and presentations.

An August 2018 MECA Update to the Board of Directors also noted that at that time (April 2017):

“NZNO members were struggling with a decade of underfunding of the public health system; the pressures of unsafe staffing and mistrust of their employers over the slow and neglectful implementation of the joint Care Capacity Demand Management programme.

Adding to their concerns was also the Care and Support Workers Pay Equity settlement that brought into stark relief the low pay of our members with the new rates for caregivers by 2021 going beyond the third step of a new graduate nurse and the continued exit of nurses to countries nearby where pay rates were considerably higher.”

A MECA Update to members dated 14 July 2017 identified the “No 1 Issue” as being Safe Staffing/CCDM with pay and pay equity issues reported as:

“Achieve a fair pay increase recognizing appropriate relativities for all members covered by the MECA”.

“Pay Equity/Equal Pay. This requires an agreement to a process for advancing pay equity talks for all occupational groups beyond the settlement of a proposed new MECA.”

A MECA Update to members dated 14 November 2017 outlined quite comprehensively a proposed MECA settlement package which the negotiating team reported it was recommending to members and which it said was ‘a fair settlement which delivers on most key issues and provides processes with set timeframes to address others’. This included ‘agreement for negotiations on pay equity which will begin in the new year (“We now have a Government fully committed to pay equity...”’), “agreement on implementation of CCDM in all DHBs by 2021, with improved reporting requirements which are enforceable” and ‘amended escalation pathway wording for unsafe staffing in the MECA [which] is significantly stronger and clearer”

It is relevant to note that NZ First had announced on the 19<sup>th</sup> October 2017 that it would support the NZ Labour Party in a Coalition Government with support from the Green Party and a Coalition Agreement was agreed on the 24<sup>th</sup> October.

This offer was reported back and voted on by members at ratification meetings over three weeks in November – December 2017. The outcome was that the settlement offer was voted down, on a simple majority basis, by a relatively close margin.

An electronic survey of members was then initiated (and responded to by about 5000 members) over the December –January period which identified that members surveyed felt the proposed MECA term was too long, the pay increase insufficient, the pay equity implementation too uncertain, and unsafe staffing inadequately addressed.

Following mediation in late January and further negotiations a second MECA offer was voted on by DHB members at meetings which concluded in late March. This included a shorter term, a confirmed implementation date for pay equity and improvements in the reporting criteria for CCDM, but the settlement was also rejected.

From the NZNO management perspective the members' goalposts shifted at this point as it felt that the second MECA offer delivered on the key elements of the endorsed bargaining claim.

Despite the fact that NZNO management, in early 2017, undertook a risk assessment of the prospective DHB MECA bargaining round, including the risks relating to the General Election, it does not appear that this was carried through into a more detailed analysis and risk mitigation exercise which may have identified the likelihood of an upward shift in members' expectations in the event of the Labour Party being elected to Government particularly given the Party's support for increased health funding. Strategic analysis with research evidence in support, should be incorporated as a normal part of any DHB MECA bargaining process.

It is also difficult to understand, against the commitment by the NZNO leadership in

2015 to use the leverage of the General Election in the 2017 MECA negotiations, why the NZNO strategy to bring the negotiations to a critical point before the 2017 election was not clearly signalled and implemented.

[REDACTED]

As noted at Page 19 there also appears to have been inadequate research undertaken in advance of the DHB MECA bargaining round to support the advocates and the negotiating team. This would have contributed to their claims assessment and bargaining strategy development.

The potential impact of the Care and Support Workers' \$2 billion Pay Equity settlement which was announced by the Government on the 18<sup>th</sup> April 2017 appears to have been under-estimated. As the DHB MECA Update to the Board of Directors in August 2018 noted that announcement "brought into stark relief the low pay of our members". The MECA claim did seek agreement to a process for advancing pay equity talk beyond the settlement of a proposed new MECA but it seems likely that DHB members were making relativity comparisons which fed the already deeply felt dissatisfaction with their pay scales.

As an influence it is also relevant to note that the teacher unions, in early October 2017, had publicly announced prospective pay claims for what they termed 'a seismic shift in pay rates'.

The criticism has been made by some staff that there was inadequate delegate training early in the process as there had been in 2015, although it is said in response that the 2015 seminars were a MECA 10<sup>th</sup> anniversary activity to educate delegates about the DHB MECA and its history. However, it is relevant to note here that the 2015 DHB MECA Campaign Review had specifically recommended building delegate capacity to participate in the next (2017) DHB bargaining round to "increase delegate involvement and ownership of campaign planning, engagement and activities". Management say that the vehicle for this was the Shout Out For Health campaign. Whatever the facts regarding this it is clear, with

the benefit of hindsight, that an extensive membership engagement, education and communication process was necessary to build a better understanding of and support for the claims/issues which had been endorsed for bargaining, and build a better understanding of the bargaining process (including for example the need to present claims as 'issues').

In this environment it is perhaps not surprising that large numbers of members decided that they would vote against the settlement proposed in November 2017 and [REDACTED]

[REDACTED]. The DHB MECA negotiating team was pleased with the process and time frame for pay equity which had been agreed but this was apparently lost in the social media call for immediate, and larger, pay increases; 18% in 18 became one social media campaign theme. It was a close vote, but it was apparently unprecedented for members to vote down an NZNO recommendation, and there was a consequent loss of credibility and trust. It is not surprising that the negotiating team, and in particular the two advocates, were at the fulcrum of tremendous pressure. A degree of pressure is usual in such negotiations but was increased on this occasion by tensions and distrust within the NZNO, contributed to by the shortcomings in the DHB MECA preparation (risk analysis, research and communications). Under-resourcing of the Advocates themselves (who also had to do their 'day jobs'), the member rejection of the recommended settlement in December 2017, and the increasing pressure from NZNO members and delegates on social media questioning the DHB MECA strategy and process would have left the bargaining team with a feeling of being under siege.

The situation was not helped by what was said to be a 'leak' of a confidential paper. As a consequence information was quite tightly controlled, and organisers report feeling excluded and frustration developed. The organisers felt they were being asked to implement membership meetings at short notice without sufficient information. This resulted in them reflecting their frustration to members, particularly in situations where they didn't have sufficient up to date information to answer members' questions. A national meeting was convened in March 2018, attended by the [REDACTED]  
[REDACTED]

[REDACTED]. There are conflicting reports on this meeting with some attendees saying it was not productive and probably resulted in damage to some personal relationships, and others saying that while there were tensions on the first day there was collaborative work on the second day which resulted in confirmation of an adjusted strategy for moving forward.

There was a perception from the organising team that the membership rejection had not been expected by the NZNO leadership, that planning for that contingency had not been undertaken, and that a major reassessment of strategy was needed.

## Recommendations

- That the current NZNO process for claims gathering and bargaining strategy development be reviewed by representatives of the Industrial and Professional Services Teams, and include appropriate consultation, with the objective of designing a more inclusive process.
- That consideration be given to increasing the size of the bargaining team taking into account the value of ensuring a fair geographical representation.
- That organisational consideration be given to changes in process and practice to ensure optimal cooperation and sufficient access to appropriate research, communications and policy resources between the Industrial Services, Professional Services, and Corporate Services Teams within NZNO and to obviate the risk of siloing, uncertainty and ambiguity of roles, and the consequent weakening of effectiveness around issues such as Safe Staffing and CCDM.
  - *Decision making processes, including the use of online voting*

Considerable concern has been expressed about the decision making processes relating to the DHB MECA Bargaining. Criticism included tight control, what was referred to as a 'lock down' approach to the bargaining process, and an alleged reluctance to report back to members and/or to other groups (including organisers) who were interacting on a daily basis with delegates and members. [REDACTED]

[REDACTED]. Organisers say that the lack of information led to membership dissatisfaction and lack of trust which grew progressively and resulted in members turning to social media for 'information'. This severely limited the ability of organisers

to effectively organise delegates and members around a strategy and position which they could understand and advocate, and undermined their potentially pivotal organising role in the union.

I was also informed that the 'Super Delegates,' who had had special training, were not utilized as they had expected to be.

Instead of being involved, together with industrial and professional staff, in developing and implementing an agreed strategy and campaign, the organisers felt that their involvement was limited to receiving and implementing decisions and campaigns which they, on behalf of delegates and members, had had no input into.

Many reported that they also felt uncomfortable delivering prescribed lengthy PowerPoint presentations to ratification meetings of members which they had concerns about the content of. They were working in an environment of distrust, frustration and sometimes anger and aggression which felt increasingly unsafe. This was made more difficult by the requirement that members be barred from voting if they arrived late and didn't experience the complete presentation. Many members just wanted to vote and go, and frequently asked why there wasn't online voting.

On the other hand I was informed that, although timeframes are unavoidably tight during bargaining, a minimum of two weeks (usually three) notice was given to organisers and regional administrators to set up meetings. Videoconference training was provided for organisers on the meeting kit and presentation and that the kit wasn't finalised until feedback from organisers was provided and most suggestions were adopted. The point is also made that each NZNO office and region has a representative on the DHB Sector Group and those representatives also have a responsibility to report back to their colleagues. It was noted that complaints made and investigated within the NZNO relating to allegations of 'tight control' and 'lockdown' had not been upheld.

This once again raises the challenge of the most effective means of communicating information to members and enabling them to respond and debate issues. The traditional model of face to face meetings ensured that all members received the same information and had the opportunity to discuss it and share views before voting. It



appears that the 2017-18 DHB MECA bargaining experience demonstrated a membership preference for different, and innovative ways of sharing and debating information online and voting electronically. This presents a real challenge to unions whose objective is to ensure that members are as well informed as possible, with accurate information, before voting.

There has been some support for smaller and shorter meetings which delegates could assist organisers in arranging.

In the end, for the exceptional reasons provided for in the NZNO Constitution, online voting was used for the strike vote and the final two ratification votes and has raised expectations that it can be used again in the future.

It is for NZNO to undertake the work to assess the options and decide whether a suitable model of delivering and discussing information online, and providing for online voting, at least as an option, is workable and democratic. This should include getting information from unions and other democratic organisations in other countries who have implemented such systems. It is clear that this is the preference for a significant portion of the NZNO DHB membership.

## **Recommendation**

That the NZNO undertake, or commission, the necessary work to assess the options and decide whether a suitable model of delivering and discussing information online, and providing for online voting, at least as an option, is workable and democratic. This should include getting information from unions and other democratic organisations in other countries who have implemented such systems.

- **Professional Services Team Representation**

One of the strengths of the NZNO is the strong professional and industrial expertise and experience which the organisation brings together for the benefit of its members. Understandably there can be tensions which develop between individuals and groups of staff but I am informed that, overall, the relationships and levels of cooperation are very good. It would appear that the issues which do arise from time to time relate to uncertainty or

ambiguity of roles or a failure to address an issue; the solution therefore is usually a management one, and sometimes in a mediation role.

There are several instances which have arisen in the course of the Inquiry:

- *Professional Representation on the DHB MECA Negotiating Team*

There was a view expressed during my inquiries that the bargaining process would be strengthened by inclusion of professional representation on the DHB MECA Negotiating Team. Currently there is Professional Nurse Adviser (PNA) representation on the DHB Sector Group and the DHB National Delegates Committee. Professional advice and input is provided to the negotiating team as required, particularly on professional issues, and I was informed that the PNAs involved in the 2017-18 MECA round provided valuable input and that there had been a very constructive working relationship on issues such as Safe Staffing and CCDM. It was acknowledged that professional representation on the bargaining team would strengthen bargaining provided this was a PNA nominated and available for the duration of the process.

- *Information*

Professional staff felt that they were not kept as well informed as they needed to be during the DHB MECA bargaining to enable them to answer members questions as they arose. [REDACTED]

- *Responsibility for Safe Staffing and CCDM*

It was acknowledged that the negotiating team involved professional staff for advice on professional issues and that this was a good working relationship. Much of the focus of discussion and advice was in relation to safe staffing and CCDM. However, it was felt that there could have been closer cooperation historically on a stronger push to get progress on safe staffing. It was acknowledged that there had been professional leadership within NZNO for safer- staffing and that progress had been made despite indifference, and even resistance, in some DHBs in the underfunded environment of the previous Government. However, it was felt that there should have been closer cooperation over the years since the 2006 Inquiry between the industrial and

professional staff to build a stronger campaign which may have resulted, for example, in a more enforceable clause in the MECA.

There is a widespread feeling that the limited progress with safe staffing over the past ten years, and issues with CCDM in some DHBs, has resulted in a worryingly high level of membership disillusionment and scepticism.

## **Recommendation**

That a Professional Nurse Adviser be appointed to future DHB MECA bargaining teams.

- *Responsibility for Life Preserving Services Initiation*

There appears to have been considerable tension around the initiation of the life preserving services provisions in the Code of Good Faith. The DHB MECA bargaining team understood that they would be responsible for overseeing the implementation of life preserving services but would have no opportunity to focus on it until the provisions were formally triggered by notice of industrial action. Meanwhile, the associate managers of the Professional and Industrial teams were becoming increasingly concerned that there would not be adequate time to discharge the obligations under the Code if action was delayed until it was formally triggered.

This tension, at a difficult time, could have been avoided if contingency planning had been undertaken at the beginning of the DHB MECA process or as a general contingency plan for implementation of the Code LPS provisions. This could have clarified responsibilities and resource allocation. There may also be a need to undertake a review, jointly with the DHBs, of the LPS requirements given that their application in 2018 resulted in higher staffing numbers in many areas than anticipated.

There is also a need for both the DHB and union parties to examine their shared understanding of their separate responsibilities under the Code of Good Faith. At the time the NZNO gives notice of strike action its sole obligation in respect of the Code is to be ready to respond to a request from DHBs for specified support, identified in the course of DHBs' contingency planning (having been advised by NZNO in its strike

notice, the names of staff intending to be on strike.) As Clause 11 of the Code of Good Faith makes clear it is each employer's legal responsibility during industrial action, to provide for patient safety by ensuring that life preserving services are available.

At its heart the Code is a recognition by unions that the employer may be unable to maintain the safety of patients in the event all members of a health sector union exercise their lawful right to strike. Recognising this, unions agree that so long as the employer has taken all reasonable and practical steps to provide a 'safe' environment for patients in the notified absence of all those members, then they will respond to a request from DHBs to make some members of the union available to work even though they are formally on strike, to the extent required to keep patients free from harm to life or limb.

Thus, the legal responsibility for contingency planning rests solely with the DHBs. The union's responsibility is to respond to a request to allow specified staff to be at work during the strike. Both parties are responsible for patient safety and this will only be properly discharged by both parties having a clear and shared understanding of their different responsibilities.

- **Preparation, Planning and Support for Life Preserving Services**

Given that NZNO had not had a planned strike in the DHB sector for close to 30 years it was perhaps understandable that there was no substantive planning for the possibility that DHB members may need to exercise the right to strike provided for in the Employment Relations Act 2000 and no contingent planning for the possibility that the NZNO would have to meet its obligations under the 2004 Code of Good Faith for the Public Health Sector to:

“...meet and negotiate in good faith and make every reasonable effort to agree on-

- (a) The extent of the life preserving service necessary to provide for patient safety during the industrial action and
- (b) The number of staff necessary to enable the employer to provide that life preserving service and

- (c) A protocol for the management of emergencies which require additional life preserving services.”

Contingency planning should include a clear plan identifying the work which NZNO staff and delegates would have to undertake with DHB staff to discharge the above obligations, some agreed arrangements with the DHBs regarding the process and personnel involved, NZNO communications support for the process, and some advance education and training work of key personnel.

In the event life preserving service arrangements were negotiated and implemented in all DHBs but not without a huge effort and commitment (including evenings and weekends) from the NZNO staff and delegates involved. This was the first time the NZNO had been involved in this process, DHBs had different interpretations of what the Code provisions meant in practice, negotiations in some DHBs were very difficult, NZNO Communications support to prepare communications material was limited and sometimes not available, and there was a very tight timeframe. Staff and delegates felt very strongly the responsibility for patients’ lives and this contributed to the tension and emotion which resulted in many being left quite traumatised by the process.

The fact that, in some areas, the LPS staffing was higher than normal staffing also angered many members already frustrated by heavy workloads.

## **Recommendation**

That the 2018 experience of implementing the LPS obligations under the Code of Good Faith for the Health Sector be de-briefed and contingency planning developed, jointly with the DHBs, to ensure that in any future situation of industrial action agreed arrangements for life preserving services can be implemented quickly and effectively, and at the same time ensure that as many NZNO members as possible are able to exercise their legal right to strike.

- **Preparation, Planning and Delivery of the MECA Campaign and Communications**
  - Communication processes (internal and external)

As previously noted (at p19) the communications preparation and support during 2017 was very ‘light’ and, with hindsight, inadequate to meet the challenges which were

faced as the events of that year unfolded.

The inadequate investment in communications and education around the 2017 DHB MECA campaign meant that:

- There was a lack of understanding by members, and many delegates, of the DHB MECA claims/issues and bargaining process, and a genuine concern by many that the process for developing claims was inadequate. The communication strategy pursued appears to have assumed quite a high level of knowledge and understanding which may not have been justified.
- There wasn't a common understanding and information sharing with the NZNO Member Support Centre staff who were often the front line contact with members and who reported that, on occasions they didn't have accurate and timely information to enable them to respond to members' questions. Given the volumes and complexity of individual queries it was not realistic to expect the bargaining team, at the level they were resourced, to generate answers in a form suitable for Member Support Centre staff.
- Organisers and delegates reported that this lack of an understanding of, and connection to, the bargaining process and issues resulted in members creating their own Facebook and other social media networks to exchange information and views. NZNO management have a different view and note that the NZNO had an underdeveloped social media approach and the lack of posts to the NZNO pages in the earlier (2017) stages of the process left a social media void for others to fill.

- *Campaigns*

The point has frequently been made by organisers that members in 2017 recalled the statements made in the PowerPoint slide presentations to DHB members at the August 2015 DHB MECA ratification meetings that "[T]he shorter term means that we will be back in negotiations a year earlier and during the lead up to the General Election. Our bargaining strategy will include campaigning during the lead up to the General Election. This is the time when politicians are most attentive and agreeable."

There was a "Shout Out for Health Campaign" during the 2017 General Election period

but the criticism has been made that this did not make clear connections to the DHB MECA negotiations but rather focused on overall health funding. The NZNO management response to that criticism is that the campaign was what you would expect in the warm up to the General Election, where NZNO were talking about safe staffing and nurses pay rates in relation the care & Support Workers Settlement. It argues that it did better than ever before in building membership support and momentum as a DHB MECA campaign. Once again it has been suggested that a campaign too specifically connected to the DHB MECA campaign would be a breach of good faith requirements. Conversely it can be argued that a campaign to build the understanding of members around issues which they are seeking to address in the DHB MECA bargaining, and not intended to undermine bargaining, is part of the union's good faith duty to inform members.

The situation changed early in 2018 with [REDACTED] and a change in campaign strategy. 2018 saw much more communication and campaign activity, including social media, albeit still very modestly resourced.

- *Use of Social media*

Social media was a new influence which also emerged as very significant in the 2017 DHB MECA process. Initially it appears that the NZNO leadership were unsure how to respond to it. The first management response was [REDACTED] not to respond to the sometimes inaccurate information which was being posted. Subsequently the decision was made to respond, with advice from Advocates, to posts on NZNO Facebook pages.

Many organisers have expressed the view that members were not happy with the information from the NZNO sources and this led to their engagement on social media. NZNO management raise the concern that the social media was led by political activists, some from outside the union, and saw it as 'interference in our bargaining' and an attempt to influence the ballots.

It is important to acknowledge that the scale of the social media activity, and the associated high public media profile of some participants, was unprecedented in union negotiations in New Zealand. There has of course been use of social media in

campaigns, and the 2015 MECA Campaign Review had recommended its increased use in the 2017 MECA campaign. However, it is understandable that the scale of social media activity which quickly emerged in early 2018 caught the NZNO unawares. Perhaps, with careful risk analysis and planning it could have been anticipated, and perhaps if the 2015 Review recommendations had been acted on the social media activity may have been NZNO led. It is now clearly understood within the NZNO, and other unions have also been able to learn from the NZNO experience. The challenge now is to ensure that there is social media expertise and capacity in place and that it is effectively utilized. From February 2018 the DHB MECA Campaign indicated that there had been some quick learning within the NZNO. However, it is likely that more resource than one FTE will be required for the future.

- *Resourcing of Communications and Campaigns*

The budget for the communication and campaigns work appears to be modest compared to another State Sector union such as the NZEI and, as noted at Page 20, was inadequate for the 2017 DHB MECA Campaign. The Industrial Services Manager noted as recently as 25 September 2018 that:

‘Resourcing in the communications and campaigns work was and remains a problem in terms of quantum’.

## **Recommendation**

That a communications policy be developed, with external professional input if necessary, which takes account of the prevalence of social media and ensures that clear, accurate and consistent information is provided both internally, and externally to members, making the best possible use of the NZNO Membership Support Centre; social media, and facilitating appropriate dialogue with and between NZNO members.

- **Bargaining Policy**

The Terms of Reference ask me to provide recommendations on the Bargaining Policy, and how this could be improved. Several of my comments and recommendations above raise questions about the current Bargaining Policy but I think any revision of the Policy is best left



to an inclusive NZNO process which draws on the internal knowledge and expertise across NZNO.

## **Recommendation**

That the current Bargaining Policy be reviewed by an independently chaired group of representatives from the Industrial Services and Professional Services Teams.

- **Additional Comments and/or Recommendations**
  - **The Roles of President and Kaiwhakahaere**

The roles of the President and Kaiwhakahaere in the context of DHB MECA bargaining, and wider bargaining and representation processes should be reviewed and discussed. Concern was expressed by some about the activities of the President during the 2017 MECA process, particularly some posts on social media. This has caused me to look at the constitutional roles, and job descriptions of both the President and Kaiwhakahaere.

Fulltime president and kaiwhakahaere roles are a feature of the larger State Sector unions, such as the PSA, NZEI, PPTA and TEU. In those unions the President and Kaiwhakahaere (or equivalent) play an important and defined role as the senior elected officers of the union alongside the fulltime executive officer appointed by the Board or National Executive. They invariably speak as the members' representatives in political forums and publicly, and usually (in the education unions) play an important role in collective agreement bargaining processes.

The relationship between the elected president and kaiwhakahaere, and the National Secretary or Chief Executive is an important one and a National Secretary of one of the major education unions observed that the onus is primarily on the permanent Secretary/Chief Executive to ensure that the relationship works, and works for the benefit of members.

The elected terms of the NZNO President and Kaiwhakahaere are longer (three years) than the education unions (NZEI one year, and PPTA two years).

The Job Descriptions confirm that both officers have a very important constitutional

role which includes:

- Be the public face of the Board of Directors and NZNO membership
- Be spokespeople for the NZNO Board of Directors and NZNO members on matters of policy and strategy speaking with one voice.
- Supporting the Board in effective governance

Consistent with these responsibilities it would be reasonable to expect that both officers would have an important role in ensuring good governance (which I have noted earlier should include ensuring that a comprehensive, and properly resourced, plan is in place for a major collective bargaining negotiations), working with and reflecting the membership representative structures, as well as the externally facing roles of providing ‘membership voice’ as spokespeople and representatives on behalf of the NZNO.

The point has been made that, unlike the education unions, there has been no public ‘membership voice’ in advance of the MECA negotiations reflecting the membership concerns and aspirations and raising awareness both publicly and within the membership.

Similarly one of the Independent Panel members expressed some surprise that the President and Kaiwhakahaere didn’t play a more prominent role in the Independent Panel hearings, at least in taking responsibility to introduce the NZNO case at a high level as the ‘membership voice’ at a senior leadership level.

The Kaiwhakahaere also has the very important responsibility to lead Te Runanga o Aotearoa NZNO which the NZNO Constitution charges (9.1.4) with leading the NZNO “on the development of processes Maori within the NZNO” and, through Te Paori o Te Runanga o Aotearoa to:

*24.2.1 Assist NZNO to ensure its processes reflect Tikanga Maori;*

*24.2.1 Assist NZNO to uphold Tikanga Maori within the NZNO;*

The Kaiwhakahaere expresses concern that tikanga Maori is notably absent in NZNO Industrial Services, and industrial bargaining more generally, and that these processes and their outcomes may benefit from a closer alignment with tikanga Maori

practices. It is explicit in the NZNO Constitution that the Kaiwhakahaere would lead the education and cultural work which would ensure that the NZNO processes, including bargaining processes, reflect and uphold Tikanga Maori.

The NZNO Constitution also refers to speaking with 'one voice' and this places a serious responsibility on both officers, consistent with their senior leadership role, and governance powers in approving high level policies and strategies, to ensure that there is one public voice on behalf the members articulating their concerns within the framework of those agreed policies and strategies.

## **Recommendation**

The roles of the President and Kaiwhakahaere, in the context of DHB MECA bargaining and wider bargaining and representation processes, should be reviewed and discussed and the Chief Executive, President and Kaiwhakahaere should work together to ensure that there is one public voice on behalf the members articulating their concerns within the framework of the framework of policies and strategies approved by the Board of Directors

## **Recommendations:**

- 1) That the NZNO invest in an internal reconciliation and dialogue process for employed NZNO staff, independently managed and facilitated, to address the issues arising from the 2017- 18 DHB MECA Bargaining process and any damage done to personal and working relationships, with the objective of restoring respect, communication and cooperation within the NZNO paid workforce.
- 2) That the NZNO obtain legal advice to confirm that the good faith provisions of the ERA 2000 do not constrain NZNO advocates and/or spokespeople from appropriately reporting on negotiations to members and/or making public statements regarding them.
- 3) That the NZNO discuss and determine the appropriate bargaining model taking account of the existing commitments under the HSRA, and other relevant considerations.
- 4) That the NZNO Board of Directors, as part of its responsibility for 'governance, supervision of management and control of the affairs of the NZNO' ensure that for future DHB MECA negotiations a comprehensive and properly resourced plan is approved which addresses all significant risks and contingencies.
- 5) That the Chief Executive ensure that, before future DHB MECA negotiations, a comprehensive plan, with adequate resourcing proposals, developed with the joint input from Industrial and Professional Service Teams and DHB Sector bodies within NZNO, is put before the Board of Directors for consideration.
- 6) That future MECA bargaining preparation include a comprehensive campaign and communications plan with proper funding and resource allocation. This should include provision for professional research and communications expertise to be contracted, if the necessary level of resource is not available internally, to supplement the NZNO staff.
- 7) That the current NZNO process for claims gathering and bargaining strategy development be reviewed by representatives of the Industrial and Professional

Service Teams and include appropriate consultation with the objective of designing a more inclusive process

- 8) That consideration be given to increasing the size of the Bargaining Team taking into account the value of ensuring a fair geographical representation.
- 9) That organizational consideration be given to changes in process and practice to ensure optimal cooperation, and sufficient access to appropriate research, communication, and policy resources, between the Industrial, Professional Services, and Corporate Services Teams within the NZNO and to obviate the risk of siloing, and uncertainty and ambiguity of roles, and the consequent weakening of effectiveness around such issues as Safer Staffing and CCDM.
- 10) That the NZNO undertake, or commission, the necessary work to assess the options and decide whether a suitable model of delivering and discussing information online, and providing for online voting, at least as an option, is workable and democratic. This should include getting information from unions and other democratic organisations in other countries who have implemented such systems.
- 11) That a Professional Nurse Adviser be appointed to future DHB MECA bargaining teams.
- 12) That the 2018 experience of implementing the LPS obligations under the Code of Good Faith for the Health Sector be de-briefed and contingency planning developed, jointly with the DHBs, to ensure that in any future situation of industrial action agreed arrangements can be implemented and quickly implemented, and at the same time ensure that as many NZNO members as possible are able to exercise their legal right to strike.
- 13) That a communications policy be developed, with external professional input if necessary, which takes account of the prevalence of social media and ensures that clear, accurate and consistent information is provided both internally, and externally to members, making the best possible use of the NZNO Member Support Centre and social media, and facilitating appropriate dialogue with and between NZNO members.

- 14) That the current Bargaining Policy be reviewed by an independently chaired group of representatives from the Industrial and Professional Teams
- 15) The roles of the President and Kaiwhakahaere, in the context of DHB MECA bargaining and wider bargaining and representation processes, should be reviewed and discussed and the Chief Executive, President and Kaiwhakahaere should work together to ensure that there is one public voice on behalf the members articulating their concerns within the framework of the framework of policies and strategies approved by the Board of Directors

## APPENDIX I

### **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**

- d)** 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.
- e)** 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.
- f)** 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.
- g)** 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.
- h)** 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**

- i) 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.
- j) 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**

- k) 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.
- l) 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.

- m) 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. Interviewing any other additional persons deemed to have historical knowledge that can inform the review.
  - d. Considering the application of Employment Relations Act 2000 and any legal principles/ principles relating to collective agreement bargaining.
- n) 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 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.
- o) The reviewer will present the final report including written findings and recommendations to the Industrial Services Manager and Chief Executive.
- p) 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.
- q) 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 Date	Completion
Draft Terms of Reference signed off by Chief Executive		
Draft Terms of Reference presented to the Board		
Reviewer appointed and confirmed		
Revised Terms of Reference signed off by Chief Executive		
Confirm final terms of reference with reviewer		

Final Terms of Reference presented to Board	
Information gathering and interviews by reviewer	
Reviewer provides draft report to Industrial Services Manager	
Any comments on draft report to be provided to reviewer	
Final review report to Industrial Services Manager and Chief Executive	
Final review report to Board	

## **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](mailto:cee.payne@nzno.org.nz)  
027 229 5500  
04 494 6831

Date: Tuesday 6 November 2018

END

# 2019 DHB RANDOM MEMBER SURVEY RESPONSES ANALYSIS

## Confidential Information Paper to Ross Wilson

### Method

1. To ensure complete randomness all DHB members (excluding delegates) were ascribed a random number via excel and 3,000 selected based on this random number function. These randomly selected members were then uploaded to campaign monitor (our bulk email platform) as a list. Of these 3,000 90% had an email and had not unsubscribed to our emails. This saw 2,700 randomly members receive the survey.
2. The survey data was exported to excel. Where the questions provided numerical data the responses were analysed in the context of all of those that responded to the question. Where members were able to respond in free text natural language processing was applied. This sought to assess the themes and the strength of feeling to each theme. This was done by creating categories then assessing the frequency of these themes relative to overall responses.

### Participation Rates

3. The survey link was sent to 2700 random members via email three times. Each email had about a 1 in 2 open rate. There was little difference between the open rate of our delegates and the open rate of our members.
4. Of the three emails 75% of selected members saw the link at least once.
5. There were 774 responses in total. This could either be viewed as a 1 in 4 response rate based on emails sent, or as 1 in 3 response rate based on link viewed. This participation was similar, just slightly lower than that of delegates.
6. The distribution was in line of expected distribution across DHBs.

### Best Sources of Information

7. Members were asked *“Where did you get useful information on the MECA bargaining and campaigning? Select all that apply?”* and could select from the following:  
Your organiser
-

Email bulletins emailed directly to you

NZNO e-newsletters

Work site meetings

DHB Campaign page on the NZNO website

Facebook

Other (please specify)

Members on average selected 2 sources of information they felt useful.

8. 70 members (1 in 10) members also elected other. Most of these members reported other colleagues or delegates were a useful source. Delegates also reported this, suggesting that peer to peer sharing of information was valued by some.

9. Members were then asked to *“Please choose just THREE of the above that were the most useful to you as sources of information on the MECA bargaining.”*

This was what members felt most useful:

ANSWER CHOICES	RESPONSES	
Email bulletins sent directly to you	70.57%	537
Work site meetings	50.72%	386
NZNO e-newsletters	41.52%	316
Your organiser	34.43%	262
Facebook	34.43%	262
DHB Campaign page on the NZNO website	17.48%	133
Other (please specify)	9.33%	71
Total Respondents: 761		

## What did and didn't work well

10. Members were asked “*What do you think WORKED WELL during the MECA negotiation and campaign process? Select all that apply.*” They were then asked in a new question “*What do you think DID NOT WORK WELL during the MECA negotiation and campaign process? Select all that apply?*” For both questions the same 13 list was given.
11. For both the ‘what the worked well’ and ‘what didn’t work well’ questions members on average selected around 3 items from the list of 13. This is nearly half the number that delegates selected for each, given delegates selected 6 of the list items for both worked well and didn’t. Overall members selected a total of 2273 things that went well and 2257 things that didn’t go well.
12. The table below captures the % of members chose to give an answer for each category – i.e. whether they stated it worked well or didn’t work well. Even for the most answered on categories only 1 in 2 members chose to respond if they thought that category worked well or didn’t.

Category	% who answered
Gathering and collation of claims/issues for the MECA negotiation	55%
Reporting to delegates on the MECA negotiations	33%
Reporting to members on the MECA negotiations	63%
Decision-making processes at meetings	48%
Decision-making processes online (online voting)	61%
Communications from NZNO	61%
Communications in the news media	58%
Communications via social media	48%
NZNO campaigns	37%
Implementation of life preserving services	49%
NZNO Member Support Centre	18%
Support from NZNO staff locally	42%

13. The data suggests that for most areas members did answer on they were divided in whether they thought positively or negatively about their experiences. There were a few areas members generally agreed on, however. The divided nature of reflections was a similar picture to our delegate group.
14. Below is a list of the generally agreed upon view points and the views that were split. The percentages next to each statement is calculated based on those who commented on an area. For example “Gathering Claims went well
-

(50% agreed 50% didn't agree)" is calculated based on of those that answered on the topic of claims gathering  
50% said it worked well and 50% said it didn't work well.

15.Of those that responded on the topic there were a few widely held beliefs:

- That NZNO's media did not work well (85% held this view)
- That online voting worked well (85% held this view)
- Decision Making at meetings did not work well (70%)

16.There were far more divided views:

- Communications from NZNO worked well (60% agreed 50% didn't agree)
- Reporting to delegates went well (55% agreed 45% didn't agree)
- Reporting to members went well (55% agreed 45% didn't agree)
- Life preserving services went well (55% agreed 55% didn't agree)
- Gathering Claims went well (50% agreed 50% didn't agree)
- NZNO campaigns went well (50% agreed 50% didn't agree)
- Support from NZNO staff locally went well (50% agreed 50% didn't agree)
- NZNO campaigns went well (50% agreed 50% didn't agree)
- Comms via Social Media went well (45% agreed 65% didn't agree)
- NZNO support centre worked well (35% agreed 65% didn't agree) (to nearest 5%)

<b>What Worked Well</b>	<b>% General Member</b>	<b>% Delegates</b>
Support from NZNO staff locally (12)	52	79
Decision-making processes online (online voting) (5)	84	78
Reporting to delegates on the MECA negotiations (2)	56	54
NZNO campaigns (9)	48	53
Communications from NZNO (6)	62	49
Reporting to members on the MECA negotiations (3)	57	46
Implementation of life preserving services (10)	55	46
NZNO Member Support Centre (11)	36	45
Gathering and collation of claims/issues for the MECA negotiation (1)	50	42
Decision-making processes at meetings (4)	29	37
Communications via social media (8)	45	36
Communications in the news media (7)	16	10

## The free text comments

280 choose to offer a comment. The majority of those who commented raised concerns or critiques with only 1 in 10 comments being positive.

The intensity and frequency of concerns raised in the comments suggest that of those who commented many hold strong thoughts around their MECA experience.

From the comments themes emerged. Below is a summation of the themes. Note: one comment could (and most often did) contain multiple themes:

Theme of Issue	Number of Responses Random Member	Number of Responses (Delegates)
Poor Communication	One in Five Responses	One in Two Responses
NZNO not on 'our' side / aggressive enough	One in Three Responses	One in Three Responses
NZNO not listening to members	One in Four Responses	One in Three Responses
Lack of transparency	One in Ten Responses	One in Four Responses
Voting	One in Ten Responses	One in Eight Responses
LPS	One in Twenty Responses	One in Eight Responses
Positive	One in ten Responses	One in ten Responses

The following two comments are reasonably reflective of the most common types of comments and themes:

“Towards the end of negotiations it felt like NZNO was working for the DHBs, not the Nurses. They pushed us into accepting the DHBs deal.”

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“Disappointed with the outcome. Nurses have not been heard for some time and the public was very supportive I felt again frustrated by the process.”

“NZNO never asked members what they would like, and rather took a guess. They never asked which percentage increase we were after and did not communicate with members clearly what they were trying to achieve from the negotiations. Their expectations of the negotiations seemed to be much lower than the expectations of members. Reasons unknown and this frustrated members.”

#### 17. Other Observations:

- There was a notable amount of irritation expressed at NZNO ‘encouraging’ members to accept offers.
  - Of those that were not pleased with aspects of the MECA many specifically referenced NZNO’s perceived lack of correcting the media / DHBs misinformation, or hearing about their offers through the media.
  - A notable number of reflections saw the respondent suggest that their professional group (HCA, EN, Senior Nurse) was not well represented in either the process or outcome.
  - Some members expressed concern about the content of non-official sites and how the content and tone reflected poorly on the profession and or unity.
  - Some members referenced other unions bargaining for what they would like to have seen e.g. Teachers or Drs
-



# 2019 DHB DELEGATES SURVEY RESPONSES ANALYSIS

## Confidential Information Paper to Ross Wilson

### Method

1. The survey data was exported to excel. Where the questions provided numerical data the responses were analysed in the context of all of those that responded to the question. Where members were able to respond in free text natural language processing was applied. This sought to assess the themes and the strength of feeling to each theme. This was done by creating categories then assessing the frequency of these words used relative to others themes such as safe staffing.

### Participation Rates

2. The survey link was sent to 1004 delegates via email twice. Each email had about a 1 in 2 open rate. There was little difference between the open rate of our delegates and the open rate of our members.

*This raises an interesting question of why only 1 in 2 delegates are opening communications from NZNO?*

3. Of the two emails 70% of delegates saw the link at least once.
  4. There were 413 responses in total. This could either be viewed as a 2 in 5 response rate based on emails sent, or as 3 in 5 response rate based on link viewed.
  5. The distribution of DHB's represented was in line with the size of the DHB's. The only exception to this was Christchurch, which had double the expected response rate.
  6. There was 22 (5%) respondents whose ID's did not match that of a delegate. 15 looked like genuine typos. 4 noted they forgot and 1 responded 'unwilling to share'.
-

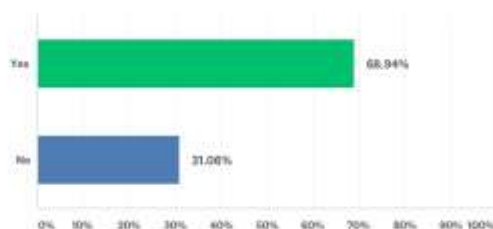
## Sufficient information and opportunity

7. Delegates were asked 4 yes / no questions:

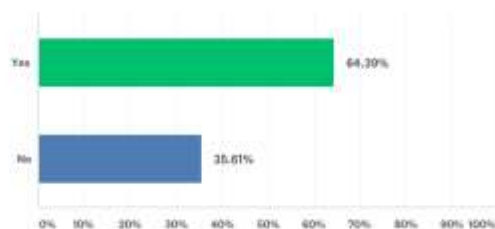
- Did you have opportunity to provide input, on behalf of your members, into the process of gathering and collation of claims/issues?
- Did you have sufficient information to enable you to explain the claims/issues put forward in the MECA negotiations to your members?
- Did you have sufficient information to enable you to keep your members informed about the status of the MECA negotiations?
- Did you have sufficient information to enable you to play an effective role in implementing the Life Preserving Services arrangements?

8. Across all questions there was a 59% yes rate. However, behind this number is a divided delegate group. 1 in 4 delegates gave all Yeses while 1 in 4 delegates gave 3 or more Noes. Those from Auckland DHBs were slightly more likely to answer no.

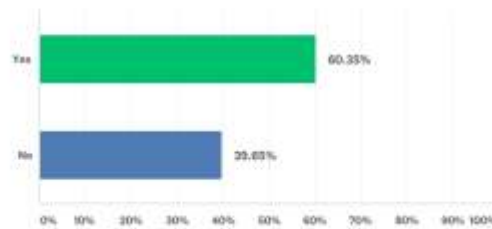
Q4 Did you have sufficient information to enable you to explain the claims/issues put forward in the MECA negotiations to your members?



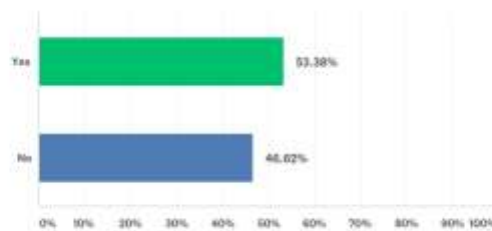
Q3 Did you have opportunity to provide input, on behalf of your members, into the process of gathering and collation of claims/issues?



Q5 Did you have sufficient information to enable you to keep your members informed about the status of the MECA negotiations?



Q6 Did you have sufficient information to enable you to play an effective role in implementing the Life Preserving Services arrangements?

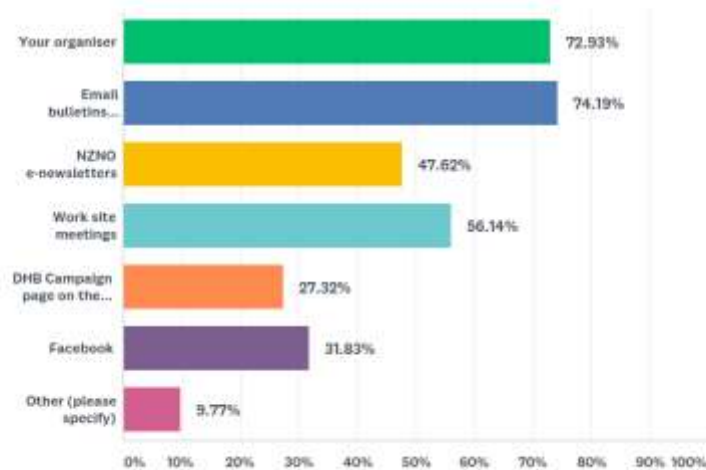


## Best Sources of Information

9. Delegates were given the opportunity to share all of the best sources of information during the MECA, this was their list. The average number of options selected was 3.
10. 39 delegates selected other. Nearly half of these responded that they got useful information from other delegates. A handful observed 'alternate' social media pages such as Nurse Florence.

There was little difference in the picture when delegates were asked to select only 3 given that the majority selected three only.

Q7 Where did you get useful information on the MECA bargaining and campaigning? Select all that apply?



## What did and didn't work well

11. Delegates were given a list of 13 to select as many as they felt worked and did not work well. For both worked and didn't work delegates on average selected 6 things.
12. Delegates selected a total of 1359 things that went well and 1496 things that didn't go well. The didn't go well was, therefore, around 10% higher
13. There were a few widely held beliefs:
  - That NZNO's media did not work well (90% held this view)
  - That NZNO staff locally worked well (80% held this view)
  - That online voting worked well (80% held this view)
14. There were far more divisive views:
  - NZNO campaigns went well (55% agreed 55% didn't agree)
  - Reporting to delegates went well (55% agreed 45% didn't agree)
  - Communications from NZNO worked well (50% agreed 50% didn't agree)
  - Reporting to members went well (45% agreed 55% didn't agree)
  - Life preserving services went well (45% agreed 55% didn't agree)
  - NZNO support centre worked well (45% agreed 55% didn't agree)
  - Gathering Claims went well (40% agreed 60% didn't agree)
  - Decision Making at meetings went well (35% agreed 65% didn't agree)

- Comms via Social Media went well (35% agreed 65% didn't agree) (to nearest 5%)

What Worked Well	%
Support from NZNO staff locally (12)	79
Decision-making processes online (online voting) (5)	78
Reporting to delegates on the MECA negotiations (2)	54
NZNO campaigns (9)	53
Communications from NZNO (6)	49
Reporting to members on the MECA negotiations (3)	46
Implementation of life preserving services (10)	46
NZNO Member Support Centre (11)	45
Gathering and collation of claims/issues for the MECA negotiation (1)	42
Decision-making processes at meetings (4)	37
Communications via social media (8)	36
Communications in the news media (7)	10

## The free text comments

Around 1 in 2 delegates choose to offer a comment. The majority of those who commented raised concerns or critiques with only 1 in 10 comments being positive.

There was a lot of passion and concern in the comments. The emotional toll of the process and after effects is evident.

From the comments themes emerged. Below is a summation of the themes. Note: one comment could (and most often did) contain multiple themes:

Theme of Issue	Number of Responses
Poor Communication	One in Two Responses
NZNO not on 'our' side / aggressive enough	One in Three Responses
NZNO not listening to members	One in Three Responses
Lack of transparency	One in Four Responses

Voting	One in Eight Responses
LPS	One in Eight Responses
Positive	One in ten Responses

The following two comments are reasonably reflective of the most common types of comments and themes:

“NZNO wouldn’t even tell the delegates exactly what we were fighting for which was very poor communication. NZNO withdrew the strike day with no consultation with its members. All in all it looked like NZNO was more in line with the DHBs than its own members. It also told the DHBs how close the votes were which made it that much harder for the members.”

“I thought the whole process was an absolute shambles with poor communication and with NZNO not listening to members and saying things to try and sway the membership into agreeing. Very unprofessional and feeling like NZNO were desperate to get an agreement regardless of whether it was good for the membership. I felt ashamed to be a delegate in such an organization.”

Other Observations:

- Of those that were not pleased with many aspects of the MECA many specifically referenced NZNO’s decision to pull the strike and NZNO’s perceived lack of enforcing good faith on the DHBs and their 93,000 media conference.
  - There was a notable amount of anger expressed at NZNO ‘encouraging’ members to accept offers.
  - A notable number delegates expressed frustration at not being able to articulate what we were actually ‘going for’
  - Some delegates expressed frustration at member knowledge or engagement.
-

# 2019 MECA Review – General Member Survey

## Confidential Information Paper to Ross Wilson

### Participation Rates

1. All members who had *not* been sent a survey in either a delegate capacity or as a random selected member were invited to participate via email. This saw just over 25,200 invited to participate.
2. A first email and a reminder email was sent with the link. The open rate was 58% then 50% respectively. Cumulatively this saw 17,250 members of having seen at least one of the emails with the link.
3. There were around 3550 members who began the survey. Yet only 2450 wrote at least one answer in one of the free text questions. The 1050 who did not type any responses have been separated.
4. The 2450 actual responses saw the participation rate being around 10%.

### Method & Questions

5. There were three questions that members could elect to answer any or all.

*What do you think WORKED WELL during the MECA negotiation and campaign process?*

*What do you think DID NOT WORK WELL during the MECA negotiation and campaign process?*

*Are there further reflections you would like to share with the reviewer?*

6. These answers were collected and then exported to excel where each answer was scanned and most common broad themes of the comments compiled. The next step saw each comment read and every time a comment contained one of the themes a count was made in that theme. The total frequency of themes then provided guidance on how widely felt the theme was.
7. Some notes on the types of comments which were most prevalent are offered to support the reader get a better sense of the comments.

### Conclusion

After reading every comment shared this are the overall reflections:

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- It appears that of those who chose to participate most held strong views.
- Many of the comments and themes do suggest change opportunities for NZNO either in what we do, or how we communicate what we do.
- The most favourably received elements of NZNO's bargaining / campaigning appear to be digital interactions (voting / communications via email) and personal relationships.
- Members enjoyed a sense of unity and mass participation and publicity.
- The most frequent themes around what didn't work' are interrelated around NZNO's perceived approach to negotiation:

NZNO listening to members and their issues,  
 NZNO accepting the legitimacy of member issues  
 NZNO strongly advocating for member issues at the bargaining table.

These were articulated in themes of 'not listening' 'not advocating for members' and 'not being on member's side'.

### **Observation**

Members were not privy to the advocacy in negotiation room. Yet the most common themes in what didn't work well are around the negotiation. This means these conclusions were drawn from NZNO's activity outside the negotiation room – what was said, and what was done, and the offers themselves.

This means NZNO could consider future bargaining communications and actions in terms of 'how does this show we understand member issues, believe in them and advocate for them.'

It also shows NZNO is vulnerable to process criticisms judged by the outcome.

### **What Worked**

8. Members shared just over 2300 reflections about what went well. The vast majority of those reflecting wrote a single sentence that contained one or two things they felt went well e.g.

"Online voting" or "Email updates and lots of meetings"

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From the comments themes emerged. Below is a summation of the themes.

Theme of Issue	Number of Responses	Comments
Good communication from NZNO to members	One in Three Responses	<p>Members reflected they liked the frequency and method (online) of communications. The emails were identified as the single most welcomed communications. However, many listed and welcomed the variety of methods (Short and long format, email, Facebook, live chat and videos.</p> <p><b>Conclusion: members welcome frequent direct emails and like having a variety of ways to get their information.</b></p>
Nothing worked well	One in Eight Responses	<p>Some believed that nothing worked well. One in eight was calculated by only counting those who explicitly stated 'nothing worked'. 'Don't know / Can't remember' comments were not counted towards the nothing count.</p> <p><b>Conclusion: There is a notable group of members who hold a wholly negative view of our MECA experience.</b></p>
Elements of the campaign or the effects of the campaign	One in Eight Responses	<p>When members mentioned campaign elements (rallies, pickets, strike day events) most reflected on the feelings these events created. Feelings of unity, togetherness, support from each other and the public were frequently noted. Respondents liked too the publicity and huge</p>

		<p>participation of members.</p> <p><b>Conclusion: Many think favourably about elements of unity, solidarity and feelings that large public campaign participation created.</b></p>
Online Voting	One in Ten Responses	Many members welcomed online voting. This was a common reflection.
The outcome or a component of the outcome	One in Ten Responses	The pay increases, extra steps and pay equity were reflected as a 'worked well' in comments despite the outcome not being the focus. Suggests some members read process as outcome.
Strike	One in Twelve Responses	Many reflected positively on the strike, the organization, LPS and the feelings of taking action.
NZNO staff / delegates	One in Twelve Responses	Personal relationships with delegates and organisers are valued with many identifying their rep or delegate.
Meetings	One in Twelve Responses	Many reflected they liked the opportunity to talk and the many meeting times offered.

9. A notable few (around 2%) attributed the positives to forces external to NZNO – namely that of alternate Social Media spaces.

10. Sample of typical types of comments:

“Generally good communication as to progress in negotiations”

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“I felt the online voting worked well”

“I was happy with the MECA process and feedback received. I acknowledge the work undertaken by the team and appreciate the efforts.”

“Information on progress - either via emails or even the use of facebook at one point”

“It made members worked closer together towards a common goal.”

“Summarising the terms of each offer made and changes that had been offered - this was helpful and made understanding each offer easier.”

“Support and effort of NZNO staff”

“The information disseminated to the members during MECA negotiation was adequate and timely. I personally feel that it was handled well and with the interest of the NZNO membership at heart.”

## What Didn't

11. Members shared just over 2300 reflections about what didn't work well. The vast majority of those reflecting wrote a single sentence that contained one or two things they felt didn't work.

From the comments themes emerged. Below is a summation of the themes.

Theme of Issue	Number of Responses	Comments
Poor communication from NZNO to members and media	One in Four Responses	Where members reflected on NZNO to member communications it was more often the content rather than frequency or delivery method. Many observed they felt the information was biased or too positive. Other noted it was confusing, sparse or difficult to understand. Members also raised concerns about NZNOs media presence and in particular how NZNO responded to the DHBs use of media. <b>Conclusion: where NZNO communicated a differently held position to an individual member that member felt that</b>

		<b>communication was done poorly.</b>
NZNO understanding & listening to NZNO members	One in Eight Responses	A number members felt NZNO either didn't understand or listen to them. Some members drew this conclusion from the gap between their aspirations and the offers, the recommendations, or the perceived similarity between offers. <b>Conclusion: Some members appear to view DHBs offers &amp; recommendations as reflective of NZNO listening and or understanding them and their issues.</b>
Unsatisfactory outcome	One in Five Responses	Despite being out of scope many members felt that the outcome didn't work well. This was reflected as either pay or as staffing concerns. <b>Conclusion: Many rate the process based on their perceptions of the outcome.</b>
NZNO advocacy approach / strength of advocacy for members issues	One in Six Responses	Of the members that reflected on this theme many questioned which side NZNO was on, or how hard they pushed the DHBs. <b>Conclusion: Given members weren't in bargaining many drew conclusions on NZNO's advocacy within the bargaining room from NZNO's actions and communications and/or the DHB offers.</b>
The length of the process	One in Eight Responses	Of members who reflected on the length many perceived

		the whole process took to long, while other thought there were too many delays between milestones.
Meetings	One in Eight Responses	Most who commented here thought compulsory attendance did not work well. A notable few questioned the way the content was presented.
Transparency / full information	One in Ten Responses	Of those that commented on this theme it was about the amount and type of information NZNO shared with members.
Strike	One in Ten Responses	Of those who commented most shared frustration with the LPS requirements. Some observed they wished to have more action.
Nothing wasn't done well	One in Twenty	A notable few felt everything worked well.

## 12.Sample of typical types of comments:

“Not very clear communication. Didn't feel very transparent. Feel like it didn't really represent what we wanted.”

“The union did not support us”

“members weren't listened to”

“that they didn't fight hard enough for a safe workplace and our pay”

“I feel the NZNO should have taken a firmer stance on negotiations.”

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“I felt that during meetings to decide whether to accept or reject offers, the representatives were very one sided.”

“Way too long process between meetings, voting and strike.”

“NZNO constant stance of recommending that its members accept proposed offers, especially when there had been no change”

“Nothing. I have been a member of NZNO since 1984, and this was the first time I felt a campaign was run professionally and successfully.”

“Process very very slow and secret”

## Anything Else to Share?

The themes found in the free text were similar to the themes shared in both the Delegate Survey and the Random Member Survey.

The most common themes included:

- Concerns about NZNO listening to and strongly articulating members concerns at the bargaining table.
- The perception that NZNO’s prioritises their relationship with DHBs over advocating for members.
- Concerns about the outcome (in particular a belief that the pay rise was insufficient and safe staffing has not been addressed).
- A reflection that in context NZNO did well.
- A feeling of being ‘let down’ or disappointed in NZNO during the MECA.

### Other reflections.

Many word choices or sentiments were strong. Very few were neutral or ‘balanced’ between positive and negative reflections. The majority of comments shared with the reviewer suggest that of those who commented here want to see change.

Despite the outcome being outside of the scope many of the commenters reflected on the outcome of negotiations. When members did comment on the pay component many did so in reference to increasing costs and demands of the job. This suggests NZNO bargaining is vulnerable to external factors such as housing affordability, or perceptions

*around pay of other professions.*

Many commenters used the outcome as evidence for their perceptions around the process. For example NZNO were not 'strong' enough in the bargaining table as the pay rate isn't as high as it should be. *This suggests some NZNO members struggle to see NZNOs bargaining and campaigning work separate to the outcome. This means NZNO's reputation / relationship with members is at risk when funding in health is constrained.*

Some commenters felt that NZNO had particularly let them down on account of occupational group, location, and length of experience. ENs, HCAs & Seniors were more likely to note their group had been let down. Other referenced the cost of living, or long standing experience as reasons that outcome was insufficient. *This suggests that many members reflect on the outcome as relating to their situation rather than across the 30,000.*

Theme of Issue	Number of Responses
Poor Communication	One in Two Responses
NZNO not on 'our' side / aggressive enough	One in Three Responses
NZNO not listening to members	One in Three Responses
Lack of transparency	One in Four Responses
Voting	One in Eight Responses
LPS	One in Eight Responses
Positive	One in ten Responses