



Without Prejudice

Enterprise Bargaining Meeting 12

Wednesday 5th July 2017

10am – 4.00pm

Building EB, Boardroom (EB.2.23), Parramatta South campus

In Attendance:

Professor Denise Kirkpatrick, DVC & VP (Academic) (Chair)
Professor Kevin Dunn, School of Social Sciences & Psychology
Professor Gregory Kolt, Dean, School of Science & Health
Susan Hudson, Executive Director, HR
Natasha Maiolo, Senior Employment Lawyer
Clare Bockmann, Senior Workplace Relations Specialist
Dr David Burchell, NTEU Branch President
Tamara Talmacs, NTEU Industrial Officer
Dr Terri Mylett, NTEU Academic Staff Representative
Rohan Giles, NTEU Professional Staff Representative
Jen Mitchell, CPSU Industrial Officer
Scott Pendlebury, CPSU Branch President
Lorraine Fordham, CPSU Staff Representative
Michael Reolan, CPSU Staff Representative
Sonya O'Shanna, Executive Officer, Major Projects (notes)

MEETING NOTES

1. Welcome

Professor Kirkpatrick welcomed all the parties to the bargaining meeting and thanked them for attending, noting apologies from Professor Gregory Kolt and Carmel Votano.

2. Clauses for discussion

a. Research Misconduct

The University is working on a simplified Research Misconduct clause, which will be circulated shortly.

Overall, the University proposes to retain the basic structure of the current Research Misconduct process, including the Research Misconduct Panel for cases of alleged Research Misconduct where termination of employment is a possible outcome. Responsible conduct of research at the University, with breaches of the Code to be dealt with in accordance with the relevant enterprise agreement.



Without Prejudice

The NTEU queried why the university would remove reference to probation in this clause. The University advised the clause applies to both professional and academic staff and professional staff do not have nine months of probation.

The NTEU agreed the definitions are not overly contentious but suggested retaining examples in the clause which allows staff to be guided by the code. The University disagreed as examples do not bestow any entitlement or conditions for staff and researchers should already be aware of what constitutes research misconduct. The University also advised it is a very long process with multiple references to mitigating circumstances to staff that are inadvertently caught up in research misconduct. The NTEU suggested in place of examples there be a short paragraph to cover a broad definition of research misconduct.

The Unions raised concerns about the suspension with / without pay and want to retain the current provisions in 1.9 of the misconduct/serious misconduct clause with a view to retain parameters around trigger points when someone would be suspended either with or without pay.

The NTEU agreed to the insertion of 1.10 (c) but wishes to retain 1.11, agrees to the sub-clauses in relation to early resolution, information resolution and the research misconduct panel.

Both the NTEU and CPSU want to retain provisions whereby the interviews are made in the presence of the employee who the allegations are against and agreed to look at wording to articulate how to protect both parties.

The University was concerned about not having a physical presence in relation to interviews in the presence of the employee as it can be quite intimidating and may be a disincentive for people to raise allegations of research misconduct.

b. Definitions – Agreed

“Senior Employees” (common)

The University proposes new definitions for the term “Senior Employees” in both Agreements to tie in with proposed changes to the Application of Agreement clause.

The NTEU did not perceive a need for a senior employee definition in the academic clause as there is no reference to senior employees in the academic agreement. It was agreed to remove reference to senior staff in the academic clause.

It was also agreed to retain the statement in relation to HEW 10 salary as it currently exists in scheduled 1 and should be retained in the definition clause.

All parties agreed to the professional staff clause.

“Sessional Academic” (Academic)

The University proposes to include the definition of “Sessional Academic” in the Definitions clause of the Academic Staff Agreement.



Without Prejudice

Further to discussions with the NTEU at least week's bargaining meeting, the University proposes the following definition of this term – *casual Employees engaged on a regular and systematic, rather than an ad-hoc or occasional, basis.*

Regular = more than ad hoc, or irregular, or occasional

Systematic = have taught for us in the past

NTEU agreed to the academic staff clause.

c. Application of the Agreement

i. Professional Staff Agreement

The University proposes that the Professional Staff Agreement does not apply to DVC, VP, PVC, ED or Directors or equivalent. The amendments to 1 (b) (ii) relate to clauses that do not apply to senior staff.

The CPSU sought expansion of the wording 'or equivalent' as they were concerned about how 'or equivalent' would be measures. The CPSU also stated its proposal to remove sub-clause 4(c) particularly with the university's proposal to move process into policy which can be changed at any time. If the university wants to move to processes that are currently in the agreement into policy, then it should be enshrined in the agreement.

The University agreed to review the wording around 'or equivalent' but disagreed with the position of the CPSU to remove sub-clause 4 (c) as policies go up on the DDS for staff and union comment.

The NTEU objected to the proposed deletion of provisions relating to fixed-term categories of employment but do agree in principle of 4 (b) (i) pending final wording around equivalency. The NTEU do not agree with the changes to 4 (b) (ii) or the removal of the bracketed text in 4 (b) (ii) (P) under redeployment and redundancy.

The University advised the unions that contract provisions for senior staff already include termination payments commensurate with their salaries which are developed in line with what is in the agreements. The University reiterated there is no change to redundancy for any other staff member who is not identified in 4 (b) (ii).

ii. Academic Staff Agreement

The University proposes to roll over the clause with minor change to include Institute Director in exclusions as it is a new position that has been created since the clause in the agreement was formed. The University also proposed to include Deputy Dean in the listed positions excluded from the agreement as Deputy Deans on a different remuneration schedule from other academics, similar to Institute Directors. It also maintains its position to retain 4 (c) in the clause.

The NTEU agreed to the inclusion of Institute Directors to the list but objected to Deputy Deans being added to the exclusion clause as they do not sit in the senior leadership group. The NTEU also did not agree with the retention of sub-clause 4 (c) in relation to policy.

The University clarified equivalency relates to change in nomenclature or equivalent to one of those roles. The Vice-Chancellor can change the membership of the senior leadership group at any time. It does not signify any formal structure, rather a committee that meets for advisory purposes. The University also advised the Vice-Chancellor has announced that salaries for senior staff who are members of the University Leadership Group will be frozen through to the end of 2018.



Without Prejudice

d. Dispute Settlement - AGREED

The University has considered the changes proposed by the NTEU.

In relation to subparagraph (c), the University has proposed some amended wording regarding representation, which incorporates some elements of the NTEU's drafting. The subclause now provides that an Employee who is a party to a dispute may appoint a Representative, who may be an official of the relevant Union, at any stage of the process set out in the clause.

In relation to subparagraph (d), the University agrees to the NTEU's request to reinstate the current wording of the Agreement in relation to aggravation of a matter in dispute.

References to "School" have been deleted in favour of retaining the references to "work unit" only.

Subparagraph (e) has been amended to expressly state that in cases of conflict of interest, the EDHR will follow the process prescribed by the clause.

In relation to subclause (i), the University agreed to reinstate this subclause with simplified wording on 16 May 2017. The University wishes to maintain the simplified version of this subclause.

In relation to subclause (j), the University agrees to retain the current opening words.

All parties agreed to the revised clause.

e. Probation (Professional Staff)

Subclause 1.2(b), which states that an employee will only be required to complete one probationary period with the University, is agreed.

NTEU proposed additional wording in sub-clause 1.3 (b) which the University will review before providing feedback.

Subclause 1.4(a), which deals with the generation of a "probation plan," is agreed.

Subclause 1.4(b)(i) – the University previously agreed to the proposed wording and is agreed by the Unions.

Subclause 1.5 has been revised in accordance with discussions on 19 June:

- in subclause 1.5(c), additional wording has been included to stipulate that the EDHR will review a recommendation to terminate together with the employee's show cause response, make a final determination, and communicate this to the employee with reasons for the determination; and
- subclause 1.5(d) has been amended to expressly state that if employment is terminated, an employee will be given written reasons for the termination.

NTEU has proposed alternate wording for sub-clause 1.5 which includes the Employment Executive making the final determination opposed to the EDHR who now makes a recommendation. Other



Without Prejudice

wording proposed for sub-clause 1.5 (b) to state “employment must not be terminated until 1.4 has been fully complied with”. The University agreed to review the new proposed wording.

f. Flexible Work Provisions

The University has agreed to roll over the clause without amendment.

The NTEU provided a new ‘working from home’ clause but the university does not agree to having a new clause; rather suggest adding reference to working from home in the flexible work provisions clause as 1.2 (j).

The University will revisit where reference to ‘working from home’ has been captured in other clauses in the agreement and noted both Unions’ have a claim against this clause in their logs.

g. Professional staff workloads

The Unions provided a joint clause and reiterated that sub-clause 1.1 is not just an aspirational statement and maintains its position to retain the sub-clause.

The Unions also proposed a number of changes in their joint clause including:

- Changes to principles in 1.2 to reflect WHS principles to not be limited to organisational change;
- Retaining sub-clauses 3.1 (d) to (g); and
- Health and Safety Representatives involvement in workload reviews in lieu of workload panel/reviews.

The University has agreed to review the proposed clauses before providing feedback. The University reiterated that it will not agree to the introduction of a workload review panel for professional staff.

h. Career planning and development (Professional)

The University retains its position to remove the \$4.2 million quota for professional development.

As part of an enhanced package and the proposal to remove the \$4.2 million quota (which is an aggregated spend against professional development), the University will:

- increase Education Allowance by \$1000 per annum;
- increase VC PD scholarships from 7 to 12 (both academic and professional); and
- increase staff post graduate study scholarships to 5.

The NTEU do not agree with the removal of the quota, there needs to be a commitment from the University in relation to professional staff professional development.

CPSU noted its members’ claim where staff who want to access PDP but declined by work unit because of funding issues. The University advised there is already a provision for staff to approach HR if they consider they are not receiving appropriate training or professional development.

In relation to subclause 1(c), the University has reinstated the requirement that all vacant positions at HEW 6 and below be advertised internally in the first instance.



Without Prejudice

The Unions disagreed with the University's position to retain the limit of internal recruitment to HEW 6 and below. Extending it to HEW 8 give staff a professional development opportunity in the first instance particularly with shared services model which is seeing positions reclassified at lower HEW levels and covers a proper career progression.

i. Position classification and broadbanding – not discussed

Unions are still working on a joint response to the university's proposed clause.

j. Long Service Leave - AGREED

The University agreed to revise the wording in 1.3 to expand recognition to all higher education institutions.

The University also agreed to withdraw its 90 day cap of portability of accrued long service leave proposal and the right to refuse long service leave applications; the CPSU agreed to withdraw its claim for recognition of prior service in the public sector for professional staff and both unions agreed that the university can direct staff to take excess leave.

All parties agreed to these conditions and the clause was agreed in principle.

k. Personal Leave – AGREED

The only outstanding issue in this clause relates to the Unions' claim to allow personal leave to be used for "community" commitments. The University maintains its previously stated position and does not agree to this proposed amendment.

CPSU will withdraw claim for community in personal leave if the university reinstates sub-clause 1.9 in research misconduct and misconduct regarding circumstances where it would not be appropriate to suspend without pay.

The University agreed to this proposal by the CPSU which was supported by NTEU.

All parties agreed to this clause.

l. WHS and First Aid – Not discussed

m. Termination of Employment (ASA) – Not discussed

n. Higher Duties – Not discussed

o. Pay and Career Equity – Not discussed

p. Dignity and Respect at Work – Not discussed

q. Union Representation – Not discussed

3. Clauses at stalemate

a. Flexible Hours of Work Scheme



Without Prejudice

- b. Parental Leave
 - c. Domestic/Family violence support leave
 - d. Intellectual Property
 - e. Conversion Fixed Term and Casuals
 - f. Organisational Change
 - g. Redeployment and Redundancy
 - h. Job security and Outsourcing
 - i. Managing ill health and injury
 - j. Unsatisfactory performance
 - k. Misconduct/Serious Misconduct
 - l. Aboriginal and Torres Strait Islander Peoples Employment Strategy
4. Next meeting

No date set – both unions need catch up time to follow up on outstanding clauses.

A number of clauses can be side-barred for wordsmithing with the university, NTEU and CPSU.

The meeting closed at 4pm.