

# NZNO Bargaining Policy

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## Section one

### Introduction and principles

NZNO bargaining policies consist of principles, processes and strategies. The purpose of this paper is to develop a consistent framework for bargaining that reflects best practice and contributes to the success of bargaining in NZNO. Bargaining applies only to those members identified in the NZNO Constitution, Schedule 1, Clauses 1-4.

The bargaining policy once established must be adhered to by all of NZNO. Collective and determined action is the basis of our strength as a union and a professional association. Democratic processes are the way union action is decided upon. Strong and legitimate leadership maintains the integrity of the union. Neither staff nor members are able to unilaterally depart from the established bargaining policies.

Like all unions, NZNO must balance leadership and representation in its deliberations and actions.

The development of sector groups in NZNO has enabled specific bargaining goals and plans to develop pertinent to the requirements of the different sectors, their membership and structure of workplaces.

Overarching the sector specific plans sit a set of organisational bargaining principles. These are:

- > NZNO seeks to improve workplace pay and conditions for nurses and other health sector workers so that they may contribute fully to the health of our communities.
- > NZNO supports Te Tiriti o Waitangi and endeavours to promote culturally appropriate provisions through bargaining strategies.
- > NZNO works to continually enhance the pay and conditions of all members taking account of pay and employment equity; pay parity across sectors and equal pay for work of equal value.
- > NZNO works to establish collaborative relationships with all bargaining stakeholders and utilises an issues based bargaining model in the resolution of issues.
- > NZNO works towards extending the consolidation of employment agreements into multi employer agreements, multi union agreements, a combination of multi employer, multi union agreements and regional or national collective agreements where the conditions are favourable for consolidation.
- > NZNO works to develop workplace conditions which are family friendly and conducive to the health and well being of nurses and other health sector workers.
- > NZNO advocates for the conditions in the workplace, including acuity measurement tools, that ensure the delivery of safe and quality patient care.
- > NZNO supports the development of nationally consistent professional development and education that is accessible, affordable, appropriate and portable throughout nursing and other health workers practice settings.
- > NZNO supports the continuing development of the role of nursing in a way that protects professional standards to enhance the health of our communities.
- > NZNO acts to achieve due recognition for the value and contribution of nurses, midwives and other health sector workers, to the health of our communities.
- > NZNO will develop and maintain effective relationships with Iwi, Government and its agencies, unions and professional bodies, employers and international bodies.

In committing to the above goals and principles, NZNO requires staff to show leadership in their enactment.

Consistent processes within a framework of a national bargaining strategy will build credibility and deliver better outcomes for members.

## Section Two

### Processes

All processes for bargaining should be consistent with the requirements of the Employment Relations Act (ERA) and any amendments. Industrial advisers and lead advocates have a responsibility to be knowledgeable about the ERA and ensure they act in accordance with the legislation.

Before any initiation of bargaining takes place for a new collective agreement or the renewal of an existing collective agreement (CA); the criteria set down in the paper Criteria for Initiating Collective Bargaining in NZNO must be met and a recommendation made to the relevant industrial adviser. (Please see relevant extract appendix 1.) If the criteria are not able to be achieved then any discretion in respect of

initiation for a new collective agreement can only be authorised by the industrial services manager.

The industrial advisers will annually review within their sectors the advocacy of collective agreements (except those negotiated with a single employer within a single regional office – in this case the Organiser responsible for the designated patch will be the advocate.) Following discussion with the relevant sector group staff representatives a recommendation is made by the industrial adviser to the industrial services manager regarding the advocates. The industrial services manager has final signoff.

Draft issues for bargaining should be developed annually by the industrial adviser for each sector group. Following discussion and endorsement within the sector group the agreed final issues will form the basis of the issues for negotiation of collective agreements in the sector and provide consistency with the overall bargaining policy principles and sector goals.

The lead advocate, in conjunction with other organisers where appropriate, shall develop a bargaining plan. The bargaining plan should include the processes for additional issues identification, selection of the negotiating team, endorsement meetings, arrangements for bargaining, a timeline and a recruitment plan.

The industrial services manager, industrial adviser and the lead advocate are responsible for determining the size of the bargaining team, taking into account the following factors:

- > Size of the overall team especially where other unions are involved.
- > Representation of member coverage within the collective agreement.
- > NZNO's commitment to Te Tiriti o Waitangi.
- > Geographical representation where appropriate.

Negotiation team members should have good skills and knowledge about the workplace, the current collective agreement and bargaining credibility in the workplace; and where possible meet the criteria outlined in the sector requirements with regard to roles and responsibilities for negotiation team members. Training should be provided to negotiation team members where there are deficits.

Organisers will hold membership meetings to endorse the bargaining goals and approach. At these meetings members also endorse the negotiating team and proposed ratification process.

Organisers should gain membership commitment to support the negotiating team through a difficult process which will involve compromise and hard decision making. Members need to be informed that a proposed settlement will be brought back to members with a recommendation.

Arrangements for bargaining in bargaining process agreements should be in accord with the Employment Relations Act.

At the conclusion of any set of bargaining the negotiating team may make a recommendation to the members as part of the report back. This may be in support, against or neutral around the direction in terms of voting on the proposed collective agreement.

Voting and ratification processes must be consistent with the NZNO Constitution, Schedule 1, Clause 11.

A major principle of any ballot is that reasonable opportunity should be provided to members, and members should avail themselves of the opportunity, to make an informed vote.

To facilitate this meetings should be held as close as possible to where the members are working. Delegates are able to assist by running meetings under direction from the Organiser.

Where ballot boxes are utilised these should be secure and counted at the conclusion of the ballot using scrutineers who should maintain confidentiality around all aspects of the voting papers other than reporting the outcome of the vote.

Strikes and other forms of industrial action need to be developed in a way which will maximise membership participation in the action, membership support and maintain public support. Industrial action is a legitimate strategy and we must protect it against failure.

Before any industrial action is taken all steps identified in the "Who to involve when bargaining breaks down" flowchart must be complied with. (Please see appendix 2). No industrial action can take place without the authorisation of the industrial services manager.

NZNO will comply with all the industrial action provisions of the Employment Relations Act. No unlawful strike action will be approved.

Arrangements will be made to provide emergency cover during strike action where prescribed in the ERA and its amendments. In the DHB sector this should also be in accordance with the relevant provisions of the Health Sector Code of Good Faith.

A media plan should be developed in relation to the bargaining and any breakdown in bargaining. The lead advocate or organiser has responsibility for managing access to the media where ever possible.

It is desirable to have delegates speak to the media during industrial action and to do this they should receive support and advice before undertaking this activity.

Prior to initiating any negotiation for a variation to a collective agreement, the lead advocate or organiser should consult the relevant industrial adviser.

Negotiating variations should be approached with caution and attention must be given to the technical detail of how the clause would operate and be ratified.

## **Section Three**

**Section three includes the following:**

- > Strategies
- > Remuneration
- > Professional Development and Recognition pathways (PDRP)
- > Term of Agreement
- > Staffing Levels, Skill Mix and Workloads
- > Leave
- > Union Rights
- > Health and Safety
- > Accident Compensation and Rehabilitation

- > Hours of Work
- > Limits of Safe Practice
- > Shift Rosters
- > Sexual Harassment and other forms of harassment
- > Addressing family violence and impact on health & wellbeing
- > Cooperation, Consultation and Management of Change
- > Family Friendly Policy
- > Equal Employment Opportunities
- > Age Related Clauses and Retirement
- > Redundancy

### **Strategies**

Our bargaining strategy should be designed to improve the workplace environment and ensure nurses and other health workers are valued fairly for the work that they undertake; receive access to adequate professional support and training to sustain quality clinical practice; and are supported in their working lives through a range of other supports to enable them to enjoy healthy working lives. Our strategy also aims to strengthen collective organisation and professional autonomy within the context of the workplace and health system.

The bargaining strategy will be led by the DHB Nurses and Midwives MECA (DHB MECA) negotiations and outcomes. *The current DHB MECA is the gold standard for all sectors and clause wordings contained in the DHB MECA should where possible be used as the starting point for discussions on bargaining issues.* Conditions should be advanced and not reduced as a trade off in bargaining for pay increases.

### **Remuneration**

In front of each renegotiation of the DHB Nurses and Midwives MECA research should be completed with regard to the benchmarking of nurses remuneration with other nurses internationally and with our two identified internal pay equity comparators - NZ Police and NZ Secondary School Teachers.

Relativities between staff groups covered by the DHB Nurses and Midwives MECA should be identified and maintained during subsequent negotiations.

As a minimum, salary increases should reflect the consumer price index for the preceding period.

NZNO supports the continuation of service based entitlements (including incremental service based salary scales). We are generally opposed to salary scales based on performance.

In the long term lump sum payments do not advance our members' interests but may be considered by negotiating teams in the context of the broader settlement.

We support the payment of an overtime rate for work beyond 8 hours or the rostered shift (if greater) or over 40 hours per week or 80 hours per fortnight.

We support the inclusion of penal rates for nights, weekends and public holiday work.

We prefer penal rates to be expressed as a percentage of the base rate (e.g. time and a half) rather than a dollar rate. This ensures that penal payments automatically move with movements in the base rate.

Recognition of qualifications should be addressed by applying the appropriate remuneration for the role.

### **Professional Development and Recognition pathways (PDRP)**

We support the implementation of professional development pathways for staff in workplaces. Principles in relation to the PDRP include: no restrictions on numbers of staff at any level; consistent application of the PDRP to all eligible staff; the criteria for differentiating levels and progression within the PDRP should be standard across the employer and based on skill acquisition and demonstrated competence and the employer should provide education support to facilitate progression through the PDRP.

Achievement of a level on the PDRP should be linked to additional allowances.

A joint union and employer committee should be established to monitor the principles and processes of the PDRP.

### **Term of Agreement**

The term of the agreement is dependant often on the overall mix of remuneration and other components of the proposed collective agreement. Where terms of greater than twelve months are proposed we support the provision of further specified wage increases during the term.

Where there are plans for the consolidation of collective agreements the alignment of expiry dates of the proposed collective agreements is critical to the strategy.

### **Staffing Levels, Skill Mix and Workloads**

We support the recommendations of the 2005 Safe Staffing/Healthy Workplaces Committee of Inquiry (COI). The COI identified seven elements that are essential to safe staffing and healthy workplaces. NZNO is committed to the implementation of the seven elements across all workplaces with the required variations appropriate to each sector.

The seven elements are: the freedom to deliver care; the right workplace culture; a focus on quality and safety; leadership in the workplace; a skilled and knowledgeable workforce, the wider team and having the tools to do the job. (Please see the DHB MECA Appendix 1(b)Healthy Workplaces Agreement for a more detailed explanation of the elements.)

Further we support a whole of systems approach to care capacity management and in the DHB sector the utilisation of Trend Care as a system that can provide quality data in relation to the measurement of required patient care hours.

### **Leave**

We support four weeks paid annual leave as a minimum to ensure adequate rest and recreation is provided for. We support staff taking at least two weeks' annual leave per year taken at one time as per the Holidays Act.

We support an additional week's paid shift leave for staff working rostered shifts.

Additional leave (long service leave) should also be provided to staff in recognition of continuous service.

We support a provision of at least ten days sick or domestic leave per annum with entitlements to discretionary sick leave in addition. Sick leave should be able to be accrued.

Collective agreements should provide for fulltime staff to have 11 paid public holidays per year, regardless of whether they are normal working days. For part-time staff a formula to establish a fair amount of entitlement should be included.

We support all staff having access to paid study leave and reimbursement of relevant costs to enable them to attend relevant education and training.

The varied nature of study leave should be recognised. Study leave includes course, conference and professional development leave. This leave is separate from any study leave granted to fulfil workplace requirements such as IV certification or CPR training.

We support the provision of up to 26 weeks paid parental leave.

We support bereavement or tangihanga leave being provided to allow any obligations or respects required to be undertaken by those persons the staff member has a close relationship with.

### **Union Rights**

We support provisions in collective agreements relating to union and delegate activities. The ERA entitlements should be viewed as the minimums in relation to union rights. Union rights clauses include Employment Relations Education Leave (EREL), attendance at union meetings, right of entry to workplaces and access to members by union officials, union fee deductions, extension of the collective agreement to new employees in the first 30 days, bargaining fees and personal grievance provisions.

We support clauses that promote delegate rights and activity in the workplace. Delegates should be recognised as the channel of communication between the employer and the NZNO. Paid time off should be provided to allow the delegate to carry out meetings with management, consultation with members and representation of members in the workplace.

We support paid leave for employees to attend any national NZNO meetings, This includes Board of Directors meetings, Te Poari and Membership Committee meetings and National Delegate Committee meetings.

### **Health and Safety**

We support the full implementation and compliance in workplaces with the Health and Safety Act 1992 and its subsequent amendments by all parties.

We believe it is the responsibility of the employer to take all practicable steps to provide and maintain a healthy and safe working environment; provide training in the use of equipment and in occupational health and safety matters; provide suitable safety devices and protective equipment to further these aims and comply with all legal requirements for occupational health and safety.

We support and encourage employee participation in health and safety. All workplaces should have an effective health and safety committee to ensure health and safety in the workplace remains a priority for the organisation. An employee participation agreement should be negotiated or renegotiated every two years which includes provisions for elected health and safety representatives; operation of the health and safety committee, paid training for health and safety representatives and maintenance of a hazard register and accident and injury register.

### **Accident Compensation and Rehabilitation**

We support staff who have had an accident being able to access a top up payment by the employer up to 100 percent of their earnings, either through their sick leave or as accident leave provisions.

We support the employer paying for the first week of injury regardless of whether the accident is one that occurred in the workplace or outside of the workplace, through sick leave provisions.

Rehabilitation is a significant issue for the workers in the health system. We believe rehabilitation should be the primary focus for the employer when staff are affected by illness or accident and every effort should be made where practicable to return employees to full health and their original position. Where this is not possible the employer should consider other options such as retraining or redeployment to assist in the return to work.

### **Hours of Work**

All collective agreements should include provisions around the hours of work for the workplace. NZNO supports the 8 hour standard shift as an option for all individual staff; 80 hours standard fortnight or 40 hours standard week; a maximum number of duties being specified; the number of hours between shifts being specified; at least two consecutive days off per week; when penal and overtime payments are to occur and how rosters will be notified.

Longer shifts such as 10 or 12 hour shifts are able to be implemented by agreement between the staff, the employer and NZNO. Similar to the standard hours of work we support a maximum number of duties being specified; the number of hours between shifts being specified; at least two consecutive days off per week; when penal and overtime payments are to occur and how rosters will be notified.

### **Limits of Safe Practice**

Where an acute staffing shortage cannot be alleviated we support a clear policy being incorporated into the collective agreement to identify the steps staff should take to elevate the safety issue, ensure the employer takes responsibility for the event and takes appropriate steps to reduce the volume of services to ensure that quality clinical practice is able to be maintained.

### **Shift Rosters**

In designing and implementing shift rosters to meet service needs we support the following principals. Employers should minimise the disruption to staff working lives; ensure that the personal health effects and fatigue are managed effectively, allow for self rostering and staff having maximum choice around shift preferences; develop rosters in consultation with staff and NZNO.

### **Sexual Harassment and other forms of harassment**

Sexual Harassment and other forms of harassment (including bullying) should be eliminated in the workplace as it affects morale, work effectiveness and the right to enjoy a good working environment. We support a comprehensive policy in the workplace around sexual harassment and other forms of harassment; mechanisms for reporting sexual and other forms of harassment and a fair investigation process being available for staff. Investigation processes should ensure that no disadvantage is bestowed on the complainant.

### **Addressing family violence and impact on health & wellbeing**

This is a new area of bargaining strategy for NZNO. The following key principles were endorsed by the ACTU Congress 2012 in the Work, Life Policy.



The confidentiality of the employee must be assured and respected; dedicated additional paid leave provided for employees experiencing family or domestic violence; workplace safety planning strategies to ensure the protection of employees should be developed and clearly understood by the parties concerned; a provision for referral of employees to appropriate domestic violence support services; provision of appropriate training and paid time off work for agreed roles for nominated contact persons (including health and safety representatives if necessary); access to flexible work arrangements where appropriate and protection from any adverse action or discrimination on the basis of their disclosure of, experience of, or perceived experience of family and domestic violence.

### **Cooperation, Consultation and Management of Change**

Change is a normal part of the delivery of health care services in Aotearoa. We have a high expectation of employers with respect to the level of consultation and engagement of NZNO staff and members in any change proposal. Effective communication between employers and employees contributes to improved decision-making; greater cooperation in the workplace and a more harmonious, effective, efficient safe and productive workplace.

Principles in relation to change management include a process for regular and structured communication in the workplace; engagement in any significant change to staffing, structure or work practices in the workplace; four weeks notice as a minimum in advance of final decisions in relation to change to allow for structured input; reasonable time off for delegates and staff to attend relevant meetings and provide support.

### **Family Friendly Policy**

We support the reappointment of staff to work after an absence to care for children. Preferential appointment should be an option when considering returning to work.

We support flexible working hours to enable staff to care for children and or manage childcare arrangements.

Breastfeeding should be supported for women returning to work after having a child. Regular paid breastfeeding breaks should be facilitated in the workplace and an appropriate room provided for the purpose of breastfeeding.

### **Equal Employment Opportunities**

We support a clear policy statement that provides no disadvantage in the workplace to any employee regardless of their age, gender, sexual orientation, ethnicity, nationality or culture.

### **Age Related Clauses and Retirement**

We support the provisions of the Human Rights Act which makes it unlawful to discriminate on the basis of age. Compulsory retirement is now unlawful.

### **Redundancy**

We support the inclusion of redundancy compensation in collective agreements. These should take account of length of service with the employer and provide an adequate period of notice; provide for exploration of other options such as redeployment or retraining and sufficient time off to seek other employment and attend interviews.

## **Appendix 1.**

### **Single Employer/ Workplace Bargaining Criteria**

- > Discretion to operate outside the criteria following discussion with sector group and with the authorisation of the ISM
- > Consistent with sector bargaining plan
- > Fit within our union membership
- > Minimum of 20 potential members at site
- > Union density should be at 75% for site with 20 potential members (i.e. 15 members).
- > Union density should be at 60% for site with 50 potential members (i.e. 30 members)
- > Union density should be at 50% for site with 80 or more potential members (i.e. 40 members)
- > Criteria applies to new CA bargaining
- > Criteria applies to renewal of existing CA's following next CA bargaining round for each CA.

### **Single Employer/Multi Site Bargaining**

- > Discretion to operate outside the criteria following discussion with sector group and with the authorisation of the ISM
- > Consistent with sector bargaining plan
- > Fit within our union membership
- > Union Density should be at 50% for any site covered or to be covered by the bargaining
- > Criteria applies to new CA bargaining
- > Criteria applies to renewal of existing CA's following next CA bargaining round for each CA.

### **Multi Employer/Multi Site/ Bargaining**

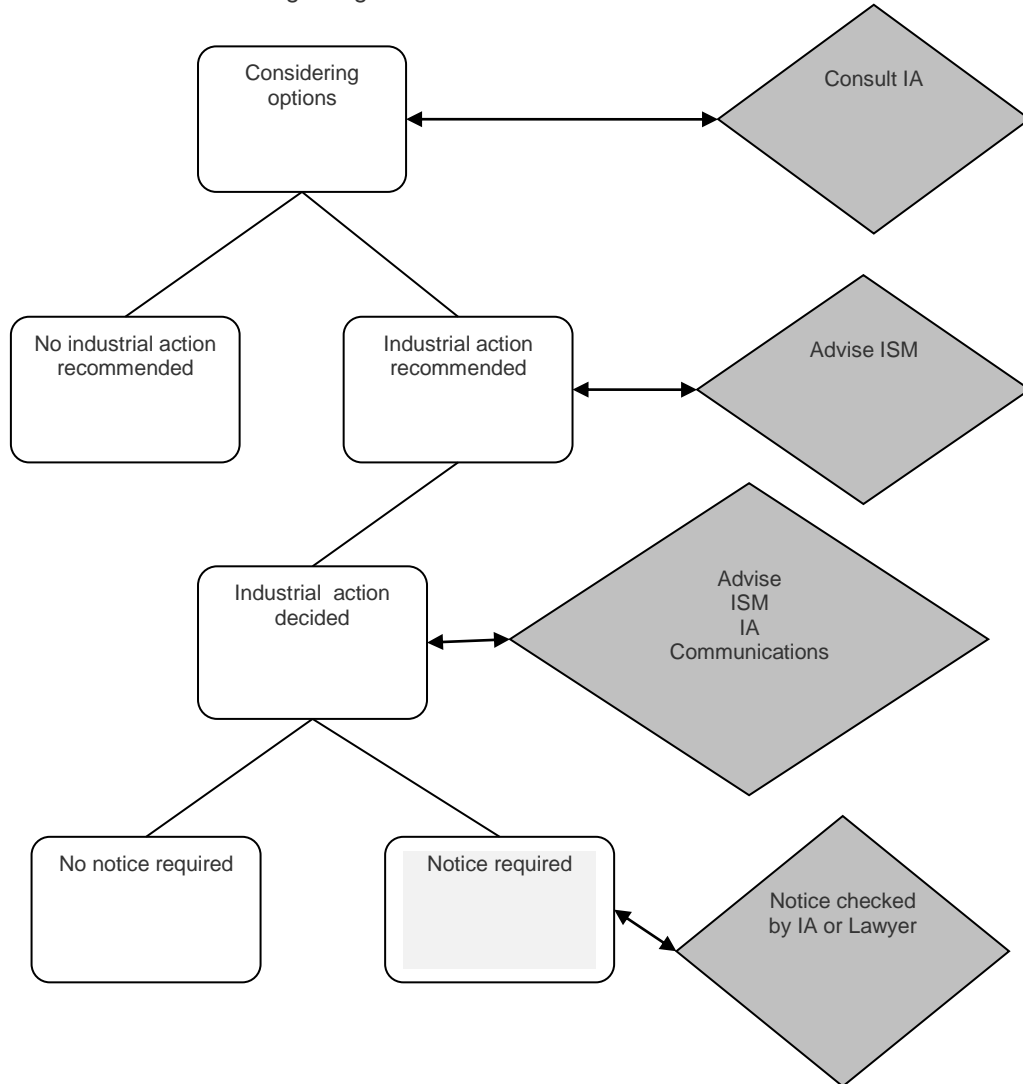
- > Discretion to operate outside the criteria following discussion with sector group and with the authorisation of the ISM
- > Consistent with sector bargaining plan
- > Fit within our union membership
- > Union Density should be at 50% for any site covered or to be covered by the bargaining
- > Criteria applies to new CA bargaining
- > Criteria applies to renewal of existing CA's following next CA bargaining round for each CA.

### **Multi Union Bargaining**

NZNO may be involved in multi union bargaining in any of the three situations described above. The same criteria should continue to apply to determine NZNO involvement in the CA bargaining.

## Appendix 2 –

Who to involve when bargaining breaks down:



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### Mission statement

NZNO is committed to the representation of members and the promotion of nursing and midwifery. NZNO embraces Te Tiriti o Waitangi and works to improve the health status of all peoples of Aotearoa/ New Zealand through participation in health and social policy development.

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