



level 6 365 queen street
melbourne victoria 3000
t +613 9664 7333
f +613 9600 0050
w actu.org.au

President Gerardine (Ged) Kearney
Secretary Dave Oliver

Our Ref: D No. 121/2016

28 October 2016

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

Inquiry into the Government's approach to Commonwealth public sector bargaining

The ACTU welcomes this inquiry into the impact of the Government's Workplace Bargaining Policy and approach to Commonwealth public sector bargaining.

In the ACTU's submission, the Government's inability to conclude workplace bargaining across the Australian Public Service (APS) nearly three years after commencement is unacceptable and deeply problematic. Over two thirds of the APS remains without a new enterprise agreement.

The number of "no" votes (sometimes multiple "no" votes in the same agency or department) and repeated industrial action across the APS since June 2014 evidence a bargaining process that has manifestly failed. This failure has negatively impacted on APS employees as well as the important services they provide to the Australian community. The submissions made by the CPSU (PSU Group) (which are endorsed and supported by the ACTU) outline in detail the way in which the Government's approach to Commonwealth public sector bargaining has impacted negatively on service delivery, productivity and the morale of the APS workforce. The CPSU submissions also detail the efforts made by employees and their representatives to find common ground and finalise bargaining. These efforts have not been successful because of the approach adopted by the Government to these negotiations.

The Government's approach to bargaining

In the ACTU's submission, the terms of the *Workplace Bargaining Policy 2015* (**Bargaining Policy**) are unreasonably prescriptive, restrictive and inflexible, which is seriously undermining good faith negotiations across the APS.

Aspects of the Bargaining Policy that are of particular concern to the ACTU include provisions which:

1. Allow an enhancement of existing conditions only in "exceptional circumstances" and with Ministerial approval [45];

2. Extend the Minister's discretion and influence over bargaining outcomes [10], [11], [45];
3. Limit any remuneration increases "up to an average of 2% per annum" [12];
4. Limit the content of enterprise agreements to only those clauses "required by legislation";
5. Ban any mechanism for salary advancement [14];
6. Ban sign-on bonuses [24];
7. Ban any improvements to consultation or dispute resolution provisions [40], [41];
8. Ban back-pay [23];
9. Ban any improvement to redundancy entitlements [53];
10. Fail to reference the good faith bargaining requirements set out in the *Fair Work Act 2009*.

Aspects of the Government's bargaining approach that are of particular concern to the ACTU include:

11. Unnecessary delays in the commencement of formal bargaining;
12. A failure to negotiate or consult with employees and their representatives on the terms of the Bargaining Policy or its predecessor;
13. Very low or zero pay offers made in some agencies and departments;
14. Divisive pay offers, particularly in agencies affected by machinery of government changes, with sections of the workforce offered more than others without clear justification;
15. A focus on removing terms and conditions from enterprise agreements;
16. In particular, a focus on removing family friendly working conditions from enterprise agreements, undermining the ability of employees to achieve an appropriate work/life balance and risking further reduction in women's participation in the workforce;
17. A refusal to consider including paid family and domestic violence leave in agreements, despite the Government's acknowledgment of the seriousness and prevalence of this crisis in the Australian community;
18. Dilution of rights to representation in the workplace;
19. A refusal to meet with employees and their representatives to discuss ongoing concerns in good faith;

20. The absence of decision-makers with the power to agree to proposals at bargaining meetings;
21. The failure of the Minister and the Australian Public Service Commissioner to either acknowledge the existence of a problem or take adequate steps to promote good faith bargaining and end the current impasse.

Conclusion

In the ACTU's submission, the Government's approach to Commonwealth public sector bargaining (including the terms of the current Bargaining Policy) is clearly inconsistent with cooperative and productive workplace relations and the status of the Australian Government as a model employer.

The ACTU is concerned that this protracted dispute is damaging the productivity and morale of the APS workforce and impacting on service delivery.

Urgent steps must be taken to ensure that good faith bargaining can resume and agreements can be finalised without further delay. The CPSU makes a number of recommendations aimed at assisting these outcomes.

Yours sincerely,

Ged Kearney
President