

19 Performance Evaluation and Reward

Clause 13 - Performance Evaluation and Reward

- (i) The objective of performance development is to enhance the performance of councils. All employees need to know and have confirmed the role, accountabilities and performance standards that are expected of them. Role clarity, acceptance of goals and regular feedback are essential to effective performance.

A key aim should be to provide a means of recognising and rewarding high performance and to provide an early assessment and response to substandard performance.

A review system also provides a basis for identifying development needs for individuals, and can be used as an important input to promotion decisions.

- (ii) This award recognises that all employees should have on-going feedback about performance. The success of a council ultimately depends upon the collective sum of individual job performance.

The performance development process can be simplified to three stages:

1. joint development on objectives and performance standards;
2. progress reviews; and
3. a formal performance review which is followed by decisions and outcomes.

A key aim of the award is to provide a means of recognising and rewarding high performance and to provide an early assessment and response to substandard performance. Performance planning and review is a central task of management. Councils should be fostering a culture that accepts evaluation of performance and encourages excellence of performance.

The parties are encouraging councils to develop a performance management system which includes the following:

1. *Appraisal methods, payment schemes and related matters should be discussed between council and its employees prior to the implementation of a system.*
2. *The establishment of relevant performance criteria and associated standards should be undertaken with regard to whether it:*
 - *is clear and understood by all concerned;*
 - *is relevant and related to required job performance;*
 - *is subject to verification; and*
 - *has an effect on job performance and achievement of results.*

3. *Staff should have the opportunity to be involved in the development of objectives, performance criteria and standards that will apply to them before the commencement of each assessment period.*
4. *Performance evaluation reports shall be available to the subject employee and opportunity to discuss the evaluation with the evaluation officer(s) shall also be provided.*
5. *Training of managers, supervisors and employees in conducting performance evaluations should be carried out to ensure effective implementation of the performance evaluation process.*
6. *Council should develop a multi-tiered performance evaluation system with a review after the initial evaluation.*
7. *The initial evaluation should be undertaken by the employees supervisor who has knowledge of the employee and the work performed.*
8. *Employee assessment records shall be treated as confidential and the employee shall be given access to such records.*
9. *Council should endeavour to link the outcomes of performance evaluation with salary administration. This may also form the basis of identifying training needs.*

Performance development and employment contract guidelines are being prepared and councils should read the above provisions in conjunction with these guidelines.

20 Consultative Committees

Clause 14 - Consultative Committees

- (i) The parties to the award are committed to securing the benefits of structural efficiency through the establishment of consultative and participative processes.
- (ii) Each council shall establish a consultative committee to provide a forum for consultation between council and its employees to positively co-operate in the implementation of award restructuring and ensuing workplace reform to enhance the efficiency and productivity of the council and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.
- (iii) (a) The size and composition of the consultative committee shall be agreed to by council and the local representatives from the following unions:
Federated Municipal & Shire Council Employees' Union;
Health and Building Surveyors' Association;
Local Government Clerks' Association; and
Local Government Engineers' Association.
- (b) Employee representatives will include at least one elected representative from each of the:
Federated Municipal & Shire Council Employees' Union (Wages Division);
Federated Municipal & Shire Council Employees' Union (Salaried Division);
Health & Building Surveyors' Association;
Local Government Clerks' Association; and
Local Government Engineers' Association;
who have members employed at council.
- (c) Management representative(s) on the consultative committee will be nominated by council.
- (iv) All members of the consultative committee should undergo appropriate training and education to ensure effective participation in the consultative committee.
- (v) The functions of the consultative committee will include but not be limited to:
- implementation of the new award;
 - training;
 - performance management systems;
 - hours of work;
 - job redesign; and
 - communication and education mechanisms.
- (vi) Potential problems should be identified and resolved at the local level. Failing this, the matter should in the first instance be referred to the Industry Award Restructuring Committee, and if necessary, resolved through the disputes procedure set out in the award.

The need for effective consultation

Consultation is the exchange of information and viewpoints between parties with common interests, recognising different viewpoints, to make the workplace more productive and satisfying. A consultative committee can be the forum for the exchange of views on a wide variety of issues affecting the workplace.

For consultation to be effective, employees and management must be genuine participants in the process and must both be committed to the process and committed to the advantages that follow from consultation.

Management and employee representatives should both commit themselves to acting in good faith. The introduction of consultative committees as part of the award restructuring process will encourage the involvement of employees at all levels in issues affecting their working lives and the services councils provide to the community.

Why have a consultative committee?

Consultative committees provide access to the ideas and views of employees. Employees are a valuable resource and they provide a multitude of skills and experience. A consultative committee allows that expertise and input to benefit the council's operations.

Consultation breaks down the traditional and old-fashioned barriers between "us and them" in the workplace, recognises the common interests which exist between council and its staff and ensures that the council and its employees can work to a common goal of providing a more effective service to the community, a more efficient operation and greater satisfaction for staff.

The State Wage Case decision of 29 May 1991 also makes the establishment of a consultative mechanism a pre-requisite to the granting of the State wage increase of 2.5%. The Local Government (State) Award requires all councils to set up a consultative committee. The award provision requires that councils set up their committees in a particular way with compulsory requirements about employee representation but also allows the council, in negotiation with local union representatives, to make a number of other decisions about the size and composition of the committee and the issues which it may address.

How to set up a consultative committee?

Things that must be done:

- 1. The council must establish a consultative committee to provide a forum for consultation between council and its employees to positively co-operate in the implementation of award restructuring and ensuring workplace reform to enhance the efficiency and productivity of the council and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.*

2. *The consultative committee must be a "credible consultative mechanism". It will not be credible if:*
 - *employee representatives are out-numbered by management/council representatives;*
 - *it does not comply with the requirements on minimum employee representation;*
 - *council appoints employee representatives to it; and*
 - *the committee does not report direct to council. No employee or officer of the council has any control over the reporting by the consultative committee to council or by the council to the consultative committee.*
3. *Employees must be represented on the committee by including at least one elected representative from each of the following:*
 - *Federated Municipal and Shire Councils Employees' Union (Wages Division);*
 - *Federated Municipal and Shire Councils Employees' Union (Salaried Division);*
 - *The Health and Building Surveyors' Association;*
 - *Local Government Clerks' Association; and*
 - *Local Government Engineers' Association;*

who have members employed at the particular council.
4. *Management representative(s) on the consultative committee must be nominated by the council. It is essential that elected members be represented on the consultative committee.*
5. *While the size and composition of the consultative committee over and above the minimum requirement of the five employee representatives is open, it **must** be agreed to by the council and the local representatives from the following unions.*
 - *Federated Municipal and Shire Councils Employees' Union;*
 - *The Health and Building Surveyors' Association;*
 - *Local Government Clerks' Association; and*
 - *Local Government Engineers' Association.*

It is not the decision of the council, or of the consultative committee itself to expand its membership beyond that of the minimum requirements outlined in the award. It can only be expanded by agreement between the council and the local union representatives.
6. *The functions of the consultative committee must include, but not be limited to:*
 - *implementation of the new award;*
 - *training;*
 - *performance management systems;*
 - *hours of work;*
 - *job redesign; and*
 - *communication and education mechanisms.*

7. *All members of the consultative committee should undergo appropriate training and education to ensure effective participation in the consultative committee.*

Things that may be done:

The minimum requirement in the award of five employee representatives was agreed recognising that it was difficult to establish a formula for the composition of consultative committees to take into consideration the wide variation in the number of employees at different councils. The mandatory requirement of five employee representatives was established recognising that some councils may have very few employees while some have more than 1,000 employees.

The five employee representatives from the designated union areas are a minimum.

The size and composition of the consultative committee may be supplemented by additional employee representatives by agreement between the council and local union representatives.

This means that in larger councils it would be possible to expand the employee representation to be more proportionally representative by drawing on representatives from the skill-related bands and by recognising the principles of equal employment opportunity.

There is no requirement that people be union members to stand for these positions or to vote for these positions. Just as the union representatives are democratically elected, any other representative, whether they be representatives from the bands or particular areas in the workplace, should similarly be democratically elected.

Committees which are too large can be unwieldy.

The functions of the consultative committee may include, but not be limited to:

- *the current position of the council on the restructure process;*
- *commitment to equal employment opportunity principles;*
- *new work function descriptions;*
- *organisation structure;*
- *personnel policies and practices and employment arrangements;*
- *work and management practices;*
- *skills audit and job analysis;*
- *council competency standards for progression within the skills-based award;*
- *multi-skilling opportunities;*
- *new career paths within the terms of the skills-based award; and*
- *council agreements which may include items such as:*
 - *hours of work;*
 - *training;*
 - *performance;*
 - *local conditions;*
 - *salary points; and*
 - *work practices.*

What if consultative committees are already established that do not comply with these guidelines?

These committees will need to be changed. At most councils the work of these interim committees has been valuable but all consultative committees will need to comply with the requirements of the award.

Councils **must** ensure that consultative committees already established comply with the minimum requirements of the award.

Does the consultative committee take over the role of management?

The consultative committee complements the role of management and provides broadened expertise and the opportunity for differing views to be provided to the council.

The consultative committee is an advisory body to council, it does not have power to make decisions but operates by making recommendations to the council or to management where that is appropriate.

What type of problems commonly arise in consultative committees?

- *Misunderstanding as to the role and scope of the committee, particularly its power to influence management decisions and the range of issues to be considered.*
- *Anxiety about the role of the committee.*
- *Poor meeting procedures.*

The council needs to establish the extent of its commitment to the consultative committee process in terms of resources and backup.

A checklist of issues for the consultative committee to consider would include:

- *The role and responsibilities of the committee.*
- *The scope of the committee and any issues not included such as individual grievances, personal/medical issues, etc.*
- *Priorities.*
- *Membership of the committee.*
- *The length of office of representatives. This should be considered recognising that union representatives may be recalled during any term on the consultative committee by majority vote of the members of that union.*

A similar recall mechanism should apply to other employees elected.

As the intention of the consultative committee is to provide more participation in the workplace for employees, then this recall mechanism is essential.

- *Administrative support for the committee and responsibility for calling meetings.*

Will members of the committee take turns in keeping minutes or will minutes be kept by clerical support staff? Will the minutes be resolutions only, or provide areas of detailed argument? A requirement to keep detailed minutes may distract members of the consultative committee from participating.

- *Reporting responsibilities and procedures.*

If the consultative committee wants to speak to a report to council, who will act as a representative? Decisions will need to be made about whether this would be the same person or a person who would vary depending on the issue of concern. There is no need for firm rules about whether this be the chairperson or any other person.

- *The need for training. The award provides that members of the consultative committee "should undergo appropriate training and education to ensure effective participation in the consultative committee".*
- *The training should be undertaken by all members of the committee whether they be elected representatives, senior officers or employees generally. The training undertaken by the consultative committee members will help to break down a number of barriers which may exist and which may, in the initial months, frustrate the operations of the committee.*
- *The need for a quorum at meetings. It is recommended that the quorum be half the members plus one.*
- *All members of the committee are entitled to place a matter on the agenda.*

Agendas should be prepared and issued to committee members at a time reasonably in advance of the meeting and background papers can be provided on any issue.

- *Will meetings be during working hours?*

In most cases, meetings will be in work time as it is essential that the committee be seen as part of an employee's legitimate role in the workplace.

What if the consultative committee needs help?

There will be a number of issues dealt with by the consultative committee where it will need expertise from other council staff or from officials of the LGSA or the unions.

It may be appropriate to establish sub-committees or working groups to look at specific issues. For example, a working party to look at job redesign in a particular department or at a particular work site.

In setting up these working parties regard should be had to the principles of employee representation established in the award. Councils should not establish working parties or provide expertise to assist the consultative committees without the agreement of the committees.

21 Council Agreements

Clause 15 - Council Agreements

- (i) The parties agree to review operations at council level on an ongoing basis, with the view to providing enhanced flexibility and efficiency. The union(s) shall be advised prior to the commencement of negotiations.
- (ii) The award shall apply unless varied either expressly or impliedly by such council agreement, provided that:
 - (a) The agreement has been genuinely arrived at by negotiation without compulsion.
 - (b) Such agreement is consistent with the current wage fixation principles.
 - (c) Such agreement is to provide not less than the entry level rate of pay.
 - (d) Such agreement is processed in accordance with subclause (iii) of this clause.
- (iii) Council agreements shall be processed as follows:
 - (a) Any agreement reached shall be committed to writing and shall include a date of operation and date of expiration.
 - (b) The agreement shall be signed by the council and appropriate union(s) and a copy shall be forwarded to the Local Government and Shires Associations of NSW; or
 - (c) As an enterprise agreement under State industrial legislation.

The award contains a new Council Agreements clause. It reflects the flexible nature of the award, as well as the new legislation on enterprise agreements.

A council agreement or enterprise agreement regulates all or part of the conditions of employment for one or more employee(s) within council. It will allow councils and their employees the opportunity to set their own employment conditions. It will allow agreement on matters such as work restructuring, training and performance assessment. It has the force of an award and substitutes for the terms of any award or agreement to the extent of any inconsistency.

The award provisions allow development of such an agreement with the following requirements:

- *prior notice to unions of proposed negotiation;*
- *agreement in writing with a set period for operation; and*
- *signature by council and unions.*

Alternatively, an agreement can be processed as an enterprise agreement under State industrial legislation.

The value available from a workplace approach will come from council and employees jointly developing understanding and agreement on issues affecting council and the community. A greater awareness of common interests will be developed with a collaborative and co-operative, rather than an adversarial, approach to industrial issues.

Changes in attitudes and the development of new approaches will take time. It requires commitment from all parties and should not be approached by confrontation or in a unilateral manner.

A council agreement should not be seen as a mechanism for a reduction in union influence or to cut back employee benefits and conditions. This view is inconsistent with the approach adopted by the unions and employers in negotiating the new award and will seriously prejudice a co-operative and effective approach to organisation change.

There are potential difficulties associated with development of formal council agreements. These include:

- *poorly managed and ineffective negotiation which may deliver one-sided agreements which provide no benefit to either party in the long term;*
- *unequal bargaining power of council and employees in some situations;*
- *many employees will feel vulnerable in a process that may seem to deny them access to advice and protection from their unions; and*
- *opposition by the trade union movement to the enterprise agreements legislation means that it should be approached with due caution.*

Any council wishing to proceed with the development of an enterprise agreement must follow designated procedures on issues such as secret ballots of employees, establishment of a works committee, registration, etc.

Movement to a workplace focused industrial relations approach requires development of new mechanisms and a different management and industrial relations attitude. A more participative style of management is clearly necessary. Line managers and supervisors should assume industrial relations and other human resource responsibilities. Support training is essential.

22 Leave Reserved

Clause 16 - Leave Reserved

Leave is reserved to the parties to make application in respect of any matter not covered by this award or any matter covered by this award where a dispute may arise.

Leave is reserved to the Local Government and Shires Associations of NSW to apply as it may be advised in respect to Bank Holiday and Union Picnic Day.

Leave is reserved to the parties to review the operation of Clause 9 Hours of Work at the expiration of six months from the date of operation.

As this award is a marked departure from the prescriptive awards it replaces, the parties have reserved their rights to bring any problem associated with the implementation of the new award to the Commission.

23 Award Coverage

The Local Government (State) Award covers a skills-based payment structure and clauses covering the use of skills, hours, overtime, public holidays, training, performance, consultative committees and council agreements. These provisions will replace certain provisions under the:

- *Local Government Senior Officers' Award*
- *Health Surveyors' (State) Award*
- *Local Government Salaried Officers' Award*
- *Local Government Engineering Staff Award*
- *Municipal and Shire Councils Wages Staff Award*
- *Municipal, Shire and County (other than Electricity Undertakings) Council Apprenticeship Award*

These awards will still continue to exist for all other conditions of employment not covered in the Local Government (State) Award. The parties have agreed to discuss common conditions of employment for insertion into the new award as soon as practicable. **In the meantime councils will need to note what award an employee was under prior to the employee transferring to the new award so that the correct leave etc. entitlements can be provided during that interim period.**

Employees covered by the Municipal and Shire Council &C Electricians, Municipal and Shire Council Nurses', Municipal Officers' (NSW Gasworks Undertakings), and Gas Industry Awards, are not affected by the Local Government (State) Award.

24 Industry Award Restructuring Committee

The new award results from three years of negotiation between the Local Government and Shires Associations and Local Government unions. The commitment of the parties to this co-operative and positive approach will continue during the implementation period and beyond.

To continue this goodwill and ensure that councils and employees comply with the spirit and requirements of the new award, the Industry Award Restructuring Committee has been established.

It is comprised of two representatives from each of the Local Government Association and Shires Association and one representative from each of the Local Government unions.

The purpose of the Industry Award Restructuring Committee is to assist councils and employees to transfer to the new award structure and implement the other provisions of the award. The Committee will resolve problems and disputes which have been unable to be resolved at a local council level.

It is open to employees through their unions or councils through the Associations to raise issues with the Committee.

The Committee's role is to oversee the proper implementation of the award across the State.