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EA NEGOTIATIONS IN FOCUS

Negotiating new enterprise agreements is one of the most technically challenging tasks for HR professionals. What is the best way to proceed? **Miklos Bolza** outlines the key steps to follow

IN SEPTEMBER alone, the list of applications filed under the Fair Work Act 2009 for the approval of an enterprise agreement was lengthy and diverse, with organisations such as IKEA, Bundaberg Sugar, Baxters Foods, Serco Australia and Thales Australia all filing applications. In Australia's complicated industrial relations framework, EA negotiations are a fact of life for many HR professionals.

Yet when employers and unions face

step guide to negotiations using a project management approach.

Preparing your negotiation team

The first step is to ensure that the organisation's negotiation team contains the right mix of skills, experience and expertise, Tansley says. Useful people to have on your team include:

- An expert in industrial relations environments and legislation



“If you manage the negotiations as professionally as possible, it can actually help improve the relationship between the organisation and union”

Rachael McGann

each other head-on, EA negotiations can be extremely stressful for all parties. One reason for this is the lack of practical information on how to proceed, says Rachael McGann, international HR expert and founder of Gerlan Consulting.

In their new book, *Enterprise Agreements – Made Easy*, McGann and Tammy Tansley, HR specialist and founder of her own consulting firm, provide a step-by-

- Someone familiar with sites and operational areas under the agreement
- An individual who is competent and capable of being a lead negotiator
- A specialist in drafting clauses for the new agreement

“The next part is making sure the team are skilled up. This might mean introducing them to negotiating skills and ensuring that



they understand the industrial relations environment,” says McGann.

Doing your research

There are three important aspects of the research you need to do prior to negotiations.

To start with, “really look at your current agreement and the existing organisation to determine what worked and what didn’t”, Tansley says.

It is also critical to look externally, examining, in particular, what the union you will be dealing with has been trying to achieve in other enterprise agreements.

Lastly, look at agreements that have recently been approved in your industry and/or geographical area, she says. “Talk to other organisations as much as you can, particularly those in your industry. It’s amazing how cooperative HR people will be even with competitor organisations.”

Planning your approach

It will then be time to determine how you



ESSENTIAL REFERENCE MATERIAL FOR THE FIRST MEETING



1. Copies of your current enterprise agreement
2. Copies of relevant agreements from your industry
3. Fair Work guidelines for the enterprise agreement negotiation process
4. A list of ground rules to keep all future meetings professional

The first meeting

“This is where the rubber hits the road,” McGann says. When organising the first meeting, it’s important to ensure you cover off practical issues. For example, does the venue have enough parking? On the day, remember to bring all the appropriate reference material and lay down some ground rules with all parties.

“Typically, the first meeting isn’t a negotiation. Normally what happens is that each party will go through their claim items in detail. What you want each party to do is explain exactly what they’re looking for and why.”

Ongoing negotiations

One practical tip for the main negotiation stage is to keep a log of the progress made with each claim, Tansley says. In this way, everyone knows where the negotiations are up to when the next meeting begins.

“We say be creative – don’t get fixed to having one means to an outcome. With a claim item, if you understand what’s behind that claim, there can be more than one way to reach a satisfactory agreement or provide a satisfactory outcome for the other parties.”

Finally, it is important for employers to keep up two-way communications throughout the negotiation process, Tansley says. “After each meeting, provide updates and get feedback from your employees about how they feel about the progress and any issues that may have come up during the negotiation discussion.” **FRD**



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Tammy Tansley

are going to approach the negotiation, says McGann. “Are you going in with a heavy-handed or a cooperative spirit?” The approach taken can vary from item to item too, depending on how flexible you are with each, she adds.

The employer’s relationship with the union will also affect how you move forward through the negotiation, McGann says. “If you negotiate well and if you manage the negotiations as professionally as possible, it can actually help improve the relationship between the organisation and union.”

Preparing the negotiation leaders

Since it’s usual for negotiation leaders to be selected from outside the executive team, it is important to ensure they are aligned with the business goals and are on board with the overall negotiation plan, Tansley says.

“Before you go into negotiations, you need to determine what you’re negotiating and how you’re negotiating. The leadership team will need to endorse that so that the negotiations aren’t acting outside of what the organisation would approve.”

Contingency planning

At this stage, employers should look at the risk of the proposed negotiation approach, particularly the likelihood of industrial action. Understanding the organisation’s tolerance for these risks will allow employers to develop contingency plans to be implemented if things go awry.

“What you see if things go wrong is a real fear, a knee-jerk reaction in an organisation. If you acknowledge that risk up front and plan for it, you can have a much more effective response.”