NTOS – a new way of bargaining?

The National Terms of Settlement (NTOS) was heralded in some quarters as a new way of bargaining. Those health unions (NZNO, PSA and SPWU) who participated in the process were lauded for their vision; but was it all that it was cracked up to be?

Firstly, one has to answer the question was it bargaining? Under normal circumstances unions meet with the members and develop claims – issues that they would like progressed with their employers. Those claims or issues are then presented during the bargaining process along with any matters that the employer(s) might have. The formal development of claims is often important to ensuring the union knows, or has confirmation of what its members require of them.

Interestingly, when we look back at the NTOS process, one union was already in bargaining, one was coming up to expiry of the existing collective and within the time period in which they could initiate bargaining, but one was many months away from expiry and therefore could not initiate. So did the unions involved develop their own claims? The answer for the first union is almost certainly yes, for the second possibly yes, and for the third almost certainly no.

The next stage of the process is for the parties to actually meet. Whilst frustrating if protracted and unnecessarily delayed, it is nonetheless an important process for employers and employees alike to explore issues of importance. Sending an email cannot substitute for the opportunity to debate the issues, from both parties’ perspective.

Whilst not the “be all and end all” of the employment relationship, the collective agreement is an integral part and its renewal importantly a mandatory time for discussion. The importance of having delegates at the table to witness and be involved in this process is in our view, imperative. It is after all not the advocate’s or union official’s employment agreement – it is the members’. Also, things are often “said” outside of bargaining about what happened inside the room: the members should be able to contact one of their own who was actually there to find out exactly what happened. This did not happen in NTOS.

So what was in the NTOS process for the union members? A quick settlement at a time when the political climate was difficult: there certainly was no protracted bargaining. A pay rise of 2% although there was effectively a wage freeze imposed for 9 months.

However was transparency of process sacrificed? Members, maybe unwittingly, gave up their rights to have their issues heard as the deal was done with minimal if any direct input from members. Some complained that information was scarce. It was difficult for members to learn what was happening let alone understand what the options were; the members were not engaged in the process. It was hardly surprising therefore that when it came to accepting the offer, few members participated in the vote. NZNO stated that the voter turn out at their meetings was around 11% of the membership who were going to be covered by the deal.

An outsider looking in could reach the conclusion that this was a deal done behind closed doors. Once the deal was reached it was seemingly rushed through: some members claimed they were “kept in the dark”, with very little information about the deal itself and what happened inside the room: the members should be able to contact one of their own who was actually there to find out exactly what happened. This did not happen in NTOS.

Hi I’m Paul Butler, the President of the Anaesthetic Technician division of APEX and an anaesthetic technician (AT) in Hawkes Bay. As far as APEX is concerned we are one of the smaller divisions with only Hawkes Bay and Bay of Plenty ATs’ currently with APEX. Hopefully as the news of our work spreads the other 500 or so techs from around the country will also come on board.

So what do we do? As the name suggests, Anaesthetic Technicians work mainly in the operating theatres, checking and preparing the anaesthetic equipment, and assisting the anaesthetists during all phases of the anaesthetic. However we also help in other areas such as ED and ICU. In Hawkes Bay some of the ATs’ assist ICU doctors on the air ambulance, doing hundreds of emergency retrievals a year by both plane and helicopter from places far away as the Chatham Islands.

The big news for us is our upcoming registration under the HPCA Act. ATs’ have been trying for registration for over 10 years and finally the Medical Laboratory Science Board has agreed to accept us. There is still a way to go but up to now our biggest hurdle was finding one of the existing boards that was appropriate to us. Registration is important to give us formal recognition as a profession and to reassure the public that only those qualified are delivering what is a highly technical and skilled area of work.

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nothing new about politically expedient deals being done quickly, away from the public eye. But it is not laudable. What is laudable is genuinely attempting to bring members’ genuine concerns to their employers, properly debating the issues across the table, and trying to seek solutions for both employee and employer. Honest debate and struggle is difficult, but it is honest.

What NTOS did have a marked impact on the sector. Those groups that entered into bargaining with their employers seeking something other than NTOS were labeled greedy. Whilst it was an easy line for the employer’s to claim “70 or 80% of the sector have agreed to this, why can’t they”, were they really greedy? A resounding no! They were pursuing their democratic right of bringing their issues to the attention of their employers and seeking to have them resolved.

Will there be NTOS II? Who knows: expediency often triumphs over process; so never, never be surprised.

**Bargaining Fees**

The Radiation Therapists are balloting this month for a bargaining fee clause.

Members in the MRT and Physicist divisions chose not to have this provision in their MECAs this time around, preferring to make the point that non members cannot “buy” their way in. Admittedly both MRT and physicist divisions have so few “non members” within the DHBs the point may be mute, but none the less it has been made.

The absence of a bargaining fee alone will not stop employers handing on terms and conditions negotiated by APEX (or further advice on this issue, please contact your delegate or APEX office). The best way to deal with passing on is to recognise it for what it is and why the employers do it. After all in times of fiscal restraint, why would an employer give out a pay rise (to someone on an IEA) when they do not have to? Employers often claim it is easier administratively to have everyone on the same terms and conditions. Maybe it is, but let’s not forget this behaviour also undermines Union membership: if you get it for free why join a union, ignoring of course that if we all took that view, there wouldn’t be a union and those improved terms and conditions probably would not exist.

There are also those employers who generate different terms and conditions when it suits, somewhat undermining their “administrative convenience” argument. The most recent example of this is again with the MRTs where Counties Manukau introduced a brand new CA with different terms and conditions of employment for non APEX MRTs in the midst of the MRTs recent industrial activity. Non membership is not a neutral position, it favours the employer. The more non members there are the less strength collective activity has, and the more advantage an employer has.

Non members’ who expect to pick up the work done by members for free, irritate union members immensely. However we have never found a non member who genuinely believed they could do better than the union, nor one prepared to reject the union negotiated benefits as a result of their philosophical opposition to union membership.

The best way to deal with non members is rational discussion and for seeing / exposing what is driving non members and employers alike, for what it really is.

**Completed Collective Agreements**

Waitaki MRT members in Oamaru have now ratified their collective agreement reflecting the same terms and conditions as the DHB MRT MECA.

Having signed the MRT, RT and Physicists MECAs last year, we still await the DHBs signed copies to be returned to us so we can get copies out to members. We are assured the DHBs will be returning the completed documents shortly.

**IT Collective Bargaining Underway**

The Information Technology Division of APEX represents members employed in the various “IT” services within our DHBs. Whilst small in number, information technologists provide services that intimately link us all and the work we do. As a group of employees they also face challenges that are often unique to their work and could benefit greatly from a more collective approach to terms and conditions of employment.

The first collective agreement for IT staff is due to commence this month for our West Coast colleagues. We will let you know how they get on.

**Court Appearances**

APEX will be in mediation this month (the first stage of an Employment Relations Authority (ERA) proceeding) as a result of the DHBs claim that we were “uncooperative” during the MRT Life Preserving Services negotiations. We refute their claim.

We are also attending a judicial conference over some of our Whakatane member’s right to not have their hours of work unilaterally changed. The BOPDHB wished to change our member’s from a Monday-Friday with weekend call back system to a full shift system. Our members objected and the ERA found in our favour: both that the DHB failed to consult appropriately over the proposal and that the material loss to our members was an issue. BOPDHB have appealed the decision, hence the judicial conference to see if we can avert a full blown court hearing.

Finally, the use of the intranet to disseminate information during bargaining became an issue during the recent disputes with MRTs, Laboratory Workers and Resident Doctors. The RDA has taken a lead on the issue which is also to be mediated in the ERA this month.