



Consultative Arrangements Policy and Guidelines 2012

Each agency is best equipped to determine the form of consultation that is effective for its operations.

The Policy and Guidelines sets out the principles of consultation that should be reflected in each agency's consultative arrangements and the roles participants accept when they are involved in consultation.

The Consultative Arrangements Policy and Guidelines 2012 provides general guidance for agencies regarding consultative arrangements. The framework allows for arrangements that meet the needs and priorities of the agency, employees, the organisational structure and the services provided to the customer.

The Government remains committed to consulting with employees and their representatives, including unions, at both the agency and the sector-wide level in relation to proposed major changes in the workplace that are likely to have a significant effect on employees. To meet this commitment agencies are required to have appropriate and relevant consultative arrangements in place.

Agencies covered by the *Crown Employees (Public Service Conditions of Employment) Award 2009* are required to apply the 1997 Consultative Arrangements Policy.

Philip Gaetjens
Secretary

Further Information:

Which agencies does this Circular apply to?

This policy applies to all of the government sector as defined in the *Government Sector Employment Act 2013* and State Owned Corporations. Agencies covered by the *Crown Employees (Public Service Conditions of Employment) Award 2009* are required to apply the 1997 Consultative Arrangements Policy.

Who needs to know about this Circular?

Chief Executives, human resource managers, managers and supervisors.

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Consultative Arrangements: Policy and Guidelines (2012)

Policy

The NSW public sector delivers value and service to the people of New South Wales. The Government recognises that in changing and adapting to the needs of the state its employees' knowledge and skills are an important contributor to those processes.

It is the primary responsibility of management to make decisions in order to achieve the objective of the agency; however, communication, information sharing and consultation between management, employees and their representatives on workplace matters are critical to the development of a strong, responsive, equitable and efficient NSW public sector. The Government is committed to consulting with employees and their representatives, including unions, at both the agency and the sector-wide level, in relation to proposed major changes in the workplace that are likely to have a significant effect on employees

To achieve these objectives, all public sector agencies must have consultative arrangements in place.

Each agency is best equipped to determine the form of consultation that is effective for its operations. In determining the appropriate consultative process, an agency should take into account the interests of management, employees, employee representatives, its operating environment, and service to its customers.

THE FRAMEWORK – Establishing how an agency may go about implementing the policy

1. Purpose

- 1.1. The NSW Public Sector Workforce Consultative Arrangements Policy 2012 (the Policy) provides general guidance for agency reference when developing and implementing arrangements for consulting with their employees and employee representatives in relation to workplace matters.

The Policy sets out the principles and merits of consultation and the roles participants accept when they are involved in consultation.

This policy applies to all of the government sector as defined in the *Government Sector Employment Act 2013* and State Owned Corporations. Agencies covered by the *Crown Employees (Public Service Conditions of Employment) Award 2009* are required to apply the 1997 Consultative Arrangements Policy.

- 1.2. The Policy uses the term 'employee representative' as a general description for the different and accepted formal lines of communication on behalf of employees. This includes the customary representation by union officials and delegates, as well as nominated non-union employee representatives in appropriate circumstances.
- 1.3. The Policy is not intended to reiterate or replace obligations under legislation or industrial instruments; rather, it is a general guide to agencies for determining how consultation arrangements may be established.

2. Principles and Merits Of Consultation

- 2.1. Consultation is a process that provides an opportunity for people to express their views, state objections, exchange information, and promote understanding.
- 2.2. Consultation provides a genuine opportunity for people directly affected by proposed changes in the workplace, and the wider workforce, to influence the matters under discussion. Consultation should never be treated as a mere formality.
- 2.3. Communication, information sharing, and consultation are key to developing cooperation and a spirit of trust between management and employees and employee representatives.
- 2.4. Relevant information should be exchanged in a timely manner between participants.
- 2.5. Consultation does not require agreement and does not abrogate the right of the agency to make the final decision on matters discussed through the consultative process.
- 2.6. Agencies' consultative arrangements must acknowledge that the disclosure of confidential or personal information is governed by legislation and policy, and that participants have an obligation to comply.
- 2.7. Employee representatives are recognised as legitimate representatives of employees and are an important means of communication between management and employees through which employee views may be promoted.
- 2.8. A key element of consultation is that it requires that reasonable notice be given of the subject upon which the employees and their representative's views are being sought. What will constitute reasonable notice will vary according to the nature and circumstances of the case. This means that there should be an acceptance by all parties of an inherent flexibility to the word 'notice'.

3. Establishing and Maintaining Effective Consultation

- 3.1. Joint understanding of the agency consultative arrangements and the parties' common objectives permits participants to focus on effective communication rather than process.
- 3.2. When establishing consultative arrangements, or reviewing existing arrangements, the following factors should be considered:
 - 3.2.1. The provision of relevant information to employees and employee representatives is necessary to enable them to make an informed contribution to matters raised in a consultative forum.
 - 3.2.2. Information sharing and consultation may be subject to legislation, including instruments governing disclosure of information. The Circular C2007-27 Privacy Guidelines on Disclosure of Information during Industrial Consultations provides a useful resource on privacy and disclosure matters. Other confidentiality rules may apply, such as commercially sensitive material or cabinet papers.
 - 3.2.3. Establishing a formal arrangement for participation by employee representatives enables them to make a meaningful contribution, and ensures an informed decision making process. However, the existence of a formal consultative arrangement should not replace day-to-day consultation and information sharing between managers and employees in the workplace.
 - 3.2.4. A consultative and cooperative approach is an important factor in reducing the potential for conflict. A formal arrangement should include decision makers being available at appropriate times.
 - 3.2.5. Consultation is a dynamic process and to achieve the best results when considering organisational change, restructuring, and reform – whether in the agency or more broadly across the public sector – often requires a long term view.
 - 3.2.6. An agency's consultative arrangements should take into account the needs and priorities of the agency, employees, the organisational structure, and the services provided to the customer.
 - 3.2.7. An agency's processes for consultation on local matters between an agency and its employees, including any dispute resolution procedure contained in an award or agreement, should always be the first step to facilitating a resolution on matters of concern.
 - 3.2.8. The structure and effectiveness of consultative arrangements should be reviewed on a regular basis.

4. The Role of the Participants

- 4.1. Agencies and employee representatives participating in consultative arrangements must understand and acknowledge each other's rights and obligations, including those arising from the relevant legislation and industrial instruments.
- 4.2. Agencies and employee representatives must genuinely participate in the consultative process and commit to upholding an environment of mutual respect and professional behaviour.
- 4.3. Following consideration of the local needs and priorities of the organisation and its clients, proposed consultative arrangements should be discussed and wherever possible, agreement reached between agency and employee representatives.

Management

- 4.4. It is the primary responsibility of management to make decisions in order to achieve the objectives of the agency. However, the effective implementation of such decisions may be significantly enhanced through a process of canvassing issues of common interest between management, employees, and employee representatives.
- 4.5. Management should ensure:
 - 4.5.1. the timely provision of relevant information, including:
 - details of a proposed change
 - the likely impact on employees
 - the reasons for the proposed change, and
 - a proposed implementation schedule (where relevant)
 - 4.5.2 that there is discussion on possible measures for mitigating or averting any adverse effects on employees
 - 4.5.3 the provision of appropriate and reasonable resources, including work time and communication facilities, for employee representatives to fully participate in the consultative arrangements
 - 4.5.4 that genuine consideration is given to the ideas and contributions of employee representatives and that the agency provides to employee representatives the agency's response to their submissions
 - 4.5.5 where the agency makes a final decision in relation to the matter which is the subject of consultation, the agency should notify the affected employees and at the employees' election, their representatives.

Employees

- 4.6. Employees should ensure:
 - 4.6.1. that, in the first instance, they consult with their local management about any local causes of concern or grievance, and
 - 4.6.2. that ideas for improving the workplace or systems of work are discussed with their managers, or where it may affect the organisation generally, submit ideas through their employee representatives.

Employee representatives

- 4.7. Employee representatives should ensure that they:
 - 4.7.1. contribute to effective communication within the agency through genuine participation in the consultative arrangements
 - 4.7.2. establish good local relations to facilitate resolution of employee concerns as close to the source of the issue as possible, and
 - 4.7.3. use the consultative arrangements to present employee's input and seek the settlement of any concerns (not individual grievances).

5. Issues to Consider for Consultation

5.1. Issues that may be considered for discussion through the consultative arrangements should either have a direct and significant effect on the workforce, or a large part of the workforce, or have a major impact on the agency in the short or long term. Examples include:

- Machinery of government changes
- Enterprise bargaining
- Workplace reform
- Restructuring and redevelopment
- Establishing a commercial focus to the organisation or parts of the organisation
- Changing work practices to create a more flexible workforce
- Staff turnover and absenteeism
- Improving performance and quality issues
- Introducing new classification(s)/classification scale(s)
- Introduction of new technology or electronic systems
- Government reforms and sector-wide policies
- Agency reforms
- Legislative changes

5.2. The examples list is proposed for discussion and is not all-inclusive or compulsory, remembering, that local issues should be addressed at the local level.

5.3. Matters to be considered for inclusion in consultative arrangements should be agreed between the agency and its employee representatives.

5.4. Work Health and Safety Issues should be referred to the agency's WH&S Committee.

6. Legislation

- NSW Industrial Relations Act 1996
- Fair Work Act 2009
- Government Sector Employment Act 2013
- Government Sector Employment Regulation 2014
- Government Sector Employment Rules 2014
- Government Information (Public Access) Act 2009
- Privacy and Personal Information Protection Act 1998
- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011

7. Other Policies and Guidelines

- M2011-11 – Managing Excess Employees Policy (Policy Document No D2011_07. Including Change Management Guidelines (Policy Document No D2011_014). (To be read in conjunction with C2012-10 and PSCC2012-03)
- M1995-40 Flexible Work Practices – Policy and Guidelines (Policy Document G1995_001)
- C2007-27 – Privacy Guidelines on disclosure of Information During Industrial Consultations (Policy Document D2007_013)

CONSULTATIVE ARRANGEMENT

Policy and Guidelines

July 1997

FOREWORD

The development of this Consultative Arrangements policy and guidelines document marks the commitment of the NSW Government, in partnership with the Public Service Association, to improving and strengthening the practices of communication, participation and consultation across the NSW public service.

This document is a result of discussions between the parties to the Framework attached to the *Crown Employees (Public Sector Salaries August 1995) Consent Award*. It presents a structure for the development of a fair and cooperative relationship between management, employees and unions at the organisation level. Such a structure is more likely to contribute to improved productivity, efficiency and effectiveness of public service organisations.

The contents of this document are consistent with the provisions for consultation and participation in the NSW Industrial Relations Act 1996 and the shared belief of the parties that employees should have the opportunity to influence their work and their work environment.

Communication, participation and consultation are critical to fostering the motivation and commitment of employees towards organisational goals which are in the mutual interest of management, employees and unions. Equally, strengthening the cooperative and consultative approach to organisational relationships between managers, employees and the unions is fundamental to implementing productive reforms in public service organisations.

This policy and guidelines document is commended to all organisations. Organisations should review current arrangements and implement the step-by-step guidelines, as outlined, for achieving cooperative and effective consultative arrangements.

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POLICY

POLICY STATEMENT

The NSW Government and the Public Service Association of NSW share an understanding that communication, information sharing and consultation between management, employees and unions is critical to the development of a strong, vibrant, effective, equitable and efficient NSW public service. It is recognised that to achieve these objectives all public service organisations need to have effective channels of communication and consultative arrangements in place.

This agreed policy and guidelines statement sets out the procedures for genuine and ongoing commitment to consultation, effective communication and the facilitation of productive outcomes.

In a large number of NSW public service organisations, the effectiveness of a cooperative and participative approach has been demonstrated. Substantial improvements have been made in areas such as restructuring, training and development, occupational health and safety, workplace reform, performance acknowledgment, new work arrangements, the introduction of technology and the implementation of flexible work practices. However, scope exists for the wider application of consultative arrangements.

PURPOSE

The purpose of this document is to bring about fair and cooperative relations at the organisation level. It is also intended that these guidelines will provide the foundations for strengthening participation in implementing productive reforms in organisations.

WHAT IS CONSULTATION?

Consultation is an effective mechanism for management and employees, through their union, to meet on a regular basis in order to discuss and determine matters of common interest. It is about:

- accepting that there is a common interest in the success of the organisation;
- developing cooperative attitudes towards solving problems rather than resorting to confrontation; and
- recognising that all employees in the organisation have the potential to be innovative and creative about every aspect of their work.

Consultation occurs at both the sector-wide level and organisation level.

❖ **At the sector-wide level**

At the sector-wide level the Premier's Department/Public Employment Office, the Labor Council of NSW and public sector unions will continue their key role in promoting a cooperative approach between the parties and achieving a comprehensive and cohesive response on issues of broad concern that have an impact across the sector. The sector-wide arrangements in place are included at Appendix A.

❖ **At the organisation level**

Consultation enables employees, through their union(s), to participate in and influence decisions which directly affect them at the organisation level. It is a means of improving communication, information sharing and understanding.

It is agreed that there is no one approach to consultation that can be applied to all organisations. Specific arrangements should be determined jointly by management and the relevant union(s). It is necessary that the parties in the organisation agree on an effective approach to issues and on matters that may be subject to consultation.

Where an organisation has decentralised operations or is composed of a number of locations or has distinct work areas, the consultative arrangements, including the number of committees to be established, should be developed by the parties themselves taking into account the organisation's size, the nature of its operation, employee and clients needs, and local conditions. If there is more than one committee, consideration needs to be given to establishing a peak committee to ensure that an integrated and coordinated approach is maintained. This peak committee can also act as a central resource for the other committees.

Consultation is most readily achieved through management/union consultative committees formed to consult on either single or multiple issues involving or affecting the organisation or employees.

In large organisations good communication can be difficult to maintain. Consideration needs to be given to effective two-way communication, including both informal and formal processes. Extra effort at all levels in the organisation is required in order to maintain good communication.

Smaller organisations also require a sustained effort to ensure that the economies of scale provided by the size of the organisation are fully realised.

BACKGROUND

❖ General

In recent times the benefits of consultative arrangements within organisations have been widely recognised and have been set out in statements of intent, memorandums of understanding, consent awards, enterprise agreements and collateral agreements. In addition, long term benefits of consultation have been emphasised by the parties. It has been acknowledged that consultation is the key towards building a better workplace, achieving rewarding work and establishing shared goals between management and employees.

❖ Research Findings

Over the past five years or so research has been conducted to assess the impact of consultative arrangements on the productivity and performance of Australian workplaces¹. It also investigated whether consultative arrangements led to improved service delivery, better employee relations and the smoother introduction of workplace change.

This research found that the rate of impact of consultative arrangements was directly related to the “intensity” of collaboration between management and employees. It also found that where management properly consulted “the employees most affected” about the establishment and operation of consultative arrangements, it was more likely to lead to improved productivity and efficiency.

❖ Australian Workplace Industrial Relations Survey

The most comprehensive survey of Australian workplace industrial relations was undertaken in the early 1990s. This survey is known as the Australian Workplace Industrial Relations Survey². The

¹ Davis, E & Lansbury, R, (1996), *Managing Together: Consultation and Participation in the Workplace*, Longman, Melbourne

² Callus, R, Cully, M and Buchanan, J, (1991), *Industrial Relations at Work: The Australian Industrial Relations Workplace Survey*, Australian Government Printing Service, Canberra.

survey encompassed both the public and the private sector. Evidence from the survey supported findings from a wide range of overseas studies which have demonstrated a positive relationship between “best practice” in workplace productivity and performance and the degree of consultation between management and employees.

It is also recognised that productivity, efficiency and effectiveness are influenced by the way conflicts at the workplace are resolved and by the ways in which common concerns are pursued.

Productivity and efficiency can be improved if organisations introduce consultative arrangements, ensure that the intensity of these arrangements is high and that the representation of employees is sufficiently high for the arrangements to both establish and maintain credibility.

Consultative arrangements are also being adopted by organisations as a strategy to gain and maintain a competitive advantage in their operations. This is occurring against a backdrop of a shift towards decentralisation, greater focus on cost efficiencies and an industrial relations system which emphasises enterprise bargaining on matters such as workplace reform, productivity and efficiency at the organisational level. It is essential that consultative arrangements in organisations are strengthened in order to enhance productivity, achieve improvement in performance and ensure employee involvement.

These factors have broadened the agenda of consultation to include work practices focused around the development of responsive, flexible organisations and, in the longer term, more innovative and strategic organisations. The broadening of the consultation agenda has required that participation and cooperation at the workplace is encouraged, particularly through the formal process of consultation.

❖ **1995 Survey of existing Consultative Arrangements in the NSW Public Service**

In August 1995 the Public Employment Office, as part of the requirements under the Framework Documents attached to the *Crown Employees (Public Sector Salaries August 1995) Award*, conducted a survey into existing consultative arrangements across the public service.

The survey sought to collect information to meet two objectives. The first objective was to explore the patterns of consultation at the organisation level with a view to mapping out the key features of consultative structures and processes across the service. The second objective was to collect information on the operational value of consultative arrangements already in place.

Approximately 90% of public service organisations reported that they had some form of formal consultative arrangements in place. Of these 63% indicated these arrangements were supported by informal mechanisms.

The survey findings demonstrated that the parties acknowledged the value of having formalised structures and that these arrangements:

- provided effective forums for the discussion of key issues, including the development of agreed implementation strategies;
- created a culture of trust and understanding between both parties; and
- assisted in achieving a more cooperative and harmonious workplace.

The establishment and operation of a Joint Consultative Committee was regarded as the most appropriate method to establish consultative arrangements. Organisations with decentralised structures reported that they had a number of regional committees that tended to report to a peak or corporate level committee.

In addition, a range of issue specific consultative committees were established to discuss and progress such items as:

- enterprise bargaining;
- occupational health and safety;
- training and development;
- equal employment opportunity;
- job evaluation;
- performance management; and
- quality customer service.

Membership of these committees included representatives from management, employees and unions.

The survey responses and subsequent discussions with the parties revealed that there exists scope to improve consultative arrangements in organisations, particularly in view of the emphasis on productivity improvements and the local level development of enterprise bargaining which benefit both employees and organisations.

BENEFITS OF IMPLEMENTING THE POLICY

In terms of the practical value of consultative arrangements, organisations shared a common view that such arrangements enhanced their organisational decision making, resolved problems at an earlier stage, improved communication and enabled the effective implementation of organisational change.

The following responses from organisations give an indication of the range of values that they placed on consultative arrangements:

- “assists resolution of disputes at the local level”;
- “provides for cooperative handling of issues by both parties”;
- “assists in improving customer service through improved internal communications”;
- “assists in smooth implementation of organisational changes”;
- “prevents issues from developing into major industrial matters”;
- “problems are kept to a minimum through consultative arrangements”;
- “gives commitment from both parties to providing solutions”; “effective and ensures employee involvement”;
- “union has been able to offer insight into certain issues during the restructuring period”;
- “assisted with implementing workplace reform initiatives”;
- “consultative mechanisms are very effective”;
- “open communication creating successful outcomes”; and
- “provides a good working relationship”.

POLICY PRINCIPLES

There are a number of basic principles that organisations need to consider when setting up effective consultative arrangements or strengthening existing arrangements. These are listed below:

- Communication, information sharing, consultation and negotiation are the key to developing cooperation and a spirit of trust between management, employees and unions.
- Joint understanding and common objectives are essential elements of effective consultative arrangements.
- The relevant union(s) is recognised as the legitimate representative of employees and the channel for negotiation.
- Provision to the union and its representatives of relevant and appropriate information is necessary to enable them to make informed contributions to Issues.
- Consultation and participation are dynamic processes. Organisational change, restructuring and reform require parties at the organisational level to accept the need for a long term perspective and commitment.
- The provision of a formal framework is essential to ensure that employees can effectively participate in and contribute to the decision making process.
- Wherever possible the suggested consultative arrangements should be discussed and agreed to by management and unions following consideration of the local needs and priorities of the organisation and its clients.
- While recognising that consultative arrangements do not necessarily eliminate organisational conflict, the development of a consultative and cooperative approach to issues should reduce the level of potential conflict.
- Consultation should not be regarded as a panacea. Its effectiveness depends on all parties working together to achieve common aims and objectives.

RELEVANT LEGISLATION

NSW Industrial Relations Act 1996

Public Sector Management Act 1988 and Regulation

NSW Occupational Health and Safety Act 1983

RELATED POLICIES

Managing Displaced Employees Policy

Technological Change Agreement

GUIDELINES

DIFFERENCE BETWEEN INFORMATION SHARING, CONSULTATION AND NEGOTIATION

Information sharing involves all employees and a participative and cooperative relationship at all levels of the organisation. Consultation and negotiation are only meaningful on a collective basis, with representatives able to speak for employees collectively. This representation is provided through the unions.

Effective organisational communication involves information sharing, consultation and negotiation which are all interdependent. Each organisation should have a formal communication plan which is an important foundation to ensure effective consultative arrangements. An overall communication plan is a commitment by the organisation to establish a two-way system which enables information to be shared efficiently in a manner which is understood. This includes communication at all levels within the organisation, between work groups, employees and relevant unions.

All union representatives and employees through information sharing should be kept informed of issues in the organisation in order to maximise their contribution to the consultative process. Types of information that should be communicated include information about the job, information about the organisation, proposed changes including restructures, and technology and information on current issues and performance.

Consultation is usually the preliminary stage to negotiation where issues are identified and clarified. Areas of agreement and disagreement arise at this stage.

Negotiation is a means by which different interests may be accommodated through the process of bargaining. Table 1 summarises the key differences between information sharing, consultation and negotiation.

Activity	Information Sharing	Consultation	Negotiation
Communication with unions and employees	<ul style="list-style-type: none"> - establish a climate of trust - act on information, provide relevant information - advise unions and employees on the reasons for decisions being taken 	seek ideas, comments and information before decisions are taken	inform employees and management
Process	<ul style="list-style-type: none"> - establish two way communication channels - use meetings and other forums to convey information 	openly discuss issues of common interest	accommodate needs & establish common interests
Responsibility for Implementation	<ul style="list-style-type: none"> - with management, other employees and unions 	with management and unions	jointly with management and unions

Table 1: Key differences between information sharing, consultation and negotiation (Adapted from: NSW Department of Industrial Relations, "Joint Consultation", 1996, p. 10)

It is important to note that information sharing is the first step to consultation. Consultation is the next step to negotiation. All parties at the organisation level need to clearly understand when they are either consulting or negotiating.

CONSULTATION AND ENTERPRISE BARGAINING

In order to achieve improvements at the organisation level, consultation and negotiation occurs between the parties based on local needs and priorities. Such matters may be progressed through enterprise bargaining following the commitment of the parties.

Consultation, participation, negotiation and enterprise bargaining are consolidated in the *NSW Industrial Relations Act* 1996. The desired role for consultation and enterprise bargaining is set out in section 3- Objects of the Act -as follows:

- “to promote participation in industrial relations by employees and employers at an enterprise or workplace level”;
- “to encourage participation in industrial relations by representative bodies of employees and employers and to encourage the responsible management and democratic control of those bodies”; and
- “to encourage and facilitate cooperative workplace reform and equitable, innovative and productive workplace relations”.

Enterprise bargaining through consultation and negotiation at the organisation level:

- encourages participation and cooperation at the workplace;
- facilitates the introduction of improvements to productivity , efficiency and effectiveness; and
- fosters the development of responsive, flexible organisations with cultures that are ethical, innovative and strategic in approach.

ISSUES SUBJECT TO CONSULTATION

Issues that may be discussed by consultative committees should be determined by agreement, in accordance with any agreed sector-wide framework. Examples include:

- enterprise bargaining;
- workplace reform;
- restructuring and redevelopment;
- moving to a more commercial focus;
- change to job design and work practices;
- classification structures;
- introducing flexible work practices;
- best practice systems;
- benchmarking;
- performance and quality issues;
- training and development;
- improved career paths;
- introducing team based approaches;
- service planning teams;
- staff turnover and absenteeism;
- occupational health and safety;

- equal employment opportunity;
- better use of existing technology; and
- introduction of new technology.

This list is not exhaustive but can be used as a starting point for the parties to reach agreement on which items will be the subject of consultation at the organisation. This will also assist the parties to work together to achieve a cooperative approach in the management of productive workplace change and reform. The latest Co-operative Negotiation Agenda to the *Crown Employees (Public Sector Salaries June 1997) Award* is also of assistance.

THE ROLE OF THE PARTIES

The achievement of trust, participation and cooperation between management and unions is recognised as essential in facilitating improvements in productivity and performance.

At the organisation level, this requires a clarity of purpose and intent, the commitment of senior management and union representatives focusing on contemporary approaches and adopting a strategic approach to achieve long term goals and interests.

The specific role of each of the parties is outlined below.

❖ Management and employees

Employees who are both informed and given the opportunity to participate in decision making that directly affects them are more likely to achieve a higher level of satisfaction, and are more likely to identify and contribute to the success of the organisation.

It is also recognised that although the primary responsibility of management is to take decisions to achieve the objectives of the organisation, the effectiveness and implementation of such decisions will be significantly enhanced by the involvement of employees.

Management has the right and the responsibility to advise and inform employees on any issue which directly or indirectly affects their employment or working conditions. Management should ensure that regular staff meetings are held in order that communication on such issues is clear and staff input invited.

To achieve an effective communication system and ensure consultative arrangements are in place, management should review their current processes of involvement and consultation so that they:

- enable employees to utilise their skills, knowledge and abilities in contributing to the corporate objectives of the organisation;
- build a relationship of information sharing and mutual trust; and
- provide all employees with the opportunity to influence decisions that affect their work and quality of life.

Cooperation and participation by employees will be dependent on management demonstrating their commitment to improving these relationships. Management's commitment to the development of a cooperative and participative approach must be clear, visible and continuous in all practices.

❖ Unions

The success of consultative arrangements necessitates the recognition of unions and their relationship with their members.

For formal consultation the legitimate representative of employees is the relevant union(s). Whilst union membership is voluntary, all employees should consider whether they wish to exercise their right of input into the formal consultative process and of representation in the process through union membership and participation in union activities.

Delegates at the organisation level are recognised representatives of the employees under the *NSW Industrial Relations Act 1996*. In addition, union delegates can contribute to effective communication within the organisation.

Unions give expert advice, the benefits of experience, different perspectives and practical assistance to the organisation and by doing so contribute to its success.

FACILITIES FOR UNION REPRESENTATIVES

In recognising that unions are the legitimate representatives of employees, the NSW Government assists unions in the workplace by providing appropriate support facilities for authorised union activities. These facilities include access to:

- telephone, facsimile and (where available), E-mail facilities;
- a notice board for material authorised by the union or access to staff notice boards for material authorised by the union;
- workplace conference or meeting facilities where available, for meetings with members, as negotiated between local management and the relevant union;
- a reasonable period of preparation time before
 - meetings with management;
 - disciplinary or grievance meetings where a union member requires the presence of a union delegate; and
 - any other meetings with management by agreement with management.

Other facilities for union representatives are contained in the draft module entitled *Trade Union Activities and Employee Consultation*. It is envisaged that this will form part of a Conditions of Employment Award that is currently being negotiated with the parties at the sector wide level.

Organisations are encouraged to develop additional arrangements appropriate to their local needs and operations.

ESTABLISHING EFFECTIVE CONSULTATIVE ARRANGEMENTS

The key to establishing effective consultative arrangements is planning and attention to detail.

Some problems that commonly arise in relation to the operation of consultative arrangements include:

- the misunderstanding of the role and scope of the committee, resulting from a lack of clarity about the range of issues to be discussed;
- the perceived lack of progress of committees which is usually directly related to inadequate meeting procedures in place; and
- the absence of a decision maker who has the authority and delegation to make decisions.

To overcome these problems it is necessary for management and unions to jointly consider how they envisage the practical operation of the consultative arrangements prior to their establishment.

Each organisation is best equipped to determine the form of consultation that is best for it, taking into account the interests of management, employees, unions, clients and the local operating environment. The step-by-step guidelines for establishing effective consultative arrangements at the organisation level are set out on page 15.

IMPLEMENTATION

At the organisation level, all organisations should review, strengthen or establish effective consultative arrangements through a cooperative and participative approach to dealing with workplace issues and changes. Strengthening existing practices of communication, information sharing and involvement of employees provide the foundation for effective cooperation. This includes allowing time for consultation prior to any changes being introduced into the workplace.

The step-by-step guidelines for establishing effective consultative arrangements provide a practical guide to the conduct of cooperative and productive industrial relations at the organisation level.

The Premier's Department will continue to provide further information, advice and assistance to those organisations that are strengthening their consultative arrangements.

COMMUNICATING THE POLICY AND GUIDELINES

Organisations need to ensure that there is a fair and cooperative relationship between the parties. Management, employees and union representatives should be encouraged to understand and apply these guidelines.

The following suggestions for communicating this policy and guidelines documents have proven to be useful and include:

- publicity materials such as brochures and posters;
- incorporate consultative arrangements into existing training and development activities;
- information sessions on the policy and guidelines document;
- discussion of the policy and guidelines document at staff meetings;
- articles published in the organisation's newsletter or bulletin;
- reminders attached to pay advice slips; and
- in response to the diversity of the organisation as appropriate:
 - the publication of materials in community languages;
 - the development of material for use by visually impaired people; and
 - the use of language interpreters for people with hearing impairments.

A STEP-BY-STEP GUIDE FOR ESTABLISHING EFFECTIVE CONSULTATIVE ARRANGEMENTS AT THE ORGANISATION LEVEL

These guidelines set out a practical step-by-step approach for the parties to establish effective consultative arrangements. It is recommended that consultative arrangements are set out in a formal document and include the following items.

PREAMBLE

The organisation and the relevant union(s) should consider stating at the outset their commitment to strengthening consultation in the workplace.

Both parties need to express an agreement to work through the consultative arrangements as set out in a document such as a statement of intent or memorandum of understanding.

OBJECTIVES

The parties need to discuss and reach agreement on the purpose and establishment of a framework which sets out the objectives for consultation.

This could include the following:

The purpose and objectives of these consultative arrangements is to establish a formal framework for the conduct of cooperative industrial relations which is aimed at:

- providing an opportunity for consultative decision making by the full involvement of the union(s) in the decision making process;
- improving the productivity, efficiency and effectiveness of the organisation;
- strengthening the working conditions of employees; and
- building a fair, cooperative and satisfying working environment for employees.

The objectives will clearly focus the parties throughout discussions and will assist in evaluating their success in achieving these objectives at the review stage.

CONSULTATIVE ARRANGEMENT

1. General

An ongoing formal consultative arrangement should be established, for example, between the Departmental Head and his or her nominees and the General Secretary of the union(s) and his or her representatives.

2. Frequency of Meetings

Meetings need to be frequent to get some momentum going while allowing for preparation and action to be taken between each meeting.

Meetings of the parties shall be on a frequent basis, at least every two months, or at the request of the Department Head and/or his or her nominee or the union(s).

3. Composition

The parties should jointly determine the size of the consultative committee. It is recommended that the maximum number of representatives on any committee be ten and it is generally desirable that the committee include equal numbers of management and union representatives. In organisations with a large number of unions other arrangements may be needed.

In determining the composition of the committee the following issues should be considered:

- the organisation's structure;
- existing consultative committees in place;
- the make-up of the workforce and having regard to gender and diversity issues;
- the size of the workforce;
- the number of distinct operations in the workplace; the work arrangements; and
- the nature of the operations, including shift and flexible work arrangements.

There must be effective links between committee members and the employees they represent to ensure they have a productive effect on the daily lives of employees.

If there is a need for more than one committee, a peak committee will be necessary to ensure a coordinated and integrated approach to issues at the workplace.

4. Conduct of Meetings

All meetings should be chaired and rotated between the Departmental Head or his or her nominee and the General Secretary or his or her nominee.

The meetings shall have a formal agenda and associated papers shall be prepared and distributed to the committee members at least five working days before the meeting. This arrangement should not preclude the tabling of additional information which might come to hand after the preparation of the agenda papers.

A formal record of the discussions at the meeting shall be prepared by the Department and jointly agreed upon by the committee members.

If urgent business arises and it is mutually agreed that it is impracticable to follow this arrangement the urgent matter is to be attended to as soon as possible.

5. Use of Sub-Committees

To further the process of consultation, sub-committees or working groups may be established from time to time to research, examine and make recommendations on issues to the committee. Those participating in these groups would provide the committee with special expertise and broaden the opportunity for other union members and managers to participate in the consultative process.

Some examples of sub-committees currently in place include:

- training and development;
- reorganisation;
- workplace reform;
- customer service; and
- job evaluation.

6. Confidentiality of Meetings

The parties should also determine how they will deal with matters of a confidential nature. To assist in deciding when a matter is confidential, the parties may need to consider the following issues:

the availability of information on the matter from other sources; the level of sensitivity of the matter; the likelihood of action in discussing the information; and the need for the union(s) to consult the affected members.

7. Recommendations made or Agreements reached by the Committee

The parties need to reach an agreement about the steps to be taken when making recommendations or achieving a final agreement on matters under consideration. Steps that need to be considered include the:

- information stage;
- discussion and identification of issues stage;
- options stage;
- recommendation and/or final agreement stage; and
- implementation and review stage.

The parties should take all reasonable steps to vest adequate authority in their nominees to consult fully and frankly with the view to reaching final agreement where practicable on matters under consideration.

Suggested practical steps to making recommendations or achieving a final decision in a consultative committee is outlined in Diagram 1 at page 18.

It should also be acknowledged that there will be some matters that either party is unable to finalise at the meeting and that such matters will need to be deferred for a decision.

8 . Matters for Consultation

Agreement should be reached on those matters that the Department undertakes to discuss with the union(s). There needs to be a commitment to ensuring that there is an opportunity for the parties to consult on a matter prior to the implementation of any proposed changes.

Without limiting the scope of consultation, the primary matters for consultation by the committee shall be strategic and operational issues such as:

- organisational objectives and their implementation;
- organisational restructuring;
- organisational systems and procedures;
- organisational personnel and staffing practices;
- enterprise bargaining;
- accommodation and technological change issues;
- workload issues;
- training and development;
- initiatives for change including trials within the organisation;
- and other issues specified in any sector-wide framework agreement.

9. Future Meetings

The date of the next meeting of the consultative committee should be set at the close of business of the previous meeting.

10. Training of Committee Members

The committee should undertake to arrange practical training in meeting procedures to all members to ensure the effective operation of the committee.

11. Reporting Arrangements

The parties should agree on report back arrangements to employees on outcomes of the committee meetings. Reasonable time in normal business hours should also be made available for meetings for union committee members to report back to other members and to consider organisational proposals, as appropriate.

12. Consultation Outcomes

The parties need to consider and agree that the outcomes of consultative arrangements need to be seen by employees as useful and having clear and visible productive results.

The parties undertake to use their best endeavours to achieve productive results through good faith and cooperation.

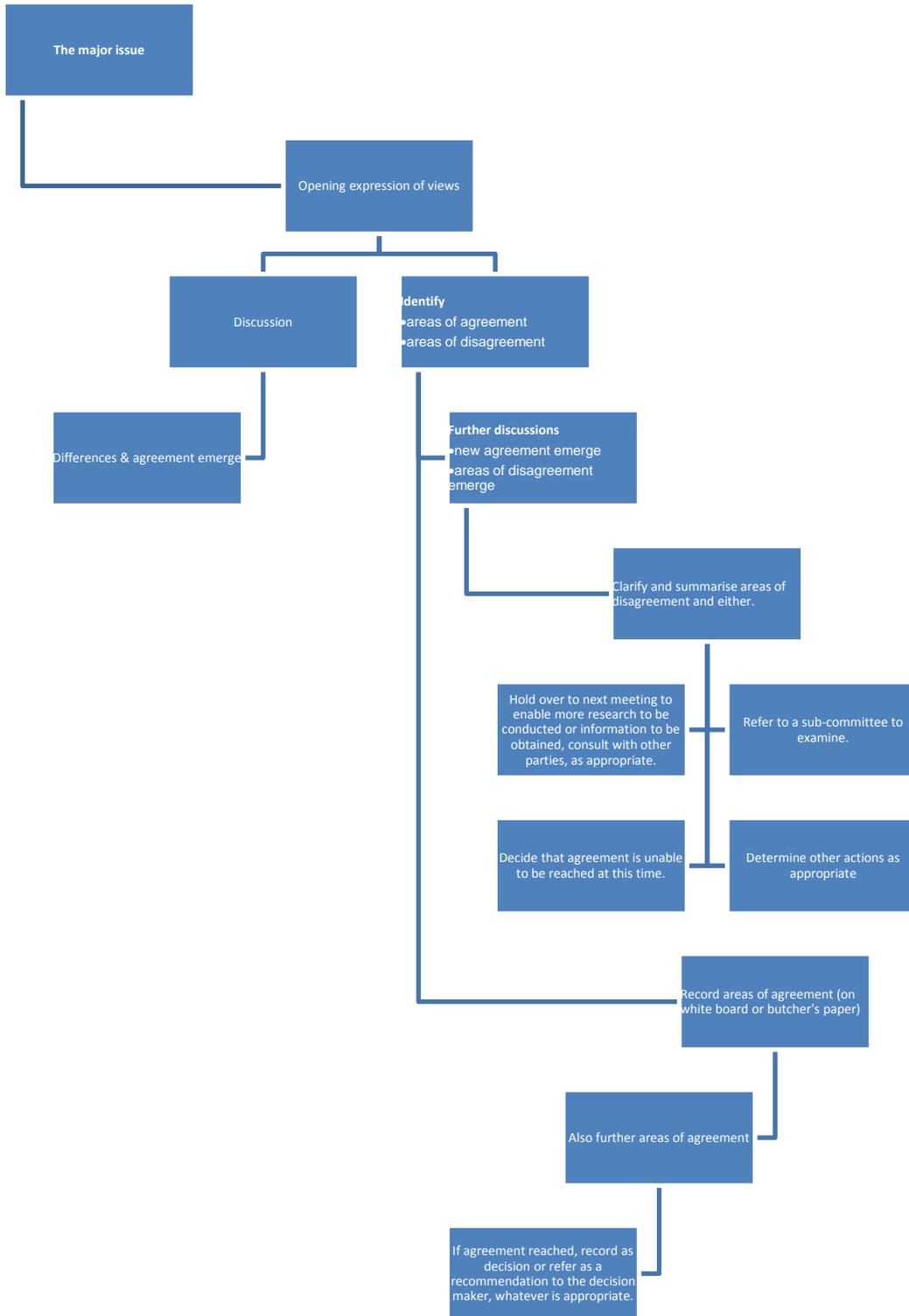
13. Review of Consultative Arrangement

A review of the workings of the Consultative Arrangement should occur:

- when there are any changes to any sector-wide framework; and
- when the parties agree that the review is needed.

Diagram 1: Steps to making recommendations or achieving a final decision in a consultative committee

[Adapted from TUTA, (1993) *Workplace Consultative Committee*, p 41]



FURTHER INFORMATION AND ASSISTANCE

ADVICE AND ASSISTANCE

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APPENDIX A.

Consultation at the sector-wide level

PREAMBLE

The NSW Government, the Labor Council of NSW and public sector unions have agreed and established formal and ongoing consultative arrangements.

These consultative arrangements are not to operate to the exclusion of mechanisms which a union might establish to further the day-to-day business of the union or for the benefit of its members.

MEMBERSHIP OF THE FORUM

The membership of the consultative forum includes:

- the Director General of the Premier's Department or nominee
- the Director of Employee Relations of the Premier's Department or nominee
- the Labor Council officer with responsibility for the public sector
- officers of the following unions:
 - Public Service Association of NSW;
 - NSW Police Association;
 - Australian Services Union;
 - Health and Research Employees Association;
 - NSW Fire Brigade employees' union;
 - NSW Teachers' Federation;
 - NSW Nurses' Association;
 - Australian Workers' Union/Federation of Industrial Manufacturing Employees;
 - Construction, Forestry, Mining and Energy Union;
 - Media, Entertainment and Arts Alliance;
 - Association of Professional Engineers Scientists and Managers, Australia; and
 - Australian Salaried Medical Officers' Federation -NSW.
- other unions as appropriate given the nature of the business before the forum.

MEETINGS OF THE FORUM

The forum meets on a monthly basis on the first Tuesday of each month.

OBJECTIVES OF THE FORUM

The forum acts as a formal mechanism for information exchange, discussion of current issues in the NSW public sector and the implementation aspects of government policy or referring discussion of matters of concern.

The objectives of the forum are to improve the quality of consultation between the parties on issues relating to the NSW public sector and provide the appropriate mechanism for discussion of key issues on policy and strategy prior to changes being implemented.