

DEAL OR NO DEAL: Bargaining for success

Lisa Burrell outlines key considerations that employers should keep top of mind when entering into Enterprise Agreement negotiations

ENTERPRISE AGREEMENT (EA)

negotiations can effectively 'set' the parameters of a significant proportion of ongoing costs for most organisations: labour. The ABS recently reported¹ that over 40% of workers are employed under EAs, with individual arrangements slightly behind this figure and 'award only' arrangements lagging significantly behind at under 19%.

Through assisting employers on a daily basis to negotiate EAs, VECCI is acutely aware of the complexities associated with this process. For organisations facing an upcoming negotiation, we share some top tips from our experience:

Know your process

VECCI counts 14 procedural steps from start to finish of the negotiation process, with the potential of significant time, effort and money invested within these stages. As I explained in the February edition of *HRD*, getting a step wrong can send your entire process back to the drawing board, so it is vital that current requirements are understood and integrated into your process.

Get your mix right

Considerable value can be achieved by ensuring you have a balanced mix 'at the table'. We have found that in many cases employees who could add real value don't get involved, as it is seen as a 'union matter'. While a union may have a seat at the table, union membership in Australian workplaces is less than 20% (only 12% of the private sector),² so it certainly shouldn't be the only seat. Encouraging key employees to be involved can be crucial.

Likewise, if an EA is viewed as a commercial contract – where even incremental concessions add up considerably over the life of the agreement – it highlights



the need to have the best negotiators present, which may include engaging external assistance. This can be particularly relevant given employers may only undertake this process every three years, compared to union officials who have very specialised skills from continual work in the area.

Be cautious of 'backdating' arrangements

This is a key area where we see employers stumble. By agreeing to 'backdate' certain increases or entitlements to the negotiation commencement (or expiry of the previous agreement), this can slow the process down and encourage employees 'holding out' for perceived maximum increases – because a crucial component is 'locked in' and the eventual payoff seems assured. Alternatively, arrangements around sign-on bonuses or a backpay date tied to the final stage of the negotiation (such as a successful vote) can be effective in retaining a shared focus on a timely outcome.

Communication is key

While regard for the requirements is needed to bargain in good faith, this does not prohibit regular and informed communication with your employees. Any change process will be more favourably received if the rationale is understood. If there are economic realities that inform your negotiation boundaries, this should be shared where possible. Data is often underused in these processes and can help avoid circular arguments on excessive claims.

An effective and open process can result in positive outcomes for both sides. Proactive management of negotiations will always underpin the best strategies for success. **FRD**

Sources: ¹ ABS, 6306.0 – Employee Earnings and Hours, Australia, May 2014.
² ABS, 6310.0 – Employee Earnings, Benefits and Trade Union Membership, Australia, August 2013.



Lisa Burrell is general manager of the Victorian Employers' Chamber of Commerce and Industry (VECCI). VECCI is Victoria's most influential employer group, servicing over 15,000 Victorian businesses per annum. An independent, non-government body, VECCI was founded in 1851 by the business community to represent business.