

The Benevolent Society – Failure to consult

Benevolent Australia Disability Services has cancelled our first Joint Consultative Committee meeting

On 6 April 2018 we reported to CPSU NSW members the positive development that we would finally be meeting with Benevolent Australia Disability Services (BADS) for the first Joint Consultative Committee (JCC) meeting on 10 April 2018. You can read our previous bulletin [HERE](#).

The CPSU NSW has been writing to management since April 2017 requesting a meeting in order to discuss industrial issues. We have only recently received a response following our resounding win on coverage in the Fair Work Commission on 8 March 2018. Read our previous bulletin [HERE](#).

Unfortunately, management wrote to the CPSU NSW after hours on 9 April 2018 in order to cancel the meeting on the pretext that they have not been provided with 'a level of detail' to 'investigate or constructively discuss issues in the meeting and resolve them'. Management did not detail which issues they required further information and this was despite their acknowledgement on 28 March 2018 to 'meet and discuss how we structure consultation going forward as well as the issues you have raised'.

TBS/BADS deliberately obstructing mandatory consultation

The CPSU NSW has written to management on a number of occasions. Your union has provided ample detail in relation to outstanding industrial issues in the same level of detail that we have previously written to FACS and a number of the

other not-for-profit providers. Their JCC meetings have all proceeded without this type of deliberate obstruction of the mandatory consultative process from management.

This is also despite numerous individual reporting of industrial concerns by members to local managers. These have not been resolved.

CPSU NSW writes formally to TBS/BADS regarding its legal obligations

The CPSU NSW has now written to management and expressed our disappointment in its failure to consult with your union. We have requested the urgent rescheduling of the JCC meeting so we can raise member concerns, as per the binding consultation requirements of your award conditions.

We have also reiterated to management its legal obligations to abide by the copied state instruments and within the framework of the *1997 Consultative Arrangements: Policy and Guidelines* ('the 1997 Consultative Arrangements') following the decision in our favour made by Commissioner Johns of the Fair Work Commission on 8 March 2018.

Members will recall in 2014 the PSA successfully challenged the NSW Government on the question of whether the *1997 Consultative Arrangements* had been incorporated as a term of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*. President Walton of the Industrial Relations Commission found in our favour and therefore the *1997 Consultative Arrangements* have been enshrined



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in your Award conditions. You can read our previous bulletin [HERE](#).

Most importantly, the *1997 Consultative Arrangements* mandate consultation by management with your union on ‘*matters of mutual interest and concern, both formal and informal*’ and specifically states that ‘*consultation enables employees, through their union, to participate in and influence decisions which directly affect them*’. That consultation must take place **prior** to decisions being made or implemented (such as BADS cancelling the first JCC meeting or refusing the personal attendance of delegates at the meeting).

Despite this, BADS recently indicated its intention to discuss the invalid *NSW Public Sector Workforce Consultative Arrangements Policy 2012*, which was quashed by President Walton following the successful challenge by the PSA. The legal position is clear and does not need to be revisited, particularly as your conditions of employment have been guaranteed by the *National Disability Insurance Scheme (NSW Enabling) Act 2013*.

The CPSU NSW has now called for BADS to confirm that it recognises the application of the *1997 Consultative Arrangements* although subsequent communications from management indicate mixed signals about their understanding of the legal obligations of BADS in relation to your Awards.

The CPSU NSW has consistently encouraged BADS to meet as early as possible in order to develop a fair and cooperative relationship between management, employees and your union at the organisation level and we will continue to do so.

Your union will keep you updated of any developments.

CPSU NSW delegates represent you with management

Your CPSU NSW delegates can support and represent you with management.

To find out who your CPSU NSW Advisory Committee delegate is click [HERE](#).

Know someone who isn't a member?

A strong union means better outcomes for all members. Forward this bulletin to your colleagues and encourage your workmates to [JOIN](#) the CPSU NSW today.

Having your union and its collective strength behind you in the workplace is the only way to make sure you get fair outcomes.

