

President: J. GRAY
Secretary: J.E.P. WELCH
Ref: Review Submission 2009



14 August 2009

Mr S Amendola
Blake Dawson
Level 26, 181 William Street
Melbourne
VIC 3000

Dear Mr Amendola

I am writing with reference to the Review of the State Industrial Relations System which you are currently undertaking. As a State Registered Trade Union the Western Australian Prison Officers' Union (WAPOU) believes it is important to take the opportunity to set out some of our views and concerns about the current functioning of the WAIRC and also potential changes that may be beneficial in seeking to improve the functioning of the current system.

WAPOU was founded in 1934 as the Goal Officers Union. It currently has over 1700 members and currently represents the States public sector prison officers.

We currently have one award being The Prison Officers' Award and one agreement being the Department of Corrective Services Prison Officers' Enterprise Agreement 2007.

Our membership has been growing in line with the growth in prison services within this State and currently represent over 95% of all eligible members.

We seek to ensure that we can provide a professional corrective services voice as well as providing support, help and representation to members on a wide range of industrial matters and issues.

Our union is very member focussed, relying on the democratic direction of our members at a local and state wide level to ensure we are in touch with the views of the industry within which they work.

Role of the Prison Officers Award

Unlike the current Federal system over the last 15 years many of the conditions of employment for Prison Officers have been moved into the award. It is very much a living document which both the Union and the Department of Corrective Services have seen as the logical place for the bulk of our members conditions to reside.

Both the Department and the union have sought to keep the various Enterprise Agreements entered into during the time as simple and uncluttered as possible.

Over the last 5 years in particular the parties have co-operatively "triated" a range of changes or experimental provisions within EBA process and where both parties have been convinced of the benefits of the changes they have then been incorporated into the Prison Officers' Award via section 40A of the WA *Industrial Relations Act 1979*.

It is also the case that in 2007 the Prison Officers' Award was modernised and restructured. This took place as a consequence of the Award modernisation process set in train by the 2002 amendments to the *Industrial Relations Act 1979*. This has in the eyes of WAPOU and its members made the award a clearer, more comprehensive document and user friendly document.

Flexibility in Collective Bargaining

Through the process of Collective Bargaining WAPOU and the Department of Corrective Services have been able to introduce a range of flexibilities which have enhanced both the employment circumstances of the employee but also allowed the employer to maintain staffing levels within a highly competitive market and manage resources more effectively.

These have included matters such as:

- Personal Leave
- Additional Employee purchased leave
- Deferred Salary Scheme
- Access to pro rata long service leave for older employees
- Study leave
- Annual Leave Flexibilities
- Transfer processes

It is also the case that the changes in the Dispute Resolution procedures which have been piloted through the Enterprise Bargaining Agreement have helped to avoid otherwise difficult disputes between the parties. The nature of the Corrective Services Industry is such that creating strong problem resolution processes are vital.

Individual Workplace Agreements

Individual workplace agreements were not introduced into prisons during the 1990's due WAPOU believes to the impracticability of trying to subdivide the complex interrelationships contained within the roles that Prison Officers play. This continues to be the case.

Of concern to WAPOU if there ever was a decision to introduce Individual Workplace Agreements is that the Departments payroll services, provided by the Department of the Attorney General, currently find correctly calculating and paying Prison Officers on one set of pay and conditions a difficult task to complete effectively. For example in the last two years we have had two whole Prison Officer Schools that the Department failed to pay until WAPOU intervened. If there were to be a range of conditions and levels of pay for staff we are concerned about the ability for the Departments payroll services to function. This concern is magnified with the proposed move to the Shared Services service model.

It is the case that there is a high level of movement from Prison to Prison by prison officers. This is aided by having a single set of pay and conditions for all staff. This means that whilst there may be additional payments or benefits in particular prisons due to location, staff can move between roles without major administrative barriers or difficulties.

WAPOU has noted the clear political commitment of the current Premier to ensuring no Workplace Agreements. Ref <http://www.abc.net.au/news/stories/2008/09/01/2352182>

Regulation of Industrial Relations under the WAIRC

WAPOU does not believe that there is any demonstrable need for any significant change to the current role of the WAIRC. It is our experience that it is an effective mechanism for resolving disputes between the parties. Particularly within the Public Sector it is important that there is a way to resolve and disarm disputes between employees and employers in a way that maintains as far as is possible good relationships.

For example there are currently very high levels of overcrowding within the State Public Prison System. If a dispute were to develop about what staff felt were safety issues relating to staffing levels it would be both in the interests of the Government and Prison Officers for a third party to be able to intervene, conciliate and if necessary determine the outcome of the dispute. This process allows for all parties to a dispute to feel they are listened to, their concerns and grievances considered and an outcome fair to all resolved.

The current system allows both WAPOU and the Department of Corrective Services the ability to quickly access a skilled and knowledgeable conciliation and arbitration service when or if action has been contemplated. Where disputes are live, urgent conferences take place with great speed to ensure that the matters do not become inflamed. This speed of response and expertise of the WAIRC would be sorely missed if not available to the parties. Transferring the responsibility for these matters to a separate authority without the experience or knowledge of the field would inevitably lead to less successful problem and dispute resolution.

It has been suggested that a body such as the State Administrative Tribunal could perform this role.

WAPOU is concerned that this body has no experience of dealing with the field of Industrial Law or indeed conciliation.

It has no experience in that which is common place with the WAIRC such as award making, dealing with allowances or indeed any experience in the formation of Enterprise Agreements.

WAPOU would ask the question, why when a competent body exists consideration would be given to replacing it by one without its long experience and specialist skills.

Access to the Commission

The breadth of access to the WAIRC is also of great benefit to both WAPOU and the Department of Corrective Services, allowing for the resolution of a wide range of issues relating the work of Prison Officers. Also as previously referred to many of the terms and conditions of Prison Officers are contained within the Prison Officers Award. If access to conciliation or arbitration were limited to those matters within the Enterprise Bargaining Agreement the ability to resolve disputes on a range of matters would be lost to both sides.

Emergency Services Legislation

Of concern also to WAPOU would be the suggestion that there is any need for specific regulation of Industrial Relations in emergency services industries such as Police or Firefighting. We see no reason why the rights and responsibilities accorded to other trade unions should not be applied to workers in emergency services.

Union Right of Entry

The current provisions within the *Industrial Relations Act 1979* function very well in our experience. There has never been a dispute between WAPOU and the Department of Corrective Services regarding the unions right of entry. in this circumstance we believe that there is no driver for changer.

In summary WAPOU believes the current Industrial Relations system is effective and swift in dealing with disputes. We believe the current structure of awards and agreements has contributed to the efficient management of Industrial relations between WAPOU and the Department of Corrective Services.

Yours Sincerely

John Welch
Secretary