

# NewsExtra

29 November 2017

# VOTE NO

## TO THE EMPLOYERS' ENTERPRISE AGREEMENT

**In an unprecedented action, Catholic employers have circulated a proposed Enterprise Agreement (EA) to teachers and support staff across all 11 dioceses. Never before, anywhere in the country, have they proposed an agreement that is not endorsed by the Union.**

Our Union is proud of our agreement making, but even a good agreement is nothing if it cannot be enforced. The rules about how EAs are enforced have been changing and those rules have tipped the balance to the employer.

**The EA proposed by Catholic employers delivers all power to them. Vote NO in the employer EA vote between Tuesday 5 December and Monday 11 December.**

It is important that we send the strongest possible message to your employer in protest of their ongoing disregard for your industrial rights. Stop Work action has been called for four hours on the morning of Monday 4 December (the day before the employers' EA vote commences) for those schools that have the right to take protected action. A hundred new schools have just achieved this right and a record number of new members have joined the Union to join the campaign.

## Still No Arbitration

**Without arbitration, the EA is not enforceable.**

The employers have not changed their position on arbitration. At a cursory glance it may look like they have because the clause in the EA says:

- 44.3** The parties may agree on the process to be utilised by the FWC including mediation, conciliation and arbitration.
- 44.4** Where the dispute remains unresolved, the FWC may exercise any method of dispute resolution permitted by the Act that it considers appropriate to settle the dispute.

**However, the legal interpretation of this clause is that arbitration is NOT permitted unless employers agree.** A decision in another industry has interpreted a clause similar to our clause as meaning the FWC could only arbitrate with employer consent. This interpretation was argued by Catholic employers for the first time in March this year and re-iterated in late June as their position.

To fix this problem, the clause should simply have words to the effect that **if the dispute remains unresolved, the FWC may arbitrate the dispute and make a determination that is binding on the parties.**

As the Union has previously said, the clause itself has not changed but the legal interpretation has.

If there is no right of arbitration by the FWC, the only way to enforce the EA is by members taking stressful and expensive cases in the Federal Circuit Court. Many provisions of the EA could not be enforced there in any case.

**Once the right of arbitration is lost, it is gone forever.**

## Arbitration is not the only issue

### Work Practice Agreements Wiped Out

Since the late 1990s the Union has had signed Work Practice Agreements (WPAs) with dioceses setting out agreed guidelines on matters such as RFF in primary schools, release for Coordinators, class sizes, practical class sizes, etc. These cover conditions crucial to the ordinary work of teachers. The current EA refers to each WPA by name and we were able to enforce the WPAs by notifying disputes about breaches to the Fair Work Commission (or before that, the state tribunal), that could be arbitrated.

The progress the Union has made in negotiations this year for new improved WPAs has been sabotaged in the Employer EA that defines WPAs as meaning the old versions, that in some cases date from 2000. The EA also states that these old WPAs may be amended or replaced, without any reference to the Union

### Problems in the Canberra and Goulburn Archdiocese

Outstanding issues include

- The new EA requires teachers in ACT Catholic systemic schools to attend school for two more days each year than teachers in ACT government schools. This requirement will also affect support staff
- For teachers in the ACT, the only future pay rise guaranteed is for April 2018, with future pay rises tied to unknown public sector outcomes. If the Archdiocese fails to deliver there is no umpire.
- The tenure of Coordinators and Assistant Principals remains under threat with Principals able to call a spill without any reason after the incumbent has been in the position for 10 years

### Faster progression on the teacher scale fails to deliver

In earlier propaganda, in response to Union claims, the employers promised teachers could benefit from "accelerated pay progression". However in reality very few teachers will benefit and the package does not match that of teachers in government schools:

- Teachers employed before 2014 will now progress up the scale one step more quickly, however this will only benefit teachers currently on Step 10 or below and there will be limited back – dating. Most teachers will not benefit from this change.
- Overseas teaching service will be recognised, but teachers will need to have at least five years overseas service for it to count. In government schools all overseas service counts.
- Child rearing will be recognised for the first time on the standards pay scale, but experienced teachers who have had time out for child rearing out are still trapped in Band 1.
- Employers previously offered "salary matching" – that is, if you had been paid a higher rate at another school in the last five years you could apply to match that rate. This offer has now been withdrawn even though it is part of the teacher pay deal for government schools.

### Still Large Classes in Sydney Catholic Schools

A key issue raised by our members in Sydney has been primary class sizes, and in particular the large number of classes with up to 34 students, including in kindergarten. Class sizes in Sydney are the largest in Australia, yet Sydney Catholic Schools has refused to reduce or phase out the number of such classes.

### Employers use pay rise for blackmail

Catholic employers are threatening employees that you will not receive a pay rise in 2017 if you vote NO. Employers acknowledge the pay rise is due - colleagues in government schools have received their pay rise with improved conditions and a right to arbitration intact.

Why punish employees because they seek a right promised by Catholic social teaching? In 1993 the Australian Bishops endorsed the following statement by Pope John Paul II:

**"Australia has a long and proud tradition of settling industrial disputes and promoting co-operation by its almost unique system of arbitration and conciliation. Over the years this system has helped to defend the rights of workers and promote their well being, while at the same time taking into account the needs and the future of the whole community".**

Instead Catholic employers are threatening to withhold pay rises to long-standing employees retiring at the end of this year who seek to maintain the right of arbitration. This is unconscionable and employers must be condemned for their betrayal of the rights of workers.

# VOTE NO TO THE EMPLOYERS' EA

# The VOTE on the EMPLOYERS' EA

Please ensure all teachers and support staff (including casual employees) vote NO to the Employers' EA. You may wish to call a Chapter meeting (and invite non members) to make sure all members of staff are aware of the issues. Don't leave this to your colleagues - decisions are made by those who vote!  
Once the right of arbitration and the Work Practice Agreements are lost, the Union will be unable to recover these rights.

## Schools that have not voted for protected action

A minority of schools are unable to take protected action. **Members in these Chapters also support the Union's vote NO campaign and should meet to pass the following motion on Monday 4 December. Members may wish to wear red on the day in support of our campaign.**

### Motion:

This Chapter at .....  
**condemns the Employers' EA that has not been endorsed by the Union. We urge all employees, including those who are not Union members, to vote NO.**

Yes

No

Please email a copy of the motion to the Union at [ieu@ieu.asn.au](mailto:ieu@ieu.asn.au) or fax to 9211 1455 (toll free 1800 804 042) on Monday 4 December. You may also wish to send a photo of your Chapter voting NO to [publications@ieu.asn.au](mailto:publications@ieu.asn.au) so it can be added to the IEU Facebook page or website. Please include the name of your school.

## Schools that have voted for protected action

In order to show your outrage to your Diocesan Director, the Union is calling on all members in Chapters who have successfully carried protected action ballots to stop work on Monday 4 December 2017 and attend your rally. Support the huge number of your colleagues now engaged in this fight.

**The stop work will be from the usual time of commencement of duty for four hours.**

The Union has given notice of the stop work to your employer – either on 4 December or the date agreed with the Union for your Chapter. Details of the location of stop work meetings will be sent to all Reps and will be on the Union website [www.ieu.asn.au](http://www.ieu.asn.au).

**Maximum participation in the stop work is crucial**

# VOTE NO TO THE CATHOLIC EMPLOYERS' EA



Authorised by John Qessy, Secretary, Independent Education Union of Australia NSW/ACT Branch  
The Briscoe Building 485 - 501 Wattle Street ULTIMO NSW 2007  
P 02 8202 8900 | F 02 9211 1455 | E [ieu@ieu.asn.au](mailto:ieu@ieu.asn.au) | [www.ieu.asn.au](http://www.ieu.asn.au)