Facilitating Productive Workplace Cooperation

A case study of Sydney Water and the ASU Water Division

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Sydney Water has been providing drinking water, wastewater, recycled water and some stormwater services to Sydney since 1888. It became a state-owned corporation in 1994. Since then, it has been under increasing pressure not only to provide these public services but to do so with greater efficiency.

As a state-owned corporation, Sydney Water is governed by a Board of Directors, appointed by the NSW Government. Day-to-day management is led by a Managing Director (MD).

There were several trade unions at Sydney Water, although by far the most important and the key one to the transformation was the Water Division of the NSW Branch of the Australian Services Union (ASU). This union claimed an 87% unionisation rate amongst eligible workers, widespread support from workers (acknowledged by managers and union officials alike) and strong workplace organisation through an extensive delegate structure.

Conflict and Resistance to Change
The period between 2006 and 2012 was characterised by conflict and adversarial—indeed antagonistic—relationships between managers, employees and unions at Sydney Water. Impelled to meet external expectations, managers claimed they were impatient for organisational and workplace change. Long-standing employees, alienated by years of change, responded negatively and resisted further change.

The myriad of disputes, large and small, also resulted in many visits to the Commission. Most of these matters required multiple hearings. The Commission became an arena in which many battles were fought. As the ASU Secretary reflected:

‘The amount of time that we used to spend in the Commission... [they] may as well have been our full-time Commissioners, because that’s where we lived. We couldn’t resolve anything, everything was a total disaster.’

Apart from disputes over disciplinary actions, including the attempted dismissal of several union delegates, most of the disputes during 2010–2012 were over ‘rights’ under the 2009 Enterprise Agreement. They were part of a predictable cycle of ‘persistence and resistance’ or ‘propose and oppose’. Frustrated managers resorted to the exercise of unilateral decision-making, wherever possible within the constraints of the enterprise agreement, and the cycle continued. One manager called it a ‘conflict model’.

In 2012, these pressures escalated through a combination of factors including, outsourcing of a maintenance function, benchmarking operational costs at Sydney Water with private sector counterparts, future maximum prices imposed by the Independent Pricing and Regulatory Tribunal and pressure from the New South Wales Government to commit to budgets.

The Sydney Water Enterprise Agreement 2009 expired on 30 June 2012. Preparations by both management and union and the early negotiations between them progressed in the same hostile manner as previous years. Indeed, conflict quickly escalated, partly because of the slow progress of negotiations and partly because management moved to terminate the redundancy and re-deployment provisions of the old agreement.

The ASU mobilised a highly effective campaign, including bans, public protests and, after successful ballotig for protected industrial action in June, short strikes and threats of more to come. As the ASU Secretary explained:

‘... it was a classic re-run of [the disputes of the past], but probably times ten! We’d been on strike four times. We had work bans going all over the place that were the costing the Company a lot. We had trucks driving around Sydney with big stickers around them saying that the Government was cutting our jobs and the services of the people of Sydney. We had mass meetings all the time. The temperature was very high.’

Sydney Water’s Managing Director acknowledged the impact of the campaign:

‘So, it was mounting up in terms of really costing us millions of dollars. Relationships were diabolically poor.’

In mid-July, the NSW Premier issued a public warning to the unions not to ‘engage in industrial thuggery’ because they risked the outsourcing of services to the private sector.

The Turning Point
In early August, the new MD—who had until then remained ‘hands-off’, in line with previous practice—decided to adopt a different approach and announced to a meeting of his Executive:
‘Look, I’ve come to the conclusion that it’s time to inject myself into this discussion, into these negotiations… I just don’t see a breakthrough in what we’re doing.’

At the same time, the union leaders decided they might ‘win the battle, but lose the war’ if both sides continued their traditional adversarial strategies. Jointly they approached the Commission.

Initial informal discussions between the MD and the Secretary were facilitated by Deputy President Booth, of the Commission, who had recently heard several matters involving disputes at Sydney Water.

A series of discussions ensued in which DP Booth encouraged the leaders on both sides to talk about ‘common goals’ and about ‘what you believe in for the future, rather than what you don’t agree with’. They discovered considerable areas of agreement, not least they agreed that ‘there’s got to be a better way’ to manage Sydney Water than the traditional approach.

The MD said, ‘it was the first time I ever had an honest conversation with [the ASU Secretary], or with any union official, about what we both cared about. The ASU Secretary said they applied a ‘sort of interest-based approach to it, to work our way forward’: ‘And we did that on the basis that—fairly rapidly actually … I believed him when, in our discussions, he also said that he wanted to change the way that we did things.’

Improved trust flowing from these discussions allowed the expansion of the talks to include a wider range of senior managers and union officials, the sharing of new information:

‘For the first time, we put honest figures on the table; like the benchmarking from the private sector in Victoria that were doing similar work. It was undisputed that these were the right figures and that there was a gap [between Sydney Water and the benchmarked organisations].’

Ultimately, there was agreement that change was needed, especially within Civil Delivery. The final form of the changes involved compromise on both sides, on issues like amended redundancy and re-deployment provisions and on rosters and shift changes. Both sides then joined together in a ‘road show’ to depots to persuade union members to accept the agreed changes.

These meetings involved difficult discussions described by one interviewee as ‘...hot meetings, with hot conversations’.

However, these meetings were also considered a turning point. One union official described the process as facilitating trust between management and delegates:

‘I think at that point there was a turnaround in that the members, starting with the delegates, began to have a sense of trust about there being a genuine desire on the part of the senior leadership at Sydney Water to bring about a change in culture, so there could be a real dialogue established between the ASU, as the workers’ representative, and the employer.’

The new three-year Sydney Water Enterprise Agreement 2012 was endorsed by a mass meeting of ASU members at Parramatta Stadium on 9 November and then in a formal ballot of all employees. It was then lodged with the Commission and approved on 30 January 2013.

THE DEVELOPMENT OF COOPERATION

The settlement and approval of the enterprise agreement was only the first step towards more cooperative employment relations at Sydney Water. As the ASU Secretary said:

‘Anyway, we settled the agreement. There’s a lot that could be said about that, but the main thing about all of this is what happened next, because we’ve settled agreements before but we’ve not changed a relationship.’

More remarkable was a series of initiatives over the period between November 2012 and late 2013 in which managers, employees, union delegates and union officials worked together—with significant guidance from DP Booth—to develop genuinely cooperative behaviours, structures and relationships.

Memorandum of Agreement

A Memorandum of Understanding (MoU) was signed by the MD and ASU Secretary on the 6th of November 2012. This two-page document was a formal attempt to record the principles underlying the new cooperative relationship between the enterprise and the union. It began with the statement:

‘The parties recognise that, to compete, Sydney Water needs a highly motivated workforce, enabled by systematic trust and fairness’.

This was followed by nine ‘guiding principles’ by which this goal would be achieved in the organisation as a whole and then a separate section on Civil Delivery. The need to recognise each other’s interests, to consult and to use negotiations to achieve mutually acceptable solutions were consistent themes.

The First Leadership Conference, March 2013

DP Booth encouraged the parties to consider how to implement both the MoU and the EA and deepen the new-found spirit of cooperation. The danger, she said, was often that initial cooperation in bargaining was not developed further:

‘… the usual take-off point for parties to embrace interest-based processes and interest-based thinking, mutual gains thinking, is enterprise bargaining. [But] … it’s typical… that you have a positive experience that is not carried into the whole relationship between the parties or into areas of consultation that aren’t necessarily about terms and conditions of employment… And if it’s not carried into that sphere, then it lapses. And because bargaining occurs in a cycle, by the time the next cycle comes
around, different people are involved and there isn’t necessarily an appetite to repeat the process that went before.’

The first step in deepening cooperation at Sydney Water was a two-day, off-site, live-in conference held on 19 and 20 March 2013. It was attended by 25 leaders on both sides (including senior managers, union officials and senior delegates) and facilitated throughout by DP Booth.

The proceedings were informed by an interest-based philosophy, with agreed behavioural rules at the beginning and an emphasis on openness and honesty. The first day began with presentations by both the MD and the Union Secretary. This ‘… gave space for them to input their perspectives to the whole group on where they’d come from and where they wanted to go’. The presentations were then discussed separately by management and union groups. The two groups came together to discuss shared objectives, whilst recognising different and sometimes competing interests. The agreed shared objectives were then grouped and prioritised.

This first day was particularly confronting to some of the participants, both professionally and personally, because it forced them to reconsider their previously accepted assumptions about how they work and to cooperate with people they had been fighting with—sometimes hating—for many years. One union representative’s account illustrates the challenges of this process but also and the parties’ commitment to change: ‘… this wasn’t easy, this was really hard… At this table, we all had to sit together and he [the unionist’s nemesis] came over and sat right next to me. I thought, “you bastard”. Anyway, he sat right next to me, he shook everyone’s hand and he came to shake my hand. And I said, “right oh”, and I shook his hand. And I said, “this has been one of the hardest things I’ve had to do, but I’m doing it because we’re moving forward.”’

After this fairly cathartic exercise—‘laying bare our woes’, as one participant put it—the second day of the conference focused on the future and new decision-making processes. Specific task groups (all with members from both sides) were allocated one objective each to discuss in depth, developing process solutions and identifying the potential for ‘quick wins’. A final plenary session developed an agreed organisational plan, specifying actions, resources, timelines and monitoring mechanisms for advancing each of the priority objectives.

All participants in the conference who were interviewed considered it an extremely valuable exercise, serving to break down barriers between ‘them and us’, dealing with problems of the past but positively facing the future. Much of this was attributed to the role played by DP Booth:

‘She got us all together… There was no way either side was going to negotiate or try and work out a meeting like that; it was never going to happen. She made it happen and she steered it that day… She actually made people sit up in their seats and take part.’

Over subsequent months, the working parties established at the conference continued working within this co-operative framework to address their respective tasks, proposing agreed solutions and working to implement them. Their achievements, which were reviewed in an organisation-wide leadership conference in March 2014, reinforced the growing sense of cooperation between the parties.

DP Booth also facilitated a leadership conference specifically for Civil Delivery in May 2013, which was similarly successful.

**New Consultative Processes for Workplace Change**

Just as important to the development of cooperation was a range of new consultative mechanisms established at different levels within Sydney Water. At the top, the MD agreed to attend two meetings each year of the ASU’s Committee of Management, while the ASU Secretary attended two meetings each year of Sydney Water’s Executive. More informally, the two leaders had established a relationship that allowed them to contact each other whenever issues arose.

Within Civil Delivery, a ‘large’ consultative group was established, where managers met with all delegates in quarterly meetings. There was also a smaller ‘working group’, involving monthly meetings between six delegates (i.e., two delegates from each of the three geographical regions) and divisional managers, which proved especially effective in identifying potential operational problems and resolving them before they became formal disputes. A monthly ‘road show’ also emerged in which managers addressed employees at different locations with union officials in attendance.

these formal processes were complemented by more informal relationships whereby managers were increasingly comfortable contacting their counterparts in the union to discuss matters at any time. Perhaps most remarkable, and effective, of all was the development of a new consultation mechanism for the introduction of workplace change. The ASU Assistant Secretary called it a ‘pre-consultation model’, whereby managers committed to discuss workplace problems that they planned to address with union officials and delegates before a formal change proposal was developed and before they initiated the formal consultation process specified in the EA.

This new ‘model’ was subsequently used in a large number of change projects, including the implementation of new shift patterns in Civil Delivery, and the restructuring of the procurement and the business and strategy divisions. As one senior manager explained:

‘…from my perspective, this process delayed what I was trying to do with Civil… [but] it delivered a lot more… more than we would normally have ended up with… by going to Fair Work issue by issue. And it’s also delivered much more reliably, because we were able to implement things… When we got to the shift pattern, we started establishing a new way of working: a new efficiency and productivity model and a new delivery process.’

This new cooperative model for implementing change was developed and implemented without the direct involvement of DP Booth, but the Commission continued to perform an additional role, which was illustrated when Sydney Water and the ASU reached an impasse in March 2014 over the conditions under which employees would be transferred/appointed in a restructured Information Technology (IT) division. Despite the more cooperative relationships within the organisation, the disagreement continued into late May and threatened to spill over into a formal dispute notification to the Commission. The union, however, requested ‘… the matter be addressed through an informal interest-based resolution process’. DP Booth met with the parties and informal discussions resolved the disagreement.
The outcomes of the new cooperation at Sydney Water were tangible and widespread. There was, for example, no doubt amongst interviewees that inter-personal relationships as well as union-management relations were much improved, resulting in Sydney Water being a better place to work. As one manager put it:

‘… it’s a much better work environment when managers and staff feel that they can discuss things… there’s an intent to negotiate. There’s not agreement on everything, but there’s a different way of working which is real and is part of the business now. From my perspective, it means we can be much more effective. It’s a much more pleasant, satisfying job.’

A union official made similar observations:

‘The real success of Sydney Water is how the culture of work has changed away from a culture where people hated working there and they hated their managers…. [For example, I witnessed…] a conversation that happened earlier this week, where managers wanted to change the rosters, and the workers are now drafting the rosters for the managers. People actually like going to work. Of course, they still have a blue every day, but we’ve really changed the culture of the workplace.’

From the employee’s perspective, wage rates and conditions generally remained good, with the wage increases in the 2012 EA above the state government maximum because of cost reductions. At the same time, many employees in Civil Delivery saw significant declines in take-home pay because of new shift arrangements. These were accepted in return for job security—the retention of in-house (as opposed to outsourced) delivery was a major motivator and achievement for employees and the union. There were also remarkable improvements in safety performance over the period, with injury frequency rates declining from over 80 per month to below 20.

Management’s objectives for the organisation were largely achieved. Customer satisfaction actually improved beyond already high levels during 2013 and 2014. Productivity increased significantly, while the cost reductions demanded by IPART and promised to the government were, as the MD explained, on the way to be achieved:

‘… we got approval from the New South Wales Government [to retain in-house delivery of Civil], but… our civil workforce had to equal the lowest cost provider of services in Australia within three years… That was a 18.5% reduction [in costs] that they had to achieve…. Their performance has been fantastic. We’re two years into [the 3-year program] and we’ve achieved 12%, with the plan to get to 19.1 by the end of next year, instead of 18.5.’

The remarkable transformation at Sydney Water from ‘an organisation at war’ to widely accepted cooperation was driven by the conscious decisions of the leaders of Sydney Water and the ASU—as well as managers, employees and their delegates—to embrace change. That these radical changes occurred in the face of serious external threats does not take away from the courage and determination that was required.

It was widely acknowledged by interviewees, however, that the transformation at Sydney Water could not have occurred without the assistance of the Commission. This assistance came in several ways, some of which were in keeping with the conventional role of tribunals in Australia. For example, the resolution of the dispute over enterprise bargaining in August-September 2012 came largely through conciliation, albeit of a more informal kind than the parties were familiar with. The mediation of the dispute over restructuring of the IT division in mid-2014 involved a similar process, although discussions between the parties were conducted at ASU Headquarters in Redfern after work hours.

Other aspects of the Commission’s role at Sydney Water were less conventional. For example, DP Booth worked as a kind of advisor or counsellor to the MD and the ASU Secretary, separately and together, as well as to many other managers and employees of Sydney Water. Her facilitation of the leadership conferences was especially novel—she became a trainer and a coach, imparting knowledge and developing skills, as well as chairing discussions and coaxing more cooperative behaviours.

In performing these roles, DP Booth displayed personal qualities and skills that were well appreciated by the parties, but interviewees consistently argued that her position, as a Deputy President of the Commission, was vital. One delegate, for example, said that the respect she commanded came from:

‘… just knowing her position. Knowing that this is Deputy Commissioner Booth, and she’s part of Fair Work Australia, and she’s the one who presides over us any time we have a dispute…’

In the same vein, one manager stated:

‘I think it’s not just her personal qualities but the institution of the Commission as well that is relevant, in terms of having that trust and faith in the person coming to assist you.’
This case study is part of a larger project led by Johanna Macneil, Mark Bray, Andrew Stewart and Sarah Oxenbridge, and supported by the Fair Work Commission. This short version of the case study summarises a much longer report, prepared by Mark Bray. The report draws on data from interviews and documents. With respect to the former, a total of 19 face-to-face semi-structured interviews were conducted with Sydney Water managers and ASU delegates and officials. The interviews were conducted in August and October 2014; most lasted between 45 and 90 minutes and all were digitally recorded and professionally transcribed. A collection of documents was made available by Sydney Water and the ASU, while publicly-available documents were also used.

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