



Australian Government
Australian Public Service
Commission

Australian Government Public Sector Workplace Bargaining Policy

*Effective leadership Diverse workforce Capable organisations and workforce **Employee conditions** APS Values*



March 2014

Intentionally blank

Australian Government Public Sector Workplace Bargaining Policy

Contents

Introduction	3
Definitions	5
Australian Government Public Sector Workplace Bargaining Policy	6
Supporting Guidance	
Part 1 - Employment Arrangements	11
Part 2 - Affordability and Funding	14
Part 3 - Remuneration and Productivity	16
Part 4 - Employment Conditions	20
Part 5 - Employee Relations	26
Part 6 - Performance Management	27
Part 7 - Enterprise Agreement Content	29
Part 8 - Approval Requirements for Enterprise Agreements and Other Collective Arrangements	32
Attachment A - Remuneration, Funding and Productivity Declaration	
Attachment B - Core Australian Public Service terms and conditions of employment	
Attachment C - Supporting the release of community service volunteers and Defence Reservists	

Introduction

The Australian Government has agreed that the following policy arrangements will apply to the Australian Public Service (APS) and non-APS Australian Government agencies, including Members of Parliament Staff. This document supersedes both the Australian Public Service Bargaining Framework published in January 2011 and the Australian Government Employment Bargaining Framework published in September 2009.

Ministers will direct (or where they are not able to direct, strongly encourage) the non-APS agencies in their portfolios, including Government Business Enterprises, to apply the same policies that apply to the APS, so far as this is practical within the context of operations.

These arrangements exclude the Australian Defence Force.

Agencies' responsibilities

Agency Heads are responsible for managing workplace relations matters in their agency, including enterprise bargaining, in a manner consistent with relevant Commonwealth legislation, this policy and other relevant Australian Government policies.

When bargaining for enterprise agreements, agencies must not reach agreement, including 'in-principle agreement', with bargaining representatives on any matter that is inconsistent with Government policy unless the agency Minister and Public Service Minister have granted an exemption in relation to that matter. Where an agency holds discussions with, or responds to, proposals by bargaining representatives, in respect of such matters the agency should advise the bargaining representatives that it cannot reach agreement in relation to those matters without first obtaining the approval of the Ministers.

Agencies will give genuine consideration to all matters under negotiation; supported by the approval processes set out in this policy.

Agency Heads will be accountable for ensuring that their agencies comply with this policy.

Partnership with the Australian Public Service Commission

The Australian Public Service Commission (APSC) provides support and advice to agencies on the Australian Government's employment and workplace relations policies in order to promote effective agreement making across the sector. In addition to the service provided to agencies by the APSC, the APSC requests that agencies:

- respond to requests made by the APSC within a timely fashion;
- advise the APSC about any significant workplace relations matters; and
- provide data to the APSC as requested to assist with workforce reporting requirements.

Legal Advice

The Department of Employment is the administering department for the *Fair Work Act 2009* (Fair Work Act). Agencies are reminded that, under clause 10 of the Legal Services Directions, the Department of Employment should be given the opportunity to be consulted on any request for legal advice on the interpretation of the Fair Work Act, as well as given requests for and copies of such legal advice. Copies of legal advice on the Fair Work Act should be provided to:

Chief Counsel
Workplace Relations Legal Group
Department of Employment
GPO Box 9880
CANBERRA ACT 2601

Given the APSC's role in Australian Government workplace relations, agencies are requested to provide copies of any legal advice sought on the Fair Work Act, *Public Service Act 1999* (Public Service Act), *Long Service Leave (Commonwealth Employees) Act 1976* and *Maternity Leave (Commonwealth Employees) Act 1973* to:

Legal Adviser
Australian Public Service Commission
16 Furzer Street
PHILLIP ACT 2606

Interpretation and Definitions

In this policy:

- The 'Public Service Minister' is the Minister Assisting the Prime Minister for the Public Service;
- The 'agency Minister' in relation to an Australian Public Service (APS) agency is that APS agency's Minister;
- The 'agency Minister' in relation to a non-APS agency is that non-APS agency's Minister;
- 'The Ministers' refers to the Minister Assisting the Prime Minister for the Public Service and the relevant agency Minister.

The paragraphs marked with an asterisk (*) are only applicable to APS agencies and/or the parliamentary departments as indicated.

Definitions

ACT Public Service	Australian Capital Territory Public Service
Agencies	Any Australian Government employer (APS and non-APS), including Members of Parliament Staff, excluding the Australian Defence Force
APS	Australian Public Service
APS agency	An agency that employs employees under the <i>Public Service Act 1999</i>
APSC	Australian Public Service Commission
APS Code of Conduct	The APS Code of Conduct is at section 13 of the <i>Public Service Act 1999</i>
APS Employment Principles	The APS Employment Principles are at section 10A of the <i>Public Service Act 1999</i>
APS Values	The APS Values are at section 10 of the <i>Public Service Act 1999</i>
Broadband	A grouping of duties across numerous classifications
Classification Rules	Public Service Classification Rules 2000, made under subsection 23(1) of the <i>Public Service Act 1999</i>
Commissioner	Australian Public Service Commissioner
Commissioner's Directions	Australian Public Service Commissioner's Directions 2013
Fair Work Act	<i>Fair Work Act 2009</i>
Fair Work Regulations	<i>Fair Work Regulations 2009</i>
LSL Act	<i>Long Service Leave (Commonwealth Employees) Act 1976</i>
Maternity Leave Act	<i>Maternity Leave (Commonwealth Employees) Act 1973</i>
NES	National Employment Standards in the <i>Fair Work Act 2009</i>
Non-APS agency	A Commonwealth authority or Commonwealth company that engages employees under its own enabling legislation
Public Service Act	<i>Public Service Act 1999</i>
SES	Senior Executive Service
'The Ministers'	The Minister Assisting the Prime Minister for the Public Service and the relevant agency Minister
Workplace arrangement	A common law agreement, enterprise agreement or a determination, including Public Service Act determinations or workplace determinations made under relevant employing legislation

Australian Government Public Sector Workplace Bargaining Policy

1) Employment Arrangements

- 1.1 Terms and conditions of employment for non-Senior Executive Service employees should be set out in enterprise agreements at the APS agency level, unless otherwise agreed by the Ministers.*
- 1.2 Enterprise agreements should be at least three years' duration.
- 1.3 APS agencies are required to maintain classification structures and work level standards consistent with the APS Classification Rules issued under the *Public Service Act 1999*, as updated periodically.*

2) Affordability and Funding

- 2.1 Improvements in pay and conditions are to be funded from within existing budgets, without the redirection of programme funding.
- 2.2 If the total cost of a proposed agreement is not affordable within an agency's existing budget, the Ministers must not approve the agreement.

3) Remuneration and Productivity

- 3.1 Agencies can only negotiate remuneration increases which are affordable, consistent with Australian Government policy, and offset by genuine productivity gains which satisfy the Australian Public Service Commissioner.
- 3.2 Agency Heads are accountable for ensuring that the annual remuneration increases for senior executive employees are consistent with Australian Government policy.
- 3.3 Remuneration increases should apply prospectively unless exceptional circumstances apply and have the approval of the Ministers.
- 3.4 Sign-on bonuses should not be offered during bargaining unless approved by the Ministers.
- 3.5 Existing pay scales should not be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.

- 3.6 Changes to incremental salary arrangements may be counted as productivity improvements where they result in cashable savings. Such changes may include more rigorous rules covering advancement of employees to higher increments.

4) Employment Conditions

- 4.1 Core APS terms and conditions of employment should not be enhanced unless otherwise approved by the Ministers.*
- 4.2 In recognition that the new Australian Government scheme will apply to all Commonwealth agencies, agencies should not seek to vary current paid parental leave entitlements, pending commencement of the new scheme.
- 4.3 Under legislated provisions, APS agencies and the parliamentary departments will ensure the portability of accrued paid leave entitlements where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.*
- 4.4 Long service leave should only be granted in blocks of at least seven calendar days per occasion and should not be broken by other forms of leave.
- 4.5 Workplace arrangements should incorporate leave provisions that support the release of community service volunteers for emergency services duties and Defence Reservists for peacetime training and development.
- 4.6 APS agency workplace arrangements should include compulsory redeployment, reduction and retrenchment arrangements for employees identified as excess to requirements.*
- 4.7 Redundancy provisions, including severance pay and retention periods, should not be enhanced beyond existing arrangements, unless otherwise required by legislation, or approved by the Ministers.

5) Employee Relations

- 5.1 All arrangements will comply with relevant legislation, this policy and other relevant Australian Government policies.
- 5.2 The right for an employee to belong to a union will be respected, as will the right for an employee not to belong to a union.
- 5.3 Agencies should make provision for consultative arrangements with employees (and where employees choose, their representatives) regarding employment and employee relations matters.

6) Performance Management

- 6.1 It is expected that all employees (other than probationary employees) will have a formal annual performance agreement in place which clearly identifies key performance expectations and related indicators of performance and the required workplace behaviours expected of the employee, and contains learning and career development goals.
- 6.2 Performance management clauses in enterprise agreements should contain clearly defined principles and entitlements. Any procedural or descriptive content should be confined to policy documents outside of an enterprise agreement.
- 6.3 An employee is not to advance through a classification or broadband pay scale if they have not performed at a satisfactory level at a minimum.

7) Enterprise Agreement Content

7.1 Enterprise agreements should:

- a. Be streamlined, clear and easy to read and contain clauses that either:
 - i. are required by legislation and support the effective operation of the instrument; or
 - ii. provide entitlements to employees; and
 - iii. do not impose restrictive work practices and other arrangements that confine the operations of the agency, or in the case of the APS, the Service as a whole, or curb the effective operation of legislation.
- b. Include:
 - i. a dispute resolution term equivalent to the model term in the Fair Work Regulations;
 - ii. a consultation term equivalent to the model term in the Fair Work Regulations; and
 - iii. an individual flexibility term that allows employees to enter individual flexibility arrangements in respect of certain listed matters. Agencies are encouraged to bargain for a broader range of matters over which employees can enter into individual flexibility arrangements.

c. Not include:

- i. unlawful and/or objectionable terms as outlined in the *Fair Work Act 2009*;
- ii. terms that contradict, alter or limit the effect of provisions in the *Public Service Act 1999* or relevant employing legislation.

7.2 Agencies must not supplement or enhance the right of entry provisions in the *Fair Work Act 2009*.

8) Approval Requirements for Enterprise Agreements and Other Collective Arrangements

8.1 Agencies are expected to comply with any instructions issued by the APSC in relation to this policy.

- a. Agencies must not offer a proposed remuneration increase until the Australian Public Service Commissioner is satisfied that proposed remuneration increases are affordable and offset by genuine productivity gains, in consultation with the Secretary of the Department of Finance.
- b. Before making any wages offer, an Agency Head must be satisfied that the proposed remuneration increases, and any other enhancements to terms and conditions which have a fiscal impact, are affordable from within existing and known future budget allocations and would not require the diversion of programme funds or additional supplementation.

All agreements proposing remuneration increases need to be supported by the agency's Minister. Where the Department of Finance and/or the APSC indicates that it considers an agency's proposed workplace arrangement is not affordable or not supported by appropriate productivity gains, the agency must revise the proposal to ensure it is affordable.

- c. Agencies are not permitted to reach agreement, including 'in-principle agreement', with bargaining representatives on any matters that are inconsistent with Government policy unless the Ministers have approved exemptions in relation to those matters.

At the conclusion of bargaining

- d. A draft enterprise agreement, or other collective arrangement, must be provided to the APSC for assessment against Government policy prior to an agency seeking the Ministers' approval of the agreement. Such drafts are to be accompanied by a Remuneration, Funding and Productivity Declaration signed by the Agency Head.

- e. Agencies will be required to provide the APSC with evidence that the proposed agreement has met the Government's policy objectives, including:
 - i. the total cost of the proposed agreement;
 - ii. productivity initiatives arising from the agreement; and
 - iii. the extent to which objectives relating to the removal of restrictive work practices and the maintenance of the core APS terms and conditions of employment have been met.

8.2 The Ministers' approval of the agreement must be received before the agreement is put to a vote of employees.

AUSTRALIAN GOVERNMENT PUBLIC SECTOR WORKPLACE BARGAINING POLICY

SUPPORTING GUIDANCE

Part 1 – Employment Arrangements

- 1.1 Terms and conditions of employment for non-Senior Executive Service employees should be set out in enterprise agreements at the APS agency level, unless otherwise agreed by the Ministers.*
- 1.2 Enterprise agreements should be at least three years' duration.
- 1.3 APS agencies are required to maintain classification structures and work level standards consistent with the APS Classification Rules issued under the *Public Service Act 1999*, as updated periodically.*

1.1 Non-Senior Executive Service terms and conditions

- 1.1.1 It is Australian Government policy that terms and conditions for non-Senior Executive Service (SES) employees are negotiated separately by each agency in an enterprise agreement made under the Fair Work Act.
- 1.1.2 Where the relevant enterprise agreement does not provide arrangements suitable for an individual employee, an agency may make an individual flexibility arrangement with the employee to vary the necessary terms of the enterprise agreement in relation to that employee pursuant to the applicable flexibility clause. All individual flexibility arrangements must comply with legislative requirements, including meeting the Better Off Overall Test.
- 1.1.3 The Fair Work Act requires an individual flexibility term to be included in an enterprise agreement. An employee and employer may enter into an individual flexibility arrangement to trade off certain terms and conditions of employment, as outlined in the relevant enterprise agreement, in exchange for other benefits, providing the employee will be better off overall against the enterprise agreement.
- 1.1.4 An APS agency's flexibility term is expected to be the sole mechanism for providing additional or different terms and conditions to those otherwise available through an enterprise agreement for individual non-SES employees. Individual determinations made under the Public Service Act, or other employing legislation, or supplementary common law arrangements, should not be used to set terms and conditions for non-SES employees unless required in exceptional circumstances and such practices have been agreed to by the Ministers. Agencies wishing to adopt alternative arrangements should consult with the APSC in the first instance.

1.2 Duration of enterprise agreements

- 1.2.1 An enterprise agreement should be at least three years' duration from the date of commencement. Agencies may bargain a longer agreement up to the legislated maximum of four years from the date of commencement.

1.3 Compliance with Classification Rules*

- 1.3.1 Section 23 of the Public Service Act provides the Australian Public Service Commissioner (the Commissioner) with the authority to make rules about the classifications of APS employees. The *Public Service Classification Rules 2000* (the Classification Rules) allow employees and their duties to be classified on the basis of work value and enable the grouping of classifications at comparable levels.
- 1.3.2 APS agencies must ensure that the classification structures contained in enterprise agreements and other industrial instruments are consistent with the Classification Rules. Approved classifications are only those that appear in Schedules 1 and 2 of the Classification Rules.
- 1.3.3 To promote consistency in classification management and work value across the APS, the Commissioner intends to amend the Classification Rules with effect from 1 July 2014. It is strongly recommended that agencies consult with the APSC for clarification on matters relating to the impending changes to the Classification Rules.
- 1.3.4 Agencies should seek to implement the revised requirements, which for some may require a change to the structure and operation of existing classification arrangements, as part of their agreements. In exceptional circumstances, the APSC may consider alternative arrangements, particularly where these arrangements form part of a transition strategy to fully comply with the requirements and principles outlined below.

Work level standards

- 1.3.5 As part of the recent APS Classification Review, new work level standards have been developed for the APS levels 1 to 6 and the Executive level 1 and 2 classifications. The Commissioner intends to make the new work level standards mandatory.
- 1.3.6 APS-wide work level standards, once incorporated into the Classification Rules, will be legally binding. It is therefore unnecessary for agencies to include references to work level standards (the APS-wide or existing agency standards) in enterprise agreements. Where agreements do contain references to work level standards, agencies must ensure that enterprise agreements not provide for other standards.

Training classifications

- 1.3.7 It is recommended that agencies specify remuneration levels for each of the Training Classifications specified in the Classification Rules even if all Training Classifications are not routinely used, to facilitate the engagement of trainees during the life of the agreement.
- 1.3.8 Agencies that facilitate advancement to a classification following a training program that is above the operational classification specified in the Classification Rules must conduct a detailed work value assessment against the higher classification using the APS work level standards and provide this to the APSC.

Broadbanding classifications

- 1.3.9 A local title can be given to a broadband in addition to the approved classifications being broadbanded. Agreements should be drafted in a way that allows the agency and employees to clearly identify, at any point in time, what approved classification each employee holds.

1.3.10 In establishing a broadband, agencies must take into account the APS Employment Principles relating to merit and community access to employment opportunities. To meet the intent of the APS Employment Principles, all new agency broadbands must be structured so there are at least two breaks between the APS Levels 1 to 6 that require an open, competitive selection process. For example:

- APS 1-3, APS 4-5, APS 6 or
- APS 1-4, APS 5, APS 6 or
- APS 1-2, APS 3-4, APS 5-6.

1.3.11 Broadbanding the Executive Level classifications is not appropriate due to the level of responsibility, management, leadership, complexity, judgement and accountability expected at these levels. As such, agencies are not permitted to introduce new broadbands that include the Executive Level 1 and Executive Level 2 classifications.

1.3.12 The three band classification framework for the SES cannot be broadbanded.

Minimum advancement requirements

1.3.13 As a minimum, each broadband must contain a number of 'barriers' which require an employee to meet specific training, development and performance criteria before they may advance to the next level in the broadband. Furthermore, an employee can only advance through the broadband where:

- a. sufficient work is available at the higher classification level; and
- b. they have gained the necessary skill and proficiencies to perform the more complex work; and
- c. performance is satisfactory.

Part 2 – Affordability and Funding

- 2.1 Improvements in pay and conditions are to be funded from within existing budgets, without the redirection of programme funding.
- 2.2 If the total cost of a proposed agreement is not affordable within an agency's existing budget, the Ministers must not approve the agreement.

2.1 Improvements in pay and conditions are to be funded from within existing budgets, without the redirection of programme funding

- 2.1.1 The Australian community expects to receive value for money in terms of efficient and effective public policy and public services, delivered at a reasonable cost. The cost of remuneration and other employee benefits represents a significant expenditure for Australian Government agencies. As employee costs are taxpayer funded, it is the Australian Government's expectation that agencies manage these costs carefully from within existing budget allocations, and do not make commitments which are unaffordable or out of line with community standards and expectations.
- 2.1.2 An agency must not make offers or agree to proposals unless relevant approvals have been obtained, and the Agency Head is satisfied that the proposals are affordable.
- 2.1.3 Improvements to pay and conditions must be funded from within existing agency budget allocations for the life of an enterprise agreement or other workplace arrangement. Agencies are to only offer proposals that are affordable taking into account factors such as any approved funding increases including annual indexation, the application of all efficiency dividends, known future costs and the long term impact of increases to superannuation and leave liabilities.
- 2.1.4 Agencies should ensure that they have a detailed understanding of the financial implications of any changes to remuneration or other terms and conditions being considered. To that end, agencies should undertake a detailed cost assessment of a proposed enterprise agreement, or other workplace arrangement, to ensure affordability of remuneration increases and other improvements to terms and conditions over the life of the proposed agreement. Agencies should also seek to assess any potential increases in costs from the flexibility clause and from the implementation of any incomplete reviews of terms and conditions contained within the agreement, or reviews to be completed within the life of a new agreement.

No redirection of programme funding

- 2.1.5 Agencies are not to assign funding from agency programmes and initiatives to fund improvements in employee terms and conditions. Other offsets to fund improvements are not to result in reductions in output or services, or increases in charges.

Certification and assessment of affordability

- 2.1.6 A detailed affordability assessment will be conducted in relation to any proposed remuneration increases. This process is detailed at Part 3.
- 2.1.7 At the time of seeking final assessment and approval of the proposed agreement, agencies must provide the APSC with certification from the Agency Head of the affordability of the proposed agreement.

- 2.1.8 Notwithstanding this, any proposed agreement may be subject to enhanced scrutiny by the Department of Finance in relation to affordability, where the APSC considers that a referral to the Department of Finance would be appropriate.
- 2.2 If the total cost of a proposed agreement is not affordable within an agency's existing budget, the Ministers must not approve the agreement.**
- 2.2.1 Where the Department of Finance and/or the APSC indicates that it considers an agency's proposed workplace arrangement is not affordable, the agency must revise the proposal to ensure it is affordable.
- 2.2.2 Where an agency's proposed workplace arrangement requires approval under this policy, and the Department of Finance and/or the APSC has indicated that it considers an agency's proposed workplace arrangement is not affordable, the relevant agency Minister and the Public Service Minister must not approve the proposed arrangement.

Part 3 – Remuneration and Productivity

- 3.1 Agencies can only negotiate remuneration increases which are affordable, consistent with Australian Government policy, and offset by genuine productivity gains which satisfy the Australian Public Service Commissioner.
- 3.2 Agency Heads are accountable for ensuring that the annual remuneration increases for senior executive employees are consistent with Australian Government policy.
- 3.3 Remuneration increases should apply prospectively unless exceptional circumstances apply and have the approval of the Ministers.
- 3.4 Sign-on bonuses should not be offered during bargaining unless approved by the Ministers.
- 3.5 Existing pay scales should not be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.
- 3.6 Changes to incremental salary arrangements may be counted as productivity improvements where they result in cashable savings. Such changes may include more rigorous rules covering advancement of employees to higher increments.

- 3.1 Agencies can only negotiate remuneration increases which are affordable, consistent with Australian Government policy, and offset by genuine productivity gains which satisfy the Australian Public Service Commissioner.**
 - 3.1.1 Where an agency is considering any remuneration increase, the Commissioner's view must be sought before any position is put or offer made in bargaining, and again if that is later varied. In forming a view, the Commissioner may seek the advice of the Department of Finance as appropriate. Where an increase is being considered, agencies should be mindful of the community's expectations with regards to public sector remuneration.
 - 3.1.2 Agencies must not offer any proposed remuneration increases until the Commissioner is satisfied that proposed remuneration increases are affordable within an agency's existing budget and offset by genuine productivity gains. This paragraph does not prevent agencies from bargaining in relation to other matters whilst approvals in relation to the agency's remuneration offer are sought.
 - 3.1.3 Genuine productivity gains are demonstrable, permanent improvements in the efficiency, effectiveness and/or output of employees, based on reform of work practices or conditions, resulting in measurable savings. Arbitrary reductions in staffing are not considered genuine productivity gains.

3.1.4 As remuneration increases without productivity improvements increase costs, any wage increases for Australian Government employees must come from strong productivity gains through enterprise bargaining. Productivity improvement is important in the public sector context as:

- the public sector is a large employer – its wage outcomes have a macroeconomic effect;
- the public sector is a model employer – it should demonstrate best practice in a context where there is an identified need to improve national productivity;
- the public sector is a provider of services in the economy – it should do so as efficiently and effectively as possible; and
- the public sector spends taxpayer money – it must demonstrate responsible use of that money.

3.1.5 Agencies must provide information to the Commissioner on:

- the total impact of any proposed changes on the agency's estimates of current remuneration expenditure in each year of the proposed agreement including, but not limited to, the impact of any remuneration increases, adjustments to increment structures, re-profiling of the payment schedule for remuneration increases (e.g. 'front loading' of remuneration increases in the first year of an agreement), changes to rates of, or eligibility for, allowance payments;
- the financial impact of any proposed changes to other terms and conditions;
- employee-related productivity and savings initiatives which will fund any remuneration increases; and
- affordability of the agency's proposed arrangements, including an undertaking that there will be no redirection of programme funding.

3.1.6 Examples of productivity initiatives include, but are not limited to:

- measures to improve workforce availability, such as reducing unscheduled absences or additional leave days;
- initiatives to increase output per employee, including providing individuals with greater responsibilities or additional skills directly translating to improved outcomes;
- initiatives to increase the span of control of employees (particularly at management levels);
- restructuring delegations to improve efficiency and allow for decision making at lower levels where appropriate;
- elimination of restrictive or inefficient work practices; and
- improvements to the design, efficiency and effectiveness of agency procedures.

3.1.7 Productivity gains or savings made as a result of Government initiatives, including the annual efficiency dividend, will not be considered to be employee-related.

3.1.8 While productivity improvements must arise from agency (rather than Government) initiatives, agencies may include productivity initiatives which arise from cooperation or collaboration with other agencies, such as shared services or systems. Evidence of such shared initiatives must show appropriate apportionment of productivity gains or savings.

3.1.9 Agencies must also provide information to the Commissioner on their projected operating statement over the duration of the proposed agreement to help assess the affordability of proposed changes.

- 3.1.10 Agencies must also give consideration to the implications of the proposed remuneration changes and productivity offsets for the sustainability of the proposed arrangements beyond the duration of the proposed agreement.
- 3.1.11 Agencies should consider the broader labour market implications and relativities of their proposed remuneration arrangements, both in the APS context and with reference to other labour markets in which they operate (both geographic and occupational). If necessary, the APSC will seek information from agencies on the labour market impacts of proposed remuneration arrangements.
- 3.1.12 Attachment A provides a template for the provision of this information. As a minimum, agencies must provide the evidence outlined at Attachment A, including detailed information on employee costs, productivity offsets and the agency's operating statement. The APSC and/or the Department of Finance may seek additional information if required to assess the proposal.
- 3.1.13 To avoid doubt, this policy applies to all aspects of remuneration other than disability or expense-related allowances. In the case of these allowances increases should not exceed relevant economic indicators or statistical measures.
- 3.2 Agency Heads are accountable for ensuring that the annual remuneration increases for senior executive employees are consistent with Australian Government policy.**
- 3.2.1 Agency Heads are to ensure that remuneration increases for SES employees are within the Government's policy parameters.
- 3.2.2 Agency Heads are to ensure that their SES remuneration principles and policies are consistent with Government policy including any other SES remuneration policy which may be separately issued. The APSC is to be consulted where an Agency Head believes that there is a business need for arrangements which are inconsistent with Government policy, in addition to ensuring that these are underpinned by productivity and are affordable. In forming a view, the APSC may consult with the Department of Finance as appropriate.
- 3.2.3 Agencies are required to provide the APSC with details of their SES remuneration policy or strategy if requested.
- 3.3 Remuneration increases should apply prospectively unless exceptional circumstances apply and have the approval of the Ministers.**
- 3.3.1 Should an agency consider that exceptional circumstances exist such that it is necessary to include a remuneration clause in an enterprise agreement or collective arrangement which applies retrospectively, the agency is to consult with the APSC.
- 3.4 Sign-on bonuses should not be offered during bargaining unless approved by the Ministers.**
- 3.4.1 Sign-on bonuses and other bonus payments during the life of an agreement which are increases in remuneration must be approved by the Ministers. For the avoidance of doubt, bonuses will be considered as part of an agency's remuneration increase and subject to the same costing rules and processes as other remuneration increases.
- 3.4.2 Agencies considering such bonuses must seek approval before undertaking any discussion with other bargaining representatives or agreeing to any proposal put by other bargaining representatives. As a sign-on bonus is a mechanism through which

bargaining could be concluded following the exhaustion of other avenues, it is expected that the use of sign-on bonuses will be rare, and must not form part of any initial agency position in bargaining.

- 3.4.3 Consideration of sign-on bonuses will be subject to affordability, and the advice of the Department of Finance may be sought.
- 3.5 Existing pay scales should not be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.**
- 3.6 Changes to incremental salary arrangements may be counted as productivity improvements where they result in cashable savings. Such changes may include more rigorous rules covering advancement of employees to higher increments.**
- 3.6.1 Agencies may consider reforming salary structures. Pay scale re-structuring is to be cost neutral, or create cost savings. Any pay structure adjustments which increase costs are remuneration increases and will be treated accordingly under the process described at Part 3.1. Any changes to salary structures which increase or decrease cost will be considered in relation to affordability.

Part 4 – Employment Conditions

- 4.1 Core APS terms and conditions of employment should not be enhanced unless otherwise approved by the Ministers.*
- 4.2 In recognition that the new Australian Government scheme will apply to Commonwealth agencies, agencies should not seek to vary current paid parental leave entitlements, pending the commencement of the new scheme.
- 4.3 Under legislated provisions, APS agencies and the parliamentary departments will ensure the portability of accrued paid leave entitlements where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.*
- 4.4 Long service leave should only be granted in blocks of at least seven calendar days per occasion and should not be broken by other forms of leave.
- 4.5 Workplace arrangements should incorporate leave arrangements that support the release of community service volunteers for emergency services duties and Defence Reservists for peacetime training and development.
- 4.6 APS agency workplace arrangements should include compulsory redeployment, reduction and retrenchment arrangements for employees identified as excess to requirements.*
- 4.7 Redundancy provisions, including severance pay and retention periods, should not be enhanced beyond existing arrangements, unless otherwise required by legislation, or approved by the Ministers.

4.1 Core APS terms and conditions should not be enhanced

- 4.1.1 An agency must not agree to enhancements to any existing terms and conditions relating to the matters set out in Attachment B, unless the Ministers grant the agency an exemption permitting such enhancements.
- 4.1.2 Paragraph 4.1.1 does not prevent agencies from seeking to make other changes to existing terms and conditions, including to change those terms and conditions to better reflect community expectations or to promote a greater degree of alignment between APS agencies.
- 4.1.3 Where an agency wishes to seek an exemption that would allow it to offer an enhancement to a term or condition (which may include where a change is proposed pursuant to paragraph 4.1.2), the agency is required to submit a business case to the APSC. The APSC will then seek a decision from the Minister in relation to the exemption. Agencies are strongly encouraged to consult with the APSC in relation to the development of any business case.

Cashing out of personal/carer's leave

- 4.1.4 It is Australian Government policy not to provide for the cashing out of any personal/carer's leave. Agencies should not enter into any such arrangements, including through workplace policies and practices.

4.2 Parental leave entitlements

- 4.2.1 The Government's intention is for its new paid parental leave scheme to commence on 1 July 2015. Accordingly, agencies are advised not to disturb current arrangements.
- 4.2.2 In addition, agencies should not include terms in enterprise agreements that seek to supplement the entitlement that the new paid parental leave scheme will provide.

4.3 Portability of leave entitlements *

- 4.3.1 APS workplace arrangements are to retain portability of accrued annual leave and personal/carer's leave entitlements (however described), with future entitlements being those prevailing at the receiving agency. Entitlements to leave will subsequently accrue at the rate applying in the receiving agency.
- 4.3.2 The provisions of the *Parliamentary Service Act 1999* and the *Australian Capital Territory Government Service (Consequential Provisions) Act 1994* require APS agencies to recognise certain leave accrued in these services. Accordingly, workplace arrangements should provide for the portability of annual and personal/carer's leave (however described) between the Parliamentary Service and the APS, and accrued leave between the ACT Public Service and the APS. Workplace arrangements should also provide for the portability of personal/carer's leave between the ACT Public Service and the APS as this is the basis of ongoing inter-government agreement.
- 4.3.3 The portability of leave within the APS requires receiving agencies to act on the advice of an employee's former employing agency in determining their accrued leave entitlement. For example, agencies have previously used a range of terms to describe personal/carer's leave in their workplace arrangements and have done so for varying reasons. A receiving agency is required to recognise leave accrued in an employee's former agency, even if the purpose for which it was provided is not recognised in the receiving agency's agreement. However, leave accrued from commencement with the receiving agency will generally accrue in accordance with that agency's arrangements, unless specified otherwise.
- 4.3.4 Certain other terms and conditions of employment set out in Commonwealth legislation and applying to the APS will continue to apply and cannot be overridden by workplace arrangements. In particular, these include long service leave, maternity leave, workers' compensation and occupational health and safety.
- 4.3.5 Agencies considering whether to recognise prior service with, or seek to transfer other leave balances from, other bodies such as non-APS authorities or State Government agencies (other than for long service leave purposes) must consult with the APSC and the Department of Finance before proceeding.

4.4 Approval of long service leave

- 4.4.1 Long service leave is credited to an eligible employee in calendar months. The minimum period of long service leave that may be taken is seven calendar days. This will ensure there is no potential for an employee to access their long service leave in a way that would provide a more advantageous entitlement than that envisaged by the LSL Act.

4.5 Arrangements supporting the release of community service volunteers and Defence Reservists

- 4.5.1 The Australian Government expects agencies to promote the benefits of community service and Defence Reserve service to their employees and expects agencies to lead the way in employment policies and practices which support the release of employees for these purposes.
- 4.5.2 Agencies should note their obligation to provide community service leave in accordance with the requirements of the National Employment Standards (NES). Agencies should also cater for unpaid leave to community service personnel for emergency services duties encompassing leave for regular training, all emergency services responses, reasonable recovery time and ceremonial duties.
- 4.5.3 Attachment C outlines the public sector leave policy recommended to Australian Government employers by the Defence Reserves Support Council.

4.6 Compulsory redeployment, reduction and retrenchment provisions *

- 4.6.1 All enterprise agreements, determinations and where relevant, common law agreements, must provide for access to compulsory redeployment, reduction and retrenchment (RRR) for excess APS employees. This will ensure that agencies maintain the capacity to resolve excess employee situations by either:
- moving the employee to a suitable job at or below their substantive classification level (with or without the employee's agreement); or
 - terminating the employee's employment under section 29 of the Public Service Act if the employee does not wish to accept voluntary retrenchment (or in the case of an SES employee, an incentive to retire payment) and there is no useful work for the employee to perform.

Minimum entitlement under the National Employment Standards

- 4.6.2 The typical APS redundancy benefit for non-SES employees (as set out in the *APS Award 1998* and replicated in most agency agreements) is two weeks' pay per year of continuous Commonwealth service (with a pro-rata amount for completed months of service). The amount of pay varies from a minimum of four weeks to a cap at 48 weeks.
- 4.6.3 While generally more favourable than the NES, some of the typical APS provisions are less favourable than the NES for employees with between two and three years' service, and three and four years' service. This means that for some employees made redundant during these periods, the NES will apply instead of the APS scale. Agencies should therefore ensure that redundancy payment provisions contained within new enterprise agreements and other workplace arrangements for non-SES employees are consistent with (but do not exceed) the NES entitlements for employees with two to three, and three to four years' service.

4.6.4 Table 1 below outlines the key differences between the NES entitlement and the typical APS provisions as described above:

Table 1: Key differences between the NES and APS Redundancy entitlements

Length of service	NES Redundancy	Typical APS Redundancy
Less than 1 year	Nil	4 weeks
At least 1 year but less than 2 years	4 weeks	4 weeks
At least 2 years but less than 3 years	6 weeks	4 weeks + pro rata for completed months of service
At least 3 years but less than 4 years	7 weeks	6 weeks + pro rata
At least 4 years but less than 5 years	8 weeks	8 weeks + pro rata
At least 5 years but less than 6 years	10 weeks	10 weeks + pro rata
At least 6 years but less than 7 years	11 weeks	12 weeks + pro rata
At least 7 years but less than 8 years	13 weeks	14 weeks + pro rata
At least 8 years but less than 9 years	14 weeks	16 weeks + pro rata
At least 9 years but less than 10 years	16 weeks	18 weeks + pro rata
At least 10 years but less than 11 years	12 weeks	20 weeks + pro rata
11 years or more	12 weeks	22 weeks up to a max of 48 weeks

Retention periods to be reduced by National Employment Standards entitlement

4.6.5 Where an agency wishes to negotiate a retention period into a workplace arrangement (i.e. to provide non-SES employees with the option to take a retention period in lieu of a redundancy payment), the interaction between the retention period and the redundancy entitlements provided by the NES should be taken into account. The redundancy entitlement under the NES must be paid to an employee even if they elect to take a retention period.

4.6.6 To avoid double-dipping on redundancy entitlements, there should be a mechanism built into all relevant workplace arrangements that reduces a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the NES. For example, if an employee was entitled to elect to take a four month retention period and they were also entitled to eight weeks' redundancy pay under the NES, the employee's retention period of four months should be reduced by eight weeks.

Flexibilities for Redeployment, Reduction and Retrenchment arrangements

4.6.7 Agencies are able to adapt their redundancy provisions to meet their specific needs, subject to the test of no enhancement of existing arrangements and the requirements described above. The APSC is able to provide further advice to agencies on these issues.

Specific arrangements for SES employees

- 4.6.8 Section 37 of the Public Service Act provides that an Agency Head may give notice in writing to an SES employee stating that the employee will become entitled to a payment of a specified amount if the employee retires within a period specified in the notice – i.e. an incentive to retire.
- 4.6.9 The purpose of this provision is to facilitate change and effectively manage an agency's SES workforce particularly in downsizing situations. It is likely that most situations involving excess SES employees will be managed under section 37 of the Public Service Act.
- 4.6.10 Clause 7.3 of the Australian Public Service Commissioner's Directions 2013 (the Commissioner's Directions) sets out the minimum requirements that must be met in relation to an Agency Head giving notice to an SES employee under section 37 of the Public Service Act. The Commissioner's Directions provide that the Commissioner must have agreed to the amount to be paid to the employee in these circumstances. A workplace arrangement should not bind the Commissioner to a certain level of payment for redundancy or retrenchment and as such should be silent on the quantum of the payment. The Commissioner's Directions also provide that an employee must be given access to independent financial advice and career counselling.
- 4.6.11 As this incentive to retire provision requires the agreement of the individual SES employee, workplace arrangements applying to SES employees should continue to include provisions that make it clear that the employee may be redeployed to other duties, including at a lower level, or have their employment terminated without their agreement on the grounds that they are excess to an agency's requirements.
- 4.6.12 However, it is inappropriate for SES workplace arrangements to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under section 29 of the Public Service Act. Similarly, SES workplace arrangements should not include retention arrangements for excess SES employees.
- 4.6.13 In addition, section 38 of the Public Service Act provides that before an Agency Head can terminate the employment of an SES employee under section 29 of the Public Service Act, the Commissioner must have issued a certificate stating that all the relevant requirements of the Commissioner's Directions made under subsection 11A(1) of the Public Service Act have been satisfied in relation to the proposed termination and the Commissioner is of the opinion that the termination is in the public interest.
- 4.6.14 Where an SES employee's employment is terminated under section 29(3)(a) of the Public Service Act (i.e. on the ground that he/she is excess to the requirements of the agency), the employee may be entitled to a NES redundancy payment in accordance with the Fair Work Act.
- 4.6.15 In addition, there may be some cases where the benefit paid to an SES employee who is retired under section 37 of the Public Service Act may be less than the redundancy benefit payable under the NES. In these cases, the specified amount that is agreed by the Commissioner under section 37 will be regarded as including any entitlement the employee would have under the NES. Agency Heads should make this clear in any advice given to an SES employee on separation benefits.

Statutory obligations and termination of employment

4.6.16 Agencies must be aware that workplace arrangements cannot override statutory obligations or remedies relating to termination of employment under the Fair Work Act or the Public Service Act.

4.7 No enhancement of existing obligations

4.7.1 In relation to non-SES employees, enterprise agreements and determinations, or other arrangements (i.e. an individual flexibility arrangement or a determination) which are used to supplement enterprise agreements, should not enhance the agency's existing redundancy obligations (including severance pay and retention periods) other than where required under legislation or approved by the Ministers.

The Ministers will only approve the enhancement of existing obligations in exceptional circumstances. If agencies believe they have exceptional circumstances they must seek advice from the APSC before proceeding.

Part 5 – Employee Relations

- 5.1 All arrangements will comply with relevant legislation, this policy and other relevant Australian Government policies.
- 5.2 The right for an employee to belong to a union will be respected, as will the right for an employee not to belong to a union.
- 5.3 Agencies should make provision for consultative arrangements with employees (and where employees choose, their representatives) regarding employment and employee relations matters.

5.1 Arrangements to comply with legislation and Government policies

5.1.1 All workplace arrangements must comply with all relevant legislative requirements. Key employment-related legislation affecting APS agencies includes the:

- *Public Service Act 1999;*
- *Fair Work Act 2009;*
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009;*
- *Long Service Leave (Commonwealth Employees) Act 1976;*
- *Maternity Leave (Commonwealth Employees) Act 1973;*
- *Paid Parental Leave Act 2010 (and its successor);*
- *Work Health and Safety Act 2011;*
- *Safety, Rehabilitation and Compensation Act 1988; and*
- *Privacy Act 1988.*

5.1.2 In addition to the above, agencies may also be subject to other agency-specific legislation containing employment-related provisions.

5.2 Freedom of association in the workplace

5.2.1 Agencies should ensure that an employee's legal entitlement to representation in the workplace is respected.

5.2.2 Where an employee elects to be a member of a union, their agency must respect the employee's right to request the union represent them on workplace matters.

5.2.3 Where an employee elects to engage with a union, even where the employee is not a union member, the employee's wish to do so will be respected.

5.2.4 Employees who are not members of a union may not wish to engage with, or receive communications from, a union. Agencies are to ensure that communication arrangements within the agency respect this.

5.3 Consultation with employees

5.3.1 Agencies are encouraged to establish consultative arrangements with employees on employment and workplace relations matters impacting on the workplace, for example, through a regular staff consultative forum. Such consultation should be balanced and not unreasonably favour one group of employees over another.

Part 6 – Performance Management

6.1 It is expected that all employees (other than probationary employees) will have a formal annual performance agreement in place which clearly identifies key performance expectations and related indicators of performance and the required workplace behaviours expected of the employee, and contains learning and career development goals.

6.2 Performance management clauses in enterprise agreements should contain clearly defined principles and entitlements. Any procedural or descriptive content should be confined to policy documents outside of an enterprise agreement.

6.3 An employee is not to advance through a classification or broadband pay scale if they have not performed at a satisfactory level at a minimum.

6.1 Performance agreements

6.1.1 Agencies have the flexibility to develop performance management systems that meet the particular needs of their organisation and employees, noting that clause 4.1 of the Commissioner's Directions requires Agency Heads to support employees to achieve effective performance by ensuring that the agency:

- a. builds the capability necessary to achieve the outcomes properly expected by the Government;
- b. has fair and open performance management processes and practices that support a culture of high performance, in which all performance is effectively managed;
- c. provides each APS employee with a clear statement of the performance and behaviour expected of him or her, and an opportunity to discuss his or her responsibilities;
- d. requires employees to participate constructively in agency-based performance management processes and practices;
- e. invests in building the capability of managers to manage performance effectively;
- and
- f. uses its performance management processes to guide salary movement and reward.

6.1.2 Performance management systems should make clear the performance rating that an employee is expected to achieve should they wish to be eligible for salary advancement through a pay scale and/or broadband, and provide detail about what the employee must do to demonstrate performance at that level.

6.2 Clear principles and entitlements around individual performance

6.2.1 Enterprise agreements and other workplace arrangements are to clearly set out the principles that will guide performance management and performance assessment in the agency and make reference to the specific entitlements that arise for employees in relation to the agency's performance management framework (for example, the performance threshold that makes an employee eligible for salary advancement; or the

right for an employee to be supported by a representative in a performance management discussion).

6.2.2 Prescriptive information and procedural content relating to performance management in the agency should not be included in an enterprise agreement or other workplace arrangement but instead be contained in a policy document that is easily accessible to employees in the workplace (for example, via an Intranet page).

6.2.3 Guidance on best practice performance management systems is available on the APSC's website.

6.3 Salary advancement for individual employees

6.3.1 Salary advancement through a classification and/or broadband is only to occur where an employee's performance has been assessed as at least satisfactory, or higher, in accordance with:

- the work level standards for their classification;
- the terms of their individual performance agreement;
- the APS Values, APS Employment Principles and APS Code of Conduct; and
- other applicable employment instruments under the Public Service Act.

6.3.2 While agencies may use differing descriptors for performance ratings, the intent of 'satisfactory' is that the employee has met the performance requirements of the job for which they are being paid, to the work level standard for their classification, and has maintained the behavioural standards required of them by the APS Values, APS Employment Principles and APS Code of Conduct.

6.3.3 Agencies are encouraged to set additional performance management requirements at their discretion. This may include setting a higher performance bar at which employees become eligible for salary advancement through a pay scale. For example, an agency could implement an arrangement requiring employees to obtain a performance rating equivalent to 'above average' before they are eligible for progression through a pay scale. This could require employees to consistently perform above and beyond 'satisfactory' over the term of their performance agreement.

6.3.4 As best practice, agencies should ensure that supervisors have adequate evidence of employee performance, including time to observe and assess that performance. To that end, a minimum period of six months' performance at the workplace is recommended before employees become eligible for salary advancement.

6.3.5 Advancement within a broadband should also be guided by work availability and application of the merit principle. See paragraphs 1.3.9–1.3.12 for further information on broadbanding.

Part 7 – Enterprise Agreement Content

7.1 Enterprise agreements should:

- a. Be streamlined, clear and easy to read and contain clauses that either:
 - i. are required by legislation and support the effective operation of the instrument; or
 - ii. provide entitlements to employees; and
 - iii. do not impose restrictive work practices and other arrangements that confine the operations of the agency, or in the case of the APS, the Service as a whole, or curb the effective operation of legislation.
- b. Include:
 - i. a dispute resolution term equivalent to the model term in the Fair Work Regulations;
 - ii. a consultation term equivalent to the model term in the Fair Work Regulations; and
 - iii. an individual flexibility term that allows employees to enter into individual flexibility arrangements in respect of certain listed matters. Agencies are encouraged to bargain for a broader range of matters over which employees can enter into individual flexibility arrangements.
- c. Not include:
 - i. unlawful and/or objectionable terms as outlined in the *Fair Work Act 2009*;
 - ii. terms that contradict, alter or limit the effect of provisions in the *Public Service Act 1999* or relevant employing legislation.

7.2 Agencies must not supplement or enhance the right of entry provisions in the *Fair Work Act 2009*.

7.1 Streamlined enterprise agreements

- 7.1.1 Agencies will be required to demonstrate that a proposed enterprise agreement does not contain clauses which may unduly restrict management's ability to operate efficiently and effectively.
- 7.1.2 Enterprise agreements should be straightforward and user-friendly documents that simply set out the entitlements employees have in their employment in the workplace, and provide maximum flexibility for agencies to carry out their functions.
- 7.1.3 Enterprise agreements should not include terms that deal with matters which are more properly dealt with by legislation, for example, work health and safety or right of entry.

- 7.1.4 Operational, implementation or administrative matters that may be subject to change during the life of the agreement are more appropriately dealt with in separate policy documents, outside of the enterprise agreement.
- 7.1.5 Enterprise agreements should not contain ambiguous terms, large slabs of aspirational goals, or include onerous procedures and descriptive content from workplace policies that sit outside the enterprise agreement. Enterprise agreements should not incorporate such policies.
- 7.1.6 Enterprise agreements must include a dispute resolution term and a consultation term, and these terms should be equivalent to the model terms set out in the Fair Work Regulations. Agencies should not seek to provide additional dispute resolution or consultation procedures that would restrict a workplace from managing matters effectively and efficiently. In particular, there should be no terms included in an enterprise agreement that would provide third parties with the ability to veto or interrupt workplace improvements and managerial prerogative.

Individual flexibility term

- 7.1.7 The Fair Work Act requires an individual flexibility term to be included in an enterprise agreement. To ensure the provisions of the Fair Work Act are observed, individual flexibility arrangements must meet the requirements of the Fair Work Act or other relevantly applicable legislation. Agencies are encouraged to bargain for a broader range of matters in respect of which employees can enter into individual flexibility arrangements. As a minimum, an individual flexibility term must allow for an individual flexibility arrangement to deal with one or more of the following:
 - a. arrangements about when work is performed;
 - b. overtime rates;
 - c. penalty rates;
 - d. allowances;
 - e. remuneration; and
 - f. leave and leave loading.

Dispute resolution term

- 7.1.8 It is mandatory for a dispute resolution term to be included in an enterprise agreement. Agencies should also include a dispute resolution term in all other workplace arrangements.
- 7.1.9 Agencies should seek to implement the model dispute resolution term, or an equivalent term, without any amendment to its scope or any additional prescriptive and/or restrictive arrangements that would complicate or draw out the dispute resolution process. Agencies should consult with the APSC where they wish to vary the model dispute resolution term. Dispute resolution terms must only cover matters arising under the agreement or the NES.

Consultation term

7.1.10 Agencies should seek to implement the model consultation term, or an equivalent term, without any additional prescriptive and/or restrictive arrangements that would confine managerial decision-making and the operations of the agency. For example, enterprise agreements should not include any requirements to consult on the engagement of employees or contractors.

7.2 Right of entry provisions

7.2.1 Agencies must comply with the right of entry provisions set out in the Fair Work Act. Agencies must not seek to expand these right of entry arrangements through enterprise agreements, other workplace arrangements, protocols or workplace policies.

Part 8 – Approval Requirements for Enterprise Agreements and Other Collective Arrangements

8.1 Agencies are expected to comply with any instructions issued by the APSC in relation to this policy.

- a. Agencies must not offer a proposed remuneration increase until the Australian Public Service Commissioner is satisfied that proposed remuneration increases are affordable and offset by genuine productivity gains, in consultation with the Secretary of the Department of Finance.
- b. Before making any wages offer, an Agency Head must be satisfied that the proposed remuneration increases, and any other enhancements to terms and conditions which have a fiscal impact, are affordable from within existing and known future budget allocations and would not require the diversion of programme funds or additional supplementation.

All agreements proposing remuneration increases need to be supported by the agency's Minister. Where the Department of Finance and/or the APSC indicates that it considers an agency's proposed workplace arrangement is not affordable or not supported by appropriate productivity gains, the agency must revise the proposal to ensure it is affordable.

- c. Agencies are not permitted to reach agreement, including 'in-principle agreement', with bargaining representatives on any matters that are inconsistent with Government policy unless the Ministers have approved exemptions in relation to those matters.

At the conclusion of bargaining:

- d. A draft enterprise agreement, or other collective arrangement, must be provided to the APSC for assessment against Government policy prior to an agency seeking the Ministers' approval of the agreement. Such drafts are to be accompanied by a Remuneration, Funding and Productivity Declaration signed by the Agency Head.
- e. Agencies will be required to provide the APSC with evidence that the proposed agreement has met the Government's policy objectives, including:
 - i. the total cost of the proposed agreement;
 - ii. productivity initiatives arising from the agreement; and
 - iii. the extent to which objectives relating to the removal of restrictive work practices and the maintenance of the core APS terms and conditions of employment have been met.

8.2 The Ministers' approval of the agreement must be received before the agreement is put to a vote of employees.

8.1 APSC assessment of enterprise agreements and other collective arrangements

- 8.1.1 Agencies are expected to comply with any instructions issued by the APSC in relation to this policy.
- 8.1.2 The APSC will work with agencies to develop proposed bargaining positions that comply with Government policy.
- 8.1.3 Agencies should seek their Minister's agreement to their proposed bargaining position. A bargaining position that is inconsistent with Government policy must not be approved by the agency Minister.
- 8.1.4 Before an agency seeks the approval of the Ministers for exemptions from Government policy for a proposed enterprise agreement or workplace arrangement, they must make a submission to the APSC for assessment against Government policy. The APSC will provide separate guidance to Commonwealth employers that details this assessment process.
- 8.1.5 Parts 2 and 3 outline the approval process for any proposed remuneration increase. Agencies must not offer any proposed remuneration increases until the Commissioner is satisfied that proposed remuneration increases are affordable within an agency's existing budget and offset by genuine productivity gains, based on the evidence requirements outlined in paragraph 3.1.5. This paragraph does not prevent agencies from bargaining in relation to other matters whilst approvals in relation to the agency's remuneration offer are sought.
- 8.1.6 Where the APSC and/or the Department of Finance is of the opinion that:
- an agency's proposed remuneration arrangement is not affordable within the agency's existing budget;
 - there are insufficient productivity initiatives to support the proposed remuneration improvements; or
 - the proposed remuneration offer is otherwise not prudent or appropriate,
- and the agency wishes to propose an alternative remuneration increase, the agency must resubmit a revised remuneration offer for approval.
- 8.1.7 A draft enterprise agreement, or other collective workplace arrangement, must be provided to the APSC for assessment against Government policy before the agency seeks Ministerial approval of the agreement. Such drafts must be accompanied by a Remuneration, Funding and Productivity Declaration as per the template at Attachment A, signed by the Agency Head, who will be accountable for ensuring the proposed workplace arrangement delivers on the matters certified in this declaration. Agencies should provide the APSC with evidence that supports their Agency Head's declaration including:
- the total cost of the proposed agreement and demonstration that programme funding has not been diverted to fund remuneration increases;
 - any related certifications received from the Department of Finance;
 - an outline of the productivity initiatives that will be pursued over the life of the workplace arrangement (initiatives that are initiated by the agency and are not APS-wide initiatives);
 - an outline of how the agency has removed restrictive work practices (through the proposed workplace arrangement and any associated revision of policies); and

- in relation to APS agencies, an outline of how the maintenance of core APS terms and conditions of employment have been met.

8.2 Ministerial approval before vote

- 8.2.1 An agency must not put a proposed agreement or other collective workplace arrangement to a vote of employees unless the agency has obtained the Ministers' approval.
- 8.2.2 A proposed enterprise agreement will only be approved by the Ministers where the Commissioner is satisfied that proposed remuneration increases are affordable within an agency's existing budget and offset by genuine productivity gains.

[Agency Name]

Remuneration, Funding and Productivity Declaration

Agencies should complete tables A.1, A.2, A.3 and A.8 initially; and should complete the remaining tables where advised that it is necessary to seek the views of the Department of Finance.

Remuneration

The remuneration increases for which approval is sought are as follows:

Table A.1: Description of remuneration increases

Description of increase	Estimated costs
TOTAL	

[Insert a brief description of all proposed remuneration increases. Provide further detail and justification in attachments.]

Total employee costs

The projected total employee costs over the life of the agreement are as follows:

Table A.2: Total employee costs

	2014-15	2015-16	2016-17	2017-18	Total over the duration of the agreement	Increase in total employee costs after new EA (%)
Total employee costs before agreement						
Total employee costs after agreement						
Impact of proposed agreement						

Productivity and savings

The improvements in terms and conditions contained within the proposed arrangement will be offset by genuine and quantifiable employee-related productivity initiatives that originated in this agency as follows:

[Briefly describe efficiency gains and productivity improvements that offset the cost of the collective workplace arrangement, including costings. Further detail on the proposed productivity initiatives, including any costs associated with implementing those initiatives, is to be provided in an attachment. Agencies should also outline their strategy for meeting the efficiency dividend separate to bargaining-based productivity gains.]

Table A.3: Productivity/efficiency offsets

Productivity/ efficiency measures	2014-15	2015-16	2016-17	2017-18	Total over the duration of the agreement
1					
2					
3					
Total					

Note: APS-wide productivity improvements/initiatives and the efficiency dividend cannot be included as offsets for the cost of the collective workplace arrangement.

These estimated productivity offsets are based on the following assumptions: *[short description to show the assumptions underlying the initiatives]*.

Agency estimate of remuneration costs after the proposed agreement

Table A.4: Agency projection of FTE staff numbers

	2012-13 Actual	2013-14	2014-15	2015-16	2016-17	2017-18
APS 1						
APS 2						
APS 3						
APS 4						
APS 5						
APS 6						
EL 1						
EL 2						
SES 1						
SES 2						
SES 3/ Exec						
Total						

Table A.5: Agency projection of average remuneration costs by level (all employee costs including superannuation and leave)

	2012-13 Actual	2013-14	2014-15	2015-16	2016-17	2017-18
APS 1						
APS 2						
APS 3						
APS 4						
APS 5						
APS 6						
EL 1						
EL 2						
SES 1						
SES 2						
SES 3/ Exec						
Total						

Note: Remuneration costs are to reflect actual agency costs after the proposed salary/remuneration increases (not costs from the standard Department of Finance costing template).

Table A.6: Agency projection of total remuneration costs by level (combining Table A.4 and Table A.5)

	2012-13 Actual	2013-14	2014-15	2015-16	2016-17	2017-18
APS 1						
APS 2						
APS 3						
APS 4						
APS 5						
APS 6						
EL 1						
EL 2						
SES 1						
SES 2						
SES 3/ Exec						
Total (A)						

Other employee costs (B)						
---	--	--	--	--	--	--

For example, separation costs. Attach sheet with explanation/calculation.

Total employee costs (C) (C = A+B)						
---	--	--	--	--	--	--

To be entered into projected agency operating statement (see Table A.8).

A separate sheet with an explanation/calculations is to be provided where:

- i) the total employee costs reflect a material variation from employee expenses in the Central Budget Management System (CBMS); or
- ii) there is a material variation in FTE numbers between years; or
- iii) there is a material variation in remuneration costs/FTE between years (other than proposed salary increases).

Table A.7: Agency projected supplier expenses after the proposed agreement

	2012-13 Actual	2013-14	2014-15	2015-16	2016-17	2017-18
Lease payments						
Property (operating)						
Information technology						
Consultancies						
Travel						
Communications						
Legal						
Other supplier expenses						
Total supplier expenses						

To be entered into projected agency operating statement (see Table A.8)

Separate explanation/calculations to be provided for each category of expense where:

- i) there is a material variation from figures used for the CBMS estimates; or
- ii) there is a material variation in expenses between years other than standard indexation;
or
- iii) a material variation in supplier expenses is proposed to assist in funding salary increases.

Table A.8: Agency projected operating statement after the proposed agreement

	2012-13 Actual	2013-14	2014-15	2015-16	2016-17	2017-18
Appropriation revenue *						
Other revenue*						
Total revenue (A)						
Employee expenses **						
Supplier expenses ***						
Total expenses (excluding depreciation) (B)						
Operating position (excluding depreciation) (C) (C = A-B)						

Note: A negative operating position in any year, or insufficient support for the underlying calculations, would indicate that a proposed salary increase is not affordable.

* Figures must be taken from CBMS.

** Figures to be taken from the remuneration costs sheet (Table A.6).

*** Figures to be taken from the supplier costs sheet (Table A.7).

Agency Head Declaration

Having taken account of:

- 1. my agency’s existing financial position, including out-year appropriations and known efficiency dividends; and
- 2. known operational requirements for the life of the agreement; and
- 3. expected increases in pay and conditions to be provided to <insert Agency name> employees employed under the proposed arrangement, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements; and
- 4. the potential cost of individual flexibility agreements, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements;

all additional costs arising from the <insert name of Agency collective Workplace Arrangement> can be funded from within the <insert Agency name> existing and known future budget and revenue streams.

[Insert the following clause where the agency receives programme funding through the Budget]

Further, I certify that the improvements in terms and conditions contained within the proposed workplace arrangement are not, and will not be, funded through:

- the use of <insert Agency name> programme funding; and/or
- increases to customer service and product fees.

[Insert the following clause where the agency does not receive programme funding through the Budget]

Further, I certify that the improvements in terms and conditions contained within the proposed workplace arrangement are not, and will not be, funded through increases in customer service and product fees requested by <insert Agency name>.

Signature: _____

Name: _____

Position: _____

Date: _____

Intentionally blank

Core Australian Public Service (APS) terms and conditions of employment

Hours of work

- Ordinary weekly hours (hours should not be reduced)
- Flex leave arrangements for non-Executive Level (EL) employees
- Time off in lieu arrangements for EL employees

Superannuation

- Contribution rates should not be enhanced unless required by legislation or the relevant fund rules

Leave

- Paid annual leave
- Paid personal/carer's leave
- Evidence requirements for personal leave are not to be more lenient than current
- Paid compassionate leave
- Paid maternity/parental leave (includes adoption and foster care)
- Paid supporting partner leave (includes adoption and foster care)
- Paid community service leave
- Paid cultural/ceremonial leave
- Christmas closedown

Redeployment, reduction and redundancy

- There should be no enhancement to existing arrangements (including retention periods)

Intentionally blank

Supporting the release of community service volunteers and Defence Reservists

The Australian Government supports employees participating in emergency services duties and Defence Force Reserve activities. The Government therefore expects that APS agencies will lead the way in employment policies and practices which support the release of community service personnel for emergency services duties and Defence Reservists for peacetime training and deployment.

APS agencies may determine their own approach to these employment practices provided they remain consistent with the broader Government policy of support for these functions.

In acknowledgement of the Government's objectives in this area, agencies are encouraged to promote the benefits of community service and Defence Reserve service to their employees.

APS agencies should note their obligations to provide community service leave in accordance with the requirements of the National Employment Standards. Agencies should also cater for unpaid leave to community service personnel for emergency services duties encompassing leave for regular training, all emergency services responses, reasonable recovery time and ceremonial duties.

Defence Reserves Support Council

The Defence Reserves Support Council (DRSC) has developed a public sector leave policy which it recommends to Australian Government employers. Specifically, the DRSC recommends that agencies:

- provide four weeks' (20 working days or 28 calendar days) leave on full pay each year for Reservists undertaking Defence service;
- provide an additional two weeks' paid leave to allow for a Reservists' attendance at recruit/initial employment training;
- provide scope for additional leave for Defence service, either on a paid, unpaid or top-up pay basis;
- not require Reservists to pay their tax-free Reserve salary to their agency in any circumstances;
- allow Defence leave entitlements to accumulate and be taken over a two year period;
- treat leave for Defence service, whether with or without pay or on top-up pay, as service for all purposes – the exception being that a period or periods of leave without pay in excess of six months not count as service for annual leave purposes;
- provide Reservists with continued access to other components of their remuneration package during periods of Defence service, for example: superannuation (subject to the rules of the CSS, PSS and Military Superannuation and Benefits Scheme), studies assistance, salary reviews and cars;
- keep Reservists informed of developments in the workplace while the Reservists are undertaking training or are on deployment.

More broadly, the Australian Government strongly encourages APS agencies to actively promote the benefits of Reserve service to their employees. Defence Reserves Support communication employees can assist agencies with promotional material.

These arrangements are consistent with the Government's commitment to supporting Reserve service. The Government therefore supports agencies implementing arrangements along these lines through their workplace arrangements.

In recognition of the potential impact of Defence service on employers, the Australian Defence Force has undertaken to provide agencies, whenever possible, with at least three months' notice of a requirement for a Reservist to undertake Defence service. Agencies may also require Reservists to provide written evidence of their attendance for Defence service.

APS agencies are eligible to receive the Employer Support Payment (ESP). The ESP Scheme provides a financial benefit to those employers who provide leave, other than normal paid leave entitlements (e.g. annual leave), to Reservists to undertake peacetime training and deployment. Under the ESP Scheme an employer is eligible to receive the ESP once a Reservist has completed 14 days continuous Reserve service in any financial year. The qualifying period can be undertaken as a single period or as multiple periods of continuous Defence Service, as long as each period of continuous Defence Service is a minimum of five consecutive days.

Further information on the ESP, including assistance in developing Reserve service promotional material, can be obtained by contacting the DRSC: www.defencereserves.com.



Australian Government

**Australian Public Service
Commission**

Workplace Bargaining Policy 2015



Workplace Bargaining Policy 2015

Introduction

1. This policy provides a framework for agencies to implement terms and conditions of employment that are affordable and support modern and agile public sector workplaces.
2. The policy applies to Australian Public Service (APS), non-APS Australian Government entities, including Members of Parliament Staff and Government Business Enterprises. It supersedes the *Australian Government Public Sector Workplace Bargaining Policy 2014*.
3. The policy does not apply to the Australian Defence Force.
4. In this policy, the term workplace arrangement includes enterprise agreements, common law agreements or determinations, including Public Service Act determinations or workplace determinations made under relevant employing legislation.
5. Terms and conditions of employment for APS non-Senior Executive Service employees are generally set through enterprise agreements at the agency level.
6. Agencies and the Australian Public Service Commission (APSC) will work together to develop workplace arrangements that are consistent with this policy.
7. Agencies are responsible for ensuring that workplace arrangements are consistent with this policy.

Approval Requirements

8. The APS Commissioner must approve any proposed increases in remuneration prior to those increases being put forward to staff. Details on remuneration approvals are outlined below.
9. A draft enterprise agreement, or other collective workplace arrangement, is to be provided to the Commissioner for approval prior to tabling a final position to staff.
10. Where the Commissioner considers that a proposed workplace arrangement is inconsistent with Government policy or there are unresolved policy issues, the matter will be referred to the Minister Assisting the Prime Minister for the Public Service and the portfolio Minister for consideration.
11. Exemptions to any provisions of the policy will only be approved by Ministers in exceptional circumstances.

Remuneration

12. Remuneration increases may be negotiated up to an average of 2% per annum.
13. Remuneration increases include all increases to payments made to employees, other than changes to expense-related allowances as outlined in paragraph 15. This does not include existing salary point progression or performance pay arrangements if those arrangements remain unchanged.
14. Existing pay scales are not to be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.

15. Existing salary-related allowances may be increased in line with general wage increases. Existing expense-related allowances may be increased in line with relevant economic indicators or statistical measures.
16. Remuneration increases must be offset by productivity improvements. Productivity improvements can be achieved by ensuring that new workplace arrangements do not contain clauses that restrict an agency's ability to operate efficiently and effectively.
17. Agencies should continue to implement other productivity improvements to support more efficient operations, either within or outside of the workplace arrangement.
18. Remuneration increases are to be affordable and funded from within existing agency budgets, without the redirection of programme funding.
19. Remuneration increases are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources.
20. The amount and timing of remuneration increases may vary across the life of a workplace arrangement, provided that there is a reasonable spread of increases. Factors to be considered include: affordability, timing, and any potential flow on impact to other agencies.
21. Existing and ongoing payments may be restructured into a consolidated base salary rate without being regarded as a remuneration increase, where:
 - a. the restructuring will only apply to employees who receive, or were eligible to receive, the ceasing payment;
 - b. there is no net gain to individual employees; and
 - c. the outcome is at least cost neutral for the agency.
22. For example, an employee earning a \$60,000 base salary and a \$200 non-superannuable professional allowance may have these amounts restructured as a \$60,169 base salary after a 15.4% discount for the superannuation payment on the rolled-in allowance is applied.
23. Remuneration increases are to apply prospectively.
24. Sign-on bonuses are not to be negotiated.
25. An employee is not to advance through a classification or broadband pay scale if they have not achieved at least a satisfactory level of performance.
26. Agency Heads will provide the APS Commissioner (the Commissioner) with a signed Remuneration and Funding Declaration for approval. This will outline the proposed increases, associated costs and certify affordability.
27. Agencies must obtain approval from the Commissioner using the template at **Attachment A**.
28. Remuneration increases for Senior Executive Service and equivalent employees covered by individual arrangements are to be consistent with this policy. The approval of the Commissioner is not required.

All Workplace Arrangements

29. Agreements are not to impose restrictive work practices or other arrangements that confine the operations of the agency, or in the case of the APS, the Service as a whole, or curb the effective operation of legislation.
30. Workplace arrangements should be simple, clear and easy to read.
31. The right for an employee to choose to belong or not to belong to a union will be respected.
32. Consultation and workplace relations arrangements in agencies are to be balanced and not unreasonably favour one group of employees over another. Agencies may make provision for consultative structures with employees, and where employees choose, their representatives, regarding employment relations matters.
33. Employees who are not members of a union may not wish to engage with, or receive communications from, a union. Agencies are to ensure that communication arrangements within the agency respect this.
34. Right of entry is dealt with in the *Fair Work Act 2009* and these provisions must not be enhanced.
35. Where workplace arrangements contain detail about performance management, they will support improved productivity and high performance, and will not contain restrictive processes and procedural requirements.

Enterprise Agreements

36. Enterprise agreements should only contain clauses that are required by legislation to support the effective operation of the agreement and provide entitlements to employees.
37. Enterprise agreements are to be of at least three years' duration.
38. An APS agency's individual flexibility term is an accepted mechanism for providing to individual employees alternative terms and conditions to those available through an enterprise agreement.
39. All enterprise agreements must contain an individual flexibility term. Individual flexibility terms must allow for flexibility, at a minimum, in respect of the matters listed in the model term in the Fair Work Regulations. Flexibility terms are to provide a wide scope to vary the terms of the agreement, including remuneration.
40. Proposed enterprise agreements will include the model dispute resolution term, or equivalent, prescribed by the Fair Work Regulations, without additional restrictive arrangements.
41. Proposed enterprise agreements will include the model consultation term, or equivalent, without any additional arrangements that would unduly restrict managerial decision-making and the operations of the agency.

APS Classification Structures

42. Classification structures in APS enterprise agreements and other industrial instruments are to be consistent with the Classification Rules issued under the *Public Service Act 1999*.
43. Training Classifications should specify remuneration levels, even if they are not routinely used. This will allow agencies to engage employees at these classifications during the life of the agreement.

44. Advancement through a broadband will occur where:
- a. an employee's performance is satisfactory; and
 - b. there is sufficient work available at the higher classification level; and
 - c. the employee has the necessary skills and proficiencies to perform that work.

Conditions of Employment

45. APS and Commonwealth employment conditions generally meet or exceed community standards. An enhancement of existing conditions would only be contemplated in exceptional circumstances. Ministerial approval of any enhancement would be required.
46. Arrangements will not allow the cashing out of personal/carers' leave.
47. To ensure that entitlements are used in a manner consistent with the intent of the legislation, long service leave is only granted in blocks of at least seven calendar days at full pay, or at least 14 calendar days at half pay, per occasion. It is not to be broken by other forms of leave unless required by legislation.
48. APS agencies and the parliamentary departments will ensure the portability of accrued paid leave entitlements. This is to occur where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.
49. APS Agencies considering the transfer of leave entitlements and/or the recognition of prior service with other bodies such as non-APS authorities or State Government agencies, other than for long service leave purposes, should consult with the Department of Finance.
50. Workplace arrangements should incorporate leave provisions that support the release of community service volunteers for emergency services duties and Defence Reservists for peacetime training and development.
51. The Defence Reserves Support Council recommends a Defence reserve leave policy for Australian Government employers. This is available from the Defence Reserves Support Council [website](#).

Redeployment, Reduction and Retention

52. APS agency workplace arrangements are to include compulsory redeployment, reduction and retrenchment arrangements for employees identified as excess to requirements.
53. A proposed workplace arrangement will not enhance existing redundancy entitlements.
54. Redundancy payments are to be consistent with, but not exceed, the NES entitlements for employees with two to three, and three to four years' service.
55. To avoid double-dipping on redundancy entitlements, workplace arrangements should include a mechanism that will reduce a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the NES.
56. SES workplace arrangements are not to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under section 29 of the Public Service Act. SES workplace arrangements will not include retention period arrangements for excess SES employees.

Partnership with the Australian Public Service Commission

57. The APSC provides support and advice to agencies on the Australian Government's employment and workplace relations policies.
58. To assist the APSC in providing advice on bargaining across the Commonwealth public sector, agencies are requested to:
- a. advise the APSC about any significant employment relations matters, for example matters in the Fair Work Commission or industrial disputes; and
 - b. provide data to the APSC as requested to assist with reporting requirements.

Legal Advice

59. The Legal Services Directions require the agency responsible for certain legislation to be consulted on any request for legal advice and be given a copy of any legal advice about that legislation. The Department of Employment has responsibility for the *Fair Work Act 2009*.
60. The APSC has responsibility for the *Public Service Act 1999*, *Long Service Leave (Commonwealth Employees) Act 1976* and *Maternity Leave (Commonwealth Employees) Act 1973*. The APSC requests that copies of legal advice on the Fair Work Act in the context of public sector employment also be provided. Contact details are:

Chief Counsel
Department of Employment
GPO Box 9880
CANBERRA ACT 2601

Legal Adviser
Australian Public Service Commission
16 Furzer Street
PHILLIP ACT 2606

Interpretation and Definitions

Agency	Any Australian Government entity (APS and non-APS), including Members of Parliament Staff, excluding the Australian Defence Force.
Agency Minister	The relevant agency's Minister.
APS	Australian Public Service.
APS agency	An agency that employs employees under the <i>Public Service Act 1999</i> .
APSC	Australian Public Service Commission.
Broadband	A grouping of duties across numerous classifications.
Classification Rules	Public Service Classification Rules 2000, made under subsection 23(1) of the <i>Public Service Act 1999</i> .
Commissioner	Australian Public Service Commissioner.
Commissioner's Directions	Australian Public Service Commissioner's Directions 2013.
Enterprise Agreement	An agreement made under Part 2-4 of the <i>Fair Work Act 2009</i> .
Fair Work Act	<i>Fair Work Act 2009</i> .
Fair Work Regulations	<i>Fair Work Regulations 2009</i> .
LSL Act	<i>Long Service Leave (Commonwealth Employees) Act 1976</i> .
Maternity Leave Act	<i>Maternity Leave (Commonwealth Employees) Act 1973</i> .
NES	National Employment Standards in the <i>Fair Work Act 2009</i> .
Non-APS agency	A Commonwealth entity as defined in the <i>Public Governance, Performance and Accountability Act 2013</i> that does not employ employees under the Public Service Act.
Public Service Act	<i>Public Service Act 1999</i> .
Public Service Minister	The Minister Assisting the Prime Minister for the Public Service.
SES	Senior Executive Service.
Ministers	The Minister Assisting the Prime Minister for the Public Service and the relevant agency Minister.
Workplace arrangement	A common law agreement, enterprise agreement or a determination, including Public Service Act determinations or workplace determinations made under relevant employing legislation.

ATTACHMENT A

[Agency Name] Remuneration and Funding Declaration

Description of remuneration proposal

Provide a short overview of the remuneration proposal in this space, including:

- *Each specific general wage increase;*
- *Any structural changes to salary scales;*
- *Changes to salary advancement;*
- *Changes to bonus arrangements;*
- *Restructuring of other payments into consolidated base salary;*
- *Any other changes to remuneration not listed above.*

Cost estimate

Increase	Timing	Cost year 1 (\$)	Cost year 2 (\$)	Cost year 3 (\$)	Total (\$)
2.0%	<i>On commencement</i>	\$1.0m	\$1.0m	\$1.0m	\$3.0m
2.0%	<i>12 months from commencement</i>	<i>n/a</i>	\$1.0m	\$1.0m	\$2.0m
2.0%	<i>24 months from commencement</i>	<i>n/a</i>	<i>n/a</i>	\$1.0m	\$1.0m
				TOTAL	\$6.0m

Allowances

For all allowances that are proposed to be increased, complete the following:

Allowance name	% increase	Timing	Total Cost
<i>On-call allowance</i>	2.5%	<i>On commencement</i>	\$100,000
<i>First aid allowance</i>	<i>In line with general increase</i>	<i>In line with general increase</i>	\$200,000
		TOTAL	\$300,000

Total remuneration increase cost: \$6.3m

Notes on completing this submission

- Text in italics is instructional or provides examples and should be removed before submission.
- The Cost Estimate table is designed to ensure that accumulation of costs over time and relevant on-costs are taken into account.
- Costs estimates for wage increases must include impact on salary and superannuation as a minimum.
- Specify whether your costing is based on agreement years or financial years. The example assumes agreement years with pay rises on each anniversary of commencement.
- Please take into account any part-year effects of pay rise timing, and that a three-year agreement will generally cover four financial years. Edit the cost estimate table as necessary if more years are required.
- This box may be removed from completed submissions.

Agency Head / Chief Executive Declaration - [Agency Name]

Having taken account of:

- 1. my agency’s existing financial position, including out-year appropriations and known efficiency dividends; and
- 2. known operational requirements for the life of the agreement; and
- 3. expected increases in pay and conditions to be provided to employees under the proposed arrangement, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements; and
- 4. the potential cost of individual flexibility agreements, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements and other employee costs outside this enterprise agreement/workplace arrangement;

I certify that:

- 1. all costs arising from the proposed arrangements can be funded from within existing and known future agency budget and revenue streams;
- 2. the description and estimated cost of the remuneration proposal of *<Insert total remuneration increase cost figure>* is true and accurate;
- 3. the improvements in remuneration, terms and conditions contained within the proposed workplace arrangement are not, and will not be, funded through:
 - a. the use of programme funding; and/or
 - b. increases to customer service and product fees, or similar; and
- 4. there are sufficient productivity improvements to offset the proposed remuneration increases.

Agency Head / Chief Executive Officer

Signature: _____

Name: _____

Title: _____

Date: _____



Australian Government
Australian Public Service
Commission

Workplace Bargaining **Policy 2018**



Introduction

1. The Workplace Bargaining Policy 2018 supports public sector entities in creating workplace arrangements that enable sustainable, high performing public sector workplaces.
2. The key principles of the policy are that:
 - a. enterprise agreements and other workplace arrangements are not to contain restrictive work practices, unduly limit flexibility, or otherwise impede workplace reform;
 - b. remuneration increases are to be modest and to remain within agencies' existing budgets, reflecting the need for wages restraint in the current economic circumstances;
 - c. public sector terms and conditions are to be reasonable, reflecting community standards; and
 - d. freedom of association is to be respected.

Application of this policy and agency responsibilities

3. This policy applies to all Australian Public Service (APS) and non-APS Australian Government entities and Members of Parliament Staff (hereafter 'agencies'). It excludes the Australian Defence Force.
4. Government Business Enterprises (GBEs) and the Reserve Bank of Australia (RBA) are to apply the policy to the extent practicable, commensurate with their commercial and competitive circumstances and the intent of Government policy. Before commencing negotiations, these entities are to consult their portfolio Minister and inform the Australian Public Service Commissioner about the rationale for their proposed bargaining approach. The separate approval requirements of this policy do not apply to these entities.
5. The term workplace arrangement covers enterprise agreements, common law agreements and determinations made under the relevant employing legislation.
6. Agencies are responsible for ensuring that workplace arrangements are consistent with the policy and meet all legislative obligations. Separately, agencies are responsible for ensuring that their workplace relations policies and practices are consistent with the policy. This applies particularly to policies and practices on right of entry, freedom of association, consultation, dispute resolution and employee representatives.

7. Unions may seek to enter a side arrangement outside an enterprise agreement. Agencies should respond to such an approach with caution and ensure any side arrangement does not circumvent the enterprise agreement or this policy. Side arrangements are to be approved by the APS Commissioner before they are entered into with a union.
8. Agencies are obliged to ensure the Australian Public Service Commission is informed of significant developments associated with bargaining. This includes hearings in the Fair Work Commission, industrial disputation, and industrial action. Agencies are to provide any legal advice obtained to the APSC.

Approval requirements

9. Approval from the APS Commissioner must be obtained prior to any proposed increases in remuneration being discussed with employees and/or their representatives. Agency Heads are to provide the APS Commissioner with a signed Funding Productivity and Remuneration Declaration, using the template at **Attachment A**.
10. Approval from the APS Commissioner must be obtained prior to any proposed trading of terms and conditions being discussed with employees and/or their representatives. The APSC may issue advice to agencies from time to time on the scope of changes permitted. More information is found at clause 49.
11. A draft enterprise agreement, or other collective workplace arrangement, is to be provided to the APS Commissioner for approval prior to the agency tabling its final position with employees and/or their representatives.
12. The assessment of an agency's proposed workplace arrangement will be based on the agency's current workplace arrangement, not arrangements which may apply in other agencies.
13. Exemptions from any provision of the policy are to be approved by the Minister Assisting the Prime Minister for the Public Service and the agency's portfolio Minister. Exemptions will only be approved in exceptional circumstances.

Coverage and use of workplace arrangements

14. Agencies are able to adopt any form of workplace arrangement/s which suits their business needs. Where an agency is considering a change to its current arrangements, the agency should advise the APS Commissioner before proceeding.
15. Senior Executive Service (SES) and equivalent employees are to be covered by individual arrangements or a determination made under relevant legislation.

16. Agencies may implement separate workplace arrangements for Executive Level and equivalent employees that recognise their management responsibilities.
17. Individual flexibility arrangements are a legitimate form of workplace arrangement. Their use is encouraged given the benefits to both the relevant agency and individual employee.

Funding, productivity and remuneration

18. Remuneration increases are to be affordable and funded from within existing agency budgets, without the redirection of programme funding.
19. Remuneration increases are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources.
20. Agencies are to identify current and/or prospective productivity improvements from within their operations, which will support the proposed remuneration increases. These are to be broadly outlined in the Funding, Productivity and Remuneration Declaration.
21. Remuneration increases may be negotiated up to an average of 2.0% per annum.
22. Remuneration increases include all new increases to payments made to employees, other than changes to expense-related allowances as outlined in paragraph 25.
23. Existing pay scales are generally not to be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.
24. Where entrenched internal structural deficiencies make an agency's existing pay scale unworkable within the context of its operational needs, the APS Commissioner may agree to reasonable variations that address these deficiencies. Such agreement will only occur in exceptional circumstances and not to address attraction or retention issues, or machinery of government changes.
25. Existing salary-related allowances may be increased in line with general wage increases. Existing expense-related allowances may be increased in line with relevant economic indicators or statistical measures.
26. The amount and timing of remuneration increases may vary across the life of a workplace arrangement, provided that there is a reasonable spread of increases. Factors to be considered include: affordability, timing and any potential flow on to other agencies.
27. Existing and ongoing payments may be restructured and consolidated without being regarded as a remuneration increase. The APS Commissioner is to approve such proposals before they are tabled with employees and/or their representatives. The following principles are to be applied:

- a. the restructuring will only apply to employees who receive, or were eligible to receive, the ceasing payment;
 - b. there is no net gain to individual employees; and
 - c. the outcome is at least cost neutral for the agency.
28. Remuneration increases are to apply prospectively.
 29. Sign-on bonuses are not to be negotiated.
 30. An employee is not to advance through a classification or broadband pay scale if they have not achieved at least a satisfactory level of performance.
 31. Remuneration increases for SES and equivalent employees covered by individual arrangements are to be consistent with this policy. The approval of the APS Commissioner is not required.

Content requirements – all workplace arrangements

32. Workplace arrangements are not to impose restrictive work practices or other measures that confine the operations of the agency, or in the case of the APS, the Service as a whole, or curb the effective operation of legislation.
33. Workplace arrangements should be simple, clear and easy to read.
34. The right for an employee to choose to belong or not to belong to a union must be respected.
35. Employees who are not members of a union are entitled to choose not to engage with, or receive communications from, a union. Agencies are to ensure that communication arrangements within the agency respect this.
36. Agencies may make provision for consultative structures with employees, and where employees choose, their representatives. Such arrangements should focus on the implementation of workplace arrangements and associated employment relations matters.
37. Consultation and workplace relations arrangements in agencies are to be balanced and not unreasonably favour one group of employees over another.
38. The right of entry provisions of the *Fair Work Act 2009* must not be enhanced.
39. Changes to restrict, in any way, the use of contractors, labour hire or contingent workers will not be entertained.

Additional content requirements – enterprise agreements

40. Enterprise agreements are to be of at least three years' duration.
41. Individual flexibility terms are to provide flexibility in respect of the matters listed in the model term in the Fair Work Regulations 2009, plus remuneration. A wider scope is encouraged.
42. Proposed enterprise agreements are to include the model dispute resolution term or equivalent, prescribed by the Fair Work Regulations 2009, without additional restrictive arrangements.
43. Proposed enterprise agreements are to include the model consultation term prescribed by the Fair Work Regulations 2009, or equivalent, without any additional arrangements that would unduly restrict managerial decision-making and the operations of the agency.

Classification structures

APS

44. Classification structures in enterprise agreements and other industrial instruments are to be consistent with the Classification Rules issued under the *Public Service Act 1999*.

APS and non-APS

45. Training Classifications are to specify remuneration levels, even if they are not routinely used.
46. Advancement through a broadband will only occur where:
 - a. an employee's performance is at least, satisfactory; and
 - b. there is sufficient work available at the higher classification level; and
 - c. the employee has the necessary skills and proficiencies to perform that work.

Conditions of employment

47. Arrangements will not allow the cashing out of personal/carers' leave.
48. Long service leave is only to be granted in blocks of at least seven calendar days at full pay, or at least 14 calendar days at half pay, per occasion. It is not to be broken by other forms of leave unless required by legislation.

49. Conditions are not to be enhanced overall, but can be traded with other conditions or entitlements of similar value within enterprise agreements. This does not include trade-offs in exchange for a higher salary increase or enhanced redundancy provisions. The APS Commissioner is to approve such proposals before they are tabled with employees and/or their representatives.
50. APS agencies and the parliamentary departments are to ensure the portability of accrued paid leave entitlements. This is to occur where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.
51. Workplace arrangements are to incorporate leave provisions that support the release of Defence Reservists for peacetime training and development. The Defence Reserves Support Council model reserve leave policy is recommended.
52. Agencies are encouraged to put in place policies and practices that provide the maximum support available for employees affected by family and domestic violence, bearing in mind that the privacy and safety of such employees is paramount. Agencies already provide a range of generous conditions and these should be used to provide individualised and holistic support to affected employees.

Redundancy, redeployment and reduction

53. APS agency workplace arrangements are to include compulsory redundancy, redeployment and reduction arrangements for employees identified as excess to requirements.
54. A proposed workplace arrangement is not to enhance existing redundancy, redeployment and reduction entitlements.
55. Redundancy payments must meet any minimum amount an employee is entitled to under the National Employment Standards (NES). The typical APS benefit of 2 weeks' pay per year of service is less beneficial than the NES for employees with two to three, and three to four years' service. In situations such as this, workplace arrangements should identify that the NES will apply instead.
56. To avoid double-dipping on redundancy entitlements, workplace arrangements should include a mechanism that will reduce a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the NES.
57. SES workplace arrangements are not to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under section 29 of the *Public Service Act 1999*. SES workplace arrangements will not include retention period arrangements for excess SES employees.

Attachment A

[Agency Name]

Remuneration, Funding and Productivity Declaration

Description of remuneration proposal

Provide a short overview of the remuneration proposal in this space, including:

Each specific general wage increase;

Any structural changes to salary scales;

Changes to salary advancement;

Changes to bonus arrangements;

Restructuring of other payments into consolidated base salary; and

Any other changes to remuneration not listed above.

Cost estimate

Increase	Timing	Cost year 1 (\$)	Cost year 2 (\$)	Cost year 3 (\$)	Total (\$)
2.0%	On commencement	\$1.0m	\$1.0m	\$1.0m	\$3.0m
2.0%	12 months from commencement	n/a	\$1.0m	\$1.0m	\$2.0m
2.0%	24 months from commencement	n/a	n/a	\$1.0m	\$1.0m
				TOTAL	\$6.0m

Allowances

For all allowances that are proposed to be increased, complete the following:

Allowance name	% increase	Timing	Total Cost
On-call allowance	2.5%	On commencement	\$100,000
First aid allowance	In line with	In line with general	\$200,000

Allowance name	% increase	Timing	Total Cost
	<i>general increase</i>	<i>increase</i>	
		TOTAL	\$300,000

Total remuneration increase cost: \$6.3m

Notes on completing this submission

Text in italics is instructional or provides examples and should be removed before submission. The Cost Estimate table is designed to ensure that accumulation of costs over time and relevant on costs are taken into account.

Costs estimates for wage increases must include impact on salary and superannuation as a minimum.

Specify whether your costing is based on agreement years or financial years. The example assumes agreement years with pay rises on each anniversary of commencement.

Please take into account any part-year effects of pay rise timing, and that a three-year agreement will generally cover four financial years. Edit the cost estimate table as necessary if more years are required.

This box may be removed from completed submissions.

Description of productivity initiatives

The following productivity initiatives support the remuneration proposal:

Provide a short overview of the agency's productivity initiatives that will support the remuneration proposal in this space. Dot point descriptions will be sufficient.

Examples:

Implementation of Optimal Management Structures (expected completion July 2019);

Streamlining ICT contracts (completed July 2018);

Implementation of workforce initiative (commencing implementation December 2017).

Agency Head / Chief Executive Declaration - [Agency Name]

Having taken account of:

1. my agency's existing financial position, including out-year appropriations and known efficiency dividends;
2. known operational requirements for the life of the agreement;
3. expected increases in pay and conditions to be provided to employees under the proposed arrangement, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements; and
4. the potential cost of individual flexibility agreements, including consequential effects such as increases to outstanding leave liabilities and superannuation entitlements and other employee costs outside this enterprise agreement/workplace arrangement;

I certify that:

1. all costs arising from the proposed arrangements can be funded from within existing and known future agency budget and revenue streams;
2. the description and estimated cost of the remuneration proposal of *<Insert total remuneration increase cost figure>* is true and accurate;
3. the improvements in remuneration, terms and conditions contained within the proposed workplace arrangement are not, and will not be, funded through:
 - a. the use of programme funding; and/or
 - b. increases to customer service and product fees, or similar; and
4. there are sufficient productivity improvements to offset the proposed remuneration increases.

Agency Head / Chief Executive Officer

Signature: _____

Name: _____

Title: _____

Date: _____



Australian Government

**PUBLIC SECTOR
WORKPLACE RELATIONS POLICY**

2020

Introduction

1. The Public Sector Workplace Relations Policy 2020 supports Australian Government public sector entities in creating workplace arrangements that enable sustainable, high performing public sector workplaces.
2. The key principles of the policy are that:
 - a. enterprise agreements and other workplace arrangements are not to contain restrictive work practices, unduly limit flexibility, or otherwise impede workplace reform;
 - b. remuneration adjustments are to be consistent with the private sector, reflecting the need for the public sector to be in step with the broader economy;
 - c. public sector terms and conditions are to be reasonable, reflecting community standards; and
 - d. freedom of association is to be respected.

Application of this policy and agency responsibilities

3. This policy applies to all Australian Public Service (APS) and non-APS Australian Government entities and Members of Parliament Staff (hereafter 'agencies'). It excludes the Australian Defence Force.
4. Government Business Enterprises (GBEs) and the Reserve Bank of Australia (RBA) are to apply the policy to the extent practicable, commensurate with their commercial and competitive circumstances and the intent of Government policy. Before commencing negotiations, these entities are to consult their portfolio Minister and inform the Australian Public Service Commissioner about the rationale for their proposed bargaining approach. The separate approval requirements of this policy do not apply to these entities.
5. The term workplace arrangement covers enterprise agreements, common law agreements and determinations made under the relevant employing legislation.
6. Agencies are responsible for ensuring that workplace arrangements are consistent with the policy and meet all legislative obligations. Separately, agencies are responsible for ensuring that their workplace relations policies and practices are consistent with the policy. This applies particularly to policies and practices on right of entry, freedom of association, consultation, dispute resolution and employee representatives.
7. Unions may seek to enter a side arrangement outside an enterprise agreement. Agencies should respond to such an approach with caution and ensure any side arrangement does not circumvent the enterprise agreement or this policy. Side arrangements are to be approved by the APS Commissioner before they are entered into with a union.
8. Agencies are obliged to ensure the Australian Public Service Commission (APSC) is informed of significant developments associated with bargaining. This includes hearings in the Fair Work Commission, industrial disputation, and industrial action. Agencies are to provide any legal advice obtained to the APSC.

Approval requirements

9. Approval from the APS Commissioner must be obtained prior to any proposed increases in remuneration being discussed with employees and/or their representatives. Agency Heads are to provide the APS Commissioner with a signed Funding, Productivity and Remuneration Declaration, using the template provided by the APSC.
10. Approval from the APS Commissioner must be obtained prior to any proposed trading of terms and conditions being discussed with employees and/or their representatives. The APSC may issue advice to agencies from time to time on the scope of changes permitted. More information is found at clause 49.
11. A draft enterprise agreement, or other collective workplace arrangement, is to be provided to the APS Commissioner for approval prior to the agency tabling its final position with employees and/or their representatives.
12. The assessment of an agency's proposed workplace arrangement will be based on the agency's current workplace arrangement, not arrangements which may apply in other agencies.
13. Exemptions from any provision of the policy are to be approved by the Minister Assisting the Prime Minister for the Public Service and the agency's portfolio Minister. Exemptions will only be approved in exceptional circumstances.

Coverage and use of workplace arrangements

14. Agencies are able to adopt any form of workplace arrangement/s which suits their business needs. Where an agency is considering a change to its current arrangements, the agency should advise the APS Commissioner before proceeding.
15. Senior Executive Service (SES) and equivalent employees are to be covered by individual arrangements or a determination made under relevant legislation.
16. Agencies may implement separate workplace arrangements for Executive Level and equivalent employees that recognise their management responsibilities.
17. Individual flexibility arrangements are a legitimate form of workplace arrangement. Their use is encouraged given the benefits to both the relevant agency and individual employee.

Funding, productivity and remuneration

18. Adjustments to remuneration in Commonwealth workplaces are to be reflective of those across Australia. Through its work, the Commonwealth public sector is critical in supporting economic growth. Its success in doing so will be directly linked to remuneration outcomes.
19. Remuneration increases are to be affordable and funded from within existing agency budgets, without the redirection of programme funding. Remuneration increases are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources.
20. Agencies are to identify current and/or prospective productivity improvements from within their operations, which will support the proposed remuneration increases. These are to be broadly outlined in the Funding, Productivity and Remuneration Declaration.

21. Annual remuneration adjustments may be negotiated, capped however in line with the year to date percentage change in the Wage Price Index (WPI) for the Private Sector from the most recently released June quarter. For the avoidance of doubt:
 - a. the APSC will publish advice each year notifying agencies of this figure¹;
 - b. each annual remuneration adjustment will reflect the most recently applicable WPI figure. This is likely to mean that the adjustment will be at a different rate in each year of a workplace arrangement; and
 - c. an agency may negotiate a remuneration adjustment, based on affordability, of a set rate or the WPI (Private) figure, whichever is the lower.
22. Remuneration adjustments include all new increases to payments made to employees, other than changes to expense-related allowances as outlined in paragraph 25.
23. Existing pay scales are generally not to be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.
24. Where entrenched internal structural deficiencies make an agency's existing pay scale unworkable within the context of its operational needs, the APS Commissioner may agree to reasonable variations that address these deficiencies. Such agreement will only occur in exceptional circumstances and not to address attraction or retention issues, or machinery of government changes.
25. Existing salary-related allowances may be adjusted in line with general wage adjustments. Existing expense-related allowances may be increased in line with relevant economic indicators or statistical measures.
26. Agencies yet to implement the Government directed 9 April 2020 six month wage pause must delay the first non-SES wage adjustment delivered under this policy for six months.
27. Existing and ongoing payments may be restructured and consolidated without being regarded as a remuneration increase. The APS Commissioner is to approve such proposals before they are tabled with employees and/or their representatives. The following principles are to be applied:
 - a. the restructuring will generally only apply to employees who receive, or were eligible to receive, the ceasing payment;
 - b. there is no net gain to individual employees; and
 - c. the outcome is at least cost neutral for the agency.
28. Remuneration increases are to apply prospectively.
29. Sign-on bonuses are not to be negotiated.

¹ The applicable WPI (Private) figure is released in mid-August by the Australian Bureau of Statistics (ABS). To facilitate smooth implementation, that year's figure will only apply to remuneration adjustments payable from 1 September through to 31 August the following year. For example, in 2020 the ABS published a year to June quarter WPI (Private) figure on 12 August 2020 of 1.7%. Remuneration adjustments under this policy will be capped at 1.7% through to 31 August 2021. When the ABS publishes its next year to June quarter WPI (Private) figure in August 2021, that figure will apply from 1 September 2021 through to 31 August 2022. Agencies will find it beneficial to avoid commencing new workplace arrangements in the second half of August for ease of administration and communication.

30. An employee is not to advance through a classification or broadband pay scale if they have not achieved at least a satisfactory level of performance.
31. Remuneration adjustments for SES and equivalent employees covered by individual arrangements are to be consistent with this policy. The approval of the APS Commissioner is not required, however agencies are to provide the APS commissioner with information on SES and equivalent remuneration on request.

Content requirements – all workplace arrangements

32. Workplace arrangements are not to impose restrictive work practices or other measures that confine the operations of the agency, or in the case of the APS, the Service as a whole, or curb the effective operation of legislation.
33. Workplace arrangements should be simple, clear and easy to read.
34. The right for an employee to choose to belong or not to belong to a union must be respected.
35. Employees who are not members of a union are entitled to choose not to engage with, or receive communications from, a union. Agencies are to ensure that communication arrangements within the agency respect this.
36. Agencies may make provision for consultative structures with employees, and where employees choose, their representatives. Such arrangements should focus on the implementation of workplace arrangements and associated employment relations matters.
37. Consultation and workplace relations arrangements in agencies are to be balanced and not unreasonably favour one group of employees over another.
38. The right of entry provisions of the *Fair Work Act 2009* must not be enhanced.
39. Changes to restrict, in any way, the use of contractors, labour hire or contingent workers will not be entertained.

Additional content requirements – enterprise agreements

40. Enterprise agreements are to be of at least three years' duration.
41. Individual flexibility terms are to provide flexibility in respect of the matters listed in the model term in the Fair Work Regulations 2009, plus remuneration. A wider scope is encouraged.
42. Proposed enterprise agreements are to include the model dispute resolution term or equivalent, prescribed by the Fair Work Regulations 2009, without additional restrictive arrangements.
43. Proposed enterprise agreements are to include the model consultation term prescribed by the Fair Work Regulations 2009, or equivalent, without any additional arrangements that would unduly restrict managerial decision-making and the operations of the agency.
44. Proposed enterprise agreements are to ensure any public holiday substitution clause – where an employee may seek agreement to substitute another day for a public holiday – does not include Australia Day, Anzac Day and the Queen's Birthday holiday (as observed in each State and Territory) as public holidays that may be substituted.

Classification structures

APS

45. Classification structures in enterprise agreements and other industrial instruments are to be consistent with the Classification Rules issued under the *Public Service Act 1999*.

APS and non-APS

46. Training Classifications are to specify remuneration levels, even if they are not routinely used.
47. Advancement through a broadband will only occur where:
 - a. an employee's performance is at least, satisfactory; and
 - b. there is sufficient work available at the higher classification level; and
 - c. the employee has the necessary skills and proficiencies to perform that work.

Conditions of employment

48. Arrangements will not allow the cashing out of personal/carers' leave.
49. Long service leave is only to be granted in blocks of at least seven calendar days at full pay, or at least 14 calendar days at half pay, per occasion. It is not to be broken by other forms of leave unless required by legislation.
50. Conditions are not to be enhanced overall, but can be traded with other conditions or entitlements of similar value within enterprise agreements. This does not include trade-offs in exchange for a higher salary increase or enhanced redundancy provisions. The APS Commissioner is to approve such proposals before they are tabled with employees and/or their representatives.
51. APS agencies and the parliamentary departments are to ensure the portability of accrued paid leave entitlements. This is to occur where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.
52. Workplace arrangements are to incorporate leave provisions that support the release of Defence Reservists for peacetime training and development. The Defence Reserves Support model reserve leave policy is recommended.
53. Agencies are encouraged to put in place policies and practices that provide the maximum support available for employees affected by family and domestic violence, bearing in mind that the privacy and safety of such employees is paramount. Agencies already provide a range of generous conditions and these should be used to provide individualised and holistic support to affected employees.

Redundancy, redeployment and reduction

54. APS agency workplace arrangements are to include compulsory redundancy, redeployment and reduction arrangements for employees identified as excess to requirements.
55. A proposed workplace arrangement is not to enhance existing redundancy, redeployment and reduction entitlements.
56. Redundancy payments must meet any minimum amount an employee is entitled to under the National Employment Standards (NES). The typical APS benefit of 2 weeks' pay per year of service is less beneficial than the NES for employees with two to three, and three to four years' service. In situations such as this, workplace arrangements should identify that the NES will apply instead.
57. To avoid double-dipping on redundancy entitlements, workplace arrangements should include a mechanism that will reduce a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the NES.
58. SES workplace arrangements are not to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under section 29 of the *Public Service Act 1999*. SES workplace arrangements will not include retention period arrangements for excess SES employees.

Amendments

59. This policy was first issued on 13 November 2020 and was updated on 8 April 2022 to include clause 44 (above) which concerns the disallowance of substitution of certain public holidays in Australian Government public sector enterprise agreements.



Australian Government

Public Sector Interim Workplace Arrangements 2022



Introduction

1. The Australian Government aims to re-establish the public service as a model employer and employer of choice, and to best facilitate the delivery of essential Australian Government services to the community.
2. The Government is committed to a wages policy for Commonwealth employment underpinned by productivity growth and delivered through fair and genuine negotiations between employees, their representatives and employers.
3. Further, the Government understands the benefits that would result from genuine service wide negotiations on pay and common conditions, with agency specific conditions negotiated at the agency level.
4. In order to realise these aims, the Government will consult on comprehensive workplace relations policy settings for Commonwealth employment, to commence in 2023.
5. The development of a comprehensive policy is a complex undertaking given the current disparity of pay, terms and conditions across the Commonwealth. As a first step, it is necessary to establish interim arrangements that will provide certainty for agencies and their employees where current arrangements are due to expire prior to consultation on, and commencement of, a new comprehensive workplace relations policy. These interim arrangements are designed to avoid further disparity between agencies.

Purpose

6. This document facilitates interim workplace arrangements for Commonwealth agencies and their employees and should be referred to as the ***Public Sector Interim Workplace Arrangements 2022*** (the Interim Arrangements).
7. Importantly, the Interim Arrangements support the Government's commitment to take steps towards addressing fragmentation in remuneration and conditions across Commonwealth agencies through enlivened genuine bargaining.
8. The Interim Arrangements deliver the Government's public sector agenda by:
 - a. recognising the legitimate role of unions to represent employees and support workplace productivity;
 - b. encouraging consultation between agencies and employees and their representatives prior to major workplace decisions;
 - c. ensuring maximum support and flexibility for workers affected by family and domestic violence;
 - d. promoting workplace flexibility as a standard practice; and
 - e. providing certainty on an equitable wage increase across the Commonwealth for the next 12 months.
9. The Interim Arrangements commence on 1 September 2022 and are intended to operate until 31 August 2023, while consultation on, and development of, a comprehensive policy is underway.

10. The Interim Arrangements recognise:
 - a. it is a complex objective to move to common pay and conditions and it will take time;
 - b. employees and agencies require certainty on pay outcomes now;
 - c. other reforms are coming, including the Government's commitment to provide paid Family and Domestic Violence (FDV) leave in the National Employment Standards (NES) and a review of Commonwealth parental leave conditions; and
 - d. consultation with agencies, employees and unions will be key to reforming Commonwealth bargaining and should be a considered process.
11. The *Fair Work Act 2009* (Fair Work Act) provides for industrial rights for all national system employers and employees in Australia. This includes the right to collectively bargain for better remuneration and other conditions. As a temporary measure under the Interim Arrangements, agencies are encouraged take steps to efficiently provide a remuneration increase during the period of these arrangements, as described within, in consultation with employees and their representatives.
12. Agencies and employees are encouraged to make short-term determinations under relevant legislation to provide a timely remuneration increase. The Interim Arrangements promote minimum changes to conditions within this interim period to minimise the impact on future Commonwealth bargaining, which will be aimed at improving commonality of conditions across Commonwealth agencies.
13. Agencies should consult with the Australian Public Service Commission (APSC) prior to engaging in bargaining to discuss the agency's circumstances in the context of the broader public sector workplace relations reform agenda.
14. The Interim Arrangements revoke and replace the *Public Sector Workplace Relations Policy 2020* in its entirety.
15. Existing workplace arrangements are not disturbed, but any previously scheduled wage increase payable during the operational life of this policy should be supplemented to deliver an equitable remuneration increase as provided for under these arrangements.

Coverage and application

16. The Interim Arrangements apply to all Australian Public Service (APS) and non-APS Australian Government entities, and Members of Parliament Staff (hereafter agencies).
17. The Interim Arrangements do not apply to the Australian Defence Force or the High Court of Australia.
18. Government Business Enterprises (GBEs), the Australian National University, the Australian Broadcasting Corporation, the Special Broadcasting Service and the Reserve Bank of Australia are not required to apply the Interim Arrangements, but are encouraged to do so, while taking into account the commercial nature of their business operations. GBEs and the aforementioned entities should engage with their portfolio Minister and the Australian Public Service Commissioner on matters related to enterprise bargaining, industrial action or the making of other industrial instruments.
19. Agency Heads are responsible for ensuring that workplace arrangements are consistent with the terms of the Interim Arrangements and meet all relevant legislative obligations.

20. Exemptions to the Interim Arrangements will only be considered in exceptional circumstances. An application for exemption must be assessed by the APSC and is subject to approval by the Minister for the Public Service with endorsement from the relevant portfolio minister.
21. Agencies covered by the Interim Arrangements should ensure the APSC is informed of significant workplace relations developments. This includes major hearings in the Fair Work Commission related to enterprise agreements, industrial disputation and industrial action.

Interim arrangements

22. During the operational period of the Interim Arrangements, agencies are encouraged to make a determination under s.24(1) of the *Public Service Act 1999* (PS Act), or other relevant enabling legislation, to efficiently provide a remuneration increase for employees, where one is scheduled during the operational life of the Interim Arrangements.
23. Where it is consistent with current agency arrangements, a scheduled remuneration increase may be provided for through common law arrangements.
24. For the avoidance of doubt, a scheduled remuneration increase is where:
 - a. at least 12 months has passed since the most recent remuneration increase has been applied under the agency's expired workplace arrangement; or
 - b. an annual remuneration increase under the agency's in-term workplace arrangement, falls due within the operational period of the Interim Arrangements.
25. 'Workplace arrangement' means an enterprise agreement, common law arrangements, or a determination made under the PS Act or other relevant enabling legislation.
26. Workplace arrangements should be simple, clear and easy to read.

Remuneration

27. Agencies should provide an annual remuneration increase of **3.00 per cent** during the operational period of the Interim Arrangements. Any previously scheduled wage increase payable during the operational life of the Interim Arrangements should be adjusted to **3.00 per cent**.
28. Existing salary-related allowances may be increased in line with general remuneration increases, including any applicable adjustment. Existing expense-related allowances may be increased in line with a relevant economic indicator or statistical measure.
29. Remuneration increases should not be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources.
30. Remuneration increases include all increases to payments made to employees, other than changes to expense-related allowances.
31. Remuneration increases are to apply prospectively, no sooner than the commencement of a new workplace arrangement.
32. One-off incentive payments are not to be negotiated.
33. Remuneration increases for SES and equivalent employees are to be consistent with the Interim Arrangements. The approval of the APS Commissioner is not required for such increases, however, agencies are to provide the APS Commissioner with information on SES and equivalent remuneration on request.
34. Agencies providing remuneration increases to employees on common law arrangements must consult with the APSC prior to paying any remuneration increase. Agencies are to provide the APS Commissioner with information of such common law arrangements on request.

Approval requirements

35. All collective workplace arrangements must be approved by the APS Commissioner before being made. For the avoidance of doubt, this includes those made for Machinery of Government change purposes, unless the APSC advises otherwise.
36. Collective remuneration determinations must be drafted using the template provided by the APSC.
37. Collective workplace arrangements will only be approved with a duration of no more than 1 year to support transition to genuine bargaining under a new comprehensive policy framework.

SES employees

38. The Interim Arrangements apply to Senior Executive Service (SES) and equivalent employees.
39. Remuneration increases for SES and equivalent employees must be consistent with the Interim Arrangements, including requirements for repackaging remuneration.
40. SES workplace arrangements are not to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under s.29 of the PS Act.
41. SES workplace arrangements will not include retention period arrangements for excess SES employees.
42. Individual workplace arrangements for SES employees are not subject to approval by the APS Commissioner.
43. Agencies must provide the APS Commissioner with information on SES and equivalent classifications remuneration upon request.

Leave arrangements

44. Workplace arrangements must not allow for the cashing out of personal/carer's leave.
45. Workplace arrangements must ensure long service leave may only to be granted in blocks of at least seven calendar days at full pay, or at least 14 calendar days at half pay, per occasion. It is not to be broken by other forms of leave unless required by legislation.
46. Workplace arrangements must facilitate the portability of accrued paid leave entitlements between APS agencies, the Australian Capital Territory Public Service and the Parliamentary Departments. This is to occur where employees move between APS agencies, the Parliamentary Service and the Australian Capital Territory Public Service, providing there is no break in service.
47. Workplace arrangements are to incorporate leave provisions that support the release of Defence Reservists for peacetime training and development. The Defence Reserve Support model reserve policy is recommended.
48. Parental leave arrangements are being considered by Government in the context of the *Maternity Leave (Commonwealth Employees) Act 1973* Review. Agencies should not seek to alter current arrangements pending further direction from Government.

Family and domestic violence support

49. The Government is committed to providing 10 days of paid family and domestic violence leave as a legal minimum entitlement to employees.

50. As a model employer, it is the Government's expectation that Commonwealth agencies provide support for employees affected by family and domestic violence which meet and exceed these proposed entitlements. Agencies do not need to wait for legislative change, but should facilitate this through existing entitlements in workplace arrangements such as paid miscellaneous leave (or equivalent however described).
51. Agencies are to put in place policies and practices that provide the maximum support available for employees affected by family and domestic violence. Where appropriate in individual circumstances, this may include access to additional miscellaneous leave above legislated minimums.
52. The privacy and safety of employees is paramount. Agencies must take steps to ensure that records of how support is provided cannot be used to identify an employee.
53. Agencies are to ensure that policies in place are comprehensive, and guided by the needs of the individual employee who is affected by family and domestic violence.
54. The APS Family and Domestic Violence Policy Framework template policy is available to guide agencies on creating a policy that can be adapted to agency specific needs.

Redundancy, redeployment and reduction

55. APS agency workplace arrangements are to include compulsory redundancy, redeployment and reduction arrangements for employees identified as excess to requirements.
56. Proposed workplace arrangements are not to enhance existing redundancy, redeployment and reduction entitlements.
57. Redundancy payments provided for in workplace arrangements must meet any minimum amount an employee is entitled to under the NES. The typical APS benefit of 2 weeks' pay per year of service is less beneficial than the NES for employees with two to three, and three to four years' service. In situations such as this, workplace arrangements should identify that the NES will apply instead.
58. To avoid double-dipping on redundancy entitlements, workplace arrangements should include a mechanism that will reduce a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the NES.

Workplace consultation

59. Agencies should positively engage in genuine consultation with employees and unions on workplace matters that affect them.
60. Proposed enterprise agreements are to include the model consultation term prescribed by the *Fair Work Regulations 2009*, or equivalent. Agencies should implement workplace arrangements that go beyond the model consultation term, noting that agencies are not required to do anything that would be inconsistent with their legal obligations (for example ensuring they comply with privacy laws).
61. Further details of the arrangements agencies are to apply are outlined in APSC Circular 2022/08: Genuine and effective consultation in Commonwealth agencies, or any subsequent circular which replaces this Circular.

Union delegates rights

62. Agencies should implement workplace arrangements that enable sustainable, high performing public sector workplaces, and encourages principles that respect and facilitate the role of union workplace delegates, and other union officials.

63. Agencies should implement arrangements that ensure unions can exercise their industrial rights under the Fair Work Act and participate in consultations and engagement that go beyond Fair Work Act requirements. Agencies are not required to do anything that would be inconsistent with legal obligations.
64. Further details of the arrangements agencies are to apply are outlined in APSC Circular 2022/09: Union representation in Commonwealth agencies, or any subsequent circular which replaces this Circular.

Dispute resolution

65. Proposed enterprise agreements are to include the model dispute resolution term or equivalent, prescribed by the *Fair Work Regulations 2009*.
66. It is Government policy that the resolution of disputes in the Commonwealth should occur in good faith and therefore follow the same principles as the good faith bargaining requirements detailed at section 228 of the Fair Work Act.
67. Agencies must be cautious in considering any proposal to broaden the scope of the dispute resolution clause beyond matters that arise under their enterprise agreement and the NES.

Flexibility

68. Flexibility is a normal feature of Commonwealth employment.
69. Flexible working arrangements allow employees to balance family, caring and other responsibilities and interests alongside their work commitments and career goals. Flexible working arrangements include initiatives such as flex time, time off in lieu, part time work, home based work, remote work, hybrid work, telework and job sharing.
70. Agency Heads are responsible for making decisions about the availability of workplace flexibility in the context of their operations and consistent with their enterprise agreements and the Fair Work Act.
71. Individual flexibility terms are to provide flexibility in respect of the matters listed in the model term in the *Fair Work Regulations 2009*, plus remuneration.

Agencies currently bargaining or preparing to bargain

72. Agencies are advised to consult with the APSC before continuing or commencing bargaining.
73. Agencies currently in bargaining are encouraged to consult with bargaining representatives to:
 - a. decide whether the continuation of bargaining is necessary or appropriate at this time; or
 - b. agree to pause bargaining and elect to make a remuneration only determination under the Interim Arrangements.
74. Agencies currently considering whether to commence a new bargaining process, are to first discuss their circumstances with the APSC concerning whether this is necessary or appropriate during the term of the Interim Arrangements. This consultation should occur before any decision or commitment is made to bargaining representatives or employees to issue a Notice of Employee Representational Rights.
75. Draft enterprise agreements will generally only be approved by the APS Commissioner during the operational period of the Interim Arrangements where it is consistent with the intent of the Interim Arrangements. An assessment as to whether bargaining is appropriate, will take into account the agency's industrial circumstances, and whether the agency is compelled to bargain to ensure compliance with legal obligations.

76. Changes to agency terms and conditions will be subject to approval by the APS Commissioner, who will consider service-wide implications. Changes to existing terms and conditions will only be approved in exceptional circumstances under the Interim Arrangements.

Remuneration in bargaining

77. For the avoidance of doubt, any workplace arrangement made during the term of the Interim Arrangements is subject to all provisions of these arrangements, including that remuneration increases are to be a single increase of **3.00 per cent**.
78. Existing pay scales are generally not to be modified to provide for new top pay points, removal of existing pay points, or other mechanisms to accelerate salary advancement.
79. Where entrenched internal structural deficiencies make an agency's existing pay scale unworkable within the context of its operational needs, the APS Commissioner may agree to reasonable variations that address these deficiencies.
80. Existing and ongoing payments to employees may be restructured and consolidated without being regarded as a remuneration increase where the following principles are applied:
- a. the restructuring will generally only apply to employees who receive, or were eligible to receive, the ceasing payment;
 - b. there is no net gain to individual employees; and
 - c. the outcome is at least cost neutral for the agency.
81. Such restructuring of payments may have implications for employer superannuation contributions. In such circumstances, discounting would be required to ensure these principles are observed. The APS Commissioner is to approve such proposals before they are tabled with employees or their representatives.
82. An employee is not to advance through a classification or broadband pay scale if they have not achieved at least a satisfactory level of performance.



Australian Government
Australian Public Service Commission

Australian Government

Public Sector

Workplace Relations Policy 2023





Summary

The *Public Sector Workplace Relations Policy 2023* (the Policy) sets out the Government's workplace relations policy, as it applies to Government Employment.

It is comprised of two parts:

- **Part 1** of the Policy applies to agencies and their employees engaged under the *Public Service Act 1999* (i.e. Australian Public Service (APS) agencies and their employees) and hereafter is referred to as the "APS Policy"; and
- **Part 2** applies to other Commonwealth agencies and their employees (i.e. non-APS agencies and their employees) and hereafter is referred to as the "Non-APS Policy").



Contents

Part 1 – APS Policy	1
Introduction	2
Purpose	2
Principles and objectives of service-wide bargaining	2
Coverage and application	2
Responsibilities and approvals	3
Interaction with the Interim Arrangements	3
Service-wide bargaining in the APS	3
Conditions	5
Remuneration	6
Agencies with common law arrangements	6
SES and equivalent employees	6
Other Workplace Relations matters	7
Part 2 – Non-APS Policy	9
Introduction	10
Objectives and agency responsibilities	10
Principles and objectives of non-APS bargaining	11
Application	11
Approval Requirements	12
Interaction with the Interim Arrangements	12
Changes to Remuneration and Conditions	12
Workplace arrangements	13
Enterprise agreements	14
Attachment A – Principles and objectives of service-wide bargaining	15
Model employer	16
Unified Commonwealth Public Service	16
Mobility, Attraction and Retention	16
Administrative Efficiency	17
Fairness and Equity	17
Sustainability	18

Part 1 – APS Policy



Introduction

1. The APS Policy sets out the Australian Government's workplace relations policy as it applies to APS agencies and their employees.

Purpose

2. The Government aims to re-establish the public service as a **model employer** and employer of choice, in order to best facilitate the delivery of essential services to the community.
3. The APS Policy also implements the Government's expressed intention to reduce fragmentation of pay and conditions across the APS over time.
4. The Government is committed to providing pay increases for APS employees which are underpinned by productivity growth and delivered through fair and genuine negotiations between employers, employees, and unions.
5. In the APS, the Government seeks to achieve these objectives through the effective implementation of genuine service-wide bargaining for pay and common conditions.
6. The APS Policy recognises that many APS agencies have specific conditions relating to their unique operational circumstances. The APS Policy enables agencies to continue negotiating for agency-level conditions, where necessary, to facilitate the agency's operating model.

Principles and objectives of service-wide bargaining

7. Bargaining in the APS will have regard to the Principles and Objectives of APS Bargaining (the Principles).
8. The Principles include:
 - a. Being a Model Employer;
 - b. A Unified Commonwealth Public Service;
 - c. Mobility, Attraction and Retention;
 - d. Administrative Efficiency;
 - e. Fairness and Equality; and
 - f. Sustainability.
9. A comprehensive statement of the Principles and Objectives for service-wide bargaining as developed in consultation with agencies is at **Attachment A**.

Coverage and application

10. The APS Policy applies to APS agencies and their employees engaged under the *Public Service Act 1999* (APS employees).
11. The APS Policy applies to the Senior Executive Service (SES) and equivalent employee classifications. These employees will not be covered by agency-level enterprise agreements covering non-SES employees. Agency Heads are responsible for ensuring terms and conditions for SES and equivalent employees are consistent with the APS Policy, including ensuring that pay increases are consistent with the Government's pay offer to non-SES employees.



12. Exemptions to the APS Policy, in whole or part, will only be considered in exceptional circumstances. Such an exemption must be assessed by the Australian Public Service Commission (APSC) and approved by the Minister for the Public Service.
13. Any exemption to the APS Policy must be supported in writing, by the relevant agency's responsible Minister, and approved by the Minister for the Public Service.
14. For the avoidance of doubt, the APS Policy does not cover Government Business Enterprises, which are to refer to clauses 88 to 90 of the Non-APS Policy.
15. Where an APS agency has dual staffing powers (that is, they employ employees under the Public Service Act 1999 and legislation other than the *Public Service Act 1999*), and is seeking to cover APS and non-APS employees under the same enterprise agreement, the APS Policy will apply to the negotiation of that enterprise agreement.

Responsibilities and approvals

16. The Australian Public Service Commissioner (APS Commissioner) is responsible for approving and publishing the outcomes of the service-wide bargaining process.
17. The APS Commissioner is responsible for the approval of all collective industrial instruments for consistency with the APS Policy. For the avoidance of doubt, this includes those made in response to Machinery of Government changes as determined by the Government from time to time.
18. Agency Heads must provide a draft collective industrial instrument to the APS Commissioner for approval prior to tabling a final version with employees and their representatives.
19. Agency Heads and the APSC are jointly responsible for ensuring that all collective industrial instruments are consistent with relevant legislation, including the *Fair Work Act 2009* (FW Act).

Interaction with the Interim Arrangements

20. The *Public Sector Interim Workplace Arrangements 2022* (the Interim Arrangements) remain in place until 31 August 2023.
21. Where an employee is scheduled to receive a pay increase during the operational life of the Interim Arrangements, this pay increase will continue to be paid.
22. To the extent of any inconsistency, the APS Policy prevails and revokes the Interim Arrangements, effective 1 September 2023.

Service-wide bargaining in the APS

23. Agencies that employ under the *Public Service Act 1999* (PS Act) are to engage in service-wide bargaining for enterprise agreements to cover their non-SES employees.
24. APSC representatives will be appointed as the employer bargaining representatives of all APS agencies and take the lead in negotiating Common Conditions in service-wide bargaining.
25. On advice from the APS Commissioner, Agency Heads are to notify employees that enterprise bargaining will commence for their agency-level enterprise agreement on a specified date.



26. Agency Heads are also to inform employees that a service-wide negotiation process will be led by the employer bargaining representative (APSC) to establish a set Common Conditions that will apply across the APS.
27. Agencies are to appoint APSC representatives as nominated by the APS Commissioner as an employer bargaining representative for their enterprise agreement, during the course of service-wide negotiations.
28. The APSC will publish a list of proposed Common Conditions on its website. Subject to discussion in bargaining and Ministerial approval, the APSC may publish an updated list of Common Conditions from time to time.
29. The employer bargaining representative (APSC) will seek to bargain Common Conditions based on the published list.
30. The APSC will negotiate in good faith with all unions and bargaining representatives and will respond to claims within a reasonable timeframe via appropriate methods, taking into the account the nature and circumstances of the claim.
31. Agencies are to facilitate communication from the APSC with their employees. From time to time, the APSC will communicate directly with APS employees.
32. Agencies are required to assist the APSC with requests for information such as:
 - a. data to support development of proposals;
 - b. data and views to assess claims;
 - c. any other reasonable request from the Chief Negotiator to progress bargaining, including information to be provided to unions and bargaining representatives.
33. Agencies will be responsible for receiving and facilitating claims from self-appointed or union bargaining representatives, and providing these to the APSC employer bargaining representative as soon as practicable.
34. The APSC may refer claims to agencies where these claims relate to matters that fall outside of the matters being negotiated as Common Conditions. Agencies are required to respond to these matters in good faith, taking into the account the nature and circumstances of the claim.
35. The APSC will provide regular updates to agencies concerning the progress of service-wide bargaining and will seek views from agencies on agency operational requirements during negotiations.
36. At the conclusion of service-wide bargaining, the APSC will release a Statement of Common Conditions (the Statement) as an outcome of negotiations.
37. The Statement will include:
 - a. a list of Common Conditions and negotiated clauses; and
 - b. a list of Common Conditions that have not been agreed to, to be held over for the next round of bargaining.
38. The APSC will also provide agencies further policy guidance on implementation of the Statement in agency-level bargaining. This will include guidance on agencies' existing conditions which are above the Common Conditions.



Conditions

39. Agencies are to bargain agreements that incorporate the Common Conditions that have been negotiated as listed in the Statement.
40. The Statement will be published on the APSC website at the conclusion of service-wide bargaining, at a time to be determined by the APSC.
41. Exemptions to the Statement may be agreed by the APS Commissioner in exceptional circumstances.
42. Where the parties are unable to reach agreement on a Common Condition in service-wide bargaining, this will be reflected in the Statement of Common Conditions. These conditions will be considered in the next round of service-wide bargaining. Agencies may not agree to any change to these conditions without the approval of the APS Commissioner.
43. In considering proposals for clauses 41 and 42, the APS Commissioner will have regard to:
 - a. the impact of the proposal on future commonality of APS terms and conditions;
 - b. the agency's operational requirements;
 - c. the views of unions and other bargaining parties;
 - d. consistency with the APS as a model employer;
 - e. broader community standards.

Agency specific conditions

44. Agencies may bargain conditions which are specific to the unique operational requirements of their agency. Such conditions include:
 - a. allowances for specific operational requirements, for example professional memberships, uniform allowances, tool allowances;
 - b. professional development programs;
 - c. existing entry level and advancement programs;
 - d. specialised hours of work, span of hours, rostering, restriction duty and shiftwork arrangements for particular employee cohorts;
 - e. conditions of work for overseas employees;
 - f. agency specific performance management; and
 - g. emergency response arrangements.
45. Agencies are not to bargain new arrangements which seek to provide an additional pay increase to a cohort of employees outside of a general pay increase, including through paying fringe benefits tax. Existing facilitative provisions may be maintained.
46. Facilitative clauses for centrally negotiated terms can be retained, for example consultative committee clauses, agency specific location and accommodation provisions, and flexibility clauses which provide additional entitlement beyond any negotiated common term. The Statement will provide further guidance on facilitation for centrally negotiated clauses. Agencies are not to agree to anything which is inconsistent with the Statement, and no in-principle agreement on such facilitative clauses is to be reached prior to the Statement of Common Conditions being published.
47. Agencies may have clauses which have not been covered by the Common Conditions, but do not fit the 'Agency Level bargaining' matters at clauses 44 and 45.



48. If an agency wishes to introduce such a clause, or change an existing clause, this should be discussed with the APSC in the first instance. Approval may be required by the APS Commissioner. An agency is not required to seek approval of the APS Commissioner to remove such a clause.
49. For the avoidance of doubt, existing salary-related allowances covered by clause 47 may be increased in line with general remuneration increases, including any applicable adjustment. Existing expense-related allowances covered by clause 47 may be increased in line with a relevant economic indicator or statistical measure.
50. Agency Heads must ensure that all changes to conditions in enterprise agreements, including agency-specific clauses and other non-common conditions, are affordable within existing agency budgets, subject to any supplementation provided by the Government to support the effective implementation of the APS Policy.

Remuneration

51. Agencies are to offer pay increases in proposed enterprise agreements that are consistent with the Commonwealth pay offer or the outcome of service-wide bargaining.

Agencies with common law arrangements

52. Notwithstanding clauses 23 to 30, APS agencies which have an established practice of using common law arrangements to provide terms and conditions for employees may continue with such arrangements. Such agencies must consult with employees and the APS Commissioner to explain why it is preferable to not bargain an enterprise agreement.
53. Agencies with common law arrangements in place are to apply any Common Conditions in the Statement through the terms of the arrangement or associated agency policy documents.
54. Pay increases provided to employees covered by common law arrangements must be consistent with pay increases provided for employees covered by enterprise agreements.

SES and equivalent employees

55. The APS Policy applies to SES and equivalent employees.
56. SES and equivalent employees, as the key senior leaders in the public service, are not generally covered by enterprise agreements or other collective industrial instruments.
57. Generally, SES and equivalent employees are employed on individual arrangements such as common law arrangements or on individual determinations under s24(1) of the PS Act.
58. Any general pay increase for SES and equivalent employees must not exceed what is provided for non-SES employees.
59. Other remuneration principles for SES and equivalent employees are to be consistent with the parameters in the Statement.
60. Workplace arrangements for SES and equivalent employees are not to include provisions which provide a redundancy benefit or similar type of payment to persons whose employment is terminated involuntarily under s.29 of the PS Act.



61. Workplace arrangements for SES and equivalent employees will not include retention period arrangements for excess employees.
62. Individual workplace arrangements for SES and equivalent employees are not subject to approval by the Commissioner.
63. Agencies must provide the APS Commissioner with information on SES and equivalent employee classifications' remuneration on request.

Other Workplace Relations matters

Industrial disputes

64. Agencies must consult with the APSC in the event of any significant industrial issues at the workplace level, such as emerging or actual industrial action, disputes arising under the terms of an enterprise agreement, or applications for good faith bargaining orders during the conduct of bargaining. This may include, but is not limited to, proceedings before the Fair Work Commission of a collective or significant nature, and protected or unprotected industrial action.

APS-wide Human Resources Policies and Circulars

65. From time to time the APSC may provide policies to underpin Common Conditions agreed to at the conclusion of service-wide bargaining. The APSC will seek to consult with agencies before finalising these policies.
66. Agencies are to assist the APSC in consulting with employees and their representatives on these policies.
67. Agencies are to implement finalised policies.
68. Should an agency seek significant variation to such a policy, it must be approved by the APS Commissioner. The APSC is able to provide advice.
69. From time to time the APSC may issue circulars under this APS Policy which deal with matters not considered in service-wide bargaining, or provide guidance or interpretation around the application of Common Conditions or pay.



Part 2 – Non-APS Policy



Introduction

- 70.** The Non-APS Policy sets out Australian Government Policy as it applies to workplace arrangements with Commonwealth public sector employees employed under legislation other than the *Public Service Act 1999* (non-APS employees).

Objectives and agency responsibilities

- 71.** The Government aims to re-establish the Commonwealth as a model employer and employer of choice.
- 72.** The Government is committed to providing pay increases to employees which are underpinned by productivity growth and delivered through fair and genuine negotiations between employers, employees, and unions.
- 73.** Non-APS agencies should put in place workplace arrangements that facilitate the delivery of essential government services to the community. Workplace arrangements should provide the operational flexibility required by the agency.
- 74.** Workplace arrangements should be simple, clear and easy to read.
- 75.** When formulating proposed workplace arrangements (including adjustments to remuneration and conditions), agencies must have regard to:
- the Commonwealth APS bargaining position or the APS Statement of Common Conditions (when available);
 - their relevant modern award;
 - the Principles and objectives of non-APS bargaining; and
 - the Government's expectations expressed through APSC circulars and APSC guidance documents as issued from time to time.
- 76.** Agencies are responsible for ensuring that their workplace arrangements, and workplace relations policies and practices are consistent with the Non-APS Policy and meet all legislative obligations.
- 77.** 'Workplace arrangement' means an enterprise agreement, common law arrangements, or a determination made under an agency's relevant enabling legislation.
- 78.** Agencies must consult with the APSC in the event of any significant industrial issues at the workplace level. This may include, but is not limited to, proceedings before the Fair Work Commission of a collective or significant nature, and industrial action.



Principles and objectives of non-APS bargaining

Model Employer

79. Bargaining conduct and outcomes will reflect best practice and recognise the role of the Government in setting the high standard of employer behaviours it champions. This includes exemplifying model behaviour in bargaining through demonstrated respect for the good faith bargaining requirement in the *Fair Work Act 2009*.

Attraction and Retention

80. Workplace arrangements should assist in attracting and retaining the best and brightest employees to serve the Australian community.

Administrative Efficiency

81. Workplace arrangements should enable increased administrative efficiency in the Commonwealth. This may include increased commonality with the APS.

Fairness and Equity

82. Consideration should be given to how workplace arrangements might contribute to a more inclusive and future-focused Commonwealth workforce.

Sustainability

83. Workplace arrangements need to support the ability of Commonwealth agencies to function efficiently, including by sustaining capacity and capability requirements.
84. Outcomes for agencies and employees will represent fair and fiscally responsible use of taxpayer money, in line with community expectations.

Application

85. The Non-APS Policy applies to all non-APS Commonwealth entities, Government Business Enterprises, companies and Members of Parliament Staff (hereafter 'agencies'). The Non-APS Policy does not apply to the Australian Defence Force, the High Court of Australia or agencies that engage staff exclusively in accordance with the *Public Service Act 1999* (APS Agencies) except for Defence Housing Australia.
86. Where an APS agency has dual staffing powers (that is, they can employ employees under the *Public Service Act 1999* and legislation other than the *Public Service Act 1999*), the non-APS Policy will apply to non-APS employees employed in those agencies. Where an APS agency with dual staffing powers is seeking to cover APS and non-APS employees under the same enterprise agreement, the APS Policy will apply to the negotiation of that enterprise agreement.
87. The following agencies are encouraged to apply the Non-APS Policy to the extent practicable, commensurate with their commercial and competitive circumstances:
 - a. Government Business Enterprises;
 - b. Public Non-financial Corporations;
 - c. Public Financial Corporations; and
 - d. entities exempt, or partially exempt, from section 22 of the *Public Governance, Performance and Accountability Act 2013* (the Australian National University (ANU), the Australian Broadcasting Corporation (ABC) and Special Broadcasting Service Corporation (SBS)).



88. Before commencing negotiations, these agencies and companies are to consult the APSC and provide a summary of their bargaining position.
89. These agencies and companies should engage with their portfolio Minister, shareholder Minister (if applicable) and the APSC on matters related to enterprise bargaining, industrial action or the making of other industrial instruments. The separate approval requirements of clauses 90 to 93 do not apply to these entities.

Approval Requirements

90. Prior to commencing negotiations for an enterprise agreement or other collective workplace arrangement, agencies must provide their bargaining position to the APSC for assessment against the artefacts listed at clause 75. Agencies must not commence negotiations before approval is provided by the APS Commissioner.
91. Approval from the APS Commissioner must be obtained prior to any proposed increases in remuneration or changes to conditions with a financial impact being discussed with employees and/or their representatives. Agency Heads are to provide the APS Commissioner with a signed Funding and Remuneration Declaration, using the template provided by the APSC.
92. A draft enterprise agreement, or other collective workplace arrangement, is to be provided to the APS Commissioner for approval prior to the agency tabling its final position with employees and/or their representatives.
93. Exemptions to the Non-APS Policy will only be considered in exceptional circumstances. An application for exemption must be assessed by the APSC and is subject to endorsement from the portfolio Minister and approval from the Minister for the Public Service.

Interaction with the Interim Arrangements

94. The Interim Arrangements continue to govern pay increases until 31 August 2023.
95. Where an employee is scheduled to receive a pay increase during the operational life of the Interim Arrangements, this pay increase will continued to be paid.
96. The Non-APS Policy prevails to the extent of any inconsistency with the Interim Arrangements, which are revoked effective 1 September 2023.

Changes to Remuneration and Conditions

97. Remuneration and conditions adjustments includes:
 - a. increases to payments made to employees, other than changes to expense-related allowances; and
 - b. changes to conditions resulting in increased employee costs, including changes to classification structures; but
 - c. excludes any payments or changes to conditions advised by the APSC.
98. Agencies may make remuneration and conditions adjustments within Government parameters, as advised by the APSC.



99. Changes to remuneration and conditions are to be affordable and funded from within existing agency budgets, without the redirection of programme funding. Remuneration and conditions adjustments are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources beyond ordinary indexing practices.
100. Remuneration increases are to apply prospectively.
101. Remuneration and conditions adjustments for SES equivalent employees covered by individual arrangements are to be consistent with the Non-APS Policy. The approval of the APS Commissioner is not required, however agencies are to provide the APS Commissioner with information on SES equivalent employee remuneration on request.

Workplace arrangements

102. Agencies should implement workplace arrangements that enable sustainable, high performing public sector workplaces, and encourage principles that respect and facilitate the role of employee representatives, workplace union delegates, and other union officials.
103. Workplace arrangements must not allow for the cashing out of personal/carers' leave.
104. Long service leave (LSL) must only be granted in blocks of at least seven calendar days at full pay or half pay, per occasion. LSL is not to be broken by other forms of leave unless required by legislation.
105. Workplace arrangements should facilitate support for the release of Defence Reservists for peacetime training and development.
106. Workplace arrangements are to incorporate family and domestic violence support. Agencies are encouraged to provide the maximum support available for employees affected by family and domestic violence, noting the privacy and safety of impacted employees is paramount.
107. Non-APS agencies are encouraged to recognise paid personal leave accruals where an employee moves to a non-APS agency from an APS agency or other Commonwealth entity.
108. Workplace arrangements should not enhance existing redundancy, redeployment and reduction entitlements. To avoid double-dipping on redundancy entitlements, workplace arrangements should include a mechanism that will reduce a retention period by the equivalent number of weeks that an eligible employee would be entitled to under the National Employment Standards (NES).
109. Workplace arrangements should not reduce ordinary hours of work.



Enterprise agreements

110. Non-APS agencies are encouraged to bargain with their non-SES (or equivalent) employees to replace enterprise agreements past their nominal expiry date.
111. Agencies must not put in place determinations in lieu of bargaining for a collective agreement. The APS Commissioner may approve determinations being made in special circumstances.
112. Enterprise agreements are to be 3 years in duration. Approval for an enterprise agreement of a shorter duration may be sought from the APS Commissioner.
113. Non-APS agencies are encouraged to incorporate the APS Common Conditions (once available) where practicable.
114. Genuine and effective consultation with employees and relevant unions is sound management practice. It fosters a positive and inclusive workplace culture, where the views of employees are considered and taken into account before decisions that substantially impact them are made or implemented.
115. Enterprise agreements are to include at least the model consultation term prescribed by the *Fair Work Regulations 2009*, or equivalent. Agencies should implement arrangements that go beyond the model consultation term, noting that agencies are not required to do anything that would be inconsistent with their legal obligations (for example ensuring they comply with privacy laws).
116. Enterprise agreements must include individual flexibility terms providing flexibility in respect of the matters listed in the model term in the *Fair Work Regulations 2009*, plus remuneration.
117. Enterprise agreements must include the model dispute resolution term or equivalent, prescribed by the *Fair Work Regulations 2009*. Agencies should be cautious in considering any proposal to broaden the scope of the dispute resolution clause beyond matters that arise under their enterprise agreement and the NES.
118. An employee is not to advance through a classification or broadband pay scale if they have not achieved at least a satisfactory level of performance.
119. Agencies must not increase superannuation contribution rates beyond the default Commonwealth superannuation fund rate under the Public Sector Superannuation Accumulation Plan (currently 15.4 per cent).
120. Agencies may amend the employer contribution method of superannuation calculation to Ordinary Time Earnings, consistent with contemporary remuneration practices.

Attachment A –

Principles and objectives of service-wide bargaining



Model employer

1. Bargaining for pay and other conditions for employees will recognise the APS's core responsibility of developing policy and delivering services on behalf of the Government to the Australian people. Bargaining will support the goals of a more inclusive and diverse workplace, recognising the need for the public service to reflect the community it serves.
2. Bargained outcomes will assist the APS in attracting and retaining the best and brightest employees to serve the Australian community.
3. Bargaining conduct and outcomes will reflect best practice and recognise the role of the Government in setting the high standard of employer behaviours it champions. This includes exemplifying model behaviour in bargaining through demonstrated respect for the good faith bargaining requirement in the Fair Work Act 2009.
4. There will be transparency about the reasons for policy decisions underpinning the development of the workplace relations bargaining policy.

Unified Commonwealth Public Service

5. A key goal for service-wide bargaining is progress towards greater commonality of pay and other conditions.
6. An initial focus will be on conditions where disparity currently acts as a barrier to employees working flexibly and seamlessly together on delivering the services and policy solutions to the Australian community.
7. Sensible alignment of Common Conditions is expected to produce significant productivity, while allowing agencies and their employees to also benefit from targeted agency-level negotiations.
8. The Commonwealth is made up of a diverse range of agency employers which may benefit from better alignment of conditions of service.
9. Many Commonwealth employees are employed under agency specific enabling legislation (i.e. the 'non-APS'). The non-APS is not in scope for service-wide bargaining in the current bargaining round. Arrangements to cover bargaining in these agencies are being developed in parallel to the service-wide bargaining process.
10. Where reasonably practical, service-wide bargaining in the APS will include measures to assist in mobility between the APS and non-APS.

Mobility, Attraction and Retention

11. Outcomes in any service-wide approach to bargaining will consider the need to support the attraction, development and retention of an appropriately skilled and experienced workforce. In an evolving and competitive marketplace, the public sector must have a competitive employee value proposition.
12. The Commonwealth's bargaining approach must ensure negotiated outcomes reduce barriers to movement between agencies, primarily within the APS, but also across the broader Commonwealth public sector where this is appropriate and desirable.



13. To retain skills and attract talent, the public sector must remain competitive as an employer. A core challenge is that while the public sector has historically been a leader in offering flexible working conditions, in a post-COVID environment, it's positioning in this area is under increased competition from large private sector employers. Such pressure is anticipated to increase over time.
14. Entry into Commonwealth employment is entry into a network of potential career pathways, rather than into a single organisation or job role. Outcomes of any service-wide approach to bargaining will focus on reducing barriers to movement both within the APS and throughout the Commonwealth system.
15. Bargaining will also drive the Government's desire for the development of a set of Common Conditions, while still facilitating agency specific requirements, where the unique nature of agency operations or occupations require.
16. Over time, bargained outcomes will allow employee candidates to assess different agencies on the suitability of available roles or the type of work performed, rather than different pay and conditions acting as a disincentive to mobility.
17. Bargained outcomes are to remove barriers to entry by being future ready and fit for purpose, to enable the attraction of remote and flexible talent.

Administrative Efficiency

18. Bargained outcomes will seek to enable increased administrative efficiency in the Commonwealth.
19. Bargained outcomes will support the development of the Government Enterprise Resource Planning (GovERP) platform, including by looking to increase commonality in conditions to more effectively enable agencies to adopt common ICT and payroll systems. This will assist in obtaining economies of scale.
20. Bargained outcomes are to facilitate commonalities which reduce the administrative burden of recruitment activities and Machinery of Government changes.
21. Bargained outcomes are to result in productivity gains at the service-wide level.
22. The Commission will work with agencies to balance service-wide efficiencies with agency-specific operational requirements.

Fairness and Equity

23. Bargained outcomes are to seek to reduce fragmentation in pay throughout the Commonwealth public sector. Ensuring simple, standardised pay ranges and conditions — linked to equal pay for equal work — is good corporate practice.
24. Noting that the current state of pay dispersion has occurred over decades, and mindful of current budget pressures, reducing wage dispersion will likely be a gradual process over multiple bargaining rounds.
25. From time to time, in-demand occupations will experience heightened remunerative competition. Recognising the labour market constantly evolves, and mindful of the need for longer-term equity, any mechanisms to address short-term fluctuations are to be facilitated through temporary individual flexibilities, rather than embedded in workplace arrangements.
26. Consideration will be given to how bargaining might contribute to a more inclusive and future-focused Commonwealth workforce.



Sustainability

27. Enterprise agreements need to support the ability of Commonwealth agencies to function efficiently, including by sustaining capacity and capability requirements.
28. Bargained outcomes for agencies and employees will represent fair and fiscally responsible use of taxpayers' money, in line with community expectations.
29. Bargained outcomes are to be forward leaning, but in-step with the expectations of the Australian community.
30. Outcomes of service-wide bargaining must deliver for the APS now and into the future.

