



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

Allowance name	% increase	Timing	Total Cost
<i>First aid allowance</i>	<i>In line with general increase</i>	<i>In line with general increase</i>	<i>\$200,000</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: _____