

Submission to the Standing Committee on Education and Employment
Inquiry into the impact of the Government's Workplace Bargaining Policy
and approach to Commonwealth public sector bargaining

Australian Public Service Commissioner
October 2016

Context and scope of Commonwealth public sector bargaining

1. The Government's approach to Commonwealth public sector bargaining follows the pattern from earlier years.
2. It is common practice for the Commonwealth Government to set parameters and policies that establish the scope for wage outcomes and changes to employment conditions. The policies and parameters apply to all Government agencies. This has been Commonwealth Government practice over many decades. Most State and Territory governments also guide agency bargaining with similar approaches.
3. It is reasonable for an employer to have a policy that supports enterprise agreement making.
4. The Government has three key objectives for this round of bargaining:
 - a. moderate and responsible remuneration increases, noting that the federal budget has been in deficit since 2008-09.
 - b. the removal of superfluous content and detail from enterprise agreements that compromise the capacity to efficiently manage an agency.
 - c. support for an employee's right to freedom of association.
5. All Australian Public Service (APS)¹ agency agreements reached their nominal expiry date on 30 June 2014. Bargaining commenced in most agencies during the course of 2014.
6. Non-APS Commonwealth agencies, other than the Australian Defence Force, are also covered by the Government's bargaining policy.
7. A large-scale bargaining exercise is inevitably impacted by other developments. It is not uncommon for agencies to change and merge, and this has workplace ramifications.
8. In the current bargaining round, significant change has occurred in portfolio departments and larger APS agencies. For example, the machinery of government changes shortly after the 2013 election abolished several agencies, created new agencies and merged others together. This resulted in around 15,000 APS employees being transferred into another agency.

Australian Government Public Sector Workplace Bargaining Policy 2014

9. The [Australian Government Public Sector Workplace Bargaining Policy 2014](#)² was issued by the Government in March 2014. Eleven agencies made new agreements under this policy before it was changed. The organisations are listed at **Attachment A**.

Workplace Bargaining Policy 2015

10. The [Workplace Bargaining Policy 2015](#)³ was released in November 2015. It made several key changes to the 2014 policy:
 - a. the general wages offer was raised from 1.5% to 2% per annum averaged over the life of the agreement;

¹ The Australian Public Service (APS) consists of employees engaged under the *Public Service Act 1999*. There are a further number of Australian Government bodies which engage staff under their own enabling legislation and are typically referred to as 'non-APS'.

² <http://www.apsc.gov.au/publications-and-media/archive/publications-archive/2014-workplace-bargaining-policy>

³ <http://www.apsc.gov.au/priorities/workplace-relations/australian-government-public-sector-workplace-bargaining-policy>

- b. productivity gains, achieved through the removal of restrictive work practices, were recognised;
 - c. the requirement to remove all non-essential content from agreements were relaxed, so long as remaining clauses did not impose restrictions on an agency operating efficiently; and
 - d. approval requirements were simplified. Streamlined approval processes for remuneration increases and agreement content were introduced, with the approval of Ministers only required where an exemption from the policy was sought.
11. A list of the agencies in which employees have accepted agreements under this policy is at **Attachment B**. This list reflects the situation at 27 October 2016. More agreements may be voted up before the Committee releases its final report.

Progress in Commonwealth public sector bargaining

12. Enterprise agreements have been finalised in 65 agencies, with 69 agreements being accepted by employees. Fifty-four of these agreements have been accepted since the current bargaining policy has applied. This demonstrates that the current policy is enabling agencies to make agreements with their employees.
13. Since the 2016 federal election, 13 out of 19 agreements put to a vote have been accepted by employees.
14. Sixty-six agreements have been voted down in 48 agencies during this bargaining round. However, it should be noted that agreements in 16 of these agencies were subsequently accepted by employees.

Impact of industrial action during the bargaining round

15. The Commonwealth is not aware of any significant disruptions to service delivery during this round of bargaining. The agencies in which protected industrial action has occurred are listed at **Attachment C**.
16. Partial work bans and stop work action has caused intermittent, minor disruptions to services provided in some agencies. In most cases, action has been insignificant with no visible impact on the Australian public. Where the union has pursued stop work action, agencies have generally mitigated this well through effective workforce planning and scheduling and through prior advice to its local customers.
17. Union membership is low in many agencies. Union leadership, as in any dispute, exhibits a tendency to embellish the participation in and the impact of industrial action. Commonwealth bargaining has been no different. Member support of industrial action and attendance at rallies has been meagre. It is concerning that union leaders often seem to embrace the extent of inconvenience and harm their industrial action causes.
18. The Commonwealth is unaware of any specific evidence demonstrating that Australia's tourism industry or international reputation has been impacted negatively by union-led industrial action at international airports and ports. The Community and Public Sector Union's (CPSU) actions in recent months affecting border control regrettably placed the safety and security of the public at risk.

19. Protected industrial action in the Department of Immigration and Border Protection has been terminated by the Fair Work Commission on the basis of the threat it posed to public safety and security.

Employee morale

20. I consider that the impact of bargaining on employee morale has been isolated and not of great consequence. Most employees in agencies that have not achieved an agreement, want to reach agreement soon. They have a preference to get on with their work free from the distraction of an industrial campaign.
21. The 2015-16 State of the Service Report, published by the APSC, demonstrates that employee engagement in the APS has improved since 2012.⁴ The report catalogues responses from our employee census that received 96,768 responses. This represents 69% of all APS employees.⁵
22. No credible reports have been received about employees showing dissatisfaction with a new enterprise agreement once it has commenced operation. In fact, key assertions of the unions' negative bargaining campaigns have not proven true in practice. Agencies and employees continue to deliver good outcomes and support operations in a committed and cooperative fashion.
23. Data from the 2016 employee census indicates that there appears to be a positive correlation between employees working in agencies with new enterprise agreements and their overall employee engagement.⁶ The 2015-16 SOSR indicated that 69% of employees in agencies with a new enterprise agreement were satisfied with their remuneration and 82% were satisfied with their non-monetary employment conditions. In contrast, employees in agencies without a new agreement recorded 55% satisfaction with their remuneration and 73% satisfaction with their non-monetary employment conditions.⁷
24. Employees working in agencies that accepted new agreements in 2015 have recently received, or are about to receive, their second pay rise.
25. The CPSU's campaign has sought to undermine the employer-employee relationship. On occasions, union material has been wrong, misrepresenting management's position. This occurred in the APSC, which we quickly countered with advice that conveyed the true management position.
26. I have been concerned about the union calling employees in some agencies 'strike breakers' simply because they were exercising their lawful right not to participate in industrial action. This reflects an attitude that pays little regard to the rights of employees and can result in unnecessary division in the workplace.

Commonwealth public sector workplace relations

27. The Government's workplace bargaining policy is clearly designed to improve and modernise workplace relations in the Commonwealth public sector.

⁴ <https://stateoftheservice.apsc.gov.au/2016/08/employee-engagement/>

⁵ <https://stateoftheservice.apsc.gov.au/2016/08/2016-snapshot-aps-employee-census/>

⁶ <https://stateoftheservice.apsc.gov.au/2016/09/enterprise-agreement-bargaining/>

⁷ <https://stateoftheservice.apsc.gov.au/2016/09/enterprise-agreement-bargaining/>

28. Modern workplace relations are most effective when there is mutual respect and a shared understanding between an employer and employees about an entity's operational imperatives. A working environment that is overlaid with excessive process and procedure is rarely effective and often detrimental.
29. The Government policy is focused on achieving sound, modern workplace relations that engender this mutual trust and understanding. This is something that union leaders resist because they perceive it as a threat to their already diminished role in many Government workplaces.

Workplace consultation

30. Some current enterprise agreements contain arrangements that require a manager to consult employees about most workplace matters before a decision can be taken. This is not always practical or sensible.
31. An appropriate balance is necessary to ensure managers can do the jobs they are paid to, whilst recognising that workplace consultation is a good business practice.
32. The bargaining policy requires all agencies to include the model consultation term from the Fair Work Regulations 2009. It guarantees that employees, and their representatives, will be consulted once a decision is taken to introduce major change. The model term also guarantees that employees will be consulted about proposed changes to rosters.
33. The model term does not prohibit an agency from consulting about various matters before decisions are made. However, noting that it is not always possible or practical to do so, agreements are not to prescribe a one-size-fits-all approach to what are essentially, case by case scenarios.
34. Agreements have been approved under the bargaining policy which guarantee employees a right to be consulted about proposed changes to workplace employment policies before the changes come into effect. Such arrangements are sensible.
35. Unions represent a minority of employees in most APS workplaces and should not be the only employee voice in consultative bodies. All agreements approved under the bargaining policy seek to establish staff consultative committees that guarantee employees a fair and democratic voice in the workplace. This provides consultation forums that focus on the implementation of the enterprise agreement, supporting policies and other workplace relations matters.

Employee representation in the workplace

36. The bargaining policy supports an employee's legislative right to be represented in the workplace. These rights are enshrined in the *Fair Work Act 2009*.
37. Enterprise agreements may contain clauses that recognise an employee's right to be represented in the workplace, including by a union delegate. Such clauses may also include a guarantee that the agency and the employee representative will deal with each other in good faith. Agreements have been approved under the policy with such provisions in them.
38. However, the policy requires the removal of content that provides special privileges to unions. This is to ensure that arrangements are balanced and do not favour one group of employees

over another. In practice, this respects the right for an employee to belong, or not belong, to a union. Accordingly, enterprise agreements should not dictate how an agency and a union will manage their fluid relationship with each other.

39. Clauses in enterprise agreements should not prescribe how union delegates will exercise their representative duties or use Commonwealth resources and facilities. Such arrangements are more appropriately dealt with outside enterprise agreements. For example, this can be achieved through a memorandum of understanding or an agreed protocol between the agency and the relevant union.
40. Some public sector enterprise agreements provide special privileges to union delegates. Examples are listed at **Attachment D**. Other agreements also provide additional privileges to union officials beyond those contemplated in the *Fair Work Act 2009*. For example, the ability to enter a workplace for reasons beyond those envisaged by the Act and/or without following the relevant notification requirements in the Act. The Commonwealth considers such arrangements should not be prescribed in enterprise agreements because they favour union members over non-union members. Also, it is not always practical for such procedures/rights to apply to every situation contemplated by the relevant clause.

Workplace flexibility

41. The Workplace Bargaining Policy 2015 encourages flexible work practices. It requires the removal of restrictive arrangements to ensure agencies can operate efficiently and effectively.
42. Many agencies provide a range of flexible working arrangements like part-time work, home-based work, telework and non-ongoing work. Agencies work cooperatively with employees aiming to balance operational needs with the individual circumstances of employees.
43. The National Employment Standards (NES) in the *Fair Work Act 2009* guarantee certain categories of employees a right to request flexible working arrangements. This includes parents of young children, employees with caring responsibilities, employees aged over 55, employees with disability, and employees experiencing family violence⁸.
44. Many Commonwealth public sector agreements go beyond the NES and provide all employees with a right to request a flexible working arrangement. The bargaining policy allows this.
45. The *Fair Work Act 2009* requires an individual flexibility term to be included in an enterprise agreement⁹. The policy is that agencies adopt, as a minimum, the model individual flexibility term from Schedule 2.2 of the Fair Work Regulations 2009. The policy also encourages agencies to include a wider range of matters than the model term that may be varied by mutual agreement between the agency and an individual employee. This affords the agency and the employee more scope to recognise and accommodate individual circumstances and preferences.
46. The access to workplace flexibility cannot in practice mean that employees have absolute veto power over their work arrangements. While managers make every attempt to accommodate employee preferences, ultimately, employees are employed to deliver outcomes for their agencies. It may therefore be reasonable, on occasion, for an agency to require an employee to work at times that may be inconvenient. However, this should generally not occur where it

⁸ Section 65 of the *Fair Work Act 2009*.

⁹ Section 202 of the *Fair Work Act 2009*.

would place the employee in genuine hardship. For example, if there are any health and safety issues arising, or the employee has not had reasonable notice to arrange for childcare.

Conditions of employment

47. Public service employment conditions are generous. In the current fiscal environment, enhancing conditions would place further pressure on agency budgets. This would not be defensible to the Australian taxpayer. For this reason, the Workplace Bargaining Policy 2015 does not allow existing employment conditions to be enhanced.
48. The bargaining policy does not require the removal or reduction of existing conditions of employment. Conditions such as annual leave, personal/carer's leave, maternity and parental leave, employer superannuation contributions and redundancy provisions are protected. Union campaigns against new agreements have conflated the removal of restrictive work practices and union privileges with the removal of employment conditions.
49. A list of the most common APS employment conditions is at **Attachment E**.
50. During this bargaining round, some agencies have proposed modest changes to some conditions because they are trying to harmonise arrangements. For example, those agencies that have undergone a machinery of government change. This is normal in such bargaining scenarios.

Supporting employees experiencing family and domestic violence

51. Agencies unequivocally support employees who are experiencing family or domestic violence. Existing arrangements more than adequately facilitate leave and other support. APS agreements currently provide substantial paid personal/carer's leave, generally between 15 and 22 days per annum, accruable. This leave can be accessed in domestic and family violence circumstances should the employee require time off work. Paid miscellaneous leave is also available to assist employees in circumstances where other paid leave entitlements are neither suitable nor available.
52. The APSC released a Circular¹⁰ on this issue in 2012 which remains current. The *APS Gender Equality Strategy 2016-19* requires agencies to develop clear policies relating to domestic and family violence. It requires managers to assist victims by promoting access to support and responding with generous and flexible access to existing leave provisions¹¹. Many APS agencies have already developed policies.
53. The APSC is unaware of any evidence that current arrangements in the APS are inadequate in these difficult personal situations.
54. The privacy of individual employees experiencing family or domestic violence is of utmost importance. Employees need to be supported sensitively and sensibly. Establishing a specific family or domestic violence provision in an enterprise agreement, and an associated reporting arrangement in an internal HR system, means that other employees would have access to the information at various times. The need to take a prudent approach that ensures the highly personal circumstances of employees are protected is a most compelling requirement.

¹⁰ <http://www.apsc.gov.au/publications-and-media/circulars-and-advice/2012/circular-20123>

¹¹ <http://www.apsc.gov.au/publications-and-media/current-publications/gender-equality-strategy>

Policy governance arrangements

55. The governance arrangements that apply to the Workplace Bargaining Policy 2015 work well. They afford considerable discretion to agencies to bargain within the policy framework. Central control and approval is limited. The role of the Minister is essentially to approve any exemption to the policy. Of course, the Minister is kept regularly informed about the progress of bargaining.
56. The role of the Minister with central policy authority has varied over time. The scheme that has applied to most bargaining rounds is that the policy sets parameters for wages outcomes and other matters to be achieved through bargaining. The Minister's role is one of oversight and on occasion, approval. Agency heads are obliged to operate within their budgets. This is usually a very relevant constraint on the extent of pay deals that can be offered.
57. The role of the Minister under the Workplace Bargaining Policy 2015 is limited. The Inquiry's terms of reference assert that the Minister's role is expanded. In reality, the contrary applies. The Minister is less involved than under many previous bargaining policies.
58. The current policy requires the APS Commissioner to approve agency remuneration proposals before they are tabled in bargaining. The Commissioner also approves draft enterprise agreements before they are put to a vote of employees. The Commissioner is not a bargaining representative for any agency agreements, other than for the APSC's own agreement.
59. The APSC is responsible for providing advice to agencies about the application of the bargaining policy, as it has done over successive policies and governments. The representatives of the APSC that perform this function are not bargaining representatives for agency agreements.

Wages and relevant indices movements

60. Over the ten years to 31 December 2015, the:
 - a. APS median wage movement was 39.8 per cent¹²;
 - b. Wage price index (WPI) for the private sector increased by 38.3 per cent;
 - c. WPI for all public sector jurisdictions combined increased by 41.3 per cent.
61. Over the same ten year period, the:
 - a. Consumer price index (CPI) rose by 29.1 per cent; and
 - b. Employee living cost index (LCI-E) rose by 32.5 per cent¹³.
62. The CPI and LCI-E indices are regularly cited in enterprise agreement negotiations as key indicators for considering appropriate wages movements. The figures above demonstrate that APS employees have received combined wages outcomes over the past ten years that are well in advance of the movement of these indices.
63. APS wages growth over 2014-15 has been slight. However, the overall wages outcomes for the APS over the ten year period remain broadly comparable to those received in other sectors.
64. The maximum available wages offer in the current bargaining round has been an average of 2 per cent per annum over the life of an enterprise agreement. The Commonwealth

¹² This figure is based on APS wages data. A comparable index was established by setting the base year at an index of 100 and then growing that index by the median remuneration increase year on year. The ABS uses a similar methodology for CPI and LCI-E.

¹³ WPI, CPI and LCI-E figures obtained from the Australian Bureau of Statistics.

acknowledges that this is modest, but it is affordable and relates comparably to movements in the CPI, the LCI-E and private sector wage increases over 2014-15.

65. The requirement for wage increases to apply prospectively is a longstanding policy over successive governments.

The impact that the CPSU wages claim would have on APS employment

66. The CPSU's initial log of claims included a 4 per cent per annum wage increase. The union now appears to be seeking between 2.5 and 3 per cent per annum, including back pay, with no productivity trade-offs.

67. In 2015 the median APS employee was an APS 6, and would have received an average base salary of \$86,869. Based on the 2015 APS Remuneration Report data¹⁴, a 1 per cent APS-wide wages increase is estimated to cost \$121 million per annum in salary costs alone. This is estimated to be equivalent to the cost of approximately 1,391 APS positions.

Conduct of unions during this bargaining round

68. The *Fair Work Act 2009* promotes productivity, fairness and cooperation through an emphasis on enterprise-level collective bargaining, underpinned by good faith bargaining obligations.

69. The Australian Government is of the firm view that a reasonable productivity trade-off for this round of Commonwealth public sector bargaining is the removal of clauses from enterprise agreements that restrict agencies from operating efficiently and effectively.

70. Over the course of this bargaining round, unions have made little attempt to genuinely engage with the reforms being proposed by the Commonwealth, or recognise that the claims they are seeking are unaffordable to the Australian taxpayer.

71. Whilst it is not a requirement of good faith bargaining for bargaining representatives to make concessions, the Commonwealth notes that it has. It does not appear that unions have made many genuine concessions thus far, even though an increasing number of Commonwealth public sector employees have been accepting new agreements.

72. Unions have engaged in questionable behaviour in this bargaining round. This appears to be aimed at frustrating bargaining and delaying voting on agreements.

- a. Shortly after the Government updated the bargaining policy in November 2015, the CPSU advised members that it would not support agreements developed in accordance with the policy¹⁵. We are aware that the union encouraged staff in many agencies to keep holding out, suggesting that a further policy change was imminent. The union intimated that there would be a change of government at the 2016 federal election. This did not eventuate.
- b. Shortly after the federal election, the CPSU launched simultaneous applications for bargaining orders against eleven APS agencies, alleging that these agencies had not met good faith bargaining requirements. The union attempted to draw the Minister Assisting the Prime Minister for the Public Service into these disputes and made public statements accusing the Minister of breaching the *Fair Work Act 2009*¹⁶.

¹⁴ <http://www.apsc.gov.au/publications-and-media/current-publications/remuneration-surveys/aps-remuneration-report-2015>

¹⁵ <http://cpsu.org.au/content/aps-bargaining-key-focus-cpsu-leaders-meeting>

¹⁶ <http://cpsu.org.au/content/cpsu-takes-minister-michaelia-cash-fair-work-commission>

- c. The CPSU failed to demonstrate that the Minister is a bargaining representative. This resulted in the union agreeing to remove the Minister as a respondent to the applications. Then, they attempted to delay the individual agency matters from proceeding directly to conciliation meetings. However, the Fair Work Commission did not agree to this. The CPSU has made misleading public statements about these events. I have requested the National Secretary of the CPSU to correct the record.
 - d. At a Fair Work Commission directions hearing on 7 October 2016, the CPSU agreed to allow the Department of the Environment and Energy to hold a ballot on its proposed enterprise agreement. The same afternoon, the CPSU lodged a separate application for bargaining orders to be made against the Department. In doing so, the union indicated that it did not want the agreement to go to a vote until the parties had both agreed that bargaining had concluded. When the Department challenged the CPSU's behaviour, the union withdrew this further application.
 - e. The Commonwealth is aware of the CPSU distributing misleading posters and other material in some agencies. Recent examples include flyers purporting to contain facts about the negative impacts of new agreements in agencies which have accepted them. This material made various false allegations about the actions of several APS agencies. The relevant agencies wrote to the union requesting it desist from circulating this material.
 - f. The CPSU circulated posters in the Department of Immigration and Border Protection which appeared to malign those employees being redeployed to fill gaps caused by the union's industrial action. I wrote to the National Secretary of the CPSU expressing concern that these posters had the appearance of the union trying to turn employee against employee in the workplace. I reminded the CPSU that employees have a right to choose not to participate in industrial action.
 - g. The Commonwealth is aware that representatives of the CPSU are currently encouraging employees in many agencies to continue voting down new agreements until the:
 - i. outcome of its good faith bargaining allegations against eleven agencies is complete; and
 - ii. outcome of this Inquiry is completed; and
 - iii. the potential arbitration of the Department of Immigration and Border Protection enterprise agreement is completed.
73. It is now time to bargain constructively with the aim of reaching enterprise agreements that are consistent with the Workplace Bargaining Policy. This would be a fair and reasonable outcome for all employees.

John Lloyd PSM
27 October 2016

Attachment A

Agreements accepted under the *Australian Government Public Sector Workplace Bargaining Policy 2014*

Australian Public Service Agencies

- Australian Public Service Commission
- Australian Office of Financial Management
- Australian Transport Safety Bureau
- Comsuper*
- Department of Communications and the Arts
- Department of Social Services
- Department of the Treasury

Total number = 7

Non-APS Agencies

- Australian Prudential Regulation Authority
- NBN Co. (three agreements)

Total number = 4

* On 1 July 2015, Comsuper was merged into the Commonwealth Superannuation Corporation.

Agreements accepted under the *Workplace Bargaining Policy 2015*

As at 27 October 2016, 58 enterprise agreements have been made under the *Workplace Bargaining Policy 2015*. The agencies that have accepted new agreements under the 2015 policy are listed below.

Australian Public Service Agencies

- Australian Bureau of Statistics
- Australian Centre for International Agricultural Research
- Australian Commission on Safety and Quality in Health Care
- Australian Electoral Commission
- Australian Financial Security Authority
- Australian Fisheries Management Authority
- Australian Human Rights Commission
- Australian Institute of Health and Welfare
- Australian Institute of Marine Science
- Australian Law Reform Commission
- Australian National Audit Office
- Australian Securities and Investment Commission
- Australian Trade and Investment Commission
- Australian Transactions Reports and Analysis Centre
- Clean Energy Regulator
- Comcare
- Commonwealth Grants Commission
- Defence Housing Australia
- Department of Agriculture and Water Resources (Meat Inspectors' Agreement)
- Department of Education and Training
- Department of Employment
- Department of the Environment and Energy
- Department of Finance
- Department of Foreign Affairs and Trade
- Department of Health
- Department of Industry and Science
- Department of Infrastructure and Regional Development
- Department of Veterans' Affairs
- Food Standards Australian New Zealand
- Geoscience Australia
- Independent Hospital Pricing Authority
- Inspector-General of Taxation
- National Blood Authority
- National Health Funding Body
- National Health Performance Authority

- Office of the Australian Information Commissioner
- Office of the Fair Work Ombudsman
- Office of National Assessments
- Office of Parliamentary Counsel (two agreements)
- Organ and Tissue Authority
- National Transport Commission
- Royal Australian Mint
- Safe Work Australia
- Workplace Gender Equality Agency

Total number = 45

Non-APS Agencies

- Australian Federal Police (Executive Agreement)
- Australian Hearing
- Australian Maritime Safety Authority
- Australian Rail Track Corporation (NSW Agreement)
- Australian Reinsurance Pool Corporation
- Australian Sports Commission
- Civil Aviation Safety Authority
- Grains Research and Development Corporation
- National Transport Commission
- NBN Co. (one agreement)
- Office of the Official Secretary of the Governor-General
- Special Broadcasting Service
- Sydney Harbour Federation Trust

Total number = 13

Attachment C

Commonwealth agencies that have experience protected industrial action in this bargaining round

- Administrative Appeals Tribunal
- Australian Bureau of Statistics
- Australian Communications and Media Authority
- Australian Competition and Consumer Commission
- Australian Institute of Criminology
- Australian Radiation Protection and Nuclear Safety Authority
- Australian Rail Track Corporation
- Australian Taxation Office
- Bureau of Meteorology
- Civil Aviation Safety Authority
- Commonwealth Director of Public Prosecutions
- Commonwealth Scientific Industrial Research Organisation
- Department of Agriculture and Water Resources
- Department of Defence
- Department of Education and Training
- Department of the Environment and Energy
- Department of Employment
- Department of Human Services
- Department of Immigration and Border Protection
- Department of Parliamentary Services
- Department of the Prime Minister and Cabinet
- Department of Veteran's Affairs
- IP Australia
- Murray Darling Basin Authority
- National Library of Australia
- Geoscience Australia
- NBN Co.

Attachment D

Examples of special privileges provided to union delegates in some public sector enterprise agreements

- a. Paid time off during working hours to consult with other delegates and union officials in the workplace, and receive advice and assistance from union staff and officials in the workplace.
- b. Paid time off to represent union members in the agency at union forums.
- c. Paid time off to attend workplace training, including union training programs.
- d. Access to agency facilities for the purpose of carrying out work as a union delegate and consulting with members and other interested employees and the union. This includes using telephones, photocopiers, agency internet and email facilities for advancing the union's interests, as well as using meeting rooms, lunch rooms, tea rooms and any other areas where employees meet.
- e. Permission to send emails containing union information and other material to all employees in the workplace, on an opt-out basis.
- f. Guaranteed positions on agency consultative committees, regardless of how many union members are in the organisation.
- g. A guarantee that delegates will have access to speak to new employees about union membership at the time they enter employment.
- h. Guaranteed access to any relevant information about the workplace and agency.

Common employment conditions in Australian Public Service enterprise agreements

Terms and Conditions	Description
<i>Leave & Redundancy Entitlements</i>	
Annual Leave	<p>Most agreements have 20 days' leave per annum. Some agencies provide more. For example, the Department of Human Services provides 23 days per annum.</p> <p>Agreements also provide an extra 5 days' leave per annum for shiftworkers regularly working Sundays and public holidays.</p>
Personal/Carer's Leave	<p>Generally somewhere between 15-18 days paid leave per annum, accruable, appears in most agency agreements. Some agencies provide 20 or 22 paid days per annum.</p>
Compassionate/Bereavement Leave	<p>2-3 days paid leave per occasion appears in most agency agreements.</p>
Christmas Close Down	<p>Most APS agencies provide a paid Christmas close down period. This typically covers the usual work days between Christmas and the New Years' Day Public Holiday. This is provided with no loss of leave entitlements to an employee.</p> <p>Not all agencies provide a mandatory close down period due to operational reasons. Some agencies provide employees with additional annual leave because they cannot close down over the Christmas period (e.g. Department of Human Services).</p>
Defence Reservists Leave	<p>Successive government policies have required agencies to facilitate paid and unpaid leave for Defence Reservists. The current bargaining policy requires agencies to provide this leave to Reservists.</p>
Community Service Volunteer Leave	<p>Many agency agreements provide paid leave for employees engaging in community service leave for emergency services responses, regular training, reasonable travel and recovery time and ceremonial duties.</p>
Cultural, Ceremonial and NAIDOC Leave	<p>Agencies generally facilitate such leave through specific existing provisions, or miscellaneous leave arrangements.</p>

Terms and Conditions	Description
Maternity Leave (including adoption and foster carers leave)	<p>All eligible employees are provided with 12 weeks' paid leave in accordance with the <i>Maternity Leave (Commonwealth Employees) Act 1973</i>.</p> <p>The majority of public sector agreements provide an additional 2 weeks' paid maternity leave on top of this. Some agencies provide more.</p> <p>Arrangements for parents adopting or fostering a child generally mirror maternity leave provisions and rules.</p>
Paid Parental Leave	A minimum of 2 weeks' paid parental leave for supporting partners.
Return to Work After Parental Leave	Agency provisions must at least be in line with section 84 of the <i>Fair Work Act 2009</i> .
Long Service Leave	Leave is in accordance with the <i>Long Service Leave (Commonwealth Employees) Act 1976</i> . This is 3 calendar months of leave for every 10 years worked.
Redeployment, reduction and retrenchment provisions (RRR)	<p>The typical redundancy payment is 2 weeks' pay per year of service capped at 48 weeks.</p> <p>Retention periods are also available in most agencies in lieu of a redundancy payment. A retention period can provide an employee with more time to try to be redeployed into another role instead of accepting a redundancy. These arrangements are not consistent across the Commonwealth public sector. Some agencies do not include them in enterprise agreements at all. The predominant arrangement is a 7 month period, or 13 months for employees aged 45 years or over, or with more than 20 years' service.</p>
<i>Hours of Work</i>	
Weekly hours of work	The standard working week ranges between 36 ¾ hours to 38 hours, depending on what has been negotiated at each agency. The most common arrangement is 37 hours and 30 minutes per week.
Flexitime	Provided to APS 1-6 employees and those in training classifications.
Time Off in Lieu (TOIL)	TOIL is generally provided to EL1-2 employees at management discretion. In a small number of agencies, it is guaranteed on an hour for hour basis (similar to how flex leave operates).

Terms and Conditions	Description
Flexible working arrangements (including part-time work)	<p>Agencies have to comply with the National Employment Standards. These require agencies to consider flexible working arrangements for specific categories of employees.</p> <p>Many agencies give all employees the right to request flexibility working arrangements including: part-time work, home-based work and telework.</p>
<i>Remuneration</i>	
Employer Superannuation Contributions	<p>Most agency agreements reference the current employer superannuation contribution in the PSSap Trust Deed. This provides employees in this scheme with an employer contribution of 15.4%. Many agency agreements also provide that, where an employee belongs to a choice fund, the same employer contribution rate as that which applies to PSSap will be paid.</p> <p>Other contribution rates may apply to some public sector employees if they are in the CSS or PSS schemes.</p> <p>These relevant rates for the CSS, PSS and PSSap are set through legislative instruments which prevail over an enterprise agreement to the extent of any inconsistency.</p>
<i>Individual flexibility</i>	
Individual flexibility arrangements	<p>All enterprise agreements are required by law to include an individual flexibility term.</p> <p>The majority of public sector enterprise agreements include an individual flexibility arrangement term that expands on the model term in the Fair Work Regulations. Many agencies also provide for remuneration to be varied. Some agreements allow any term in the agreement to be varied if it is lawful and practical to do so.</p>