



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

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Australian Government Public Sector Workplace Bargaining Policy

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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

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| <p>2.1 Improvements in pay and conditions are to be funded from within existing budgets, without the redirection of programme funding.</p> <p>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.</p> |
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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

ATTACHMENT B

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.