

# Wages Policy and the Enterprise Bargaining Framework

For Victorian Government departments and agencies

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# Primary pathway

The primary pathway for agreement-making under the Government's Wages Policy has three pillars. While there is no cap on overall agreement outcomes, Pillar 1 increases to wages and conditions cannot exceed the funded allocation and Pillar 3 improvements must be funded from appropriate cash offsets and/or a government approved funding strategy.

## Pillar 1: Wages

Increases in wages and conditions will be funded at a rate of growth of 3.0 per cent per annum over the life of the agreement. In practice this means employee wages and conditions will be allowed to grow at this rate.

In addition to annual wage increases, a separate lump sum, cash payment will be available equivalent to an additional 0.5 per cent of overall agreement costs which for the purposes of this policy means a per annum amount calculated on wages and wage-related conditions.

When approved to commence bargaining, agencies will be advised what the 0.5 per cent equates to as an annual lump sum payment, over the life of the agreement. The amount will vary depending upon the length of the agreement and the phasing of the lump sum payment.

## Pillar 2: Best Practice Employment Commitment

Public sector agencies may make a Best Practice Employment Commitment (BPEC) which outlines measures to operationalise elements of the Government's Public Sector Priorities that reflect good practice within Government and can be implemented operationally or without significant costs.

## Pillar 3: Additional strategic changes

Additional changes to allowances and other conditions (not general wages) will only be allowed if Government agrees that the changes will address key operational or strategic priorities for the agency, and/or one or more of the Public Sector Priorities and provided the associated costs are funded through appropriate cash offsets or a government approved funding strategy.

In addition, Wages Policy requires that:

- all agreements must be fiscally sustainable and funded from indexation, revenue, appropriate cost offsets or a Government approved funding strategy
- revenue generating entities can only use revenue at the rate of growth of wages and conditions as stipulated under Wages Policy Pillar 1, and/or appropriate cash offsets in the case of Pillar 3 changes, to fund agreement outcomes

- enterprise agreements must not contain retrospective payments. This means that the first pay increase in any agreement must be forward looking and cannot be prior to the date the agreement has been submitted to the portfolio department for approval
- legislated increases to the superannuation guarantee rate are excluded from the increases in wages and conditions under the Wages Policy
- public sector agencies should seek to achieve four-year agreements subject to operational considerations.

Further information about Wages Policy Pillars 2 and 3 and the Public Sector Priorities is outlined below.

## Best Practice Employment Commitment

Several of the Government's key public sector reforms such as improving gender equity, ensuring secure employment and access to flexible working arrangements can be enhanced through changes to operational practices and policies.

Public sector agencies may identify and action reforms around public sector employment through a BPEC to be finalised alongside the enterprise agreement.

The BPEC includes measures for implementing best practice employment practices, to operationalise elements of the Government's Public Sector Priorities that reflect good practice elsewhere within Government and can be implemented operationally or without significant costs.

These measures should be tailored to the public sector agency's circumstances.

The measures may include matters such as:

- a commitment to regular gender auditing, and reporting and efforts to identify and address gender pay gaps in the public sector organisation
- facilitating access to flexible working arrangements
- secure employment initiatives to reduce inappropriate use of casual, fixed term and labour hire, including workforce planning and preparations
- skills and capability development to develop a mobile and agile public sector workforce
- supporting the continued development of whole of government policies by considering further measures to address anti-bullying, gender equity and diversity, mental health, occupational health and safety, and family violence.

The BPEC is not expected to contain significant cost items. These items would instead be considered under Pillar 3.

Public sector agencies should work with public sector unions and employees to develop their BPEC as bargaining progresses and to identify the actions to progress these matters.

## Additional strategic changes to address key operational reforms or the Public Sector Priorities

Operational or strategic priorities will differ across public sector agencies depending on the challenges they face. Higher cost outcomes linked to a key operational reform, or the Public Sector Priorities could include, for example:

- addressing high instances of unscheduled absences on weekends and nights by increasing penalty rates for these shifts or amending rostering practices
- amending opening hours to provide incentives to employees who work expanded hours to ensure services are available at times convenient to the community
- removing or reducing restrictions which impede the efficient allocation of resources
- addressing identified skill or capability gaps and incentivising and facilitating employees' skill development through access to specified TAFE training
- specific measures to address gender inequity (for example, additional parental leave, payment of superannuation during periods of parental leave)
- targeted wage increases to a specific and identifiable cohort of workforce who have historically been underpaid because of gender (for example, through reclassification of a particular feminised role)
- measures to address specific workforce challenges (for example, workforce attraction and retention payments).

### The Public Sector Priorities are as follows:

<b>Deliver exceptional services and value for Victorians</b>	<b>A professional and responsive public sector</b>	<b>Government as a fair and best practice employer</b>
<ul style="list-style-type: none"> <li>• deliver service efficiencies</li> <li>• financial sustainability</li> <li>• prioritise resources for the Government's social agenda</li> </ul>	<ul style="list-style-type: none"> <li>• people-centric</li> <li>• increase workforce mobility</li> <li>• build skills and capability</li> <li>• responsive to the community</li> <li>• trustworthy and committed</li> </ul>	<ul style="list-style-type: none"> <li>• increase diversity</li> <li>• promote gender equity</li> <li>• ensure access to flexible working arrangements</li> <li>• maintain preference for secure employment</li> <li>• reduce labour hire</li> </ul>

A range of tools are available to deliver these priorities, including legislation, policy and operational practice. Enterprise bargaining is one important tool.

The Government's Wages Policy has been set to encourage public sector agencies to reflect these Public Sector Priorities in their operational practice.

# Secondary pathway

Government recognises that for various reasons, some bargaining parties may prefer to agree to a wage increase in a new enterprise agreement without disrupting any terms and conditions agreed during their previous bargaining round.

Accordingly, a limited secondary pathway is available under Wages Policy for public sector agencies and unions who agree in principle ahead of bargaining that they seek to reach agreement expeditiously on this basis.

The secondary pathway is available only to public sector agencies whose current enterprise agreement reaches its nominal expiry date before 1 January 2024.

The secondary pathway permits agreements to be made only on the following terms:

- wage and allowance increase funded at a rate of growth of 3.5 per cent per year, pro-rated
- a nominal expiry date of between 12 to 18 months from the nominal expiry date of the current agreement
- all other terms and conditions as contained in the current agreement, except for where a change is required under the Public Sector Industrial Relations Policies (Industrial Relations Policies), to further mutually agreed whole-of-Government initiatives, to resolve legal issues, or minor changes to improve the clarity of the Agreement.

In addition:

- public sector agencies must comply with *Fair Work Act 2009* (Fair Work Act) good faith bargaining requirements
- all agreements must be fiscally sustainable and fully funded from indexation, revenue, appropriate cost offsets and/or Government approved funding strategy
- public sector agencies must meet the timelines prescribed in the Enterprise Bargaining Framework
- public sector agencies using this pathway may also produce a BPEC where agreed with employees and relevant unions, or otherwise are expected to comply with the Government's policy requirements.

# Transitional arrangements

Parties to enterprise agreements that have not finalised new agreements under previous Wages Policy are eligible to bargain under the new Wages Policy parameters. All parties currently bargaining will be required to seek Government approval before any offer is made under the new Wages Policy parameters.

## Enterprise Bargaining Framework

The Government's Wages Policy establishes the parameters within which public sector employers are required to bargain and make enterprise agreements. The Government ensures public sector bargaining and agreement making occurs within Wages Policy through the Enterprise Bargaining Framework (Framework) which sets out the approval requirements that public sector agencies must meet before commencing bargaining, during bargaining and before seeking employee approval of final enterprise agreements.

Industrial Relations Victoria (IRV) administers the Framework in conjunction with the Department of Treasury and Finance (DTF), which is responsible for ensuring public sector enterprise agreements are fiscally sustainable and comply with Wages Policy. The Framework applies to all stages of public sector enterprise bargaining and agreement making, including:

- before bargaining, where a public sector agency must obtain government approval to commence bargaining
- during bargaining, where a public sector agency must obtain government approval of proposed agreement costings and funding strategy before reaching in-principle agreement
- where a final proposed enterprise agreement is settled between the parties, a public sector agency must obtain government approval of the proposed enterprise agreement, costings and funding strategy before commencing the Fair Work Act pre-approval steps
- where a public sector agency seeks to vary an existing enterprise agreement under the Fair Work Act
- where there is a proposal to move from bargaining for a multi-employer enterprise agreement to bargaining for a single-interest enterprise agreement, or to alter the coverage of an existing multi-employer or single-interest enterprise agreement

- where there is a proposal to move from bargaining for single enterprise agreements to bargaining for a new multi-employer or single-interest enterprise agreement.

## Major and non-major agreements

The Government will approve management logs and the commencement of bargaining, settlement position costings and final agreements and costings for all public sector enterprise agreements, noting the Framework places different governance expectations on different types of public sector agencies relative to the size of their workforce, wages bill, and relative industrial or financial risk profile. It categorises enterprise agreements as Major Agreements and Non-major Agreements.

Major Agreements include any enterprise agreement:

- with a large public sector workforce, with a salary base in excess of \$1 billion
- with significant industrial or financial risk
- of strategic or operational importance to Government.

Major Agreements include those covering the public service, teachers, police, firefighters, paramedics and major public health sector agreements (including those covering nurses, doctors, allied health professionals, medical scientists, health and allied services, and mental health practitioners) as well as other agreements as the circumstances dictate.

The Government will oversee and approve the strategy and negotiations for all Major Agreements.

Non-major Agreements generally cover smaller components of the public sector workforce and carry fewer financial or industrial risks. Any enterprise agreement not classified as a Major Agreement will be treated as a Non-major Agreement for the purpose of this Framework.


When preparing to bargain, during bargaining and once a final agreement is reached between the parties, public sector agencies and departments must adhere to the processes and requirements outlined in the Framework applicable to the enterprise agreement to be negotiated.

Where a public sector agency or portfolio department is unsure whether an enterprise agreement should be classified as a Major Agreement or Non-major Agreement, they should contact IRV.

## Preparing to bargain

Negotiations between public sector agencies and bargaining representatives should commence at least six months prior to the nominal expiry date of the current agreement.





To ensure public sector agencies are in a position to commence bargaining in a timely fashion and without unnecessary delays, internal preparations for bargaining should commence no later than 12 months in advance of the nominal expiry date of the current agreement. This approach will ensure bargaining strategies and proposals for change can be developed with sufficient time to allow for necessary Government oversight and decision prior to the commencement of bargaining.

IRV will provide public sector agencies preparing to bargain with template documents that outline the information that will need to be provided when seeking Government approval to commence bargaining, including information about workforce demographics, FTE, proposed agreement coverage, and a list of all the claims the agency proposes to make in bargaining.

DTF will liaise with portfolio departments and will provide costing templates to assist with the preparation of preliminary costings if required.

## Authority to commence bargaining

Prior to commencing bargaining, public sector agencies are required to seek approval from Government and, where applicable, submit their proposed BPEC for approval.

To obtain the authority to bargain, the public sector agency is required to provide information about their workforce demographics, bargaining history and proposed content of a new agreement. Preliminary costings of the proposed conditions, accompanied by a proposed funding strategy, will be required.

The level of detail required in completing the template will reflect the public sector agency's size, wage base and be commensurate with the financial and industrial implications of the proposed agreement.


Eligible public sector agencies seeking authority to commence bargaining under the secondary pathway must provide written confirmation to Government of in-principle support of any public sector union(s) to be covered by the proposed agreement for this course of action.

## During bargaining

Public sector agencies must keep their portfolio department, IRV and DTF informed about the progress of bargaining, particularly where industrial or financial risks emerge. In some cases, this may require further consideration by Government.

Public sector agencies cannot make offers during bargaining outside approved parameters without the offer (and expected financial implications) being approved at the appropriate level of Government for the agreement concerned.

All offers should be made on an in-principle basis, with the public sector agency communicating that the offer is subject to government approval and may be subject to change to ensure compliance with Wages Policy, the Industrial Relations Policies, the Fair Work Act or other relevant legislation.



Public sector agencies pursuing the secondary pathway should ensure bargaining is undertaken in accordance with the Fair Work Act good faith bargaining requirements, in a timely and efficient manner.

## Approval requirements

All proposed enterprise agreements require the approval of Government prior to the commencement of any of the formal approval requirements outlined in the Fair Work Act.

To be approved by Government, a proposed enterprise agreement (whether a Major Agreement or Non-major Agreement) must meet all the conditions specified in Wages Policy. In addition:

- the public sector agency must verify that it has conducted a comparison of the terms of the Agreement with the relevant Award, and that the Agreement provides that each employee will be Better Off Overall than the relevant Award, within the meaning of the Fair Work Act
- other requirements from the Industrial Relations Policies must be met

The process for seeking Government approval of final agreements under the Framework differs for Major Agreements and Non-major Agreements. Approval of Major Agreements at a high level of Government is required.

Eligible public sector agencies must submit proposed enterprise agreements negotiated under the secondary pathway to Government for approval as soon as possible once bargaining has commenced. A fast track approval process will apply for these agreements. Where Government approval is obtained, agencies must comply with Fair Work Act requirements and seek approval of their agreement from the Fair Work Commission.