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From: [Workplace Relations](#)
Subject: Non-APS Bargaining - FAQs and presentation slides [SEC=OFFICIAL]
Date: Tuesday, 12 December 2023 2:49:52 PM
Attachments: [image001.png](#)
[image007.png](#)
[Non-APS Chief Negotiators Forum 12 December 2023 Presentation.pdf](#)
[FAQs - Non-APS bargaining - One-Off Payments - December 2023.pdf](#)

OFFICIAL

Non-APS Bargaining

December 2023

Dear Colleagues,

As foreshadowed in the Chief Negotiators Forum (CNF) earlier today, please find attached:

- FAQs relating to the 0.92 per cent one-off payment; and
- Presentation slides from today's CNF.

This material will be added to our GovTEAMS community shortly.

As referenced, the APSC has published guidance on changes to non-ongoing engagements following amendments to the *Fair Work Act 2009*, which can be found [here](#). The guidance includes an overview and explanation of the changes, which is relevant to non-APS agencies, as well as some information that is specific to the APS.

Last week we also hosted a session with the Fair Work Commission on how to lodge an enterprise agreement for approval. A recording of that session is available [here](#).

If you have any questions, please do not hesitate to contact workplacerelations@apsc.gov.au or your APSC relationship manager.

Regards,

James

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Non-APS Chief Negotiators Forum

James O'Reilly, Assistant Commissioner, Workplace Relations Group

12 December 2023

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Acknowledgement of Country

I would like to acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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Agenda

- Update on APS service-wide bargaining
- Update on non-APS bargaining
- Overview of exemptions process
- Other workplace relations matters
- Q&A

Information provided to non-APS agencies

Date	Information
11 December 2023	Update on the non-APS revised pay offer and transitional arrangements
30 November 2023	Release of the final Statement of Common Conditions
23 November 2023	APS bargaining update on improved Commonwealth pay offer
20 November 2023	Launch of new GovTeams community for non-APS agencies

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APS Service-wide bargaining update

- The Commonwealth will bring forward the Year 1 pay increase of **4 per cent by 12 weeks** in the form of a one-off payment.
- The payment will be **0.92 per cent** of base salary.
- To be eligible for the **one-off payment**, agencies must commence an access period or similar prior to 14 March 2024 and employees must vote up the agreement.

Next steps for APS bargaining

- The APSC published the final **Statement of Common Conditions** on **30 November**, which represents the conclusion of APS-wide bargaining.
- APS agencies have been encouraged to work to conclude agency-level bargaining and make preparations for an employee ballot.
- The APS Bargaining Taskforce is supporting agencies to conclude agency-level bargaining and assessing draft enterprise agreements.

Non-APS Bargaining update

- Non-APS agencies will also be able to provide a **one-off payment equal to 0.92 per cent of base salary**, via administrative action.
- To be eligible for the one-off payment, agencies must commence a consideration period that results in a **yes vote**, by the later of:
 - a. 14 March 2024; or
 - b. the nominal expiry date of the current instrument or 12-month anniversary date of the final increase provided under a determination.

Non-APS transitional arrangements

- The non-APS bargaining parameters includes transitional pay arrangements for agencies with pay increases due before 14 March 2024 to deliver their next wage increase from the anniversary of their last increase.
- A successful ballot must commence by 14 March 2024.
- The transitional arrangements were designed to minimise detriment to employees associated with the delays in APS bargaining.
- Non-APS agencies subject to the transitional arrangements will be permitted to recognise the earlier anniversary date for second and third year wage increases.

Exemptions for non-APS agencies

Clause 93 of the Policy provides:

‘Exemptions to the Non-APS Policy will only be considered in exceptional circumstances. An application for exemption must be assessed by the APSC and is subject to endorsement from the portfolio Minister and approval from the Minister for the Public Service.’

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Non-APS Bargaining Statistics

22 bargaining positions have been approved.

5 Funding and Remuneration Declarations have been approved

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Other news – The Fair Work Legislation Amendment (Closing Loopholes) Bill 2023

Date	Key change
1 January 2025	Introducing a criminal offence for intentional 'wage theft'
1 July 2024	Introducing a criminal offence of industrial manslaughter
TBA	Protections for family and domestic violence victims from adverse action
TBA	Closing the 'loophole' in which large businesses claim small business redundancy exemptions to avoid redundancy payments
1 November 2024	Providing for same job, same pay for labour hire workers.

The Fair Work Legislation Amendment (Closing Loopholes) Bill 2023

Further guidance

- www.dewr.gov.au/closing-loopholes - this page will be updated with relevant information and Fact Sheets

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Other news – fixed term contracts

- From 6 December 2023, the fixed term provisions of the FW Act commenced.
- These changes include:
 - limitations on the use of fixed term contracts for the same role beyond two years or two consecutive contracts - whichever is lesser
 - exceptions to these limitations
 - provisions to prevent employers from taking actions to avoid their obligations, and
 - an obligation to provide fixed term employees with a Fixed Term Contract Information Statement.
- The APSC has published information available on our website

Other news – public holiday rostering

- Earlier this year, the Full Court of the Federal Court held that:
 - Despite the terms of an employment contract, the employer was required to request (in the form of a question) that an employee work on a public holiday, and
 - That request could be refused by employees if unreasonable.

CFMMEU v OS MCAP Pty Ltd [2023] FCAFC 51

- The employer made an application to appeal to the High Court, but the employer's request for Special Leave was refused.
- This means the Federal Court decision will stand.

Questions/Discussion

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From: [Workplace Relations](#)
Subject: Non-APS Bargaining Government Parameters [SEC=OFFICIAL]
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[image007.png](#)
[Non-APS bargaining - Government Parameters - version 2 - 31 January 2024.pdf](#)
[Non-APS Bargaining - Decision Tree - version 2.pdf](#)

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Non-APS Bargaining

January 2024

Dear Colleagues,

I am writing to advise that the APSC has updated the *non-APS Bargaining Government Parameters* (Parameters).

The document outlines Government parameters on pay and conditions to inform non-APS agencies' development of positions prior to bargaining and as bargaining progresses.

The Parameters have been updated to reflect final:

- outcomes in APS bargaining, including the release of the APS Statement of Common Conditions; and
- the Government's revised pay offer relevant to non-APS agencies, including the 0.92 per cent one-off payment and transitional arrangements.

The table outlining parameters on specific conditions has been revised to provide additional detail on non-APS specific matters, and further guidance on the extent to which agencies can change their existing conditions of employment and pay arrangements.

We appreciate that many non-APS agencies are well progressed in their negotiations for new Enterprise Agreements and have already received approval from the APSC of their Bargaining Positions, Funding and Remuneration Declarations and/or Draft Enterprise Agreements. These arrangements formalise current arrangements and do not require agencies to revisit previously approved matters.

Agencies with wage increases due after 14 March 2024 should note a small policy interpretation change has been made in clause 6.3 of the Parameters. This change applies where the agency commences their access/consideration period on or before the nominal expiry date of their agreement or 12-month anniversary of their last wage increase. If a successful vote is achieved, agencies may apply the first year increase effective from the

12-month anniversary of the last wage increase. This will enable eligible agencies to ensure employees receive their year 1 pay increase without an effective delay, even where the agreement commences after the scheduled pay increase.

An updated decision tree is also attached for your information.

The revised Parameters are attached and will be published on the APSC website and our GovTeams page shortly. Also included on our GovTeams page is the updated decision tree and an updated version of the template APS Enterprise Agreement reflecting the Statement of Common Conditions. Non-APS agencies using this document should ensure that the terms are appropriately translated to a non-APS context.

If you have any questions, please do not hesitate to contact workplacerelations@apsc.gov.au or your APSC relationship manager.

Regards,

James

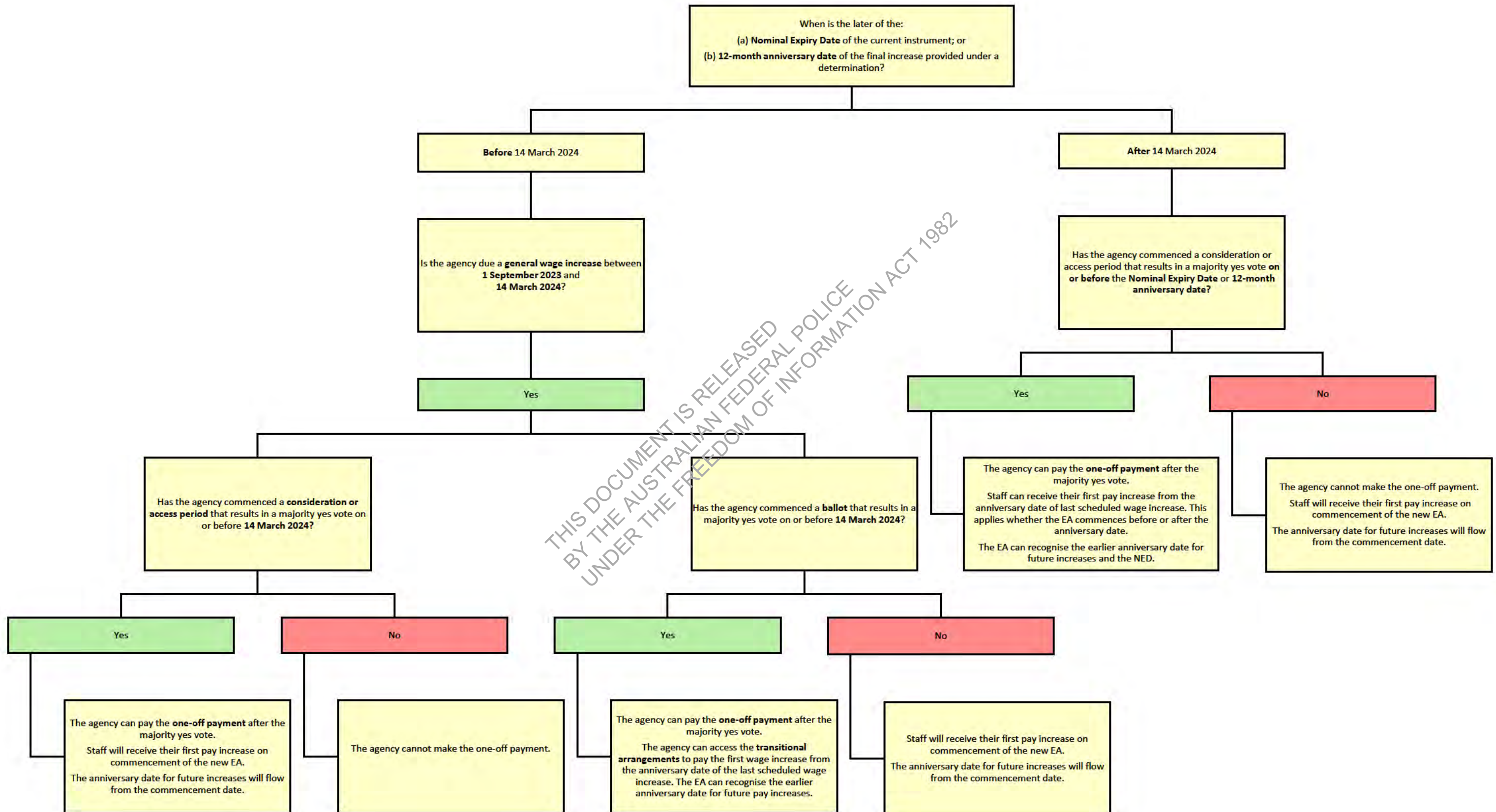
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Non-APS Bargaining – Decision Tree



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Non-APS Bargaining - Government Parameters

The *Australian Government Public Sector Workplace Relations Policy 2023* sets expectations for non-APS agency bargaining conduct. This document outlines Government parameters on pay and conditions to inform non-APS agencies' development of positions prior to bargaining and as bargaining progresses.

1. Remuneration and conditions adjustments

The Policy provides that:

Changes to Remuneration and Conditions

97. Remuneration and conditions adjustments includes:
 - a. increases to payments made to employees, other than changes to expense-related allowances; and
 - b. changes to conditions resulting in increased employee costs, including changes to classification structures; but
 - c. excludes any payments or changes to conditions advised by the APSC.
98. Agencies may make remuneration and conditions adjustments within Government parameters, as advised by the APSC.
99. Changes to remuneration and conditions are to be affordable and funded from within existing agency budgets, without the redirection of programme funding. Remuneration and conditions adjustments are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources beyond ordinary indexing practices.
100. Remuneration increases are to apply prospectively.

2. Parameters – guiding principles

The Government parameters are set having regard to the following principles:

- a. Bargaining conduct and outcomes will reflect best practice and recognise the role of the Government in setting the high standard of employer behaviours it champions.
- b. Workplace arrangements need to support the ability of Commonwealth agencies to function efficiently, including by sustaining capacity and capability requirements.
- c. Agencies are encouraged to incorporate APS common terms where practicable.
- d. Agreements are to be fair and fiscally responsible, in line with reasonable community expectations.

3. Parameters

This document provides information on Government parameters. This document has been updated to reflect outcomes in APS bargaining and should be read in conjunction with the Statement of Common Conditions.

4. When to consider the parameters

Non-APS agencies should give due consideration to these parameters in formulating their bargaining positions. The APSC will assess bargaining positions and draft agreements against the parameters outlined in this document.

Under clause 91 of the Policy, approval from the APS Commissioner must be obtained prior to any proposed increases in remuneration or changes to conditions with a financial impact being discussed with employees and/or their representatives. Agency Heads are to provide the APS Commissioner with a signed Funding and Remuneration Declaration, using the template provided by the APSC.

The Funding and Remuneration Declaration requires agencies to provide costing details of all remuneration and conditions adjustments that would result in increased employee costs. The declaration also requires agencies to identify whether the change counts towards the agency's remuneration and conditions adjustment calculation.

5. Categories of changes

Remuneration and conditions changes fall within the following categories:

Category	Is the change supported?	Is the cost of the change included in the remuneration and conditions adjustment calculation?
1	Yes.	No. The change is consistent with policy expectations for Commonwealth agencies.
2	Only with a policy exemption, in exceptional circumstances.	For decision as part of a policy exemption request.
Other	Consult with the APSC.	Consult with the APSC.

5.1 Category 1 changes

Category 1 changes include APS service-wide bargaining outcomes. This provides the opportunity for non-APS agencies to bargain for improved conditions where they are currently below the Commonwealth's approach to APS commonality and the changes are practical and affordable for that agency. Non-APS agencies may maintain existing entitlements that exceed the parameters.

Category 1 changes also include changes contemplated in Part 2 of the Policy. For example, clause 105 supporting the release of Defence Reservists for peacetime training and development.

Non-APS agencies may include Category 1 conditions in their agreements without any reduction to their headline pay offer or funding the change through other measures.

APS bargaining has resulted in a number of common clauses that may be adopted by a non-APS agency where appropriate. In adopting such clauses and conditions, non-APS agencies may need to make appropriate edits to ensure it aligns with the agency's own employment framework. For example; removing references to the APS and *Public Service Act 1999* and removing references to APS specific matters such as the APS Consultative Committee, APS Code of Conduct, and APS classification levels, and inserting agency-specific references.

5.2 Category 2 changes

Category 2 changes will require an exemption from the Policy. Under clause 93 of the Policy, exemptions will be considered in exceptional circumstances. An application for exemption must be assessed by the APSC and is subject to endorsement from the agency's portfolio minister and approval from the Minister for the Public Service.

Agencies should consult with the APSC early if they are considering an exemption request.

5.3 Other changes

Agencies may propose other changes that do not fall within Category 1 or Category 2. These proposed changes will be considered by the APSC on a case-by-case basis.

As a general principle, other changes are likely to be supported where they address a genuine business need in a reasonable, proportionate and affordable way. Proposed changes may not be supported where they would create an undesirable precedent for conditions in the Commonwealth public sector or are not consistent with reasonable community expectations. The proposed change may be considered in the context of the agency's overall package of conditions.

The possible outcomes may include:

- a. The change is supported and does not need to be funded through offsets or a reduction in the headline wage increase.
- b. The change is supported, contingent on being funded through identified offsets, a reduction in the headline wage increase or other productivity gains.
- c. The change would require a policy exemption to proceed.

To enable discussion with the APSC, proposed changes in this category should be supported by a statement:

- a. Outlining the organisational issue.
- b. Outlining the proposed change.
- c. Explaining how the change will address the issue.
- d. Outlining whether any other options have been considered to address the organisational issue and why the proposed option is preferred.
- e. Outlining any indicative costs and possible offsets.

5.4 Inclusion of policy in Enterprise Agreements

Enterprise agreements are legal documents that cover certain employers and employees, and set out minimum employment terms and conditions.

Policies are a set of general guidelines outlining an organisation's plan or strategy for addressing particular issues. Policies often give practical effect to substantive conditions outlined in an enterprise agreement. Where there is any inconsistency between policy and terms of an enterprise agreement, the express terms of the agreement prevail.

There is benefit in including substantive employee entitlements in enterprise agreements where

these are visible and readily accessible, and can form part of the agency's transparent Employee Value Proposition.

Agencies may negotiate the inclusion of content from existing agency policy in their enterprise agreement. Policies may be bargained into enterprise agreements on three conditions:

- a. the policy provides a substantive employee entitlement (excluding procedural matters);
- b. the matter covered by the policy was previously in an enterprise agreement, but was bargained out and placed into policy in accordance with past Government bargaining policies; and
- c. the matter is currently located in policy.

6. Remuneration

6.1 Government wage offer

Non-APS agencies may make remuneration and conditions adjustments up to the value of the Government's wage offer. That wage offer is an annual increase of 4 per cent, 3.8 per cent and 3.4 per cent over 3 years. Eligible non-APS agencies may also make a 0.92 per cent one-off payment in accordance with clause 6.4 below and APSC guidance.

6.2 Wage increases – transitional period

As a transitional measure, agencies may pay a wage increase from the anniversary date of the last scheduled wage increase where:

- a. there are no further increases due under the agency's current workplace instrument; and
- b. the nominal expiry date of the agency's enterprise agreement or the 12-month anniversary of the agency's last pay increase falls between 1 September 2023 and 14 March 2024; and
- c. the agency commences a ballot for a new enterprise agreement on or before 14 March 2024, which results in a majority of employees voting to approve the agreement.

This transitional arrangement operates as an exception to clause 100 of the Policy which requires remuneration increases to apply prospectively. Agencies that pay a wage increase from the anniversary date of the last scheduled wage increase may recognise the anniversary date of the scheduled wage increase for the purposes of the second and third year wage increases and Nominal Expiry Date of the agreement, rather than the anniversary of the commencement date of the agreement.

Alternatively, non-APS agencies subject to these transitional arrangements may still align the second and third year wage increases and Nominal Expiry Date with the anniversary date of the commencement of the agreement, if they choose.

6.3 Wage increases – post-14 March 2024

Agencies that have an anniversary date after 14 March 2024 are permitted to apply the bargained pay increase effective from the 12-month anniversary of the last wage increase, provided the agency commenced its access/consideration period on or before the nominal expiry date or 12-month anniversary of the last wage increase.

Agencies that pay a wage increase from the anniversary date of the last scheduled wage increase may recognise the anniversary date of the scheduled wage increase for the purposes of the second and third year wage increases and Nominal Expiry Date of the agreement, rather than the anniversary of the commencement date of the agreement.

6.4 One-off payment

Within APS negotiations, the Government agreed to bring the first scheduled pay increase of 4 per cent forward by 12 weeks, using a one-off payment equivalent to 0.92 per cent of base salary.

Non-APS agencies will be able to make a similar one-off payment. Eligible non-APS agencies are permitted to deliver the early pay increase as a one-off payment up to 0.92 per cent of (pre-adjusted) base salary, in accordance with APSC guidance.

To be eligible for the one-off payment, agencies must commence an access/consideration period that results in a successful ballot by the later of:

- a. 14 March 2024; or
- b. the nominal expiry date of the current instrument or the 12-month anniversary date of the final increase provided under a determination.

Non-APS agencies can make a determination under their enabling legislation to facilitate the one-off payment. The payment can be made after a successful enterprise agreement vote while awaiting Fair Work Commission approval of the agreement.

For non-APS agencies with common law arrangements, the one-off payment is payable from the anniversary of the last wage increase.

6.5 SES equivalent pay increases

Agencies are permitted to provide SES equivalent employees with a pay increase from the anniversary date of their last increase, of an amount no higher than the increase to be provided to the agency's non-SES employees.

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Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Section 1 – Technical matters			
Parties	Not applicable to non-APS.	Application to non-SES equivalent employees of the agency.	
Operation of agreement	Not applicable to non-APS.	Nominal expiry date of 3 years from commencement. If Transitional Pay Arrangements apply, nominal expiry date 3 years from the anniversary of the first pay increase.	More than 3 year agreement.
Delegations	Refer to common clause.		
Definitions	Refer to common clause, to the extent applicable to the agency.		
NES precedence clause	Refer to common clause.		
Closed comprehensive agreement	Refer to common clause.		
Individual flexibility arrangements	Refer to common clause.		Inclusion of matters which direct agencies to establish jobs in particular locations. Provision of guaranteed access to flexible working arrangements for cohorts of employees.

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Section 2 – Remuneration			
Commonwealth pay increase	Refer to common clause.	<p>Redistribute the pay offer in the second or third year (where it does not exceed the amount of the first year increase).</p> <p>Salary rate adjustments to meet an Award minimum where the pay offer is not sufficient to meet an Award minimum rate.</p>	<p>Pay increase that exceeds the APS Common Condition (including to address pay fragmentation).</p> <p>Redistribution of the pay offer to more than 4 per cent in any one year.</p> <p>Changes to classification structure with a material new cost.</p>
Commonwealth pay fragmentation mechanism	Not applicable to the non-APS.		
Payment of salary	Refer to common clause, except clause 6.		
Salary setting	Refer to common clause.		
Incremental advancement	Refer to common principles.		
Superannuation	Refer to common clause.	<p>Superannuation clause to recognise choice, stapled and default superannuation funds.</p> <p>Clearly define which employer contribution method applies to different accumulation funds.</p>	<p>Increase employer superannuation contributions above 15.4 per cent.</p> <p>Where moving from FSC to OTE, include the payment of employer contributions on unpaid parental leave, unless it is already included in the agency's agreement.</p>

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
		<p>Increase of employer superannuation contributions to 15.4 per cent regardless of choice of fund or stapled fund where fund rules permit.</p> <p>Transition from Fortnightly Contribution Salary (FCS) to Ordinary Time Earnings (OTE) employer contribution method</p>	
Overpayments	Refer to common clause.		
Supported wage system	Refer to common clause.		
Junior rates of pay	Refer to common clause. Remove any junior rates of pay provisions.		
Specialists	Retain existing conditions related to specialists.		Introduce specialist allowance or pay structures.
Section 3 – Allowances and reimbursements			
Higher duties	Refer to common clause.		Reduce qualifying period for higher duties to less than 2 working weeks.
Allowances (including travel allowances, excluding higher duties allowance, workplace responsibility allowances and community language allowance)	Retain existing allowances.	<p>Introduce a new allowance in line with APSC Guidance, subject to approval.</p> <p>Increase salary related allowances in line with general salary increase.</p> <p>Increase expense-related allowances in line with established indexing arrangements.</p>	<p>Introduce a new allowance to provide a remuneration increase by another name (e.g. Healthy Lifestyle Allowance, Working in the Office Allowance, EL1 Professional Allowance).</p> <p>Increase an existing allowance to provide a remuneration increase by another time.</p>
Workplace responsibility allowances	Refer to common clause.		

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Community language allowance	Refer to common clause.		
Section 4 – Classifications and broadbands			
Graduates	Refer to common clause.		
Classification and work level standards	Not applicable to non-APS.	Retain current classification structure.	Changes to classification structures with a material new cost.
Section 5 – Working hours and arrangements			
Employment types	Not applicable to non-APS.	Employment types defining ongoing, non-ongoing, casual, full time and part time.	
Labour hire	Retain existing conditions on labour hire.		Conditions governing the use of labour hire and contracting arrangements.
Job security	Refer to common clause, except for APS specific references.		
Casual employment	Refer to common clause.	Retain existing conditions that are more beneficial.	Increase casual loading above 25 per cent.
Non-ongoing employment	Refer to common clause.	Retain existing conditions that are more beneficial.	
Working hours (including 4 day work week or trial)	Retain existing working hours or increase to 37.5 hours per week.	Decrease working hours to 37.5 hours per week.	Decrease working hours to less than 37.5 hours per week. Introduce a 4-day work week or trial.
Flex for APS 1-6	Retain existing conditions.	Flex for APS 1-6 equivalent employees of the agency.	
Executive Level TOIL	Refer to common clause.	Application to Executive Level equivalent employees of the agency.	
Overtime and restriction	Retain existing conditions related to overtime and restriction.	Include appropriate overtime and restriction provisions.	

Non-APS Bargaining – Government Parameters – version 2 – 31 January 2024

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
	Bargain conditions related to overtime and restriction.		
Shift work, including shift penalties	Retain existing conditions for shift workers. Bargain conditions related to shift work.	Include shift worker provisions and appropriate penalty rates.	
Flexible working arrangements, including working from home	Refer to common clause.	Agencies may provide equipment necessary for, or reimbursement for costs associated with establishing a safe home office.	
Employees with caring responsibilities	Retain existing conditions related to employees with caring responsibilities.		
Range of locations for work	Retain existing conditions related to the range of location of work.		
Part-time work (no unilateral conversion)	Refer to common clause.		
Christmas closedown (the period an agency closes or reduces their usual business activities, including Christmas Day and New Years Day)	Retain existing conditions related to Christmas closedown.	Introduce Christmas closedown between 25 December and 1 January where an agency does not have additional leave arrangements in place in lieu of Christmas closedown.	Introduce recognition of non-public holidays as public holidays between 25 December and 1 January.
Public holidays	Refer to common clause.	Retain current additional public holidays where they exist in an Agreement.	
Section 6 – Leave			
Annual leave – all aspects other than excess leave and cash out provisions	Refer to common principles.	Retain existing conditions that are more beneficial.	Increase annual leave above 4 weeks or current entitlement (whichever is more generous).

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Annual leave – excess leave	Retain existing conditions on excess annual leave.	Excess annual leave is 2 or more years leave accrual.	
Annual leave – cash out provisions	Retain existing cash out of annual leave conditions.	Bargain cash out of annual leave.	Introduce cash out of annual leave provisions that do not include a requirement that at least 2 weeks annual leave or long service leave be taken in the preceding 12 months. Introduce cash out of annual leave provisions that results in an employee’s entitlement being less than 4 weeks.
Purchased leave	Retain existing conditions on purchased leave.	Bargain to include purchased leave provisions.	
Personal / carer’s leave	Refer to common clause.		Increase personal/carer’s leave above 18 days or current entitlement (whichever is more generous). Introduce a provision allowing for the cashing out of personal/carer’s leave.
Portability of leave	Not applicable to non-APS agencies.	Recognition of leave from APS and non-APS agencies, to the extent allowable by law.	
Leave without pay – period of leave without pay that counts as service	Retain existing conditions on leave without pay.	Change or clarify when leave without pay counts toward service.	
Leave without pay – all aspects other than the period that counts as service	Retain existing conditions on leave without pay.		
Re-crediting of leave	Refer to common clause.		

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Long service leave	Refer to common clause.		Increase entitlement to long service leave above the <i>Long Service Leave (Commonwealth Employees) Act 1976</i> . Allow long service leave to be granted in periods of less than 7 day blocks, or allow long service leave to be broken by other leave, except as provided for by legislation.
Miscellaneous leave	Retain existing conditions on miscellaneous leave.	Include the ability to provide miscellaneous leave to casual employees, to provide for paid family and domestic violence leave Adopt the term “miscellaneous leave” (as opposed to “other leave” or “special leave”).	Introduce extensive lists of uses for miscellaneous leave into agreements.
Cultural, ceremonial and NAIDOC leave	Refer to common clause.	Retain existing conditions that are more beneficial.	
Parental leave	Refer to common clause.	Introduce parental leave entitlements up to APS Common Condition. Retain existing conditions that are more beneficial.	Introduce parental leave entitlement in excess of APS Common Condition or current entitlements.
Bereavement and compassionate leave	Refer to common clause.	Retain existing conditions that are more beneficial.	Increase bereavement or compassionate leave above 3 days per occasion or current entitlements.
Sabbatical leave	Retain existing conditions on sabbatical leave.	Bargain for sabbatical leave.	
Emergency response leave	Refer to common clause.	Retain existing conditions that are more beneficial.	Introduce paid leave in excess of APS Common Condition or current entitlements.

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Jury duty	Refer to common clause.	Retain existing conditions that are more beneficial.	Introduce paid leave in excess of APS Common Condition or current entitlements.
Volunteer leave	Retain existing conditions related to volunteer leave.		Introduce volunteer leave.
Defence reservist leave	Refer to common clause.	Retain existing conditions that are more beneficial.	Introduce paid leave in excess of APS Common Condition or current entitlements.
Defence service sick leave	Refer to common clause.	Retain existing conditions that are more beneficial, including a more generous accruing entitlement.	Introduce paid leave in excess of APS Common Condition or current entitlements.
Leave to attend proceedings (witness leave)	Refer to common clause.	Retain existing conditions that are more beneficial.	Introduce paid leave in excess of APS Common Condition or current entitlements.
Other leave types (including; Pandemic leave, Gender affirmation leave, Menstrual and menopause support and leave and Disability leave)	Retain existing conditions related to other leave types.		Introduce a new leave entitlement including; Pandemic leave, Gender affirmation leave, Menstrual and menopause support leave and/or Disability leave.
Section 7 – Employee support and workplace culture			
Blood donation	Refer to common clause.	Retain existing conditions that are more beneficial.	Introduce an entitlement in excess of APS Common Condition or current entitlements.
Vaccinations	Refer to common clause.	Retain existing conditions that are more beneficial.	
Employee Assistance Programs (EAP)	Refer to common clause.	Retain existing conditions that are more beneficial. Include conditions that allow for financial counselling for employees.	

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Safe workplaces	Retain existing conditions related safe workplaces.		
Respect at Work	Refer to common clause.	Retain existing conditions that are more beneficial.	
Family and domestic violence support	Refer to common clause.	Retain existing conditions that are more beneficial.	
Integrity and transparency, including scientific integrity	Specific to APS agencies.	Retain existing conditions. Bargain for an integrity and transparency clause suitable to the agency.	
First Nations employment (cultural competency training)	Refer to common clause, except APS-specific references.	Retain existing conditions that are more beneficial. Bargain for a cultural competency training clause suitable to the agency.	
Gender equality	Retain existing conditions related to gender equality.		
Diversity	Retain existing conditions related to diversity.	Agreements are to use gender inclusive language. Agreements to include a definition of family that recognises kinship for all purposes.	Inclusion of matters in relation to diversity which are otherwise covered in legislation or can be managed through a consultative committee.
Lactation and breastfeeding support	Refer to common clause.	Retain existing conditions.	
Disaster support	Refer to common clause.	Retain existing conditions.	
Section 8 – Performance and development			
Performance management	Retain existing conditions related to performance management.	Include performance management provisions suitable to the agency.	

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Reward and recognition	Retain existing conditions related to reward and recognition.	Roll into ordinary pay existing bonus payments, appropriately discounted based on historical payments.	Introduce new bonuses or extend eligibility of existing bonuses.
Key Performance Indicators (KPIs)	Retain existing conditions related to KPIs.	Bargain for a KPI clause suitable to the agency.	
Workloads	Refer to common clause.	Retain existing conditions. Retain clauses on the assignment of duties.	
Study assistance	Retain existing conditions related to study assistance.	Bargain for a study assistance clause suitable to the agency.	
Learning and development	Retain existing conditions related to learning and development.	Bargaining for a learning and development clause suitable to the agency.	
Professional qualifications	Retain existing conditions related to professional qualifications.	Introduce reasonable reimbursements and/or an equivalent allowance, for membership and accreditation or registration fees, including maintenance, where the agency considers it necessary for the employee to perform their role.	
Section 9 – Travel and location based conditions			
Travel, other than travel allowances	Retain existing conditions related to travel.	Bargain for travel provisions, other than travel allowances, suitable to the agency.	
Relocation assistance	Refer to common clause.	Retain existing conditions. Introduce additional entitlements under the APS Award (where applicable).	

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Remote localities	Retain existing conditions related to remote localities.	Incorporate conditions in line with those provided by the Department of Agriculture, Fisheries and Forestry (DAFF).	
Regional jobs	Retain existing conditions related to regional jobs.		
Section 10 – Consultation, representation and dispute resolution			
Consultation and consultative committees	Refer to common clause, to be read in conjunction with <i>APSC Circular 2022/08: Genuine and effective employee and union consultation in Commonwealth agencies</i> , while it remains in force.	Retain more detailed consultation terms. Include facilitative clauses on agency consultative committees.	
Dispute resolution	Refer to common clause.	Retain existing conditions. Retain facilitative clauses such as additional internal steps to resolve a dispute at a workplace level.	
Delegates' rights	Refer to common clause, to be read in conjunction with <i>APSC Circular 2022/09: Union representation in Commonwealth agencies</i> , while it remains in force.	Retain existing conditions. Retain more detailed arrangements, such as in a Protocol or Terms of Reference document. Retain existing Freedom of Association and Employee Representation provisions.	
Employee representational rights	Retain existing conditions on employee representational rights.	Bargain for employee representational rights provisions suitable to the agency.	
Section 11 – Separation and retention			

Parameters on Specific Conditions

Topic	Category 1		Category 2
	Statement	Non-APS specific	
Resignation (separation)	Refer to common clause.	Bargain for resignation provisions suitable to the agency. Bargain for facilitative clauses which provide for the variation of other terms of resignation.	
Redeployment, retraining and redundancy.	Retain existing conditions on redeployment, retraining and redundancy.		Enhancements of existing redeployment, retraining and redundancy provisions.
Section 12 – Other APS-wide matters			
Capability and labour market shortages	Retain existing conditions on capability and labour market shortages.		Introduce new provisions on capability and labour market shortages.
Recruitment and mobility	Retain existing conditions on recruitment and mobility.	Bargain for recruitment and mobility conditions suitable to the agency.	
Climate change	Retain existing conditions on climate change.		Introduce climate change provisions, including commitments or additional leave types.

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s 47F(1)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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From: Mardiyants, Trish [s 47E(d)] <[redacted]@afp.gov.au>

Sent: Wednesday, 19 June 2024 12:35 PM

To: [redacted] <[redacted]@apsc.gov.au>

Cc: [redacted] <[redacted]@apsc.gov.au> [s 47F(1)]

[redacted] <[redacted]@apsc.gov.au>

Subject: RE: AFP bargaining - Mr Chris BUDD - request for information - good faith bargaining - PABO [SEC=OFFICIAL]

OFFICIAL

s 22(1)(a)(ii)

s 47C(1)

s 47C(1)

Thanks in advance

Trish

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s 22(1)(a)(ii)

s 22(1)(a)(ii)

From: IBGroup <IBGroup@afp.gov.au>
Sent: Friday, 14 June 2024 6:06 PM
To: Workplace Relations <workplacerelations@apsc.gov.au>
Cc: IBGroup <IBGroup@afp.gov.au>; [REDACTED] s 47E(d) <afp.gov.au>
Subject: FW: Technical questions - parameters (funding) [SEC=OFFICIAL]

Good evening APSC WR

I asked some questions of the AFP in my capacity as an independent bargainer that are, in my view, directly relevant to my role as an independent bargainer.

Per below, the AFP declined to answer and has referred me to you (the APSC).

I note as a matter of law I am not actually bargaining with the AFP. Rather, I am bargaining with the Crown in right of the Commonwealth. To that end, the APSC is a party to the AFP's enterprise agreement negotiations just as much as the AFP is. In particular, the bargaining requirements of the FWA, such as the requirement to bargain in good faith, apply to the APSC's interactions with me just as much as to the AFP's interactions with me.

I don't mind which part of the Commonwealth answers my questions; the Commonwealth can sort that out itself behind the scenes. I do expect, however, that the Commonwealth will comply with the FWA and answer my questions.

To that end, could the APSC please answer, or organise for the Commonwealth to answer these

questions:

- Parameters – permissions
 - Is this correct: the Parameters are not a 'Government[] expectation[] expressed through APSC circulars and APSC guidance documents as issued from time to time' (Policy [75(d)])?
 - Is this correct: The Parameters permit the AFP to redistribute the pay offer without exemption from the Policy, provided a single year is not more than 4% (Parameters [Parameters on Specific Conditions, Section 2 – Remuneration, row 1])?
 - a. If yes, did the AFP specifically consider offering 4/4/3.2 in the first round of bargaining?
 - The Parameters state 'Non-APS agencies may include Category 1 conditions in their agreements without any reduction to their headline pay offer or funding the change through other measures' [5.1]. A Category 1 condition is the community language allowance. Can the AFP confirm it is able to offer this allowance without getting a Policy exemption?
 - The Parameters give as a Category 1 condition 'Agencies may provide equipment necessary for, or reimbursement for costs associated with establishing a safe home office' [Parameters on Specific Conditions, Section 5 – Working hours and arrangements, row 12]. Can the AFP confirm it is able to offer this allowance without getting a Policy exemption?
 - The Parameters give as a Category 1 condition 'Excess annual leave is 2 or more years leave accrual' [Parameters on Specific Conditions, Section 6 – Leave, row 2]. Can the AFP confirm it is able to offer 12 weeks' annual leave as the excess threshold without getting a Policy exemption?
 - The Parameters give as a Category 1 condition 'Change or clarify when leave without pay counts toward service' [Parameters on Specific Conditions, Section 6 – Leave, row 6]. Can the AFP confirm it is able to increase the amount of LWOP that counts as without getting a Policy exemption?
 - The Parameters give as a Category 1 condition 'Introduce reasonable reimbursements and/or an equivalent allowance, for membership and accreditation or registration fees, including maintenance, where the agency considers it necessary for the employee to perform their role' [Parameters on Specific Conditions, Section 8 – Performance and development, row 7]. Can the AFP confirm it is able to offer to fund professional costs, such as for Forensics and Legal broadband appointees, without getting a Policy exemption?
 - The Parameters recommend that substantive appointee entitlements in policy be moved into the EA, with some conditions [5.4]. Can the AFP please advise which appointee entitlements currently in policy meet the 3 requirements in [5.4] for inclusion in the EA?
 - The Parameters give as a Category 1 condition 'parental leave' [Parameters on Specific Conditions, Section 6 – Leave, row 13]. In particular, non-APS entities can 'Introduce parental leave entitlements up to APS Common Condition'. The Parameters also note 'In adopting [Category 1] clauses and conditions, non-APS agencies may need to make appropriate edits to ensure it aligns with the agency's own employment framework' [5.1]. Can the AFP confirm it is able to offer a redrafted parental leave condition, without Policy exemption, provided the redrafted condition is not more generous than the parental leave common condition?
 - How many legal advices has the AFP obtained regarding the Policy and Parameters, and what were the questions?
 - As a matter of law, what prevents the AFP from putting an EA to the vote and registering it with the Fair Work Commission without the involvement of the APSC? Has the AFP obtained legal advice on this point?
 - a. Noting that, this question stands even if the AFP does not intend to go around the APSC even if it could.
 - Parameters – funding
- A. Could AFP please explain the funding declaration requirements (content and process). From reading the Parameters and Policy, I don't understand what is required

- B. What is the 'remuneration and conditions adjustment calculation' [5]?
- C. What do the Parameters mean by requiring or not requiring 'funding [a] change through other measures' [5.1]?
- D. May I please have a copy of the template funding and remuneration declaration (Policy [91])
- E. When a 'cost of the change' does not need to be 'included in the remuneration and conditions adjustment calculation' [5 header row], what does that mean? How does not including this cost interact with the funding and remuneration declaration?
- F. What do the Parameters mean in [5.1] that common conditions do not require 'funding the change through other measures', and/or, that common conditions are not included in the 'remuneration and conditions adjustment calculation'?
- G. If an existing policy entitlement is moved into the EA (such as the rapid deployment allowance), how do the Parameters require that to be funded? Is it exempt or partially exempt from the funding declaration, or the costings required as part of making the funding declaration?
- H. J
- Policy exemption approval process
 - i. Does a partial Policy exemption require ministerial approval (portfolio or public service or both ministers)? Or can a partial exemption be granted by the APSC alone?
 - ii. Policy [93] seems to mean that any exemption, partial or otherwise, requires both ministers to sign off
 - iii. I'm not clear from AFP comms to date whether the partial exemption we were granted was signed off by both ministers. It sounds more like APSC granted the partial exemption without seeking ministerial approval. Please advise?

Regarding the policy exemption approval process, it appears on its face that the APSC is in contravention of the Policy and Parameters by not having received approval from the AG (portfolio minister) and Minister for the Public Service before granting the AFP a partial exemption from the Policy and/or Parameters.

Regards,

CHRISTOPHER BUDD

CARDINAL BARGAINER
INDEPENDENT BARGAINING GROUP
Tel: +61 (0)2 51266322 Ext 266322 Mob: +61 (0)410109242



The Independent Bargaining Group acknowledges the Traditional Owners and Custodians of Country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to First Nations people, culture and Elders past, present and emerging.

Compulsory boilerplate: I am a bargaining representative for AFP appointees who have nominated me. If any appointee does not want to receive these emails, please advise. The AFP does not endorse the content of this email.

From: s 47E(d) <[redacted]@afp.gov.au>
Sent: Friday, 14 June 2024 1:27 PM
To: IBGroup <IBGroup@afp.gov.au>
Cc: s 47E(d) <[redacted]@afp.gov.au>
Subject: RE: Technical questions - parameters (funding) [SEC=OFFICIAL]

OFFICIAL

Good afternoon Chris,

Thank you for your emails to the EA inbox on 12 and 13 June 2024 entitled Technical questions – parameters (permissions) and Technical questions - parameters (funding) and your email of 13 June 2024 entitled Policy exemption approval process clarification. I note that the information requested in these emails largely relates to government policy rather than a policy being developed or influenced by the AFP and as such we are not in a position to comment or provide advice on such information. The most appropriate contact to seek information on the *Non-APS Bargaining – Government Parameters* and policy exemptions, is the APSC. Noting that the technical specificity requested in your email is not required to perform your role as an independent bargainer.

Further to the above, I note you have raised questions in your email entitled Technical questions – parameters (permissions) relating to legal advice obtained by the AFP (question 10) and seeking the AFP to provide legal advice to you (question 11). We are not in a position to share legal advice with you as any advice obtained is legal in confidence. The AFP are also not in a position to provide legal advice to individual staff members.

Please ensure future emails and requests to the Enterprise Bargaining Team relate to the enterprise agreement and your role as an independent bargainer.

TEAM MEMBER | ENTERPRISE BARGAINING
PEOPLE COMMAND

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From: IBGroup <IBGroup@afp.gov.au>
Sent: Thursday, June 13, 2024 10:13 AM
To: [REDACTED] s 47E(d) afp.gov.au
Cc: IBGroup <IBGroup@afp.gov.au>
Subject: Technical questions - parameters (funding) [SEC=OFFICIAL]

OFFICIAL

Good morning EB Team,

As discussed in the first meeting, could I please ask about the Parameters.

These questions are focussed on how the Parameters require the AFP to fund its proposed EA.

- I. Could AFP please explain the funding declaration requirements (content and process). From reading the Parameters and Policy, I don't understand what is required
- J. What is the 'remuneration and conditions adjustment calculation' [5]?
- K. What do the Parameters mean by requiring or not requiring 'funding [a] change through other measures' [5.1]?

- L. May I please have a copy of the template funding and remuneration declaration (Policy [91])
- M. When a 'cost of the change' does not need to be 'included in the remuneration and conditions adjustment calculation' [5 header row], what does that mean? How does not including this cost interact with the funding and remuneration declaration?
- N. What do the Parameters mean in [5.1] that common conditions do not require 'funding the change through other measures', and/or, that common conditions are not included in the 'remuneration and conditions adjustment calculation'?

Regards,

CHRISTOPHER BUDD

CARDINAL BARGAINER
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 Tel: +61 (0)2 51266322 Ext: 266322 Mob: +61 (0)410109242



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Compulsory boilerplate: I am a bargaining representative for AFP appointees who have nominated me. If any appointee does not want to receive these emails, please advise. The AFP does not endorse the content of this email.

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From: [Workplace Relations](#)
To: [Undisclosed recipients:](#)
Subject: Slides attached: Non-APS Chief Negotiators Forum November 2023 [SEC=OFFICIAL]
Date: Monday, 6 November 2023 9:46:45 AM
Attachments: [image001.png](#)
[image002.png](#)
[Non APS Chief Negotiators Forum November 2023 Presentation.pdf](#)

OFFICIAL

Non-APS Chief Negotiators Forum November 2023

Dear Colleagues,

Please see the attached presentation slides from last week's Non-APS Chief Negotiators Forum.

If you have any questions or would like to discuss, please do not hesitate to contact workplacerelations@apsc.gov.au or your APSC relationship manager.

Regards,

James

James O'Reilly
Assistant Commissioner, Workplace Relations

Australian Public Service Commission
B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

t: **02 6202 3714** m: s 47F(1) w: www.apsc.gov.au

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Non-APS Chief Negotiators Forum

James O'Reilly, Assistant Commissioner, Workplace Relations Group

3 November 2023

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Acknowledgement of Country

I would like to acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. I acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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Agenda

- Update on APS service-wide bargaining
- Update on non-APS bargaining policy
- Q&A

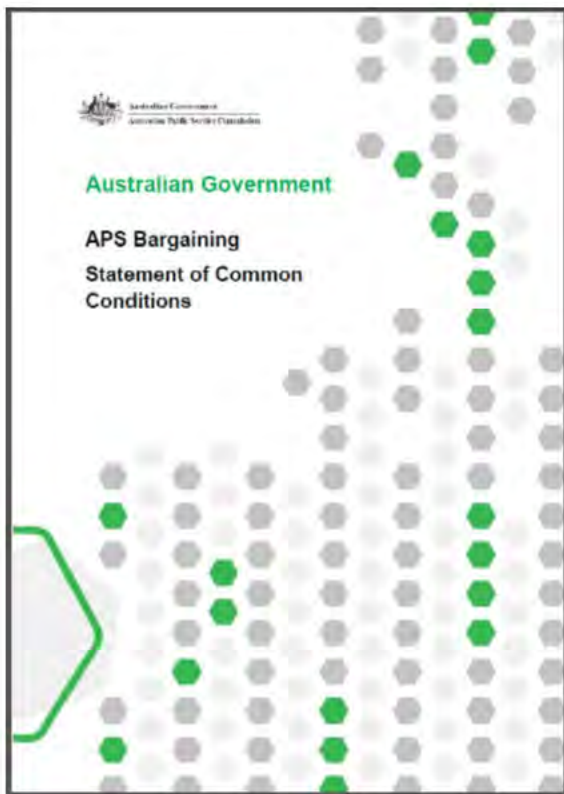
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Information provided to Non-APS agencies

Date	Information
28 September 2023	APS bargaining update following CPSU vote
20 October 2023	Release of the draft Statement of Common Conditions (version 4)
30 October 2023	Release of Government Parameters for non-APS agencies

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APS Service-wide bargaining update



- The Taskforce has released version 4 of the **Statement of Common Conditions**.
- It sets out:
 - 59 APS Common Conditions
 - Conditions that agencies can bargain with or without parameters
 - Conditions that are quarantined for this round

APS Service-wide bargaining update

- The Commonwealth's pay offer is **11.2% over three years** (4%, 3.8%, 3.4%).
- The first increase from the APS pay offer would take effect on **14 March 2024**. This date is for APS agencies only.

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Next steps for APS service-wide bargaining

- APS agencies are progressing to Part B negotiations on agency-level matters
- Industrial action is taking place at a number of agencies

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Non-APS Bargaining update



Non-APS Bargaining - Government Parameters

The Australian Government Public Sector Workplace Relations Policy 2023 sets expectations for non-APS agency bargaining conduct. This document outlines Government parameters on pay and conditions to inform non-APS agencies' development of positions prior to bargaining and as bargaining progresses.

1. Remuneration and conditions adjustments

The Policy provides that:

Changes to Remuneration and Conditions

97. Remuneration and conditions adjustments includes:
 - a. increases to payments made to employees, other than changes to expense-related allowances; and
 - b. changes to conditions resulting in increased employee costs, including changes to classification structures; but
 - c. excludes any payments or changes to conditions advised by the APSC.
98. Agencies may make remuneration and conditions adjustments within Government parameters, as advised by the APSC.
99. Changes to remuneration and conditions are to be affordable and funded from within existing agency budgets, without the redirection of programme funding. Remuneration and conditions adjustments are not to be funded through reductions in output or services, or increases in fees, charges, levies, or similar income sources beyond ordinary indexing practices.
100. Remuneration increases are to apply prospectively.

2. Parameters – guiding principles

The Government parameters are set having regard to the following principles:

- a. Bargaining conduct and outcomes will reflect best practice and recognise the role of the Government in setting the high standard of employer behaviours it champions.
- b. Workplace arrangements need to support the ability of Commonwealth agencies to function efficiently, including by sustaining capacity and capability requirements.
- c. Agencies are encouraged to incorporate APS common terms where practicable.
- d. Agreements are to be fair and fiscally responsible, in line with reasonable community expectations.

- The Government Parameters for non-APS agency have been published
- The Parameters should be read alongside the Policy and draft Statement of Common Conditions.

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How do the Government Parameters work?

5. Categories of changes

Remuneration and conditions changes fall within the following categories:

Category	Is the change supported?	Is the cost of the change included in the remuneration and conditions adjustment calculation?
1	Yes.	No. The change is consistent with policy expectations for Commonwealth agencies.
2	Only with a policy exemption, in exceptional circumstances.	For decision as part of a policy exemption request.
Other	Consult with the APSC.	Consult with the APSC.

Category 2 changes – examples

- Headline pay increase of more than 11.2% over 3 years
- Increase the first year wage offer above 4%
- Introduce an allowance payable to ICT specialists for attraction and retention
- Restructure classifications to remove the bottom pay point in each salary band

Other changes – example

Agency A has a classification structure that includes the same pay rate for the top of the level 3 classification and the bottom of the level 4 classification.

Agency A proposes to increase its level 4.1 classification by \$500 to enable an increase on promotion. This does not impact other relativities.

Transitional arrangements for non-APS agencies

- The Government Parameters provides for transitional arrangements for wage increases due to delays in APS service-wide bargaining
- Non-APS agencies with no further wage increases due under an existing instrument are permitted to deliver their next wage increase from the anniversary date of their last increase as a transitional measure

Parental leave

- The Government Parameters provide that non-APS agencies may introduce parental leave entitlements that are up to or consistent with the Statement of Common Conditions.
- APS bargaining position for parental leave was informed by the recommendations of the Maternity Leave Act Review.
- Government is yet to consider all recommendations of the Review.



Parental leave – Maternity Leave Act Review

- Equal paid leave for parenting, flexibility of use
- Paid leave in late pregnancy
- Support for pregnancy loss
- Remuneration
- Coverage of new Act
- Agency communication with employees, return to work support
- Lactation breaks, breastfeeding rooms



Parental leave – APS Common Condition

	Commencement of EA	1 Mar 2025	1 Mar 2026	28 Feb 2027
Primary Caregiver	Parental Leave with pay 18 weeks			
	ML Act – for the pregnant employee, paid maternity leave of 12 weeks, or lesser amount of paid leave (which could be zero) due to the qualifying service requirement in the Act.	Agency’s enterprise agreement – additional paid leave to bring the total to 18 weeks		
	Where there is no ML Act eligibility (e.g. adoptive or foster parent who is the primary caregiver) - 18 weeks’ paid leave under the agency’s enterprise agreement			
	Example: APS agency votes up a new enterprise agreement, which commences on 20 Feb 2024. An employee gave birth to their child on 15 Oct 2023. The employee has already used 14 weeks’ paid parental leave under the agency’s previous EA. The employee is now eligible for an extra 4 weeks’ paid leave (18 weeks in total).			
Secondary Caregiver	Parental Leave with pay 8 weeks or top up to 8 weeks	11 weeks or top up to 11 weeks	14 weeks or top up to 14 weeks	18 weeks or top up to 18 weeks
	Example: APS agency votes up a new enterprise agreement, which commences on 20 Feb 2024. An employee’s partner gave birth to their child on 15 Oct 2023.	On 1 Mar 2025 the employee becomes eligible for a further 3 weeks’ paid leave (11 weeks in total).		
	The employee has already used 3 weeks’ paid parental leave under the agency’s previous EA. The employee is now eligible for an extra 5 weeks’ paid leave (8 weeks in total).	The last day of the employee’s parental leave period is 14 Oct 2025, so any paid leave must be used by then or it will lapse.		
	Example: APS agency votes up a new enterprise agreement, which commences on 8 Mar 2024.	On 1 Mar 2025 the employee becomes eligible for an extra 3 weeks’ paid leave (11 weeks in total).	On 1 Mar 2026 the employee becomes eligible for a further 3 weeks’ paid leave (14 weeks in total).	
	The employee’s partner gives birth to their child on 23 Jun 2024. The employee is eligible for 8 weeks paid Parental Leave.	The last day of the employee’s parental leave period is 22 Jun 2026, so any paid leave must be used by then or it will lapse.		
	LEX 2556			

- Paid Parental Leave may be taken flexibly, including part days. It may be taken at half pay.
- Paid Parental Leave counts for service for all purposes.
- Where the paid leave entitlement increases during an employee’s parental leave period, they are eligible for the additional leave at the time it takes effect, providing it is used within the parental leave period.
- Unused paid Parental leave not used during the parental leave period will lapse.
- ‘Primary Caregiver’ and ‘Secondary Caregiver’ are transitional terms until both parents are eligible for 18 weeks’ Parental Leave with pay.



Parental leave – next steps

- Government to consider the full Review.
- The process for the new legislation likely to take some time.
- The number of agencies covered by the new legislation is likely to increase.
- Parental leave up to the APS Common Condition in agency enterprise agreements is a way to access enhanced Parental leave provisions ahead of the new legislation.



What are the initial steps for agencies?

1. Non-APS agencies must provide a summary of their **bargaining position** for approval by the APS Commissioner or their delegate
2. Non-APS agencies must then submit a **Funding and Remuneration Declaration** for approval by the APS Commissioner or their delegate



Questions/Discussion

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