

Commissioner's meeting brief

Title	Australian Public Service Commissioner and AFP Commissioner meeting
Date/time/location	20 November 2023, 1430 – 1500hrs via teleconference
Commissioner's role	Meeting Lead
Key Attendees	Commissioner Reece P Kershaw APM APS Commissioner Dr Gordon de Brouwer PSM

Purpose of meeting

The Attorney General requested you meet with the APS Commissioner (Dr Gordon de Brouwer) regarding the AFP position within the *Public Sector Workplace Relations Policy 2023* (the Policy).

This meeting is an opportunity to flag the **AFP's intent to seek an exemption, either full or in part, from the 'Non-APS Bargaining – Government Parameters'** (the Parameters) which were released on 30 October 2023.

- The AFP has highlighted its unique challenges and exceptional circumstances to the Australian Public Service Commission (APSC) and seeks flexibility within the Policy parameters to address these. This position has been consistently highlighted by the AFP including through formal consultation on the Policy in January 2023
- On 30 October 2023, the APSC released the Parameters for non-APS agencies. These identify the requirement for early engagement with the APSC, should an agency be seeking an exemption.
- The APSC have been very clear that without sufficient justification that distinguishes an agency's circumstances from the broader Commonwealth environment, exemptions will not be approved.
- The following agenda topics for this meeting are proposed:
 - AFP's unique operating environment, which is unlike any Commonwealth agency.
 - The workforce challenges the AFP is facing, including the increasing competition from State Policing jurisdictions.
 - The challenges with AFP's current employment framework.

Key issues

- The AFP acknowledges the APSC role in supporting agencies to address their workforce challenges within the bargaining parameters as set by the Government. The AFP bargaining team has been working collaboratively, and engaged early, with the APSC on how the Parameters may apply to our bargaining position.
- The APSC have indicated that without sufficient justification that distinguishes AFP circumstances from the broader Commonwealth environment, exemptions will not be approved.
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s 47E(d), s 47C(1)

- Key matters that the AFP are considering that are likely to require Ministerial exemption include:
 - Any pay offer above 11.2% over three years and front-loading the pay increase above 4.0% in year one. The AFP will be seeking variation to the 11.2% to address being the

second lowest base paid policing force in Australia alongside increasing remuneration and incentives being offered across policing jurisdictions.

- Introducing a Vocational Allowance for Police and PSOs, to recognise the demands on our sworn cadre and to commence addressing structural issues with the AFP's core composite allowance.
- Introducing a capability/qualification allowance for Forensic, Intelligence Analysts, Forensics, and Administrative and Operational Support.
- Broadband restructure for the PSO workforce, to address the changing and growing nature of the PSO role as new Government capabilities are required
- The APSC may support some of the above on the basis of a formal proposal and costing. However, changes will not be supported where they are seen to create an **undesirable precedent** for conditions in the Commonwealth sector.
- The AFP welcomes the opportunity to swiftly put in place an agreement that also addresses key pressures felt by our members regarding increased cost of living, attraction and retention of technical specialists, and recognises the complex work our members do.

The AFP is unlike any other Commonwealth agency.

- The AFP's operating circumstances and nature of our role are exceptional in terms of the broader Commonwealth, including when compared with the Australian Defence Force (ADF).
- The AFP exercises a broad and complex suite of functions which have significantly evolved due to the increased threat and risk environment including changes to both crime types and how crime is pursued in the community, both in Australia and abroad.
- In the near future, the AFP will see increasing and changing responsibilities as the Commonwealth positions Australia's national security in the wake of evolving threats.

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s 47E(d)

- As a policing agency with a global footprint, the AFP is required to rapidly deploy people with specialist capabilities such as tactical response, discreet operations, negotiation operations, forensics, and disaster victim identification, in response to a range of scenarios from natural disasters, civil disorder and criminal events.
- These are critical functions not just performed by the sworn workforce.
- The AFP wants to reform the current mechanism for remunerating these skillsets and working hours as our EA is no longer fit for purpose. The APSC have indicated this will be difficult to do under the Government Bargaining Parameters.

The AFP seeks to re-establish itself as a model employer, aligned with Government expectations.

- Unlike other Commonwealth agencies, as a police force, it is very difficult to recruit experienced Police and PSOs. The AFP must raise, train and sustain our own policing and protection capabilities. This requires an investment over many years.
- Our competitors are State policing jurisdictions, the ADF and specialist industries. This unique combination is exceptional and not experienced by any other APS or non-APS agency.
- Significant growth plans are underway in other policing jurisdictions, many with offers of additional remuneration and conditions. These aggressive plans will continue for some years as policing faces shifting community expectations, declining application rates and increasing attrition.
- The AFP's base salary arrangements are typically falling at or below the 25th percentile compared to other policing jurisdictions (mostly ranked second-lowest). The broadening gap between pay and conditions will impact the AFP's operational capacity unless it can be adequately addressed.

The AFP's current agreement is extremely rigid and prescriptive

- The current enterprise agreement is no longer effective and presents a real risk to AFP's ability to perform its statutory functions.
- Changes to the current framework need to be addressed in the immediate round of bargaining, conscious that a number of more pervasive conditions will need to shift over future bargaining periods. This round of bargaining provides us with the opportunity to commence these shifts.
- As a non-APS agency, AFP was excluded from negotiating on common terms and conditions, which it is now required to align with. Further, it was not provided the opportunity to observe these negotiations. Moving outside these will now require AFP to seek an exemption so as to avoid further restricting our employment framework.

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s 47C(1)

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Background

- s 47E(d)
- AFP submitted a formal response to the consultation paper and highlighted the degree of flexibility that we would require to ensure we meet the principles and objectives of non-APS bargaining the absence of which we would likely need to seek an exemption. A request for an exemption should therefore come as no surprise to the APSC.
- The *Public Sector Workplace Relations Policy 2023* was released on 28 March 2023 and comprises two parts. AFP falls under part two of the policy as it applies to all Commonwealth agencies that do not engage staff under the APS Act.
- The APSC approved the AFP's bargaining position on 14 September 2023. The AFP issued its Notice of Employee Representational Rights (NERR) on 15 September 2023, following a request received by the AFPA on 2 September 2023. The first bargaining meeting was held on 26 September 2023.
- To date, six bargaining meetings have been held with 41 bargaining representatives and are managing 550 claims.
- While the AFP's bargaining position was approved by the APSC on 14 September 2023, some aspects were withheld pending consideration of AFP's Funding and Remuneration Declaration.
- On 30 October 2023, the APSC released the Government parameters for non-APS agencies. This identifies that an exemption will be required for a remuneration increase in excess of 11.2% over three years; redistribution of the pay offer to more than 4% in any one year; and introducing any new allowance that recognises specialist capabilities.
- The AFP is aiming to table a pay offer early in 2024
- The AFP's most recent pay increase was made in line with the Government's interim workplace arrangements at 3% wage on 25 May 2023.

Contact	Brooke Everett – National Manager People
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Clearing Officer	Charlotte Tressler – Chief Operating Officer Neil Gaughan – Chief Negotiator
Consultation	NA
Date	19/11/2023

Attachments

- **Attachment A** –AFP Salary Comparison

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