



New South Wales Government  
Department of Premier and Cabinet  
Public Sector Workforce Office



New South Wales  
TREASURY

# NSW Public Sector Wages Policy 2007

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# INTRODUCTION

## The Policy

The NSW Public Sector Wages Policy 2007 (“the Policy”) is to maintain wages in real terms and encourage workplace reform in return for additional increases. To maintain real wages, the NSW Government will fund a 2.5 per cent annual increase in employee related expenses. Agencies must fund any increases above 2.5 per cent per annum to wages, or other employee related expenses such as allowances, superannuation etc, through employee related cost saving measures.

Employee related costs are the largest component of Government expenditure, accounting for almost half of Government expenses. Each 1 per cent increase in employee related costs permanently increases Government expenses by around \$224 million<sup>1</sup> per annum.

Over the last 12 years, public sector wages in NSW have increased at rates well above inflation. The Government is committed to a policy of fair working conditions and allowing reasonable wage increases that do not increase costs to the community or reduce services.

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<sup>1</sup> 2007/08 Budget paper No. 2.

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# Wages Policy

## Application of the Wages Policy

The wages policy applies to Public Service Departments, the Government Service, independent statutory bodies, any other public sector service within the meaning of the *Public Sector Employment and Management Act 2002* and State Owned Corporations.

The Policy applies to all negotiations, variations, claims or offers by management that impact on wages, salaries and employment conditions, whether or not they are formalised in an award, agreement or any other arrangement.

Local agreements pursuant to clause 10 of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006* must also comply with these arrangements.

The Government is committed to ensuring that Fiscal Principle No 3, set out in section 13 of the *Fiscal Responsibility Act (NSW) 2005* is achieved. Section 13 states that:

### **Fiscal principle No 3-managing public sector employee costs**

- (1) Fiscal principle No 3 is that government policy with respect to negotiating rates of pay and related conditions of employment of general government sector employees is to be consistent with the fiscal targets.
- (2) In negotiating rates of pay for employees, public trading enterprises are to take into account conditions in their industry and the government's policy for negotiating rates of pay and related conditions of employment of general government sector employees.

This wages policy replaces the previous policy distributed in Memorandum M2006 – 04.

## Negotiation Principles

All public sector organisations must comply with the following principles in negotiating agreements or making any offer to employees.

1. Any increases to employee related expenses, including wages, allowances, superannuation etc, exceeding 2.5 per cent per annum must be funded through employee related reform measures and cost savings.
2. Agencies should approach negotiations with unions in a cooperative and problem solving manner. The focus should be on common interests, objectives and long term gains for both parties. All parties are expected to behave in an open manner, with integrity and honesty. Agencies should ensure appropriate communication with their employees regarding their bargaining agenda, the negotiating process and outcomes.

3. New awards or agreements should not predate the expiry of existing instruments.
4. Other than in exceptional circumstances, agencies must not backpay wage increases beyond the date the agency and union(s) reach final agreement on all matters. This includes agreement on the cost savings to fund the increases. Backpay will only be available in exceptional circumstances and only where approved by the Cabinet Standing Committee on the Budget (the Budget Committee). Other than in exceptional circumstances, payment of increases must not commence until the relevant industrial instrument has been registered or approved.
5. Wages and conditions must be negotiated concurrently and where appropriate settled in a single industrial instrument which should be as comprehensive as possible.
6. Awards and Agreements must contain clear no extra claims clauses.
7. Generally, changes to employment conditions outside of the wages negotiation framework should only occur to include revised test case standards or specific local arrangements (e.g. flexibility provisions etc). Where exceptional circumstances apply, such as the need for additional arrangements to retain and attract staff, additional measures outside of the award/agreement must be submitted for consideration by the Budget Committee.
8. Organisations are not permitted to sign onto arrangements such as MoUs that provide for ongoing matters or claims to be negotiated or raised during the life of an agreement or award. All wages and conditions matters must be resolved in the negotiating process and where appropriate, reflected in the industrial instrument. Ongoing commitments in previously signed MoUs should be adhered to.
9. Where appropriate, details of identifiable savings measures used to fund the wage increases or other increases to wage related costs must be detailed in the relevant industrial instrument, or in another agreed manner.

## Funding and cost savings

The Policy seeks to maintain the real wage improvements secured in recent years. Future increases to employee related expenses will be limited to a net cost of 2.5 per cent per annum, with any additional increases above 2.5 per cent per annum tied to negotiated employee related cost savings and reforms. Such savings must be in addition to those already identified under the efficiency dividend on agency discretionary expenditures and other savings measures announced in the *Economic and Financial Statement 2006*.

The net 2.5 per cent limit covers all employee related expenses – including wages, allowances, superannuation and other conditions.

Budget Committee approval is required for any increase in wages and/or conditions of more than 2.5 per cent. Increases in employee related expenses of more than 2.5 per cent must be funded through employee related reform measures and other cost savings. Such measures would generally involve direct changes to award/agreement provisions, legislation and could relate to staffing levels, human resource policies, rostering arrangements, workforce composition, work intensity or job redesign that leads to savings.

## Areas for reform

The wages policy is predominantly about driving cultural change to improve service delivery and decision-making in line with the requirements of the *State Plan*. It is about creating the public sector of the future – more flexible, highly skilled, mobile, high performing and outcome driven.

Work practices need to be flexible. Outcomes from negotiations should deliver conditions that are attractive but not restrictive. Agencies should look for reforms that promote greater employee mobility, better attraction and retention and allow for smarter job design and re-design.

Each Agency must look at reform areas to meet their planned objectives. Attachment A lists areas where organisations must review existing arrangements and determine the potential for reform. In some cases achievement of outcomes in these areas has already been factored into the Budget and can not be included as cost savings for the purposes of wage increases (for example reducing average sick leave absences). Further reforms in these areas may be included where additional savings can be demonstrated.

## Content

To the extent legally permitted, agencies must follow the principles below regarding the content of negotiations:

1. Adherence to Test Case standards and legislated minima.
2. Any claims for increased superannuation contributions must be dealt with as part of a wages round and the cost considered within the 2.5 per cent limit.
3. Any claims for death and disability schemes must be negotiated as part of a wages round and factored into the overall 2.5 per cent outcome.
4. The Government remains committed to a fair process for managing displaced employees through appropriate Government policy. The Management of Displaced Employees (MDE) policy must not be included in any industrial instruments.
5. The Government supports all employees having access to salary sacrifice arrangements for superannuation and other purposes. Agencies negotiating industrial instruments should consider including such arrangements.
6. In considering employment conditions, agencies should have regard to the inclusion of appropriate arrangements to allow employees to balance their work and personal lives, particularly at times when they may have caring responsibilities.

# Attraction and retention strategies

Attraction and retention can be an issue in certain sections of the public sector workforce.

Agencies should consider workforce planning strategies and identify areas of shortage. This requires considering a range of issues such as recruitment, training, job design, working conditions and remuneration. Where appropriate, agencies should include measures to address them within their bargaining agendas.

The ability to pay additional remuneration is just one of many options. Attraction and retention allowances or payments will only be considered where there is supporting material available. The additional remuneration proposed must be targeted, based on identifiable need and within the context of a comprehensive strategy to manage the workforce and any attraction and retention issues. Such a strategy must include non-monetary benefits or incentives.

Before additional payments are considered, agencies must detail:

- where shortages are, providing evidence of people leaving, the reasons for this, and specific detail on attempts to recruit employees to vacant positions;
- how the payment targets specific employee/s, its proposed duration, a review process, a comparison with and assessment of the impact on other similar employees in the public and private sector including the potential risk of flow on;
- broader retention and attraction strategies such as other non-wage employment conditions or benefits, changes to job design, training arrangements and recruitment practices and strategies; and
- the benefits for the Government and community and the impact of the shortage on service delivery.

Where an agency seeks approval to pay additional remuneration, a business case must be put to the agency Wages Policy Taskforce and to the Budget Committee for final approval. This may take place concurrently with wage negotiations or during the life of an industrial instrument. Funding will be from existing resources unless otherwise approved by the Budget Committee.

The proposed payments must be:

- non permanent and separate to any award/agreement;
- implemented in conjunction with a broader strategy;
- for a specified period of time with a maximum period of three years with any extension approved by Budget Committee. In addition, the proposed payments must be reviewed by the agency at least annually;

- where possible paid as a retention bonus, i.e. payable every six or 12 months in arrears; and
- agencies should not aim to be market leaders in the rates of pay, but aim to be competitive enough to attract and retain employees.

## Process to negotiate wages and conditions

All organisations must consult the Public Sector Workforce Office (PSWO) in the Department of Premier and Cabinet, and NSW Treasury on any proposal that may result in changes to wages, salaries or employment conditions. This must be prior to commencing negotiations with unions.

**All offers to increase wages and/or conditions by more than 2.5% per annum and the associated reforms and savings must be approved by the Budget Committee before an offer is made.**

All organisations covered by the policy must comply with the following steps:

1. Develop a bargaining agenda.
2. Gain approval of negotiating parameters
3. Negotiate the award/agreement within approved parameters.
4. Report to the Wages Policy Taskforce prior to final agreement..
5. Formalise the industrial instrument
6. Implement the agreement and associated reforms and savings measures

### Develop a bargaining agenda

Agencies must contact the PSWO 9-12 months prior to the expiry of an award or agreement. The PSWO and NSW Treasury will convene the Wages Policy Taskforce which will nominate officers from NSW Treasury and PSWO to assist the agency to develop the reforms, savings measures and proposed bargaining parameters covering wages and conditions. Agencies will appropriately resource the Taskforce, including the provision of officers who are knowledgeable in the operations of the agency and can assist in the development of reforms measures leading to savings.

Agencies covered by sector wide instruments will be consulted by the PSWO in respect of cross agency reforms.

A summary of priority areas for reform and funding arrangements for wage increases are outlined in Attachment A of this policy. Agencies must also consider any other priority matters within their

organisation and then complete the forms at Schedules 1 and 2 detailing the proposed reforms, savings measures and wages increases.

### Gain approval of negotiating parameters

The Wages Policy Taskforce may approve negotiating parameters where an agency proposes increasing wages and conditions by **2.5% or less**. The Taskforce will report to the Chief Executives Committee on the proposed offer.

Where an agency proposes to increase wages and/or conditions by **more than 2.5%**, the approval process involves the following steps.

- 1) Chief Executives Committee reviews the negotiating parameters.

The Wages Policy Taskforce will report to the Chief Executives Committee on the proposed parameters. This should generally be six months prior to the award/agreement expiry.

If consistent with the wages policy and government priorities, the CEC will refer the proposed parameters to the Budget Committee.

- 2) Budget Committee approval.

Following Chief Executives Committee consideration, the portfolio Minister must seek the Budget Committee's approval of the bargaining parameters.

**All offers to increase wages and/or conditions by more than 2.5% per annum and the associated reforms and savings must be approved by the Budget Committee before an offer is made.**

The Cabinet Minute must contain a NSW Treasury endorsed Financial Impact Statement and detail the proposed wages and conditions increases, reform measures, cost savings and negotiating strategy.

Approval is required even where an agency does not require supplementation from Treasury and proposes to meet the costs from within the existing agency budget.

### Negotiate the award/agreement within approved parameters

Following Chief Executives Committee and Budget Committee approval of negotiating parameters an agency may commence negotiations with the relevant union/s in accordance with the approved parameters.

In appropriate cases, the PSWO will provide assistance with negotiations.

### Report to the Wages Policy Taskforce prior to final agreement

The agency must keep the Wages Policy Taskforce informed of progress and provide details of any settlement proposal to the Taskforce prior to making any final offer.

An agency may settle an award/agreement within bargaining parameters approved by the Budget Committee. For settlement proposals outside of previously approved parameters, the agency must make a further formal request to Budget Committee for approval. Following agreement, the Taskforce will advise the CEC of the outcome.

## Formalise the industrial instrument

All organisations must advise the Wages Policy Taskforce of the outcome of negotiations or offers to employees and provide it with a final copy of the industrial instrument or other agreement and identified savings measures. Public Service Departments must seek PSWO approval **before** lodging any application with the Industrial Relations Commission or other body to make or vary an award or other industrial instrument. This relates to wages, salary or conditions matters.

In addition, Departments must provide the PSWO with a copy of formal agreements negotiated under clause 10 of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006*. The PSWO will either endorse the agreement or request that changes be made.

## Implement the agreement and associated reforms and savings measures

The savings measures will be written into an agency's savings plan where appropriate. The Chief Executives Committee and the Cabinet Standing Committee on the Budget (Expenditure Review) Committee will monitor the implementation of reforms and cost savings. For Public Trading Enterprises (PTEs) and other businesses that are subject to the Government's Commercial Policy Framework, the shareholding Ministers will monitor the implementation through the quarterly reporting process.

Other than in exceptional circumstances, agencies must not pay the wage increases before the industrial instrument has been formally approved or registered by the relevant body – e.g. the Industrial Relations Commission.

## State Owned Corporations

SOCs must also comply with the principles of this policy. SOC are within the trading enterprises sector as defined in the *Fiscal Responsibility Act 2005 (NSW)* and therefore must comply with provisions of the Act. This includes section 13(2) which requires PTEs to take into account the Government's policy for negotiating rates of pay and related conditions of the employment of General Government sector employees, including negotiating principle 1.

SOCs must undertake the following steps:

1. Consult with the PSWO and NSW Treasury early in the process of formulating any offer to employees or bargaining parameters on award/enterprise agreement or any other wage, salary or conditions negotiations.
2. In particular, SOC must seek input from the PSWO on the Government's wages policy and other General Government standards of employment conditions.
3. Provide a detailed assessment of the proposal as per the attached schedules, for consideration by the Wages Policy Taskforce. The Taskforce will report to the CEC on the proposed negotiating parameters. The Taskforce will also assist SOC prepare a submission from the shareholder Ministers to Budget Committee, where it is proposed to offer increases in wages and/or conditions of more than 2.5 per cent per annum.

4. Advise the Wages Policy Taskforce of the outcome of negotiations in advance of any final agreement. When the agreement is finalised, the SOC must provide the Wages Policy Taskforce with a copy of the final industrial instrument or other agreement.

This memorandum applies to all SOCs and acknowledgement of the requirement to comply with the public sector wages policy must be included in future Statements of Corporate Intent.

## Roles of public sector organisations and approving bodies

### Public sector organisations

Public sector organisations must:

- comply with the policy, including seeking necessary approvals in an appropriate and timely format;
- appropriately resource the Wages Policy Taskforce involving PSWO and Treasury;
- through the Taskforce, report to the Chief Executives Committee on the progress of negotiations;
- through their Minister, seek the Budget Committee's approval for any increases in wages and/or conditions beyond 2.5 per cent;
- be responsible for proactively developing bargaining agendas, reform measures, cost savings and a negotiating strategy (except in respect of sector wide awards);
- consider workforce planning issues in developing their bargaining agenda;
- manage industrial relations issues in the organisation within this policy framework;
- SOCs quarterly reporting arrangements are detailed in the Reporting and Monitoring Policy for Government Businesses (TPP 05.2); and
- Shareholders for the purposes of this memorandum means:
  - in respect of SOCs, the voting shareholders as defined in the *State Owned Corporations Act 1989* or other legislation; and
  - in respect of non-corporatised businesses, the Portfolio Minister and the Treasurer.

## Wages Policy Taskforce

The PSWO and NSW Treasury have established a Wages Policy Taskforce to assist agencies in the development of their reform and savings measures. The Director of Workforce Policy and Advice in the PSWO and the Director of the Fiscal Strategy Branch in NSW Treasury will jointly head the Taskforce with officers allocated from both areas to assist agencies.

The role of the Taskforce is to:

- ensure compliance with the wages policy, IR policies and maintain the integrity of the Budget;
- advise agencies on content and key structural reforms, savings and bargaining parameters;
- consider the whole of Government implications for industrial relations and wages negotiations;
- review the savings measures to ensure consistency with the budget;
- report to the Chief Executives Committee and the Budget Committee; and
- where appropriate, endorse bargaining parameters that provide for increases to wages and/or conditions of up to 2.5 per cent per annum.

The Taskforce will report to the Chief Executives Committee. The initial Taskforce contact point for agencies is their PSWO client contact officer or the PSWO switch on 9228 3572.

## Chief Executives Committee

The Chief Executives Committee comprises the CEOs of major NSW public sector agencies. The Committee will review proposed negotiating parameters, reforms and savings measures, provide appropriate comments and refer it to the Budget Committee.

The Wages Policy Taskforce will brief the Chief Executives Committee where agencies have developed proposed negotiating parameters. The briefing will include the detail in Schedules 1 and 2. The report will include recommendations on reform measures, cost savings and bargaining parameters.

## Cabinet Standing Committee on the Budget

The Budget Committee is the final decision-maker on bargaining parameters where an agency is proposing to offer increases to wages and/or conditions in excess of 2.5 per cent per annum. Following CEC consideration of the bargaining parameters, the Portfolio Minister must gain the Budget Committee's approval. The Cabinet Minute must contain a NSW Treasury endorsed Financial Impact Statement. Agencies must not make a wages offer before the Budget Committee has endorsed the proposal.

Budget Committee papers are to be in the Cabinet format, endorsed by the Minister and submitted to the Cabinet Secretariat in the Department of Premier and Cabinet at least 10 days before the Budget Committee meeting (refer to the 10 day rule M 2005 - 07).

### Industrial Relations Steering Committee (IRSC)

The IRSC is chaired by the Director General of the Department of Premier and Cabinet and will meet on an as needs basis. Members of the Committee include representatives from:

- Premier's Office
- Treasurer's Office
- Office of the Minister for Industrial Relations
- Department of Premier and Cabinet
- NSW Treasury
- Office of Industrial Relations

The IRSC's role is to manage any issues arising during the negotiating process, including disputes.

## Agencies operating under the *Workplace Relations Act 1996*

This policy also applies to agencies operating under the *Workplace Relations Act 1996* (WRA). Where agencies are operating under the WRA, they must ensure that prohibited content as proscribed in the Act and its regulations are not included in any workplace agreement. Where there is doubt about prohibited content, public sector organisations must seek advice from the PSWO.

Organisations should continue to negotiate around a broad range of issues. Matters that may be prohibited content may be included in separate s.146A referral agreements or common law deeds. Where a union requests a s.146A agreement or deed, the agency must seek advice from the PSWO. Agencies must provide the PSWO with a final copy of any s.146A agreement or deed.

The Government remains committed to negotiating collective agreements with relevant unions. The WRA should not be used as a tool to avoid good faith bargaining.

Australian Workplace Agreements should not be used by any NSW public sector agencies or State Owned Corporations.

## Attachment A - Potential areas for reform

### A flexible, mobile and high performing workforce

Agencies should ensure that barriers to the use of part-time or casual staff are removed, and that employment arrangements allow for mobility and the efficient allocation of resources to the Government's priorities. Promoting high performance is a priority. Agencies should develop appropriate performance management systems, to encourage good performance, and to effectively and fairly manage poor performance in a timely manner. Advancement through a classification structure should be linked to performance.

### Sick Leave and Overtime

The Economic and Fiscal Statement of 23 February 2006 set targets for reducing sick leave by 1 day and overtime by 5 per cent by 2008.

The management of sick leave and overtime can be affected by industrial arrangements contained in awards and agreements. Organisations must consider whether amendments to industrial arrangements are necessary to meet these targets or to provide for continuous improvement. Savings from sick leave have already been included in agency savings plans.

### Reducing leave liabilities

The Economic and Fiscal Statement of 23 February 2006 identified leave liabilities as an area of ongoing concern. Arrangements for an annual two week Christmas closedown in non-frontline areas were implemented for Christmas 2006 and will apply again in future years. Savings from improved management of recreation leave have already been included in agency savings plans.

Organisations must review industrial instruments that refer to leave liability and develop arrangements to ensure that leave is taken at appropriate times and to avoid accrual of excessive levels of leave. Consideration should also be given to working hours arrangements that encourage the accrual of excessive leave or the banking of excessive flex days.

### Flex time

Flex time arrangements should reflect the needs of both the organisation and employees and that flex time is not being excessively accumulated and used as a substitute for recreation leave.

### Demarcations/restructuring work to better reflect the skills used

Organisations must consider whether qualifications are being required for roles where it is not necessary. Jobs may be redesigned to allow some of the work to be undertaken by less qualified staff that are easier to attract.

### Other Issues

Individual agencies will have specific areas of reform and priorities.