

Employer Claims: Victorian Public Mental Health Services

2020 Enterprise Bargaining

1. Introduction

The Current Agreement:

- Covers classifications listed in Schedule 3 to 7 of the Current Agreement who are employed solely or predominantly in the provision of the Victorian public mental health services.
- Covers 17 Employers.
- It is not proposed to extend the scope of the current agreement.

Changes that have occurred that will affect the employers covered by a new Agreement include:

- Mercy Public Hospitals Inc has been renamed to Mercy Hospitals Victoria Limited.

Bargaining for the New Agreement presents an opportunity to address the gender pay gap. Gender equality considerations are not limited to the different treatment of men and women within the health sector. Female employees are paid less than males across the public sector and the workforce generally because of:

- the greater amount of time they take out of the workforce to care for children.
- an ongoing cultural expectation that females take on a disproportionate share of unpaid caring and domestic work.
- reduced retirement savings due to the loss of superannuation contributions when taking time off work as unpaid leave; and
- inflexible approaches to arranging work.

Specific to Flexible Work Arrangements (Initiative #1) found at clause 52 of the Current Agreement, the VHIA will pursue 'best practice' guides with the ANMF and HACSU to address emerging equality issues around management of flexible working arrangements.

Best practice guidelines will improve mutual understanding of the purpose of flexible working arrangements and reduce the number of disputes.

Initiatives to address gender inequality will be discussed for inclusion in a Best Practice Employment Commitment (BPEC).

2. Wages Policy and EBF

Bargaining will be conducted under the requirements of the Wages Policy and EBF.

Wages Policy and EBF caps the rate of growth for wages and conditions to 2 percent per annum. Additional changes to allowances and conditions that take the rate of growth above 2 percent per annum are only achievable where the changes address key operational or strategic priorities and/or the Public Sector Priorities. The following must apply to enterprise agreements negotiated under the Wages Policy and EBF:

- must be fiscally sustainable and fully funded from capped indexation, revenue and appropriate cost offsets.
- must not contain retrospective payments.
- may exclude increases to the superannuation guarantee from the cap on wages and conditions; and
- should be for a four-year term subject to operational considerations.

3 Hospital claims

During the life of the Current Agreement varying interpretations of Agreement terms by the employers, the ANMF, HACSU and the VHIA has increased industrial complexity. This approach is administratively burdensome and generates discontent between employees, employers, VHIA, HACSU and the ANMF.

There is a lack of industry wide agreed meaning and intent of various provisions within the Current Agreement. A Single Interest Employer enterprise agreement should lead to the same outcome for employees across all employers.

The employers' claims are separated into three main parts as found in **Attachment 3**.

Part 1 consists of claims relevant to **Strategic Changes to Address Key Operational Reform** (Pillar 3).

Part 2 consists of **Efficiencies Arising from Proposed Amendments/Deletions to Existing Clauses and Sub-Clauses**.

Part 3 addresses **Other Employer Claims**.

Attachment 1

Proposed list of Employers to be Respondent to the Victorian Public Mental Health Services (Victorian Public Health Sector) Single Interest Enterprise Agreement 2020–2024.

Health Services	
1	Albury Wodonga Health
2	Alfred Health
3	Austin Health
4	Ballarat Health Services
5	Barwon Health
6	Bendigo Health Care Group
7	Eastern Health
8	Goulburn Valley Health
9	Latrobe Regional Health
10	Melbourne Health
11	Mercy Public Hospitals Inc
12	Mildura Base Hospital
13	Monash Health
14	Peninsula Health
15	Royal Children's Hospital (The)
16	St Vincent's Hospital (Melbourne) Limited
17	South West Healthcare

Attachment 2 – Best Practice Employment Commitment

Initiative #	1
Public Sector Priority	Government as a fair and best practice employer - promote gender equality and ensure access to flexible working arrangements
Description	<p>Flexible working arrangements are over-represented in local disputes under the Current Agreement. Best practice guidelines will improve mutual understanding of the purpose of flexible working arrangements and reduce the number of disputes.</p> <p>The VHIA will pursue 'best practice' guides with the ANMF and HACSU to address emerging equality issues about management of flexible working arrangements.</p>
Reporting and Accountability Measures	None proposed

Initiative #	2
Public Sector Priority	Government as a fair and best practice employer - promote and ensure access to flexible working arrangements
Description	<p>Hospitals are committed to best practice approaches to identifying gender equality in their workforces. The <i>Gender Equality Bill 2019</i> currently before parliament will introduce requirements for hospitals to undertake workplace gender audits. This will increase the already high level of administration and compliance burden for hospitals.</p> <p>in the course of bargaining, the parties will:</p> <ul style="list-style-type: none"> • Develop workplace gender audit guidelines that consider the different size workforces and administrative capability of health services; and • Achieve a neutral compliance and administration burden on health services by making other administration and compliance obligations more efficient.
Reporting and Accountability Measures	Reporting will be required under the Gender Equality legislation.

Initiative #	3
Public Sector Priority	A professional and responsive public sector – build skills and capability
Description	<p>Hospitals take workplace bullying seriously and are committed to implementing procedures that increase the health and safety of their employees.</p> <p>Two metropolitan and four rural and regional health services are undertaking an independent facilitator trial. It is expected that the trial will</p>

Initiative #	3
	<p>identify areas where health services can build their internal skills and capability for dealing with workplace bullying.</p> <p>The trial will be evaluated following its conclusion in June 2020.</p> <p>The parties will work on an agreed framework for distributing, considering and implementing the outcomes of the trial.</p>
Reporting and Accountability Measures	To be addressed in evaluation stage.

Initiative #	4
Public Sector Priority	A professional and responsive public sector – build skills and capability
Description	<p>Hospitals are committed to supporting the positive mental health of their employees. Several metropolitan and regional health services have participated in the “We Care” initiative that involves a tap out system for stressful situations and staff sensory rooms.</p> <p>The VHIA will work with the ANMF and HACSU on an agreed framework for publishing the outcomes of the initiative and implementing effective strategies on a sector-wide basis.</p>
Reporting and Accountability Measures	To be addressed in evaluation stage.

Initiative #	5
Public Sector Priority	Deliver exceptional services and value for Victorians – deliver service efficiencies
Description	<p>The public health sector in Victoria is comprised of approximately 120 employers and 6 major enterprise agreements regulating the terms and conditions of approximately 100,000 employees. Presently there are many minor differences between the provisions in these major agreements which create unnecessary payroll and human resource inefficiencies.</p> <p>In the life of the New Agreement, the parties will explore the standardisation of common provisions and common application of these across the major agreements.</p> <p>The purpose of the discussions would be to establish a set of standard terms and conditions with supporting guidance material on the application of the provisions across all major public health sector enterprise agreements.</p>
Reporting and Accountability Measures	None Proposed.

Attachment 3 – Proposed changes

Topic	Clause	Proposed Amendments	Rationale	Theme
PART 1 – PILLAR 3: STRATEGIC CHANGES TO ADDRESS KEY OPERATIONAL REFORMS				
Community Workload Management System (CWMS) Scope of clause needs to be revised	49	<p>Clause was implemented across the sector to apply to community clinicians. It was not intended to apply to teams that do not contain community clinicians, as evidenced at clause 49.1(b) of the Current Agreement which refers to 'community clinicians.'</p> <p>It is proposed to revise the scope of the clause to make clear that it does not apply to clinicians or teams that are not community- based.</p>	The Current Agreement introduced a Community Workload Management System (CWMS). Difficulties in understanding the requirements under CWMS arise from different team arrangements across the sector and the proposed application of the CWMS into areas that do not involve casework. This has created confusion and prevented the CWMS from operating as intended.	Workforce Recruitment and Retention Education and Training No costs or savings
Caseload definition is required		<p>It is proposed that a caseload definition be developed which makes clear the clause applies to community clinicians that carry a demonstrable caseload.</p> <p>A caseload definition which captures the caseload of a community clinician is required.</p> <p>An agreed definition would reduce disputation and confusion regarding its applicability.</p>	The Agreement does not currently include a caseload definition. This has led to confusion regarding its applicability.	Workforce
PART 2 – EFFICIENCIES ARISING FROM PROPOSED AMENDMENTS/DELETIONS TO EXISTING CLAUSES AND SUB-CLAUSES.				
Return of Property	25	It is proposed that this clause be removed. The Mental Health Agreement is the only Agreement within the public health sector that contains such a provision. The practice is a requirement on termination of employment as well as an express term of contracts of employment. The removal of this clause will not affect employee entitlements.	Reduce the size of the Agreement and contribute to its efficient operation.	Workforce No costs and savings

Attachment 3 – Proposed changes

Topic	Clause	Proposed Amendments	Rationale	Theme
Professional Development Study Plan	89.6	It is proposed that this clause be removed. The Mental Health Agreement is the only Agreement within the public health sector that contains such a provision. Performance Development Study Plans are covered by internal performance development frameworks within the workplace.	Modernise clause so it better reflects internal performance management framework which deals with study.	Workforce Education and training No costs and savings
Payment of Salaries (Delays in processing pay)	62.4	The current clause requires the Employer to pay a significant penalty where an Employee has been underpaid and the not corrected in a certain time period. The way the calculation occurs has been disputed and requires clarification	Clauses must be clear as to how they operate.	Workforce
Parental leave	42	The redrafting of the clause has created the unintended consequence that it enables an employee to choose not to take parental leave at the time of the birth and then take long paid parental leave at a later date.	The clause must be amended to reflect the intentions of the parties	Workforce
Acute Inpatient Units	92.3(d) and (f)	The Agreement operates to preserve the staffing profile that was in place in 2007 (with additional subsequent amendments). The Agreement only enables these profiles to be changed by mutual agreement. This prevents employers from amending staffing requirements in response to the needs of the service. An example of this is where an employer wanted to move a staff member from the morning shift to the afternoon shift but was unable to do so.	Staffing arrangements must adapt to changes in the workplace. Such changes ought to be subject to a process of consultation with affected staff and their union/s.	Workforce No costs and savings

Attachment 3 – Proposed changes

Topic	Clause	Proposed Amendments	Rationale	Theme
		Employers propose the replacement of the current mutual agreement test with the process of change being subject to the consultation clause.		
PART 3 – OTHER EMPLOYER CLAIMS				
Nurses Classification terminology modernisation	14	It is proposed to insert revised classification terminology previously agreed by the parties into the Agreement.	The terminology utilised within the classification structure must be modern to maintain relevance.	Workforce No costs or savings
Aboriginal Healthcare Worker (new classification)	No clause	<p>In 2017/18, the Government committed \$8.4 million over three years to support two new initiatives:</p> <ol style="list-style-type: none"> 1. A mental health traineeship program for Aboriginal people working in public mental health services (\$3.5million), and 2. Aboriginal clinical and therapeutic positions in Aboriginal community-controlled health services (\$4.9 million). <p>The Aboriginal Mental Health Trainees are employed by an Area Mental Health Service and provided with supervised workplace training and clinical placements while concurrently completing a Bachelor of Science (Aboriginal Mental Health) degree.</p> <p>The program is funded by the department on an ongoing manner and does not require supplementary funding for its implementation.</p> <p>As the Current Agreement does not accommodate the roles, the new classification has been implemented by</p>	<p>The Aboriginal Mental Health Traineeship program is a workforce strategy that will build a mental health workforce that can provide culturally safe and inclusive mental health care for Aboriginal Victorians.</p> <p>The inclusion of the classification in the agreement recognises a matter agreed between the parties under the Current Agreement</p>	<p>Workforce – Recruitment and retention</p> <p>Recurring costs.</p> <p>These costs are already met by the Department.</p>

Attachment 3 – Proposed changes

Topic	Clause	Proposed Amendments	Rationale	Theme
		<p>agreement between the parties</p> <p>The title of 'Trainee' has created difficulties for prospective applicants to obtain educational incentives.</p> <p>An updated classification title is sought in the course of bargaining.</p> <p>The inclusion of this claim will meet an agreed change in the course of the current agreement and is expected to be agreed to by the parties.</p>		