

NURSES AND MIDWIVES - PUBLIC SECTOR ENTERPRISE BARGAINING

EMPLOYER CLAIMS

Wages

1. In accordance with Government Wages Policy, the following proposal is proposed under the Primary Pathway:
 - A. FFPPOOA 1 May 2024 3%
 - B. FFPPOOA 1 May 2025 3%
 - C. FFPPOOA 1 May 2026 3%
 - D. FFPPOOA 1 May 2027 3%

Additionally, a 0.5% cash payment will be made in accordance with the 2023 wages policy over the life of the Agreement.

Best Practice Employment Commitment

2. **Initiative 1 – Sector Engagement with Commission for Gender Equality in the Public Sector Baseline Report**

The Commission for Gender Equality in the Public Sector has published the 2021 Workplace Gender Audit Data Analysis (Baseline Report)

The Baseline Report, at page 51, called for cooperation with unions regarding the impact of current industrial arrangements on gender equity including the gender pay gap. There is currently no mechanism for this engagement. This claim seeks to establish that mechanism.

Strategic and Operational Workforce Issues to be Addressed through Bargaining

3. **Reform 1 – Insertion of Nursing Support Worker**

Claim specifics:

Insertion of standardised Nurse Support Worker structure in the Agreement without a requirement to appoint.

Context:

A Nurse Support Worker would supplement existing supplementary workforces such as Registered Undergraduate Student of Nursing (**RUSON**); Registered Undergraduate Student of Midwifery (**RUSOM**) and Trainee Enrolled Nurses (**TEN**) whilst at the same time complimenting their weaknesses in terms of availability and continuity of care.

4. Reform 2 – Adjustment of the current RUSON/RUSOM to improve model efficiency.

Claim specifics:

- Establish greater flexibility in the engagement of RUSON/M to cater for varied availability across the academic year.
- Remove the cap in the Agreement on the number of RUSON/M that can be used any a particular shift.

Context:

RUSON/M are above Nurse to Patient and Midwife to Patient ratios. They are utilised to supplement the workforce. This workforce has been instrumental in the COVID pandemic response.

5. Reform 3 – Flexible Rostering

Claim specifics:

- Clarify that the short shift restrictions do not apply to shifts worked above the legislated Nurse to Patient ratios.
- Clarify that short shift restrictions only apply to areas covered by the Safe Patient Care Act.
- Amend the Agreement to enable unlimited short shifts to occur by agreement with the employee noting that minimum staff numbers are still determined by the Safe Patient Care Act.

Context:

The Agreement currently limits the number of short shifts (as defined) that can occur. This limitation reduces the ability of some nurses to participate.

The Agreement is also ambiguous about what setting the current short shifts (as defined) apply. This potentially results in a circumstance where potential labour is being excluded from accessing the work hours they want in order to balance other elements of their life such as parental responsibilities.

6. Reform 4 – Changes to facilitate operation of Agreement /Reduce Manual Interventions /Modernise provisions

The proposed changes are focused on ensuring the Agreement is contemporary and operates efficiently. The proposed items are:

- A. Removal of redundant terms.
- B. Addressing ambiguity in terms that have been disputed over the life of the Agreement.
- C. Revise terms that require excessive manual intervention.
- D. Consolidation of inefficient and/or historical payments
- E. Ensuring clauses are clear and practical.
- F. Modernise supplementary roster provision.
- G. Review night shift arrangements
- H. Clarify study leave quantum.
- I. Reinforce leadership development pathways.
- J. Modernise HITH/Community stream.
- K. Revise four stream classification structure to streamline/improve useability.
- L. Review Nurse Practitioner definition.
- M. Insert classification descriptors for existing quality roles.
- N. Insert classification descriptors for existing Occupational Violence and Aggression Coordinators.
- O. Insert obligations to address fatigue/working excess hours across multiple employers.
- P. Insert gender reassignment leave.
- Q. Amend and/or remove terms with gender bias.

See Appendix A.

7. OTHER CHANGES TO BE PURSUED IN BARGAINING

A number of changes will be required to ensure compliance with legislation.

These changes are as follows:

- A. Casual conversion
- B. Compassionate Leave
- C. Discrimination / sexual harassment
- D. Fixed term employment
- E. Parental Leave
- F. Public Holidays
- G. Flexible Working Arrangements
- H. Family Violence Leave (paid).

See Appendix A.

8. OHS

The Agreement also contains a section that deals with Occupational Health and Safety matters including those prescribed by legislation. Employers propose ensuring that Park K (concerning OHS) complies with any legislation. Further detail regarding the proposed changes is outlined in Attachment A.

See Appendix A.

Nurses and Midwives Agreement Authorised Claims
Schedule A

Topic	Clause Number	Proposed Amendments	Rationale
Removal of redundant terms	14.9 42.7 70.5 and elsewhere 91 107.6	<p>The removal of terms that are agreed to be redundant. These include:</p> <ul style="list-style-type: none"> • Clause 14.9 – Statewide Industry Panel with respect to classification descriptors (work expected to be completed) • Clause 42.7 – to the extent it refers to actions that have already occurred. • Clause 70.5 and elsewhere – Long Service Leave (transitional provisions regarding years of service for eligibility and service) • Clause 91 – Aged Care • Clause 107.6 - Midwifery commuted loading review. <p>Generally, these terms include dates that are in the past or events that have occurred.</p>	The Agreement should be up to date.

Topic	Clause Number	Proposed Amendments	Rationale
<p>Addressing ambiguity in terms that have been disputed over the life of the Agreement</p>	<p>49.2(d) 53.2, 79 70.5(a) 30A 56.10</p>	<p>Disputes to be resolved, including with respect to the following –</p> <p>Clause 49.2 - Weekend casual rates - Provide a standard overtime rate for casual work on weekends.</p> <p>Clause 53.2 – Rest Period After Overtime/Recall – Amend to reflect that a 10 hour break is not required if one has already been received.</p> <p>Clause 79 – Post-Registration students - Clarify the meaning of ‘employment arrangement’ regarding paid time for post registration students.</p> <p>Clause 70.5(a) - Long Service Leave - The Agreement should be clearer with respect to previous periods of casual employment.</p> <p>Clause 30A – Lead Apron Allowance - The term ‘as part of their usual duties’ is too vague and results in disputation. We seek to amend this provision by identifying particular areas that qualify.</p> <p>Clause 56.10 - Public Holidays - Insert additional wording to clarify the test in determining a ‘weekend worker’.</p>	<p>Agreement terms should be agreed.</p>
<p>Revise terms that require excessive manual intervention</p>	<p>45.2, 57.11(b) 57.2, 56.10(b) and (c) 58 33.1(d)</p>	<p>Clause 45.2 Meal Breaks on Roster - Employers seek an alternative option to record the scheduled meal intervals where their rostering system doesn’t support recording meal breaks on the roster.</p>	<p>Excessive manual intervention is inefficient, causes delays and increases the likelihood of error. Terms should deliver outcomes efficiently.</p>

Topic	Clause Number	Proposed Amendments	Rationale
	50.5	<p>Clause 57.11(b) – Annual leave (Projected Roster) - Amended to reduce the level of manual intervention required by ensuring alignment with other agreements and the removal of exclusions.</p> <p>Clause 57.2 (Annual leave for weekend workers) - This claim seeks to amend the term so that it can be more effectively implemented without significant manual intervention</p> <p>Clause 56.10(b) and (c) – pro rata public holiday entitlement for part time employees - Current term requires a determination of average daily hours worked over the previous 6 months. This is calculated manually. We seek to remove or reduce the burden of manual calculation. Clause 56.10(c) concerns part time employees who do not work weekends. Seek to clarify as to when and how often this is determined.</p> <p>Clause 58 – Additional Leave – Entitlement to Four Clear Days - This entitlement is determined manually. In effect, we seek to establish a less manual alternative as contemplated by clause 52.</p> <p>Clause 33.1(d) – Meal Allowances and Overtime - Currently, the term says that, on request, meal money will be paid the day the overtime is worked. Most employers will not have capacity to do this and the term should be modernised.</p> <p>Clause 50.5 – Emergency on-call / recall - To be updated, reviewed and, if possible, simplified.</p>	

Topic	Clause Number	Proposed Amendments	Rationale
Consolidation of inefficient and/ or historical payments	38, 41	Consider whether there are any payments that could be more efficiently applied through the base rate or which have been preserved for a significant period which should now be concluded by a once-off lump sum.	Agreements should be up to date and equitable.
Ensuring clauses are clear and practical	26.4(a), 27.6, Various, 57.1, 31.4(b), Appendix 8 59.1(b)(iv), 37.7, 13, 61.5(c), 20.	<p>Clause 26.4(a) – Underpayment - Clarify that reference to '24 hours' excludes weekends when payroll staff are not rostered. Proposed 'by the end of the next business day'.</p> <p>Clause 27.6 – Superannuation during parental leave - Clarify the following within the clause:</p> <ul style="list-style-type: none"> • Concurrent leave (long service leave and annual leave / public holidays) which attracts a statutory entitlement to superannuation – the Agreement should be clear on how entitlements interact. • Keeping in touch days and ADOs - that is, where there are Ordinary Time Earnings • Changes to pay rate – there is tension between how the rate is initially set (clause 27.6(a)) and amendments to the contribution rate from wage increases (at 27.6(b)(ii)). <p>Various - The term 'year' is used in the Agreement to mean different things. To specify whether the reference is to a year of employment, continuous service or a calendar year.</p> <p>Clause 57.1 – Clarify the operation of annual leave accrual for weekend workers. - confirm</p>	Agreements should be clear and should be capable of being complied with.

Topic	Clause Number	Proposed Amendments	Rationale
		<p>that change from last agreement does not effect the anniversary date for annual leave purposes.</p> <p>Clause 31.4(b) – Enrolled Nurse Course Length – Qualification Allowance - The qualification allowance varies in accordance with the length of the course but is based on full time students when part time more likely.</p> <p>Appendix 8 - Insert additional campuses where aligned with definition of campus and ensure alignment between classification and definition.</p> <p>Cashing out of annual leave – Clause 59.1(b)(iv) - Permit a higher quantum for cashing out as a once-off re-set, with all other conditions unaltered.</p> <p>Clause 37.7 – Special Provisions relating to particular travel. Modernise to retain underpinning principle but remove redundant detail (such as ‘first class rail’ which doesn’t exist).</p> <p>Clause 13 – Dispute Resolution - Clarify current term that collective disputes still require attempts to resolve at the local level.</p> <p>Clause 61.5(c) – Personal Leave - Clarify current term to the effect that medical certificates must still satisfy a reasonable person in response to the emergence of ‘purchased’ certificates with consultation.</p> <p>Clause 20 - Casual conversion - Term to be updated and simplified to more effectively integrate NES changes.</p>	

Topic	Clause Number	Proposed Amendments	Rationale
Clauses to be compliant	20, 65, Various including 15, 21, 68, 56, 16, 64, Part K	<p>Either the Fair Work Act has been updated or there have been decisions which clarify the operation of the National Employment Standards with respect to the following subjects:</p> <ul style="list-style-type: none"> • Casual conversion • Compassionate Leave • Discrimination / sexual harassment • Fixed term Employment • Parental Leave • Public Holidays • Flexible Working Arrangements • Family Violence Leave (paid) <p>Ensure that Part K (concerning OHS) complies with any legislative changes.</p>	Update Agreement terms to reflect changes to the Fair Work Act and other legislation
Modernise supplementary roster provision	46	Insert an alternative to the current supplementary roster that achieves the same objective but enables Employees to be notified electronically for available shifts and/or disconnect from the notifications.	Current term no longer effective as it provides a financial incentive to not participate. Terms should engage with new technologies.
Review night shift arrangements	34	Review the arrangements applying to night shift work.	The current agreement required a review. The results of that review should be considered.
Clarify study leave quantum	76	The current Agreement term doesn't specify a quantum of study leave, which results in uncertainty and, sometimes, disputation.	The Agreement should be clear and unambiguous.
Reinforce leadership development pathways	Appendix 2	Amend the existing CNS criteria to include 'Positive role model and clinical leader '.	CNS classification descriptors amendment to better reflect status quo.

Topic	Clause Number	Proposed Amendments	Rationale
Modernise HITH/ Community stream.	83	Removal of HITH or like service from community stream. Insertion of Grade 2 into current HITH structure. Update community care stream and HITH structure to reflect modern arrangements (including removal of reference to post-acute care).	Current term is out of date and inaccurate.
Revise four stream classification structure to streamline / improve useability	Part 4 of clause 83 (classifications in grades)	Revise numbering within structure to align pay rates across the 4 streams and also to align the previous grade numbering with existing numbering.	Keep Agreement up to date.
Review Nurse Practitioner definition	83	Revised Nurse Practitioner definition inserted into Agreement. Clarify whether qualification allowance applies and if it does, whether it should be rolled into the base rate.	Keep Agreement up to date.
Insert classification descriptor for existing Quality roles	New	Develop descriptors for existing Quality roles.	Agreement should be contemporary and recognise existing or emerging nursing and midwifery roles.
Insert classification descriptors for existing Occupational Violence and Aggression Coordinators	New	Develop descriptors for existing Quality roles.	Agreement should be contemporary and recognise existing or emerging nursing and midwifery roles.

Topic	Clause Number	Proposed Amendments	Rationale
Insert obligations to address fatigue / working excess hours across multiple employers	98, 99	Include multiple employers and fatigue as a matter for industry consultation and engagement under the OHS provisions of the Agreement.	Parties should consider matters that may constitute an occupational health and safety risk.
Insert gender reassignment Leave	New	The inclusion of a term providing paid leave for processes associated with gender reassignment surgery.	Adoption of Victorian public sector standard.
Amend and/or remove terms with a gender bias	61.5(e)	<p>Single Day Absences without certificate - Additional Leave</p> <p>At this time, women are more likely to have caring responsibilities and will need to utilise personal leave. Rewarding the non-use of an entitlement is perverse. It stigmatises those who are using a legitimate entitlement.</p>	New issues have emerged during the life of the current agreement – including the ability to buy a medical certificate without consulting a medical professional.