

Consolidation of Flexible Working Hours agreements

The background

There were several Machinery of Government (MoG) changes in 2019 that brought a number of agencies under the Department of Planning, Industry and Environment (DPIE) umbrella. As a consequence of these MoG changes, there are a number of current Flexible Working Hours Agreements (FWHAs) that exist in some form across the various DPIE agencies. Some of these exist in Clause 10 Local Arrangements, and some exist inside various Awards.

Since those MoG changes, the PSA has advocated for those agencies with inferior conditions to be incorporated into the current DPIE FWHA.

The PSA is mindful that members tend to be rather wedded to their FWHAs and they have used this flexibility to administer their own work/life balance. Some agreements have lasted a number of years, even decades. However, when it comes FWHAs there is an ability for DPIE to terminate local arrangements and revert back to bare-bones flexible working clauses if there is no negotiated replacement.

Other flex agreements contained specifically in Awards require potentially more extensive activities by DPIE for rescission to happen. If it is not in the interests of our members to adopt new FWHA for those groups, any attempts to would be resisted strenuously.

It is important to stress however that DPIE has not, to date, sought to administer these proposed consolidations in this fashion. Instead it is seeking a consensus with the PSA and Professionals Australia on the future substance of the consolidated FWHA. This differs to the direction taken by other public sector agencies in the negotiation of their consolidated FWHAs and demonstrates that DPIE wants to work with the PSA and PA to negotiate a fair and reasonable outcome.

Union principles on FWHAs

As for the union standpoint, we want the most flexible arrangements that:

1. Guarantee no loss of accrued hours;
2. Do not negate or infringe on previously negotiated entitlements i.e. overtime;
3. Allow for a common sense approach where managers are equipped with the tools to administer flex requests with their staff;
4. Define a clear demonstrable understanding of what is 'business need' and/or 'operational requirements';
5. Provide for the process of escalation if there are unreasonable denials of flex requests.

Discussions to date

The DPIE has made no secret that it has sought parameters from central government to consolidate a number of FWHAs as early as late last year. However, this process has been hampered by COVID-19 and delays from central government.

From an agency perspective, it makes sense to have all staff on the same agreement. It was noticeable that there were instances of staff working side-by-side on different arrangements, some more beneficial than others. In some



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cases, agencies on different communication platforms were provided conflicting advice on entitlements surrounding flex.

On 19 May the PSA and Professionals Australia was taken through a themed discussion on the proposed inclusions to the consolidated DPIE FWHA. Most of these themes make up the nucleus of many of the current arrangements that exist across the cluster. For others, there are considerable differences.

What's the FWHA process?

The consolidated DPIE FWHA agreement would be made under the terms of Clause 10 Local Arrangements, or a variation of Award conditions. It is mandatory that any Clause 10 Local Arrangement have a duration, review and termination clause. This would only be for those employees operating under a contract of 35 hours per week or pro rata for part-time staff.

It important to note this is a genuine negotiation between DPIE and the unions and there is requirement for agreement on both sides, as well as central Government.

What's the flavour of the DPIE's proposed FWHA?

- Bandwidth – 6:00am – 10:00pm – Overtime for being directed to work at the extremities of the extended bandwidth.
- Core Time – 10:00am – 3:00pm or a floating consecutive five hours
- Settlement – 12 weeks
- Flex – up to 6 consecutive flex days available, subject to operational convenience and managerial approval. Flex can be taken in full, half or quarter days. Options include taking flex time in hours instead.
- Carry over flex credit balance of up to 42 hours and debit of not more than 14 hours between settlements periods.
- Pro rata application of provisions for employees working part time.
- Ability to suspend core time and bandwidth whilst working remotely.
- When working remotely the default hours worked each day is 7 and can be more, subject to supervisor approval.

FWHAs/Awards proposed to be included

- Trade and Investment Flexible Working Hours Agreement 2013
- Department of Finance, Services and Innovation Flexible Working Hours Agreement 2015
- Crown Employees (PS Conditions of Employment) Reviewed Award 2009 (flex provisions herein apply to SOPA staff)
- Crown Employees (Planning Officers) Award 2016, Annexure A FWHA
- Crown Employees (Department of Planning, Industry and Environment) Aboriginal Housing Award 2016 (flex provisions contained within the award)
- Crown Employees (Lord Howe Island Board Salaries and Conditions 2009) Award (flex provisions contained within the award)



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- Crown Employees (OEH and EPA) General Award 2018 (flex provisions contained within the award)
- Crown Employees (OEH - NPWS) Conditions of Employment Award 2015 (flex provisions contained within the award)
- Department of Housing – Enterprise Instrument 1997

Member involvement

The PSA prides itself on our democratic principles and will seek the assistance from the membership to collate member feedback and to negotiate the substance of the consolidated FWHA, especially as there are many disparate agencies that now come underneath the DPIE umbrella with their own idiosyncrasies.

PSA delegates and Industrial staff will continue to meet with DPIE regarding plans for consolidation of Flex Arrangements, and we will continue to report back on progress.

It is also important to understand that anything that is negotiated from this process will be put to a ballot of all members to seek their endorsement. It is only members who will vote on this process, so it pays to be a member.

Not a member of the PSA and want your say?

It's time to join. Go to www.psa.asn.au/join.

