

# Frequently Asked Questions (FAQs)

## PALM scheme Deed and Guidelines

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### Pay Parity

#### 1. As an Approved Employer (AE), how do I demonstrate Pay Parity?

AEs must declare they will meet pay parity requirements included in section 2.3 of the Guidelines when submitting a recruitment application through PALMIS. Pay parity requirements apply to workers of direct employers and labour hire employers.

AEs have always been required to pay PALM workers in line with the applicable Fair Work Instrument.

AEs must maintain evidence to demonstrate pay parity requirements are being met and the Department will undertake ongoing monitoring activities throughout the placement to ensure compliance.

#### 2. Does pay parity mean that AEs must pay all workers the same amount as other workers who may be on a higher rate of pay as a result of performance pay or supervisory duties?

No. Pay parity is about paying workers equitably and ensuring all workers in the same job and location receive fair pay relative to other workers doing the same work. Section 2.3.1 of the Guidelines advises that AEs must pay workers the same full rate of pay attached to the relevant classification in the applicable Fair Work instrument if workers are performing the same type of work and engaged at the same site as other employees.

This doesn't mean that where some workers are on a higher rate of pay - for example due to performance pay or supervisory duties - that all workers must receive the same higher rate of pay.

### Net Minimum Pay Guarantee

#### 3. Section 5.1.7 of the Guidelines requires me to ensure a minimum net pay guarantee for workers after tax and deductions of \$200 a week (debt repayment can be extended). What does this mean in practice?

This means that in any week where exceptional circumstances prevent a worker from undertaking their normal hours/shifts and/or where there are high upfront deductions, you will need to pay the worker at least \$200, after tax and deductions. In practical terms, this means you would be required to 'top up' the worker's pay to ensure they have a minimum net pay of \$200. The amount of the top up - effectively a cash advance - would become a debt to be repaid by the worker and can be recouped. For example if, at the beginning of a worker's placement, when they may be paying back an airfare, the cost of their visa and some other upfront costs and their hours worked might be low, you will need to ensure the worker receives a minimum of \$200 pay for that week i.e. deductions cannot reduce the worker's pay to less than \$200.

**Section 3.7.4** (Limits on deductions where Workers offered less than 20 hours work in a week) would also come into operation whereby you would be required to cover the cost of the worker's accommodation and transport for that week, and that debt cannot be accrued.

#### 4. Are employers required to meet the \$200 minimum net pay guarantee where a worker is absent without authorisation?

The minimum net pay guarantee is intended to ensure that in any week where exceptional circumstances prevent a worker from undertaking their normal hours and/or where there are high upfront deductions, the worker will receive take home pay of at least \$200 for the week, after tax and deductions. (Noting any top up of wages to meet the \$200 minimum can be recouped in following weeks when pay allows.) If a worker is absent without authorisation for that week, AEs should notify the department and look at managing this as a performance concern. The Welfare and Wellbeing Support Person should be working with this worker about their absences and impact of loss of income, and possible mounting debts.

## Recruitment Application (RA)

### 5. Do AEs have to submit an accommodation plan with their RA?

Yes, accommodation plans must be submitted with an AEs RA via the Department's IT System (unless otherwise directed by the department).

Accommodation plans approved under a Seasonal Worker Program (SWP) Deed, which form part of a transition recruitment for continuing AEs, will be deemed to continue and be approved by the Department to 31 March 2024 (unless a change occurs).

If you were an AE under the Seasonal Worker Program (SWP) and you have existing accommodation plans approved under SWP, these can be used for any new RAs up to 31 March 2024 (unless changes or updates are required). The department will progressively review existing accommodation plans to ensure they meet PALM scheme requirements.

### 6. Is there a Recruitment Cap (RC) under the PALM Deed?

For continuing AEs (an AE who previously held a PLS and/or SWP Deed and executes the PALM Deed) two recruitment caps will be applied, reflecting the recruitment cap/s that were applied under PLS and/or SWP Deed. In the event that an AE did not have a recruitment cap for a particular cohort, the maximum allowable for first time recruitments for that relevant cohort as per the PALM Guidelines will be applied. Those recruitment caps will be confirmed in the covering letter for the executed PALM Deed.

For new AEs entering into the PALM Deed, the following process for allocating a combined recruitment cap will apply:

- new AEs and Direct Employers (DE) who employ less than 200 workers will have a recruitment cap of 40 workers (unless otherwise determined by the Department);
- new AEs and Direct Employers (DE) who employ more than 200 workers will have a recruitment cap of 80 workers (unless otherwise determined by the Department);
- new AEs and Labour Hire Organisation, AE will have a recruitment cap of 80 workers (unless otherwise determined by the Department).

## Minimum Hours

### 7. How do AEs provide the \$200 safety net with minimum hours? For example, AEs must offer full-time hours to workers, how does it work if the hours are less than 20 hours?

Long-term workers must be offered full-time hours from 1 October 2023 (or when workers arrive in Australia, whichever is earlier). Full-time hours will be determined by the relevant award or Fair Work Instrument.

Employers **must** ensure a minimum net pay guarantee for workers after tax and deductions of \$200 a week (debt repayment can be extended). This means that deductions are limited to an amount that retains \$200 net pay for workers. If weekly deductions are above this amount, the difference can be carried over to future weeks. This assumes the worker was offered at least 20 hours in that week.

If hours offered are less than 20 hours in a week, the AE:

- **must** cover the cost of the workers' accommodation and transport for that week (costs cannot be carried over and must be met by the AE), and

- may deduct other expenses up to the \$200 net minimum net pay guarantee (these deductions can be carried over).

**8. With regards to offering a minimum of 30 hours per week, how do AEs meet this requirement if there is a shut down for example public holidays, especially the Christmas period and Easter weekend.**

AEs obligations to meet minimum hour requirements and shutdowns will be dependent on the type of employment engagement (that is, full-time, part-time or casual) and existing requirements under relevant Fair Work Instrument.

Where there is no requirement under the relevant Instrument to pay workers during a shutdown, and workers do not have enough leave to cover the minimum hours during shutdown period, AEs **must**:

- provide workers with at least 4-weeks advance notice and ensure they understand impacts on their pay,
- cap the length of shutdowns for workers to a maximum of 4-weeks per year, and
- provide workers who may be without pay, financial support such as a weekly pay advance.

**9. Now that minimum hours are being mandated, what if workers can be offered more than 38 hours and are happy to do this at the ordinary casual rate, as most often, overtime penalties are not commercially viable?**

AEs have always been required to pay their PALM Workers in accordance with Australian workplace laws and the applicable Fair Work Instrument. This includes entitlements, such as overtime, casual loadings, penalty rates and rest breaks. While AEs can offer additional hours (if allowable under the relevant Fair Work Instrument), they must continue to meet their obligations to pay applicable penalties.

**10. Is an AE required to pay a worker the minimum hours in their Offer of Employment (OoE) even if the worker does not work the hours offered?**

AEs must pay workers for their hours worked. As long as an AE is making a *genuine* offer of 30 hours per week and workers choose not to work or are unable to due to illness, then the AE pays only for the hours worked (and any applicable leave entitlements). AEs will need to retain evidence of genuine offering of hours, such as rosters, worker's non acceptance of the offered hours and the reasons for the non-acceptance.

For example, a PALM Worker (employed as a casual) is offered five 8-hour shifts over the week, but only accepts three, the AE pays the worker for the 24 hours worked, not the 40 hours offered.

**11. Is the 30 hours per week able to be reviewed and changed if it can be demonstrated to work in the interests of the worker, for example can the 30 hours over 4 weeks be implemented fully instead?**

The Department will monitor the impact of changes closely and continue to engage with all stakeholders to ensure the Scheme delivers for everyone.

**12. From October 2023, if we have part time workers under the long-term PLS Deed, can we transfer to SWP if we are unable to offer full-time hours?**

No. AEs that are unable to offer full-time hours, should consider all available options to meet the full-time hours requirement. This includes reviewing portability arrangements to work with other AEs and/or hosts to facilitate and increase workers hours to meet the full-time hour requirement.

Please note, new recruitment applications will not be approved for AEs that cannot provide full-time hours for their existing long-term workers.

**13. What happens if workers arrive in Australia, but work is not ready? Does the AE still need to start the 30 hours per week requirement from date of arrival?**

Yes. AEs must pay workers 30 hours per week and bring them to Australia at an appropriate time to be able to do this.

AEs must minimise the time between when each worker arrives in Australia and when they commence work to ensure minimum hour requirements are being met.

AEs must implement their approved Contingency Plan to manage situations where Deed obligations can't be met.

#### 14. Can I align the at least 30 hours per week averaging period with my regular pay cycle?

While the hours for short term workers can be averaged (until end June 2024), the ongoing averaging can align with your pay cycles, recognising that in the first and last weeks, the hourly requirement may be pro-rated to minimise the time the worker is without work after arrival and before departure.

Section 3.7.1 of the PALM Deed sets out the requirement (for short-term placements) for AEs to offer Workers at least 30 hours per week, averaged over the Worker's Placement (from Deed execution to 31 December 2023); at least 30 hours per week averaged over 4-weeks during the Worker's Placement (from 1 January 2024 to 30 June 2024); and at least 30 hours per week, every week during the Worker's Placement (from 1 July 2024).

Section 8.6.5 of the PALM Guidelines advises, "You must minimise the time between when each Worker arrives in Australia and when they commence work to ensure You are meeting Your requirements regarding minimum hours". Given this, you cannot delay commencing the worker until the commencement of your regular pay cycle but you are able to align the averaging period with your regular pay cycle. For example, if the worker arrives on Saturday and commences paid work on Tuesday but your regular pay cycle doesn't commence until Thursday, you are able to align the averaging period with your pay cycle i.e. the 4-week 'count' would commence on the Thursday to align with your pay cycle.

#### 15. Where an AE offers a worker the minimum 30 hours of work in a week but the worker opts to work less than 20 hours in that week, is the AE required to cover the cost of a worker's transport and accommodation?

No. So long as the AE genuinely offers the worker a minimum of 30 hours, the AE is not required to cover the cost of the worker's accommodation and transport if the worker chooses to work less than 20 hours. See Guidelines 3.7.4 and 3.7.5.

### Travel Costs and Reimbursement of Travel Costs for Short-Term Workers

#### 16. Who pays for the return airfare and how does this debt get paid?

For short-term workers, AEs must purchase the return flight and transfers but can recover these costs from workers, up to the value of the [Flight Matrix](#) and less the \$300 employer contribution.

For long-term workers, AEs initially purchase the one-way international flight and transfers. AEs must purchase departure flights 12 weeks prior to the date on which workers are scheduled to depart Australia. AEs can recover these costs from workers, up to the value of the [Flight Matrix](#) and less the \$300 employer contribution.

AEs may only deduct these costs and the cost of any associated transfers to the port of departure in accordance with Chapter 5 of the PALM Guidelines and over a period of no less than 12 weeks of the worker's placement.

AEs may allow any worker with sufficient savings to voluntarily pay his/her return ticket cost upfront.

#### 17. When does the reimbursement of airfares come into effect?

Eligible continuing AEs and new AEs can seek reimbursement for flights purchased on or after 1 July 2023 or the Deed execution date (whichever is later) for new recruitments.

AEs may seek reimbursement from the Department for reasonable travel costs incurred by the AE in relation to short-term workers where the AE has not been able to be reimbursed for those costs by the relevant worker due to circumstances beyond the AEs control.

Subject to meeting the PALM Deed, including Guideline requirements, airfares for short-term workers (less the \$300 employer contribution) may be reimbursed 28 days after a worker has disengaged, missed their flight, resigned or returned to their home country.

While this setting comes into effect from July 2023, the Department is progressing operationalisation and it is anticipated that processing of claims will commence from August 2023.

## Arrival Briefing

### 18. Is it optional or mandatory to have Fair Work Ombudsman (FWO) and union attendance at arrival briefings?

It is a requirement of the PALM Deed that AEs must invite and use reasonable endeavours to accommodate the attendance of representatives from the FWO and a relevant union at each arrival briefing and provide them with at least 7 calendar days' notice in writing of the proposed date of the arrival briefing.

### 19. If the FWO and union representatives cannot attend the on-arrival briefing, do we need to notify DEWR?

For each group of workers who arrive in Australia, AEs must submit an arrival report through the Department's IT Systems, within 14 calendar days after the workers arrive. Each arrival report that AEs submit must include confirmation that a representative of the FWO and the relevant union were invited to speak with workers at the arrival briefing, and the date the invitation was extended to them.

## Accommodation and Transport Plans

### 20. When a worker chooses their own accommodation and an AE provides the worker transport, how will the AE change the transport deduction to meet the change in circumstances and does this require approval by DEWR?

AEs must only offer worker's transport which has been approved by the Department through approval of the relevant transport plan.

AEs that intend to deduct costs for transport from the workers wage, will need to provide a breakdown of the cost to the worker and ensure that the deduction is in accordance with Chapter 5 of the Guidelines.

Changes to deductions (other than deductions for accommodation costs), including increasing, decreasing or new deductions that differ from the deductions specified in the Offer of Employer (OoE), do not require prior approval from the Department. Where the costs associated with the transport deductions need to be altered due to a change in circumstance, an AE may amend the deduction but must inform the worker of the change and must continue to comply with the PALM Deed and Guidelines, including ensure the deductions are:

- made in accordance with requirements under the FWA and applicable Fair Work Instrument, authorised by the employee in writing and be principally for their benefit;
- are reasonable in the circumstances and do not directly or indirectly benefit an AE; and
- made with a worker's genuine written agreement. Workers must not be forced to agree to new or changes to deductions.

### 21. If workers walk to work, do AEs still need to submit a Transport Plan?

Yes. An AE must include in each transport plan that is submitted to the Department, the distances from the workplace to worker's accommodation. AEs must also include whether each worker will have access to a car 24 hours a day, and 7 days per week during their entire placement.

## 22. If a worker chooses to live in their own accommodation - does the employer need to cover the accommodation too?

Where a worker makes the decision to arrange their own accommodation, they must meet their own costs such as rent and utilities. AEs can no longer deduct accommodation-related expenses and must update the OoE (including setting out the updated costs and deduction amounts) for Departmental approval as soon as possible after becoming aware of the change.

Note an AE is not responsible for the quality of the worker's own accommodation however, an AE must support the worker to understand:

- a) that their accommodation must comply with relevant state, territory and local government legislation, regulations, rules, and codes (such as fire safety),
- b) their tenancy agreements and obligations,
- c) the processes for escalating maintenance and repair issues to property managers and landlords,
- d) that they can seek alternative long-term or private rental accommodation, if they choose, and
- e) that they can seek help from AE with tenancy correspondence from property managers and landlords, if needed.

## 23. How do AEs satisfy the requirement to ensure a PALM worker's own transport is suitable i.e. safe, reliable and affordable?

Worker safety is paramount. Clauses 10.5.7 and 10.11.9 of the PALM scheme Approved Employer Guidelines require AEs to satisfy themselves that worker arranged transport is suitable - i.e. safe, reliable and affordable. How AEs satisfy themselves of this will depend on the individual circumstances. In general, the department expects that AEs would discuss the transport arrangement with the worker/s and apply a 'reasonable person' test i.e. would a reasonable person, with average judgement or skill consider the transport arrangement proposed by the worker to be safe, reliable and affordable?

Some suggested areas for discussion if the worker is purchasing a vehicle:

- the need for roadworthy vehicle
- the vehicle roadworthy requirements in your State/Territory
- the costs involved in vehicle ownership (on top of the upfront costs, registration, insurance, petrol, tyres, maintenance, etc)
- obtaining a licence to drive in Australia
- if transporting other workers: what are the arrangements if the driver is not well, or needs to work late/finish early/start early?
- other things to consider: travelling distance, speed limits, the impact of fatigue, drink driving, road conditions, animals and other hazards.

This is not an exhaustive list. AE's could also provide vehicle safety information in the arrival briefing, including information regarding licensing, safe driving, registration and associated costs. AEs should apply the same judgement to a worker's own transport in the event that transport is a private or public bus service, particularly where affordability or reliability may be more of an issue than safety. AEs are experienced with Australian transport conditions and arrangements in their local areas and best placed to judge if the private or public transport service is reliable, affordable and safe.

Where an AE has concerns regarding the suitability of a worker's own transport - regardless of the mode of that transport - they should notify the department, particularly if the worker continues to use that mode of transport rather than the transport offered/provided by the AE.

## Welfare and Wellbeing Person/s and Providers

### 24. Do all Welfare and Wellbeing Persons (WWP) need to attend the Arrival Briefing and the fortnightly meetings?

Yes. AEs are required to have the appointed Welfare and Wellbeing Support Person (WWSP) attend arrival briefings and meet face-to-face with workers at least once every fortnight as a minimum requirement. This can be conducted virtually if required by health directions.

## 25. What criteria will DEWR use to assess and approve each person employed as a WWSP? How long will this process take?

AEs must ensure any WWSP appointed:

- a. is a fit and proper person to be involved in the Scheme, this includes appropriate background checks (such as police checks and working with vulnerable people),
- b. is suitable to provide welfare and wellbeing support to workers,
- c. is located within a 200 km radius of each placement of an AEs workers (unless otherwise agreed by the Department),
- d. can respond quickly to any issues in person, when required,
- e. is aware of their responsibilities—has an escalation process in place in the event of a Serious or Critical issue/incident and the contact details for the 24-hour PALM Support Service Line,
- f. completes relevant Scheme online training/induction offered by the Department and attends the Arrival Briefing in person, and
- g. has a suitable substitute WWSP, if absent (on leave).

The worker welfare ration is 1:120 unless otherwise agreed or required by the Department, in consideration of the employer's WWP.

If an AE is a new AE, prior to recruiting any worker they must demonstrate the WWSP has cultural competency related to the participating country/ies that they are proposing to recruit workers from.

## 26. Will our current WWSP automatically be approved? We cannot terminate a contract of an existing employee without reason.

Once an AEs PALM Deed is executed, recruitments approved under old respective SWP and/or PLS Deeds, will be considered approved under the PALM Deed (known as transition recruitments). AEs will need to review their transition recruitments to ensure they meet their obligations under the PALM Deed, this includes new requirements and the phased implementation timelines.

For transition recruitments, AEs have until 31 December 2023 to update their Welfare and Wellbeing Support Plans to meet the PALM scheme requirements.

## 27. Will there be a grievance policy from DEWR available to support grievance management provisions in the Guidelines?

DEWR has developed a PALM Feedback and Grievance Management Policy and circulated this to key stakeholders for their review and input. Additional details will be provided once the policy is finalised.

## 28. Will DEWR provide templates for Welfare and Wellbeing Plan, Risk Assessment etc and when will these be finalised?

DEWR is currently developing the parameters around this, including templates. Additionally, the Department will provide detailed Factsheets for AEs to support them to implement PALM Deed requirements. Templates will be uploaded in PALMIS and provided soon.

## 29. With medical bills that come in after the worker has gone home that an AE pays, can that be carried over to the worker's next placement?

AEs must ensure each worker understands their health insurance policy, including options available for accessing medical care in Australia and possible out of pocket or upfront expenses. Any outstanding debt cannot be carried over after the worker has completed their placement in Australia and returned to their home country (i.e., not extended to the worker's next placement in Australia).

AEs should advise the Department of any medical issues or concerns with any worker in accordance with the reporting and notification requirements under the Deed and at Chapter 13.

### 30. When will the cultural competency training/requirements be confirmed. Government Christmas shutdown will most likely impact employers trying to meet this requirement?

The date of effect will be 1 January 2024. The Department will co-design with key stakeholders to develop a suite of resources (including process to demonstrate the cultural competency requirements and training) and assessment criteria. AEs will be notified and provided with these resources.

## WHS Risk Assessments

### 31. How often does the Risk Assessment need to be done?

The AE must undertake:

- a placement risk assessment of every placement before the start of the placement;
- a worker risk assessment for each worker, with regard to their potential participation in any such placement, before their commencement in the placement; and
- retain records of each risk assessment and any action taken in accordance with the risk assessment and provide the relevant records to DEWR upon request.

Risk Assessments must be reviewed and updated (as necessary) where there are changes to the placement or worker.

### 32. How does a Worker Risk Assessment differ from a Placement Risk Assessment?

The Worker Risk Assessment considers any relevant personal circumstances of the worker in the context of their workplace, to ensure the workplace and the work they are undertaking, is appropriate for them. This could include any work limitations or restrictions the worker may have e.g. specific injuries or health issues like allergies or pregnancy. A Worker Risk Assessment could also include an indication as to what Work Health and Safety (WHS) training has been provided by the AE to the worker and if the worker has been advised of WHS incident reporting and escalation processes.

The Worker Risk Assessment is not about assessing a worker's abilities - it is about considering the worker's individual circumstances as they relate to the workplace or worksite. The Placement Risk Assessment is used to identify (usually multiple) hazards or potential hazards within the workplace that could cause harm to any of the workers.

## Deed and Guidelines / Transition

### 33. We submitted our signed PALM Deed on 1 July 2023, and we have not received it back. Does this mean we will receive a new PALM Deed?

PALM Deeds and related paperwork received by DEWR will be checked for completeness and compliance. Once this process is finalised and the Deed is executed, a hard copy will be posted back to the AE along with a confirmation email. If you are concerned, please contact DEWR < PALMscheme@dewr.gov.au > to ensure it was received.

### 34. If we have a SWP and/or PLS Deed in place that expires after 30 September 2023, do we need to complete the Deed of Termination?

Yes

Exiting AEs (AEs that do not intend to enter into the PALM Deed) with a PLS Deed that expires after 30 September 2023, will need to enter into a Deed of Termination by Mutual Consent to terminate their Deed with effect either at:

- the date DEWR executes the Deed of Termination or
- completion of any ongoing recruitment.



## PALMIS

### 35. When will we get detailed information about PALMIS ie: access to PALMIS?

Detailed information about access to PALMIS will be provided to AEs on execution of their PALM Deed.

### 36. Can an extension to the 28 day period for signing the PALM Deed be granted by DEWR and if so, what is the process to seek an extension?

The AE will need to seek an exemption to sign outside the 28 day period by sending an email to [palmsscheme@dewr.gov.au](mailto:palmsscheme@dewr.gov.au) advising what date they expect the signed PALM Deed to be returned. AEs will not be able to access the new PALMIS system until their PALM Deed has been executed by DEWR.

## Other

### 37. If an AE loans a worker money at the end of a placement e.g. in order for the worker to transport extra baggage home, does the loan have to be repaid when the worker returns the following season?

Where an employer comes to a private arrangement with a worker to loan them money for personal reasons e.g. excess baggage at the end of their placement, it is not unreasonable for that loan to be repaid when the worker returns to Australia. Section 5.1.8 advises that any outstanding debt cannot be carried over after the worker has completed their placement in Australia and returned home.

This setting was designed to ensure that workers weren't required to stay when there was little or no work and incur work-related debt (for accommodation etc) that they then had to pay back next season. In this context, debt is generally considered to be wage or work-related debt as the result of allowable and agreed deductions.

The department would, however, expect the AE's Welfare and Wellbeing Support Person to talk with workers and prepare them for the journey home, including preparing for the cost of transporting personal belongings and other associated costs so as to avoid this situation.

### 38. If an AE decides to promote or upskill a worker, are they required to undertake a new Labour Market Test?

Table 6 of Chapter 4 (Changes to Approved Recruitments and Employment Conditions) of the PALM scheme Approved Employer Guidelines states that where there is a change in the type of work performed i.e. if the work differs from the type of work specified in the relevant Approved Offer of Employment, AEs must undertake a new Labour Market Test (LMT) if this was not specified in the initial ad to ensure no Australian residents could perform the work.

The requirement to undertake a new LMT will only apply if the work represents a completely new role that differs from the type of work specified in the original job advertisement. For example, if a PALM worker learns to drive a forklift as an extension to their current role and as part of the original work specified in the first LMT (as outlined in Clause 3.3.6 of the Guidelines), the LMT would not need to be repeated if the original ad stated that the role may include this sort of development or upskilling opportunity. However, if the worker was promoted to a new role - or given the opportunity to upskill to take on a new, different role - a new LMT would need to be undertaken.

As set out in clause 3.3.6(g), employers can state, as part of their initial job advertisements, if there is potential to upskill or provide training to applicants. Adopting this approach ensures if an opportunity to upskill or promote a PALM worker arises, the employer will not be required to undertake another LMT.

39. Would we be able to access the Presentation from the PALM scheme AE Deed and Guidelines - presentation post-release Webinar?

The presentation is published here: [Resources | Department of Employment and Workplace Relations \(dewr.gov.au\)](#).