



**AFPA**

Australian Federal  
Police Association

## *Members' Handbook and Talking Points*

### Protected Action Ballot and Protected Industrial Action

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## ***Introduction***

The AFPA lodged an application to the Fair Work Commission seeking approval for the protected action ballot on Wednesday, 14 February 2024.

On Friday, 16 February 2024, a hearing was conducted by the Fair Work Commission in Canberra to review the application. Several issues were raised by the Australian Federal Police (AFP) regarding the AFPA's application for a protected action ballot.

On Wednesday, 21 February 2024, the Fair Work Commission approved the application for a protected action ballot of AFP appointees.

On Tuesday, 12 March 2024, the AFPA notified its membership of the result. The protected industrial action ballot returned a result of over 96 per cent of members being in favour of protected industrial action.

## ***What was the Protected Industrial Action Ballot (PIAB)?***

The PIAB has already taken place and was required by the Fair Work Commission to determine if AFPA members were willing to undertake protected industrial action. A resounding 'YES' vote from over 3,000 members meant that protected industrial action was now on the table.

## ***Why did the AFPA apply for a Protected Industrial Action Ballot (PIAB) with the possibility of future industrial actions?***

The Australian Public Service Commission (APSC) has limited the pay rise that you can receive to be capped at **11.2% in total - without any allowances or changes to safety nets or broadbanding.**

You are being treated as if you are the same as any public servant. This is unacceptable and frankly insulting. It does not recognise the value of the work that you do and will not raise AFP wages above where they are at present – **the lowest in the country.** The government thinks it can continue to undervalue the work you do and your commitment to your job.

It took the AFPA to force the AFP to commence bargaining for the new EA in September 2023 by issuing a notice pursuant to s173(2A) of the *Fair Work Act 2009*. Despite the AFPA genuinely trying to reach an agreement with the AFP, those negotiations stalled at the end of October when the Commissioner of Police cancelled any further meetings scheduled for 2023. Meetings held this year have merely addressed APS Common Conditions, and the AFPA is yet to be provided with any draft conditions other than loosely worded intentions.

The AFPA then undertook due diligence by surveying its membership, where over 75% of respondents made their intent clear when asked if they would undertake industrial action. It was an overwhelming **YES.**

It is because of this and the lack of willingness by the government to listen to our concerns that we are again being forced to act.

This does not mean that we will not continue to bargain – we are as committed to the bargaining process as we have been from the start. It does mean that we will have an avenue to show the government directly that we are ready and willing to fight for the pay and conditions you deserve.

## ***What is Protected Industrial Action (PIA)?***

Protected industrial action refers to lawful industrial action taken by employees and their union representatives during negotiations for a new enterprise agreement or when disputes arise in the workplace. Protected industrial actions can include strikes, stoppages of work, bans on performing certain tasks, and other actions aimed at putting pressure on employers to address employees' concerns during bargaining.

It is conducted in accordance with the *Fair Work Act 2009 (Cth)* and must comply with specific requirements to be considered lawful. As the industrial action is protected, the employer cannot take adverse action against any employee who undertakes it.

## ***Who can participate in Protected Industrial Action?***

If you are an AFPA member or nominated the AFPA as your bargaining representative (regardless of whether you voted yes to PIA or not), you have the right to participate in any or all of the listed protected actions.

Protected industrial action provides employees with legal safeguards, such as immunity from civil liability for participating in the action and protection against dismissal solely for engaging in industrial action.

## ***What does it mean for you?***

Protected industrial action means that you can act in accordance with the Fair Work Commission Order and the *Fair Work Act*. **You are legally protected if you choose to act in accordance with the FWC Order and Act.**

You do not have to take part in all the listed actions, but you will have the opportunity to make an impact regardless of where you work. We will guide you in what actions you can take, including what wording can be used in messages as part of the protected industrial action.

**Please remember, do not take any protected industrial action unless approved and endorsed by the AFPA.**

## ***Does protected industrial action commence straight away?***

No. Members voting 'YES' vote in the PIAB means that industrial actions are now on the table. We'll be using protected industrial actions to advocate for better workplace conditions and pay. There are 'rules of engagement' governing protected industrial action, such as the AFPA being required to provide the AFP with advance notice of industrial action.

If you feel threatened or bullied while you are undertaking PIA or feel disadvantaged because you chose to undertake PIA, please reach out to your Convenors and Delegates and submit an 'AFPA Industrial Action Incident Form' via <https://www.afpa.org.au/wp-content/uploads/2024/03/AFPA-PIA-incident-report-FORM-v2.pdf>

## ***Is protected industrial action legal?***

In Australia, industrial action is classified as either protected or unprotected.

The AFPA has met the restrictions and requirements of the *Fair Work Act 2009* to create the opportunity for our members to undertake protected industrial action.

The AFP is prohibited from taking adverse action against you because you take part in, or propose to take part in, any form of protected industrial action.

**If you feel that you've been subjected to unlawful adverse action, please take detailed notes and submit them via the 'AFPA Industrial Action Incident Form' at <https://www.afpa.org.au/wp-content/uploads/2024/03/AFPA-PIA-incident-report-FORM-v2.pdf>**

When you take part in protected industrial action you simply need to engage in the action(s) exactly as described in the Order from the FWC.

**This is important - if the undertaken action has not been approved by the FWC, it may be deemed to be unprotected. You may then be subject to legal action, disciplinary action, or dismissal.**

### ***How long can industrial action last?***

The AFPA and its members have up to 30 days to commence each form of protected industrial action that was approved by the Fair Work Commission (or apply to have the time extended). Once each action has commenced, there is no limit to how many times it can be notified, or how long each period of industrial action can last, as long as it is a protected industrial action and was properly notified by the AFPA.

### ***Do I have to tell management if I'm going to take protected industrial action?***

Although there is no requirement to notify your employer that you are engaging in protected industrial action on the day (as they will already have been notified by the AFPA), it is advisable to do so.

Association and union members who have previously acted reported it was easier to take protected industrial action once their direct manager knew. It also assists with job planning and putting the obligation back on the employer to manage the effects of the protected industrial action.

If you are asked directly whether you have taken industrial action or are presently imposing a ban, you should answer the question by providing your supervisor with an 'AFPA Member Industrial Action Card', which can be found via <https://www.afpa.org.au/wp-content/uploads/2024/03/Sergeant-and-above-advice.pdf>

We encourage you to participate in all protected industrial action activities organised for your location. We would also encourage you to take photographs (where appropriate) and provide them to the AFPA for media and social media purposes.

### ***Should I participate in protected industrial action if I'm dealing with an emergency or called to respond to an emergency?***

The AFPA has purposely chosen actions that will still allow our members to perform their important essential roles (as the actions are nearly all partial work bans). The actions are designed to send a clear message to the government that you will not accept their disrespectful offer.

The actions will also broaden support from the public, increasing awareness of the wages and conditions you endure in service of the community. Members are advised to use their professional judgment here: **if**

**you are working on or responding to a high- or medium-priority incident, please do not stop work if it is going to endanger the immediate health, safety, or lives of people.**

## ***Will you be deducted pay for taking part in industrial action?***

The proposed protected industrial action is not for a complete ban on working. There is a provision in the Fair Work Act 2009 for the AFP to reduce wages by a specified proportion if it provides written notice to both the AFPA and the member concerned. Given the nature of the actions proposed, we **do not** envisage this occurring.

We firmly believe that if the AFP were to deduct pay from you, it could only be for the time you spent undertaking protected industrial action. If it took two seconds to put on a wristband, then all they could deduct is two seconds' worth of wages.

Please contact your Convenor or Delegate and submit an 'AFPA Industrial Action Incident Form' at <https://www.afpa.org.au/wp-content/uploads/2024/03/AFPA-PIA-incident-report-FORM-v2.pdf> if you are made aware of any action to reduce your wage.

## ***Do I have to take part in industrial action because I voted in the protected action ballot?***

No, you can elect to take part in none, some, or all the actions.

**The AFPA urges you to take part in all of the protected actions that you are able to.** Improvements to wages and conditions only happen when members are united and fight hard for their claims. We urge you to resist accepting insufficient terms and conditions of employment.

## ***Talking to the Community, Media, and Politicians***

As part of the protected industrial action, you may talk to the community, media, and politicians regarding protected industrial action. You can explain why you are taking the action, along with highlighting what the AFPA and the action are aiming to achieve. Below are some talking points for you to use:

- I'm taking protected industrial action today to support my colleagues and the Australian Federal Police Association in lifting wages and workplace conditions for employees of the Australian Federal Police.
- As it stands today, AFP officers are the lowest base-paid officers in the country. This fact is supported by the Government's own data.
- The Federal Government's workplace policies have capped any pay rise at 11.2 per cent over the next three years. Even with this pay rise, my colleagues and I will continue to be among the lowest base-paid police officers in the country.
- My colleagues and I undertake a lot of duties that ultimately serve to protect Australia and the community. Some of these duties have the potential to cause significant physical and psychological injuries. Many of these duties go unnoticed, and it seems, unappreciated by the

Government.

- AFP appointees are being treated like traditional public servants by the Government when, in reality, our job is much more dangerous and physically and mentally taxing.
- The number of police officers suffering from mental illnesses is becoming a significant public health concern. Police officers are more likely to acquire mental health injuries in comparison to the general population.
- Did you know that the life expectancy of a police officer is significantly lower than a civilian's?
- All we want is recognition that we fulfil a unique role in the Commonwealth. After years of substandard increases, we need an equitable pay rise to ensure that we won't remain the lowest paid officers in the country.
- We are asking the government to relax the relevant policies, stop forcing the AFP to treat its workforce like traditional public servants, and start appreciating the dangers and risks associated with being an AFP employee.
- If you would like further information, please contact the Australian Federal Police Association on (02) 6285 1677 or go to the AFPA site at [www.afpa.org.au](http://www.afpa.org.au)
- Thank you for taking the time to listen.

## **IMPORTANT CONTACTS**

**AFPA: (02) 6285 1677**

**AFPA After Hours EA Emergency Contact: 0428 623 967 (Giles Snedker)**

**AFPA Enterprise Agreement Email: [eaafp@afpa.org.au](mailto:eaafp@afpa.org.au)**

**AFPA Media EA Enquiries: 0409 812 690 (Troy Roberts)**

**AFPA Media Enquiries Email: [media@afpa.org.au](mailto:media@afpa.org.au) (cc: [eaafp@afpa.org.au](mailto:eaafp@afpa.org.au))**



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