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SENATE

SENATE FINANCE AND PUBLIC ADMINISTRATION
REFERENCES COMMITTEE

Reference: Australian Public Service employment matters

FRIDAY, 18 FEBRUARY 2000

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SENATE
FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE
Friday, 18 February 2000

Members: Senator George Campbell (*Chair*), Senator Watson (*Deputy Chair*), Senators Hutchins, Lightfoot, Lundy and Ridgeway

Substitute members: Senator Allison for Senator Ridgeway

Participating members: Senators Abetz, Allison, Brown, Brownhill, Calvert, Chapman, Conroy, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Gibson, Harradine, Knowles, Mason, McGauran, Murray, Payne, Tchen and Tierney

Senators in attendance: Senators Allison, George Campbell, Faulkner, Hutchins, Tchen and Watson

Terms of reference for the inquiry:

Australian Public Service employment matters, including:

1. the evolving changes in the nature of the Senior Executive Service, including chief executive officers, as a result of the devolution of responsibility for staffing matters to individual agencies, such changes including, but not limited to, selection, tenure and independence, remuneration, including relativities, mobility and career development;
2. the impact of agency-based bargaining in contributing to the development of a more efficient, productive and independent Australian Public Service, accountable to the Australian Parliament; and
3. the extent to which performance pay is being incorporated into agreements negotiated by individual agencies, the disparity between agency agreements in performance pay and the impact of such agreements on agency performance, accountability and transparency.

Committee met at 8.39 a.m.

Participants

BARRETT, Mr Patrick Joseph, Auditor-General, Australian National Audit Office

BOSSER, Ms Kate, Acting Group Manager, Workplace Reform Group, Department of Employment, Workplace Relations and Small Business

BROWN, Ms Amanda Elizabeth Lackmann, Audit Manager, Australian National Audit Office

DOOLAN, Mr Alan Edgar, Merit Protection Commissioner, Public Service and Merit Protection Commission

KENNEDY, Mr Peter, Deputy Public Service Commissioner, Public Service and Merit Protection Commission

LAMOND, Mr Jeffrey George, Team Leader, Public Service and Merit Protection Commission

LEWIS, Mr Michael Kenneth, Executive Director, Australian National Audit Office

MOODIE, Ms Viveca, Team Leader, Department of Employment, Workplace Relations and Small Business

SHERGOLD, Dr Peter Roger, Secretary, Department of Employment, Workplace Relations and Small Business

STAWYSKYJ, Ms Michalina, Assistant Secretary, Department of Employment, Workplace Relations and Small Business

WILLIAMS, Ms Helen Rodda, Public Service Commissioner, Public Service and Merit Protection Commission

CHAIR—I declare open the first public hearing of the Senate Finance and Public Administration References Committee into Australian Public Service employment matters. I welcome my Senate colleagues and invited participants. On 28 June 1999, the Senate referred this matter to the committee for inquiry and report. The committee sought submissions on that theme by 31 August 1999. I apologise to all those interested in the inquiry for its deferral last year due to the referral to the committee of a priority matter – the review of business taxation. However, the deferral has not all been negative as it has allowed other inquiries to progress to a stage which hopefully will inform this inquiry.

The committee hopes to have broad ranging discussion today in an exploratory introductory session to canvass the issues covered by the terms of reference. Please feel free in the course of proceedings to add to your colleagues' contributions if you wish to do so. I will ask each of you to outline the changes that have occurred in your agencies and invite you to delineate precisely their boundaries. The committee is interested to know the impact of the devolution of powers previously held by central agencies in the APS. We are also keen for you to expand on aspects of your own submissions and to hear your views on some of the points that have been raised on others. We will of course be speaking to each of you further in the course of the inquiry. Before we commence, I wish to advise for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to evidence provided. I now invite the Public Service Commissioner, Ms Helen Williams, to make an opening statement.

Ms WILLIAMS—If it is all right with the committee, I will not spend a lot of time going through the details of the submission. What I would like to do, if that is acceptable, is quickly outline the main principles and then perhaps go through some of the distribution of responsibilities between the different agencies because I think that is sometimes quite a difficulty to deal with. The real basis running right through the submission is not devolution of responsibility to agencies but the accountability of the use of the powers. That is reflected in the new Public Service Act. The submission focuses particularly on the terms of reference, where the commission is particularly involved. That is why I would like to quickly run through the distribution of responsibilities.

It really began with the abolition of the Public Service Board in 1987 and the creation of the commission in its place. At that time, many of the board's functions were distributed to other central agencies. The board's old establishment control function was transferred to the then Department of Finance, now the Department of Finance and Administration. Its industrial relations function was transferred to the Department of Industrial Relations, now the Department of Employment, Workplace Relations and Small Business. The operational aspects of base grade recruitment were transferred to the employment area of the then Department of Employment, Education and Training and, with the machinery of government changes more recently, that is now with the Department of Employment, Workplace Relations and Small Business.

The commission's responsibilities are now concentrated in four key areas: firstly, a continuing role in providing policy advice to government to inform policy on the Public Service and, of course, advising agency heads, and our work here has largely been taken up with the development recently of the new Public Service legislation and advice to agencies on its implementation; secondly, carrying out statutory responsibilities in relation to such matters as workplace diversity, machinery of government changes and the statutory responsibilities of the Public Service Commissioner and providing support to the Merit Protection Commissioner in his statutory responsibilities; thirdly, working with agencies to help improve organisational performance and develop the skills and capabilities of SES staff, and this is particularly the case – it is right across the service – with the Senior Executive Service and leadership and management skills more generally; and monitoring evaluation and reporting on the performance of the Australian Public Service, and that includes the commissioner's annual state of the service report to parliament.

There are particular areas where the Department of Employment, Workplace Relations and Small Business and the commission both have responsibilities. The submission notes the respective roles of the two organisations on page 10. Very briefly, in relation to performance pay, the commission has overall policy responsibility for performance management while Workplace Relations and Small Business is responsible for performance linked remuneration, which links up with its other responsibilities in those areas.

With regard to the SES, the commission has a specific role under the new Public Service Act for developing leadership in the APS, as well as issuing directions about SES employment matters such as engagement, promotion, redeployment, mobility and termination, while Workplace Relations and Small Business has responsibility for the policy aspects of SES remuneration, again in line with its other responsibilities.

The leadership development role of the commission has received particular attention over the last 12 months. I have been identifying it as a priority issue in my discussion with secretaries and of course the minister, and the commission has been working closely with agencies in a number of areas: firstly, the development of the senior executive leadership capability framework, which is the basis for the new core selection criteria being used in SES selection processes. We have used this capability framework to do a major redesign of our SES development programs. It is also the background for the establishment of a career development assessment centre. This is really to assist agencies to identify the development needs of the feeder group to the SES, really looking at future leadership in the service. And, finally, the development of a more structured approach to succession planning at the more senior levels of the APS.

A continuing priority for us over the next 12 months will be to work with agency heads to bed down the new Public Service Act. Of course, now they have specific employment powers under the new act and they must exercise these powers taking into account the Public Service Commissioner's directions. We will therefore be working very closely with agencies over the next months to make sure that that act is bedded down and is working properly. I think probably it is best if I finish the opening statement there and we take up other matters as they occur later, if that is all right.

CHAIR—Do your colleagues wish to make any comment?

Mr DOOLAN—I will expand on the reason for two submissions coming from the Merit Protection Commissioner. The Merit Protection Commissioner's role is defined in the new Public Service Act 1999 and relates to independent external review of actions by or affecting Australian Public Service employees. It is the changes in the legislation that have resulted in me signing off two submissions to the committee in this inquiry. The first was on behalf of the Merit Protection and Review Agency, which comprised four statutory office holders and existed up until the abolition of the agency when the new Public Service Act came into effect. The second submission to the committee is basically signed as Merit Protection Commissioner under the Public Service Act 1999 and brings to the attention of the committee some of the changes in the legislative framework and therefore some qualifications to the earlier MPRA's submission.

I should point out that the Public Employment (Consequential and Transitional) Amendment Act 1999 provided for the functions of the Merit Protection and Review Agency under the pre-existing legislation to continue in relation to those cases that were in train on 4 December 1999 and in relation to those cases the Merit Protection Commissioner under the Public Service Act 1999 stands in the shoes of the Merit Protection and Review Agency. The casework that the Merit Protection and Review Agency dealt with included promotions appeals, discipline appeals, reappointment and retirement appeals, some reintegration assessments, reappointment reviews, as well as grievances and reviews of non-appellable promotions.

Under the new Public Service Act, the functions of the Merit Protection Commissioner are set out in section 50 and they include to inquire into reports of whistleblowers, to inquire into alleged breaches of the code of conduct by the Public Service Commissioner, to inquire into an Australian Public Service action at the request of the Public Service minister, and to review actions on the application of an APS employee. Some actions on which review can be sought include promotion decisions, and they are dealt with under the regulations by

promotion review committees which are established by the Merit Protection Commissioner and are independent bodies, and breaches of the code of conduct and imposition of sanctions, what was the old discipline arrangement under the previous legislation. Those matters are now dealt with as reviews of actions rather than by the disciplinary appeal committees which were formerly set up by the Merit Protection and Review Agency. The Merit Protection Commissioner also deals with matters which the previous agency would have dealt with as grievances.

There are a number of other functions prescribed in the regulations to do with independent selection advisory committees, reviews of actions of some statutory office holders and a range of matters which can be undertaken on a fee-for-service basis. The functions of the Merit Protection Commissioner have to be undertaken in the context of the APS values. One of those values is that the APS provides a fair system of review of decisions taken in respect of APS employment. In addition, the regulations set out a general policy for review and that is a guiding set of principles for the activities of the Merit Protection Commissioner under the new legislation.

Generally, the Merit Protection Commissioner's role is about second tier review. The emphasis is on resolving problems within agencies in the first instance, and it is normally on the basis of dissatisfaction with the outcome of that review that matters would come to the Merit Protection Commissioner. There is provision in the legislation for some actions to come directly to the Merit Protection Commissioner. I have mentioned promotion decisions. There are also some matters which go to discipline in terms of breaches of the code of conduct or imposition of sanctions. The Merit Protection Commissioner, like the Merit Protection and Review Agency before it, has a role in accountability in that, where agencies do not take satisfactory action to comply with recommendations in a report from the Merit Protection Commissioner, the Merit Protection Commissioner has a capacity to report the matter to the agency minister, to the Prime Minister and the parliament following consultation with the Public Service minister. As Ms Williams has indicated, the staff who support the Merit Protection Commissioner are provided by the Public Service Commissioner.

I turn briefly to the particular matters that were raised in the terms of reference and mention a couple of changes that have occurred between the old legislative framework and the new. The first of those terms of reference talks about the SES and chief executive officers. The entitlement of an APS employee to review of an action under the new arrangements is not available to members of the SES or to CEOs. That is somewhat of a change from the previous arrangements. In relation to agency based bargaining, under the old arrangements agencies had a capacity to confer jurisdiction on the Merit Protection and Review Agency to undertake certain functions. Under the new legislation, agencies can still enter into arrangements with the Merit Protection Commissioner to undertake activities on their behalf. They will be on a fee-for-service basis in the future. I have to say that in many cases in the past those things were done on a fee-for-service basis as well. The submissions that have been submitted in relation to the Merit Protection and Review Agency indicate that the agency was involved in some reviews of actions relating to performance management and performance pay issues. The Merit Protection Commissioner will likewise have capacity to review those matters in relation to non-SES employees.

Finally, I mention that the Merit Protection Commissioner is required to produce an annual report which will form part of the Public Service Commissioner's report on the state of the service. That is all I intended to say at this stage. I would be happy to respond to questions as they arise.

CHAIR—Thank you, Mr Doolan. Mr Barrett, would you like to make some opening comments?

Mr BARRETT—We welcome the opportunity to assist the committee this morning in its inquiry on APS employment matters. As we understand the underlying theme of the committee's terms of reference, public sector performance and accountability are issues of fundamental importance to the APS and central to the work of my organisation. We try in our submission to reflect whatever comments we could make on the committee's terms of reference. We note that most developed countries are seeking to achieve similar results and most are following similar approaches to achieve that aim, and that is why we included some international experience in these areas. Such approaches include the removal of prescription from central agencies and the devolution of employment conditions to agencies, the development of links between pay and performance and generally the introduction of enhanced accountability arrangements to match the increased management flexibilities. That has involved inherent tensions, and those tensions have to be worked through. We will talk about those later.

The existence of a robust corporate governance framework provides a sound basis for improved accountability and transparency in human resource management matters, as it does indeed for other public and private sector business activities. In addition, it reinforces the need for and the application of public sector values and ethical practices within organisations, particularly in the latter's relationships with its stakeholders. Of course, that is one of the areas that in fact make a distinction between public and private sectors. Corporate governance is about how an organisation is managed, its corporate and other structures, its culture, its policies,

its performance and the way it deals with its stakeholders. That includes everyone: employees, parliament, the government, the clients, et cetera.

Major elements of corporate governance include strategic planning, risk management, performance monitoring and accountability arrangements. It is important to strike the right balance between the appropriate level of accountability and the need to achieve cost-effective program outcomes – an issue which may well be exercising the minds of committee members. One of your responders to the inquiry, Professor Mulgan, has indeed put out a series of papers on the accountability trade-offs occurring in this kind of environment. Accountability and improved HRM policy development are both heavily dependent on access to and availability of relevant and useful information. This presents a challenge in a devolved APS environment. The PSMPC annual state of the service report reports on a service-wide basis. Departmental and agency annual reports also include some information on employment matters, but information is generally patchy and not always consistent across agencies. The ANAO recognises that central agencies no longer have a role in setting detailed requirements for the APS, but there would be benefit in agencies being provided with guidance as to the minimum amount and type of HRM information to collect and make available. That is one of the inherent tensions I was speaking of earlier. In fact, one of the trade-offs, in my view, in terms of the increased streamlining and flexibility of our system is that there is a greater focus on relevant information, both to executive committees in order to be able to manage but also to stakeholders in order to be able to assess how well management is actually handling streamlining and flexibility in APS conditions. It also puts a focus, which we will probably talk about later, on who is actually responsible and whether or not there is some kind of collegiate responsibility now that replaces the previous Public Service Board responsibility for the Public Service and then inherently later the head of Prime Minister and Cabinet's responsibility. That is something that might be usefully discussed.

Our experience in conducting HRM type audits has shown that many agencies' information systems lack the capability to provide HRM data linked to financial data, and I stress that. One of the problems for the most common information system that has been implemented in more than 30 agencies, or going on 40 agencies now, is the problem of linking HRM and financial data. That is a systems problem. It is not just a problem for the information technologists in the agencies concerned; there are systems problems there. Particularly where information is available, different concepts and definitions mean it is not possible without considerable adjustment to make comparisons across agencies. We are not suggesting that information be collected only for its own sake but, where it is important for policy development or accountability purposes, particularly when parliament has indicated an interest in what is happening to the Public Service as a whole, it should be collected, analysed and made publicly available, either as a matter of course or at least on request.

One of the most pressing problems faced by the APS is a loss of corporate knowledge and skills. A great deal of individual experience and expertise has left the APS. This situation puts pressure on agencies to conduct recruitment and retention programs to ensure that the APS has sufficient ongoing skills that, in association with complementary skills contracted from outside the APS, enables agencies to conduct their core business efficiently and effectively. In particular areas such as accrual accounting and financial management, demand far outstrips supply. Indeed, there is a good deal of internal competition for such skills. It is a challenging time in the APS in view of the range of policy and organisational changes taking place. This requires enhanced leadership skills, as Helen has just referred to. In that context it is pleasing to see that departmental and agency heads, with the PSMPC, have recognised this and also the issue of succession planning and taken steps to identify the leadership capabilities required as part of the senior executive leadership capability framework and indeed support leadership development. Leadership and management are obviously critical to the ongoing success of the APS, and CEOs now clearly carry the responsibility to ensure that their agency is not only well placed today in those terms but also well placed in terms of their own personal succession in the agencies.

I am joined today by Mike Lewis, who is on my right, and Amanda Brown, who is on my left. They are respectively the executive director and audit manager responsible for performance audits with a HRM theme. We would be happy to participate in the discussion later this morning.

CHAIR—Thank you, Mr Barrett. Do any of your colleagues wish to add anything at this stage?

Ms BROWN—No, thank you.

Mr LEWIS—No, thank you.

CHAIR—I call on Dr Shergold, from the Department of Employment, Workplace Relations and Small Business.

Dr SHERGOLD—Thank you very much, Chair. Given the comments already made by the Public Service Commissioner, Merit Protection Commissioner and Auditor-General, I can be brief. I do welcome, however, the opportunity to bring to your attention the key points in our submission about workplace reform in the APS.

I should say that more detailed information is available in the interim review of agreement making in the APS and I understand that has now been provided to your committee.

The government's broad workplace relations agenda, as you all know, is based on the principles of labour market flexibility, less regulated workplaces, more direct employer-employee relations and pay increases linked to higher productivity. Importantly, there is a focus on employers and employees tailoring their terms and conditions of employment to suit the particular circumstances of their enterprise. I should say that, as you imagine, this represents a bold step for the Australian Public Service.

For most of the 20th century, the determination of standard pay, classifications and employment conditions in the APS was centralised. It was based upon an increasingly unsustainable premise that the APS was a homogenous labour market in which pay and conditions for classification levels could be negotiated across an entire work force. That approach at least had the advantage of simplicity, even though it was increasingly artificial. As a relative newcomer to the APS, I remember how startled I was, on moving from Prime Minister and Cabinet to ATSIIC, to discover that the pay and conditions and terms of employment of an ASO4 working for ATSIIC in Kununurra were meant to be the same as for the ASO4 preparing policy briefings in PM&C. It was clear that they had different roles, they had different priorities, they had different skills and, frankly, they had different needs. It was very difficult to address that.

Unfortunately, that simple but artificial system was supported over time by an ever increasing panoply of laws, regulations, rules, determinations and guidelines which sought to govern – and govern in excruciating detail – the management of all aspects of workplace relations. The system was complex. The system was prescriptive and it allowed little, if any, flexibility for departments and agencies to negotiate terms and conditions of employment for their own employees.

In spite of that centralised approach and industry-wide central controls, I remember that when I came into the Public Service in the 1980s there were over 130 different industrial awards regulating APS terms and conditions. These were supplemented by numerous centrally made determinations which governed terms and conditions, many of which were actually duplicated in awards.

Between 1992 and 1997 things started to change relatively significantly in terms of workplace relations in the APS. Centrally negotiated agreements between central agencies and unions did begin to allow agencies to develop their own agreements on a limited range of conditions – but it was limited. While the 1992-94 APS agreement provided for the first time for some agency level pay bargaining, the arrangements remained prescriptive and complex, as indeed were the foldback arrangements which were overseen by the Department of Finance. As a result, the changes that were introduced in that period, although in my view clearly beneficial, had a limited impact on changing the culture of the APS workplace.

In 1996 the National Commission of Audit, which reviewed and reported on aspects of the management and financial activities of the Commonwealth, found that the APS still remained highly centralised and inflexible and the commission argued that the Public Service employment provisions did not meet the diverse needs of a modern public service and, indeed, represented a significant impediment to efficient program delivery. Partly in response, the government has pursued further public sector reform. That has included of course accelerating reform in the area of workplace relations.

What was the objective? In a nutshell, the government's APS workplace relations reforms have sought to mainstream APS employment conditions to those applying to the community more generally. In my view, in just a few years the change has been highly significant. Terms and conditions of employment are now decided at the agency level by agreement with employees, either through individual Australian workplace agreements or collectively through negotiation with the union or with employees directly through certified agreements. The one size fits all culture no longer exists in the APS. Instead agencies are delivering terms and conditions of employment that are appropriate for their own needs.

In my view, this is crucial. APS agencies operate in an increasingly competitive environment where contestability, value for money and efficient and effective service delivery are essential. Our performance is increasingly benchmarked by market standards. Where we are found wanting, our business is likely to be outsourced, but in general I would say to you that in this regard the APS has not been found wanting. Indeed, the evidence suggests that the APS has taken a lead role in utilising the opportunities provided by the Workplace Relations Act. For example, those 130 awards which existed when I came into the APS have now been reduced to a single, simplified APS award. Over 900 obsolete determinations have been replaced by one comprehensive Public Service determination.

Most importantly, under the government's *Policy Parameters for Agreement Making in the APS*, for which my department has responsibility, the actual responsibility for agreement making has been placed firmly in the hands of agency heads and their ministers. Workplace relations has been devolved to the level of the individual agency. As a result, there are currently 99 separate and distinctive certified agreements which cover virtually

all APS staff. Of those 99 agreements, 43 have been made under section 170LK. Those are the agreements made directly with staff. Sixty-one of the 99 agreements are comprehensive stand-alone agreements. In addition, by the end of January this year there were 5,880 AWAs, of which more than two-thirds were for APS employees below the SES level. In short, we have moved to a devolved workplace relations system where agencies and their employees have the opportunity to negotiate increased pay for increased productivity and agree on working conditions that are mutually beneficial. I do not believe that is just my view. Indeed, the view is reinforced by the results of the review of agreement making to which I have already referred. I will quote to you from the executive summary of the review, which was undertaken on the department's behalf by Twyford Consulting:

... the survey research found that APS agencies had embraced agreement making enthusiastically and viewed it as an initiative that would assist them in improving their performance and organisational effectiveness. Agencies frequently stated their objectives for agreement making as:

- complementing the strategic directions for the agency
- advancing particular management initiatives
- achieving improvement in wages and employment conditions
- tailoring employment conditions to agency business, and
- advancing cultural change within the agency.

I should say that more than 75 per cent of the agencies responding felt that they had been able to fully meet their agreement making objectives. This leads me to believe that the APS is now in a good position for the second round of APS agreement making which is under way. This is particularly the case since the passage of the Public Service Act late last year. It is important to realise that the new Public Service Act will play a vital role in underpinning the new workplace relations environment in the APS. The relationship between the Public Service Act and the Workplace Relations Act has now been significantly simplified. In the words of Minister David Kemp:

The guiding policy principle for the development of new Public Service legislation was that APS employment should operate on the same basis as applies to the private sector unless there are valid reasons why this should not be so. The new Public Service Act will provide an even firmer foundation for the enterprise based approach that is central to the Workplace Relations Act. It gives agency heads the legislative backing for their employer powers and flexibility to use those powers in ways which are modern, efficient and directly applicable to the requirements and structures of individual agencies.

The new framework, considerably enhanced by the passage of the new Public Service Act, balances, as the Public Service Commissioner has suggested, agency flexibility with the interests of the government as the ultimate employer. The framework balances the responsibility of an agency to manage its own workplace relations with the public accountability requirements of government bodies. Certainly, responsibility for employment decisions has been devolved to agency heads, vesting in them the authority to manage their own workplaces. But the APS remains a cohesive service. Increasingly, it is a cohesion of shared Public Service principles, values and ethical standards, not of standardised terms and conditions of employment.

I conclude by talking briefly of DEWRSB's role in this new evolved APS workplace. DEWRSB, of course, remains the government's key Public Service adviser on workplace relations in the APS and the department has the responsibility for implementing government workplace relations in the APS by providing policy advice to government, promoting the opportunities available under the Workplace Relations Act to achieve workplace reform, and assisting APS agencies in moving to this decentralised system.

Of particular note is our changing role in relation to agreement making in the APS. Under the most recent set of policy parameters for agreement making in the APS, DEWRSB's role has been significantly shifted from a policing role in a two-stage clearance process of agreements to a simple one-stage assessment in which agencies are now themselves responsible for resolving any policy issues which my department identifies. In other words, the department is more and more called upon to provide support, advice and good practice examples as a stimulus to the agreement making process. The focus of our work has clearly moved from a regulatory role to a facilitative role. Indeed, some of this work is now delivered on a user-pays basis through our consultancy arm, Workplace Partners. For the department, as for the APS as a whole, this is a very big change. To move from central control, to move from regulatory intervention to partnership and best practice is a big step. I believe the department is responding well to the scale of the cultural transformation that is required and, indeed, so are the majority of APS agencies.

CHAIR—We will now move on to questions and general discussion. The intention is to make this morning's proceedings fairly informal and to try to elicit as much information as possible, which will enable the committee to then form some views about what directions we specifically want to focus on in our terms of reference. It will be a fairly freewheeling process. Can I ask all three agencies and departments to comment on

something that Ms Williams and Mr Barrett referred to, and that is whether you have the view that the separation of responsibilities across the Public Service for Public Service matters is appropriate in meeting the needs of a modern Public Service.

Ms WILLIAMS—I believe that, with the way things are organised departmentally, it is unavoidable. I think it is very important, though, that those central agencies make very clear their different roles and also have very clear consultative mechanisms. Without that, we could really have some problems. We have a very close relationship with Workplace Relations, for example, particularly on the development of the Public Service Act, on which we were working together closely. That coordination between agencies is absolutely essential because there are, no doubt, some areas where the responsibilities are fairly close. I think it is really up to us to coordinate.

Mr BARRETT—I agree totally with Helen, and that is probably one of the biggest challenges for the Public Service. To use a colloquial term, we do not want to go back to the purely silo approach of the 1960s. To ensure that you do have some kind of collegiate responsibility, I would hope that the new management board, comprising all secretaries, will provide the leadership to ensure that there is sharing, coordination and cooperation, particularly in a strategic sense, across the Public Service and to ensure that the board meets parliament's and the government's needs, insofar as they want to look at the Public Service as a whole for various reasons, and is capable of delivering the kind of information that parliament and government want to be able to make an assessment of where the APS is travelling.

The Public Service and Merit Protection Commissioner has the responsibility for the *State of the Service* report. Obviously, if she is to do that properly, she has to have the intelligence to be able to deliver an informative report to the executive and to parliament. My personal view is that this whole notion of 'collegiality' and partnership is probably the new way of the APS. Another academic, Mark Considine, recently presented a paper about the move from market bureaucracy into network bureaucracy. Frankly and personally, I think there is a lot in that. I hate putting on labels, but that is the notion of academia. The paper says that the whole focus of the private sector helping government to deliver better public services has to be in partnership, particularly in a global environment where we have tensions between globalism and nationalism. If we really are going to be competitive in world markets and to have a capacity to govern – a capacity to retain our tax revenue in spite of globalisation – and to retain the credibility of government, we need strong efficient and effective public and private sectors. For the future, we need to ensure that the public and private sectors act in concert – that is, in partnership – because the real competitors now are global. The competitors are not necessarily national any more and so, consequently, we do need a very strong, efficient and effective public sector to work in partnership with the private sector to ensure that Australia can stand in high status in the world community. I do not think that is too high a comment to make in relation to the situation we are facing.

As well as that, we have to get our own house in order; in other words, we have to have the same notion of partnership and strategic vision, particularly when outcomes are shared across agencies. If we do not have that cooperative arrangement and genuine partnership, particularly in shared strategic approaches, we will not achieve what the government of the day wants and certainly not what ongoing parliaments want. So the focus is very much on chief executive officers in this environment. Increasingly, we have to get across to all our staff this whole notion – and the technology is now here – of the genuine sharing of information and to come together, where we contribute our individual outputs, to share outcomes. We need to coordinate that to ensure that there is no unnecessary overlap or duplication, that we remain accountable for the particular outputs but that we have an agreement as to the contribution those outputs make to the shared outcomes. It is not simply a case of, 'I'm responsible for this, that is the borderline,' or, 'Forget that because I don't have any responsibility in those areas.' I think we are not doing the parliament or the government a favour if we adopt a silo approach to modern governance in a world that increasingly is global.

Dr SHERGOLD—We are undoubtedly moving from a culture of central control to a culture of collegiality. I see that in at least three very important areas. The first is promoting and preserving the values, the ethics and the standards of accountability that are required of public servants. In other words, we have to work together to promote what remains quite distinct and unique in the public sector, as opposed to the private sector. I think that is captured very well in the new Public Service Act. The second area where there is greater collegiality is in the sharing of information and knowledge on management practices across agencies. The third, which is very important – and the commissioner has made reference to it – is working together to ensure that we are providing leadership, leadership guidance and leadership training across the APS as a whole.

My colleagues are undoubtedly right in saying that a devolved environment requires greater collegiality. I would go a step further. In my view, a devolved environment actually promotes that collegiality. If there is one thing that is clearly wrong with a regime of central control, with a central agency determining across the Public

Service, it is that the dictum of ‘let the managers manage’ becomes a nonsense. As long as a public service board or a department of industrial relations effectively took full responsibility for the negotiations of pay and conditions across the service, and set the determinations, the rules and the regulations, other departments and agencies which consistently moaned about the decisions being taken by the Public Service board or the department of industrial relations could essentially wash their hands of responsibility. I see this very clearly. Ten years ago, if you had had meetings of departments to discuss industrial relations in the APS, most of those who would have turned up would have been middle managers. Essentially they would have turned up to hear what they had to do. Today when we have meetings – and we have very regular meetings now – it is essentially a group of secretaries who turn up to discuss workplace relations in the APS. We need to do that in a collegiate sense because each of us clearly has that responsibility now, and we need to work together in a facilitative way, sharing information between ourselves.

CHAIR—Dr Shergold, I understand the argument that you are putting and the parameters of it, but one of the very strong criticisms that has come through from a range of areas – for example, in the submission from the CPSU, but it has also come through in estimates hearings that I have attended in responses to questions to various departments – is the feeling that there is no real flexibility and independence at the agency level in terms of negotiating agreements, that very much the agreements that are negotiated have to fit within a central framework that has been determined within DEWRSB. It appears that the parameters which agreements must fit have to be very much consistent with the government’s overall industrial relations approach. A very consistent criticism has been mounted against the way in which agency bargaining has been conducted within the public sector. What is your response to that?

Dr SHERGOLD—It is consistent; it is also remarkably ill-informed. The policy parameters for agreement making in the APS that departments and agencies are now operating under have, in my view, an extraordinary amount of flexibility. The parameters are very broad indeed and give a department almost complete flexibility in the form of agreement making they choose and issues that they want to address through those agreements. We have parameters which say that in negotiating agreements you have to be consistent with the government’s workplace relations policy, remuneration policy and industry development policy, and agreements have to be funded within agency appropriations.’

Senator HUTCHINS—Dr Shergold, do we have a copy of that document?

Dr SHERGOLD—I think you do, but I will certainly table another copy. It is very broad indeed. As I indicated in my opening remarks, where in the first round of agreement making my department had a greater role in requiring departments to make changes where we thought they were at odds with the policy parameters that is no longer the case. We will point out to departments where we believe they may be breaching any of those very broadly constructed policy objectives, but it is a decision for the agency and its minister as to whether it still wishes to proceed.

CHAIR—Dr Shergold, is it true that agencies still have to submit their negotiated agreements to your department for scrutiny before they sign off on them?

Dr SHERGOLD—They still have to submit them for scrutiny, but they do not have to respond to any suggestions that we make. It is a matter for their decision. I should tell you that I believe that most agencies welcome the opportunity to have their agreements scrutinised by the Department of Employment, Workplace Relations and Small Business, and most respond positively to suggestions that we make.

Senator FAULKNER—Dr Shergold, you told us that, for the second round of agreement making, more and more – I think this is the point that you were making – advice from DEWRSB would be coming from your consultancy arm. In a nutshell, I think that is what you said to us. I am interested in understanding a little more about how that process works.

Dr SHERGOLD—I think I probably have to be a little clearer. The role we play under the policy parameters is done within our normal departmental budget. It is not something that the department would charge for. It is a core part of our business. But we have Workplace Partners, which exists in a competitive market, which offers additional services for agencies that might wish to acquire our services.

Senator FAULKNER—Could you expand on the role of Workplace Partners for the benefit of the committee.

Dr SHERGOLD—I think, initially, it was perceived that the market would be able to provide any help that departments or agencies may require in managing workplace relations. Some departments and agencies feel perfectly able to do it on their own, others feel that they require support and help, and there are a significant number of consultancy firms and legal firms that actually offer advice, support or help on a consultancy basis to departments. But there was a demand and a belief within the service that the department itself had considerable expertise that it should be able to offer. That is why, in effect, we have our own consultancy arm

within the department, which we call Workplace Partners, which offers services to any agencies that wish to acquire them. I have a leaflet on Workplace Partners that I can make available.

Senator FAULKNER—I think that would be helpful. Again, perhaps you could explain to us the relationship. Workplace Partners is described as a ‘consultancy arm’. Can you explain to me the relationship between the consultancy arm and the department?

Dr SHERGOLD—The consultancy arm is a part of the department. Essentially, however, it is a part of the department that will only continue to exist if, on the basis of user pays, our budget is supplemented for the services that it provides.

Senator HUTCHINS—So it is basically a fee for services for all departments and government.

Dr SHERGOLD—Yes. It is offering a fee-for-service consultancy to all government agencies.

Senator FAULKNER—You spoke to us about the reasons that this consultancy arm might have market viability – that is, because of the particular expertise that lies in DEWRSB, as I understand from what you were saying to us. So was it a departmental initiative to establish the consultancy arm?

Dr SHERGOLD—Yes. It was a departmental initiative.

Senator FAULKNER—I will come back to that when we have had the benefit of reading the document because I am quite interested in Workplace Partners.

Senator HUTCHINS—I would like to ask a few questions.

CHAIR—I just want to open up one point in relation to the agreements, and then I will throw it open for questions. Dr Shergold, the answers you have given in relation to the making of agreements I understand, and I think you said that there is freedom in the agency, but turning to the role of DEWRSB in respect of agency bargaining, if an agency reaches an agreement with its employees on conditions of an enterprise agreement or whatever, can DEWRSB reject the signing of that agreement?

Dr SHERGOLD—No.

CHAIR—Can you prevent it being signed off?

Dr SHERGOLD—No.

CHAIR—Even if there may be parts of the agreement that do not fall into the consistency that you were seeking?

Dr SHERGOLD—If it breached the policy parameters in some way we would certainly make that known to the agency, and they would be required to talk to their minister about whether they wished to proceed.

CHAIR—But if the minister had given it a tick, the matter would proceed?

Dr SHERGOLD—Correct. We do not police and say that an agreement cannot go forward.

CHAIR—What about the set of circumstances that has been drawn to my attention that is happening in DOFA, for example, where I think DOFA has been refusing to enter into a collective agreement and is insisting that the negotiations all be AWAs? Isn’t that inconsistent with the policy parameters of the government?

Dr SHERGOLD—No. I do not believe that it is inconsistent. We would not intervene in any agency to say that you are to proceed with an LK agreement, an LJ agreement or offering AWAs to all your employees. That is a matter for the agency to decide.

CHAIR—So that becomes purely their decision.

Dr SHERGOLD—Correct. Within the broad policy parameters, it is entirely their decision as to the approach they take.

Senator FAULKNER—Thank you, Dr Shergold, for tabling the document on Workplace Partners. As I understand it, from reading other submissions before the committee, Workplace Partners has produced a document entitled *Workplace Partners Training Services Participants’ Manual 1999*.

Dr SHERGOLD—That is correct.

Senator FAULKNER—I would like to understand a bit of the background of that particular manual.

Ms STAWYSKYJ—Part of the Workplace Partners services is a consultancy on a direct arm – for instance, if somebody wanted an agreement looked at, delegations developed or any of those things. As you can see in the brochure, another thing that we do is to provide training and seminars around workplace relations matters. We run a number of courses that include agreement making processes and the workplace relations framework, and we have some courses on negotiation and dispute settlement mechanisms. I think the document that you might be referring to relates to a broad course on workplace agreement making generally that we offer both as a public course – that is, a number of agencies can subscribe and, at a date that we notify, attend it – and as an

in-house course. Those courses are framed around the various processes and aspects that make up the course, whether it is about dispute mechanisms or agreement making.

Senator FAULKNER—So that is a manual prepared within the department?

Ms STAWYSKYJ—It has been prepared within the department. Some of the aspects might have been over time prepared with assistance from outside consultants. It would depend on the course and where it has been developed. But it has been developed within the department.

Senator FAULKNER—So is it approved within the department? Who would approve it? I am interested in its content. I hear it is prepared in the department. Is this your baby, Dr Shergold?

Dr SHERGOLD—Yes, I would be accountable for all the documents that come from the department, including this participants manual.

Senator FAULKNER—I am just interested in understanding the background of the approval process. You may not be able to help me with that. Who ticks it off? It is a pretty substantial document, I understand. You see, we have had a few pages of this provided to the committee appended to one of the submissions. Judging by the pagination, it is quite a substantial document. It may well be over 100 pages, I suspect, or certainly close to it.

Ms STAWYSKYJ—It is about 100 pages.

Senator FAULKNER—I thought it must be. As a training services participants manual, I assume that document has some significant status.

Dr SHERGOLD—I cannot tell you who ticked it off finally, but I was certainly accountable for that manual and it was not a manual that was approved by a minister.

Senator FAULKNER—That is helpful, but I was not actually driving at that. I am just trying to understand the internal processes. I suppose the line of questioning one asks at these committees begs that answer, so I do not blame you for responding in that way, Dr Shergold. From time to time I must admit that I have followed up similar questions with questions about ministerial approval and the like. But I am much more interested in the manual itself and its contents. I appreciate the manual is a substantial document, but would it be possible for the benefit of the committee to have that provided at some stage? It may be too large to do it today –

Dr SHERGOLD—We can provide a single copy perhaps to the secretary.

Senator FAULKNER—That would be helpful, and I think we would look forward to having a closer look at it. Given that background, I take you, for example, to page 71 of the manual, which is a section headed ‘Negotiation Tactics’. In a paragraph towards the bottom it reads:

The tactics listed in this manual are examples of some of the main tactics that have been found to be effective in negotiation. The listing is not an exhaustive one, nor is it meant to be an endorsement of all the tactics included. Some may be regarded as being ethically dubious. However, it is important to be able to recognise a particular tactic (ethical or otherwise) when it is being used, in order to counter it successfully.

This seems to be the sort of spirit that is coming through this particular negotiating manual.

Dr SHERGOLD—Sorry, Senator, I do not know what the spirit is to which you refer.

Senator FAULKNER—Let me go on to another example, on page 77. It reads:

Make False Demands

When you have many demands, introduce a few false issues. This disguises your serious interests and allows you to make concessions thus giving the other party sense of gain. Similar tactics are Bluffing (presenting false material), Brer Rabbit (getting the other party to do something by pretending you do not want it done) and Feinting (apparent move in one direction to divert attention from real goal, or giving impression that you have more information than you actually do).

This is in a series of other tactics, like Ask Hypothetical Questions, Nibble, Stall for Time, Withdrawal/Walkout. That one reads:

This is where you refuse to negotiate further. If you are bluffing, be careful to explain your reasons and leave opening available so that negotiation can be recommenced if appropriate. A similar tactic is Apparent Withdrawal when you pretend to have withdrawn, but are really still available, or are maintaining control behind the scenes.

Another tactic is Give Ultimatum. Another one is Invoke Competition: ‘Play off the (usually stronger) other party against a second real or imaginary opponent’. Appeal to Authority. Discredit Associations. This is a good one. It reads:

Associate the other party/other party’s case with some unsavoury connection.

Shift Levels is another good one, at the bottom of page 79:

Change involvement in the problem to a higher or lower level (make it personal, organisational or national). Redefine the issue in some other way. A similar tactic is to make a Sudden Shift in overall method, argument and approach in order to surprise the other party and put it off balance.

It just goes on and on. There is Reversal, Split the Difference, Argue Special Case, and Inundate with Information, on page 80. It says:

Inundate the other party with a lot of information covering a wide area so as to end arguments before they begin or to provide a better chance for a breakthrough in one or more places.

I can give any number of other examples, some of which I find quite extraordinary. As I understand it, the purpose of this manual is effectively to train departments in negotiating with their employees in the workplace. I am really interested in the philosophy behind this sort of approach.

Dr SHERGOLD—You say that you find it extraordinary. I must say that just about everything you described then is quite unexceptional, that you would get in any book that I think you could go to a bookstore to pick up on negotiation tactics. There is nothing exceptional there. The only thing that I think is exceptional, and it goes to the spirit of the manual, is the remarks that you quoted initially, I think from page 77, which made it quite clear that we are not in any way recommending and are saying to agencies, ‘You need to have very careful consideration of whether you want to use any or all of these tactics and need to have regard to ethical considerations’ – something that on the whole is not included in most guidelines on tactics. Of course, it is not only a guide to tactics that people may think they would employ in negotiation but equally a guide to the tactics that may be employed against them in negotiations. I have to tell you that everything you have read out there is quite unexceptional, I would have thought, in any guide to tactics.

Senator FAULKNER—What about ‘Appear Irrational’:

Acting in an irrational manner can sometimes be a very successful tactic to throw the other party off balance. This can be a rather dangerous tactic as it can easily backfire.

This is a DEWRSB manual, isn't it?

Dr SHERGOLD—It is.

Senator FAULKNER—What I am very interested in, Dr Shergold, is how you believe this sort of approach in this manual is consistent with the Public Service ethics that you promoted in your opening remarks and the values that are now contained within the Public Service Act.

Dr SHERGOLD—I think it is absolutely in accord with those Public Service values. The very fact that the manual explicitly indicates to agencies that these are tactics that may be employed in a negotiating environment, which they may consider they wish to employ but which forewarns them that they have to have regard to the ethics of using such tactics, I think, is entirely in accord. What are we to say, Senator, that in training people on what will take place in negotiations across a table they should not receive training on the sorts of tactics that they may consider using and which may quite often be used against them – that we do not provide such training, or that the only training to be provided is by the private sector, which is less likely to have a reference to the ethical considerations which have been considered by the public servant?

Senator FAULKNER—You know that in part 3 of the act, APS values, one of the first values is that the APS has the highest ethical standards. No-one who reads DEWRSB's manual on workplace negotiations would believe that you had ethical standards – if this is an approach that is being suggested by your department to training other departments in the negotiation of agreement making. I do not believe that any reasonable or objective person could possibly come to the conclusion that such a manual is promoting ethical behaviour in the Australian Public Service.

Dr SHERGOLD—I would have thought that that position was undermined by the original quote that you made from the document which made it absolutely clear that we are not recommending the use of any of these tactics and are indeed indicating to public servants that they should have regard to ethical considerations. It absolutely supports the statement of Public Service values, I would have thought. We must remember that this is a guide not just to tactics that you may wish to consider employing: it is also a guide to tactics which may be employed against you.

Senator FAULKNER—It is proposing a series of tactics and outlining in detail a series of tactics that can be used which, I believe, most would come to the conclusion are unethical. I do not personalise it to you, but I think it is fair to say it, given that we both have had an interest in the reform of the Public Service Act and you, as the Public Service Commissioner during that process and as an advocate for change, have stressed the need for an ethical basis and a clear statement of APS ethical values. It is in that context that I think this manual produced by DEWRSB needs to be considered.

Dr SHERGOLD—I am happy to consider it, but I must say – and perhaps this is using my tactic of being irrational – that I fail to see how anything that is set out in the section on negotiation tactics could be seen to

undermine Public Service values in that, as you quoted from page 71, the tactics listed in this manual are simply examples of tactics that you will see in negotiations. We emphasise that some may be regarded as ethically dubious and we go out of our way to say that this is not a guide to use these tactics and the point is – which is also set out in the quotation – that it is important that you know these particular tactics in order that you may be able to counter them successfully: it is not a guide for you to use these tactics; it is a guide that you recognise these tactics. Indeed, our advice to participants who read this manual is that, as public servants, they should have to take regard of the ethical attributes of the tactics that might be employed. That is why in the same manual, on page 41, you will see we have a large section entitled ‘What is principled negotiation?’

Senator HUTCHINS—The tactics in this manual are tactics solely designed to deal with your own employees, aren’t they?

Dr SHERGOLD—This is a guide to negotiation tactics that can be used in a wide variety of environments and the behaviours that are displayed in a negotiation context. That is what is set out.

Senator HUTCHINS—Aren’t a number of these tactics highly unethical?

Dr SHERGOLD—Yes, but I think it would be wrong to –

Senator HUTCHINS—Why would you recommend them?

Dr SHERGOLD—presume that the other side may not employ such tactics, and we are not promoting the use of those tactics. What we are saying is that, in a negotiation situation, you will see on occasions all sorts of tactics employed. In order for you to negotiate successfully you should be aware of this. I have no doubt that managers, unions and police all have similar guides to what tactics might be employed in negotiations. What is distinct, what is different, what, if I may say so, is typically Public Service about this guide is that it prefaces the section on the different sorts of tactics that may be considered and that you may see and face across the table by emphasising that you should have to have consideration for the ethics of whether you yourself would wish to use those tactics.

Senator FAULKNER—I was going to make the point in response to your answer to Senator Hutchins’s first question that this guide has been prepared by your consultancy arm which is responsible for providing advice on agreement making for government departments. It might be used by others outside the Public Service and I would be interested to know and understand who Workplace Partners has provided consultancy advice for so we can clear that up. Would someone be able to provide that information for me?

Dr SHERGOLD—I can provide a list of courses that we have run – general courses and courses for other departments – and other departments for whom we have undertaken consultancy work. But a great deal of that would not be related to this manual, let alone the section in it on negotiation tactics. Is it just who may have had access to the participants manual?

Senator FAULKNER—I would be interested in understanding that also. You are redefining –

Dr SHERGOLD—No, I just wanted to know whether you wanted a complete guide on the consultancy services we have offered.

Senator FAULKNER—I would be very interested to understand who precisely Workplace Partners has been dealing with. Of course there is another APS value – that the APS establishes cooperative workplace relations based on consultation and communication. One of the difficulties is that I do not have the whole manual. That is one of the reasons I asked for it. I would hope that the spirit of that particular value would be reflected in the manual. I assume that would be correct.

Dr SHERGOLD—It is certainly my strong view –

Senator FAULKNER—In fact, could you point out to me somewhere in the manual, just to give me something so I can be confident that is the case, where APS value 1(i) – that the APS establishes cooperative workplace relations based on consultation and communication – is dealt with?

Dr SHERGOLD— I would have thought that virtually the whole of this document, when you see it, is preparing for discussion, consultation and negotiation. That is what the manual is about. It explains the difference in the forms of agreement making that are available, the workplace agreement process, the sorts of research that you need to conduct. It emphasises maintaining feedback to stakeholders and reviewing the organisation, identifying clearly performance indicators, how to get the agreement certified and, as I have already indicated to you, there is a separate section on what is principled negotiation. I think it would be probably more helpful, when you have read the whole of the document – and you are quite right in that it is not quite 100 pages but 91 pages –

Senator FAULKNER— As I said, I appreciate that I do not have the full document, that I have an extract from the document. The extract that I have is very alarming and I think that most reasonable people would

share those concerns. I was stressing ‘the cooperative workplace’ and the extracts from the manual that I have in front of me promote far from a cooperative environment.

Dr SHERGOLD—Let me emphasise that is of course wrong. For example – you asked for one specific example and I will give it to you – there is a section in here on listening skills in negotiation. I would have thought that fell right into the sort of emphasis on communication which you are addressing.

Senator FAULKNER—How do you justify the section on negotiation tactics in your manual, given the first element of the APS code of conduct, which is that an APS employee must behave honestly and with integrity in the course of APS employment, when these sorts of negotiation tactics are being promoted?

Dr SHERGOLD—I think this is the third attempt. I have sought to correct this but let me say it again. These tactics are not being promoted, and the document makes that quite clear. It is setting down for people who will be involved in discussions, consultation or negotiations the range of tactics of which they need to be aware. I can justify it absolutely because it does not ignore the problem; it quite explicitly says you must have regard for the ethical considerations if you yourself wish to employ any of these tactics. Not to list them, when they may be tactics that others may employ, would be stupid in the extreme.

Senator FAULKNER— Look at ‘General tactics’ on page 76, Dr Shergold. It says:

The following examples of general negotiation tactics should not be regarded as absolutes to be used in isolation. They may be combined in numerous ways and used in many different formats. It is important to camouflage your tactics so that they are not readily recognisable as such by the other party (and thereby lose their power.)

In using any tactic, always give serious consideration as to whether or not the timing is right. Test the efficacy of the moment. Have regard to the overall pacing of the negotiation.

Seek to introduce the tactic at the time when its effect will be to your maximum advantage.

Then it outlines a few tactics – Be confident, Request Participation, Nibble, Ask Hypothetical Questions and then Make False Demands. It says, ‘When you have many demands, introduce a few false issues.’ How does that fit with the APS code of conduct when here is DEWRSB saying directly to those who are negotiating agreements that it is promoting these sorts of tactics? How does that fit with the APS code of conduct, which says an employee must behave honestly and with integrity in the course of APS employment? I have tried to be reasonable about this. The qualifiers I see in the document I have outlined to the committee, but I also read in this document what appears to be an absolutely extraordinary approach to the conduct of negotiations – and this is the consultancy arm of your department which is providing advice on agreement making throughout the Public Service. I do not understand how this fits with the APS code of conduct. I simply do not understand how it can be defended.

Dr SHERGOLD—I think I can defend it quite simply by saying again that the way you introduced this line of questioning was to quote from page 71, just six pages in front of the pages you are now quoting from, and it makes it clear this is not an exhaustive list of tactics that can be exhibited in negotiation and specifically it is not meant to be an endorsement of them. It says that explicitly in the text.

Senator FAULKNER—I am aware of that. I read that out, as I said, to try to be fair in the original presentation I made. I may have read more out if I had the full document but I acknowledged I did not. I have tried to qualify my questioning with the information that I have available to me, so I would ask you to appreciate that I do not have the full document and that I did read that particular statement. But I have gone on past that to other parts of the document, the general tactics, and I do not yet know how they fit with the APS value of honesty and integrity that you yourself properly advocated in the development of the modernisation and reform of the Public Service Act.

Dr SHERGOLD—Something which I still subscribe to wholeheartedly. I see that there is nothing in this document about negotiation tactics which undermines any of the Public Service values or the ethical standards which we hold firm. You do have, as you said, a few pages which are the ones on negotiation tactics, but we could equally read from page 49 on listening skills and why it is very important, in going in to discussions and having a proper communication, that you do not make assumptions or that you do not have a closed mind in not taking time to listen or that you talk too much, have a lack of respect for or have a feeling of superiority over others.

Senator FAULKNER—That does not fit very well with ‘Discredit Associations’. It says:

Associate the other party/other party’s case with some unsavoury connection.

That does not fit very well with another APS value that, when acting in the course of APS employment, you must treat everyone with respect and courtesy and without harassment.

Dr SHERGOLD—I think it fits very well. You need to put both sides in any manual on negotiations. Of course we need to provide guidance on how to communicate better and, in particular, how to listen better. It goes absolutely hand in hand with also providing the sorts of tactics that one may consider or may face in a

negotiation situation. This is a shopping list of tactics that may be used or that one may face, and I would guess that in any textbook on negotiation –

Senator HUTCHINS—But it is against your own employees.

Senator FAULKNER—I am saying, Dr Shergold, it is not an appropriate shopping list.

Dr SHERGOLD—Senator, it is not recommending that you employ these tactics against your own employees. In fact, not only is it not quiet on that but it explicitly makes the point that it is not recommending the use of these tactics.

Senator HUTCHINS—Whom is it directed against if it is not your own employees?

Dr SHERGOLD—But you are assuming that this manual is saying, ‘Use these tactics against your employees.’ It is explicitly not saying that.

Senator FAULKNER—But that is not what the consultancy arm is dealing with.

Dr SHERGOLD—No, it is saying that in a negotiation these are tactics of which you should be aware.

Senator FAULKNER—Let us go back to ‘Opening tactics’ on page 74. There are no qualifiers here about the following examples of general negotiation tactics. Are you assuring the committee that everyone who receives these briefings from Workplace Partners is receiving assurances that, in the view of DEWRSB, these are not appropriate negotiation tactics to use?

Dr SHERGOLD—No. I am assuring you that everybody who reads this manual and is briefed upon it is told that they must carefully consider the ethical use of any of these tactics.

Senator FAULKNER—Who is telling them that?

Dr SHERGOLD—People presenting courses and it is actually in the manual.

Senator FAULKNER—I know what is in part of the manual, as we both understand. I do not know what is in all of the manual because I do not have the whole manual. I can read the section on ‘General tactics’ which contains no qualification whatsoever but includes tactics like Nibble, Ask Hypothetical Questions, Make False Demands, Stall For Time, Withdrawal/Walkout, Set Limits, Give Ultimatum, Invoke Competition, Appeal to Authority, Promote Your Awareness, Discredit Associations, Make Negative Comments, and Combine or Divide Demands.

Senator WATSON—On a point of order, Mr Chairman: this is becoming a Senate estimates operation. We have Senator Tchen wanting to ask some questions and we are having a lot of tedious repetition. I think we have had some answers.

Senator FAULKNER—It is very embarrassing for the government. We understand that.

CHAIR—There is no point of order, Senator Watson. Senator Tchen indicated to me a minute ago that he wants the call and he will get the call, as will Senator Allison. The document which is being referred to is attached to the submissions and it is within his rights to ask questions in relation to that document. I am going to ask Senator Faulkner to wind up.

Senator FAULKNER—I am more than happy to come back to this later on.

Senator TCHEN—Thank you. Dr Shergold, am I correct to assume that the Workplace Partners unit was established to cater for a perceived demand?

Dr SHERGOLD—Yes, Senator, it was. I suppose that perceived demand is reflected in the number of agencies who have chosen to make use of the services of Workplace Partners.

Senator TCHEN—So it is a very well serviced demand, by your department, to other agencies?

Dr SHERGOLD—I think it is. Workplace Partners is operating in the way it is only because of the demand for its services.

Senator TCHEN—Would you say that the existence of this demand may be due to inexperience on the part of those agencies in industrial negotiation?

Dr SHERGOLD—That is almost certainly the case. Because we have moved from a situation in which negotiations used to take place for the APS centrally with a very small group of experts and we are now asking 99 separate agencies to undertake this, it is obviously taking them time to acquire the skills and the knowledge of how to undertake successful consultation and negotiation.

Senator TCHEN—And your department is obviously the best experienced in the Public Service for providing that sort of skill.

Dr SHERGOLD—Yes, within the Public Service I think that is the case. Of course, we do operate in a competitive market. I think scarcely a week passes where I do not receive a leaflet from some company offering some service to agencies in the area of human resources or workplace relations.

Senator TCHEN—And you are confident that your service is competitive?

Dr SHERGOLD—Yes, I am confident at this stage that we have a competitive service both in terms of targeting what we offer and the prices that are charged, and in particular the expertise of the people we have delivering the service.

Senator TCHEN—If I may refer you to this Workplace Partners menu, which Senator Faulkner has asked you a number of questions about, I am afraid I am at the same disadvantage as Senator Faulkner in not having a copy of the manual to refer to. However, I note that in answer to Senator Faulkner's questions you made it quite clear on a number of occasions that those tactics which Senator Faulkner quoted are there for the purpose of recognition when it is applied to you.

Dr SHERGOLD—The section is included to say, in making agreements and in having communications and negotiating, you need to know a number of things. You need to know how to communicate, to listen, to research and to understand the tactics that may be employed.

Senator TCHEN—You listed those tactics which, as Senator Faulkner said, are of dubious ethical standards. Have you had any experience with those tactics, either on your part or being applied to you?

Dr SHERGOLD—If I went down that shopping list of tactics, I am sure that on occasions I have seen and may have displayed some of those tactics myself. Until I had read the manual, I was not usually aware of it. The point of the manual is to say that negotiation takes place and in an environment in which different sides are arguing in different ways. I would have thought in any negotiations, whether it is with your own people, your boss or, dare I say, your family, you would see some of these tactics displayed on occasions.

Senator TCHEN—So, in your capacity as a senior manager in the Public Service, do you recognise occasions where those tactics have been applied to you?

Dr SHERGOLD—Some of the tactics listed here, without doubt.

Senator TCHEN—Have they been commonplace or only rare occasions?

Dr SHERGOLD—The answer is yes, but I have to explain. It is not just a list of feinting or so on; there are descriptions in here about who is most likely to make the first move, who will put the first offer on the table and how one should respond in that situation. So there are general tactics and there is advice about not locking yourself in when you first start to participate in a negotiation settled. But, yes, things like requesting participation, asking hypothetical questions, stalling for time, setting limits and appealing to authority I would have thought are relatively commonplace tactics that you would see in negotiation.

CHAIR—It sounds like an everyday estimates meeting.

Dr SHERGOLD—I was trying to avoid saying that.

Senator TCHEN—What about making extra demands? On those occasions where you might have experienced these tactics, could you tell us who the people were applying them to you? The reason I ask is that a number of times the question has been put to you that if you apply those tactics then you would be applying them to your own employees. In your previous experience, when you have come across this tactic, were you actually dealing with your employees or representatives of your employees?

Dr SHERGOLD—This manual is designed for workplace relations, but the list of tactics is of tactics that you might see employed in any situation where you are negotiating outcomes. Most of these tactics would not be exclusive. Indeed, I cannot think of any tactics listed here which would be exclusive to the industrial arena.

Senator TCHEN—So these are defensive skills rather than offensive skills?

Dr SHERGOLD—It is a mixture of both because it is indicating to you what sort of tactics you might see and how you might respond. It is essentially getting people to understand that, when you sit around a table to discuss an issue on which there is no agreement on an outcome at the start, it is not just a discussion of issues. There are ways in which outcomes are achieved, and they are certainly not just in negotiations with employees, let alone in preparing for a Senate estimates hearing. I would have thought you would probably see many of the tactics I have described to you in any interdepartmental committee where groups of public servants come together to try to decide what would be the best whole-of-government response.

CHAIR—Even on household relations?

Senator ALLISON—I want to go to the question of performance pay and productivity achievements and would like to start with Ms Williams. What sort of Public Service-wide record keeping is being done of performance pay and consistency in the application of productivity achievement measures and criteria?

Ms WILLIAMS—I will be happy to talk, but I think it might be better if, on one of those, Dr Shergold spoke for a bit and, on the other, the Auditor-General, who has been doing some work. So, if you will forgive me, I will pass over to those two and will add anything later.

Senator ALLISON—Does this indicate that, as a commissioner, you do not have an interest in those matters?

Ms WILLIAMS—We have an interest in general performance management but, on the pay side, it is Dr Shergold and, in his role as Auditor-General, Mr Barrett is doing some work in this area. We have done some work in managing performance but not specifically the pay, which is in workplace relations. This is one of the areas I mentioned earlier that we really have to keep in close contact with.

Senator ALLISON—Could you flesh that out a bit – managing performance. What does that mean exactly?

Ms WILLIAMS—In a move to increase performance, performance pay is one of the issues that feed into an integrated approach. Others would be performance assessment – some kind of assessment of where development needs are, the development that increases performance. It is an integrated whole in performance management that we have an overall role in. Performance pay is one aspect of that which really is in specifics – one for Workplace Relations and Small Business.

Senator ALLISON—So you do not keep any records for any purpose of how this works? You could not tell the committee, for instance, how many agencies would offer performance pay?

Ms WILLIAMS—We have an overall interest in this and we do some work on where agencies have got to. As part of the *State of the service* report we discussed performance management, but we take a lot of the basic work that has been done by Workplace Relations.

Mr LAMOND—Within my team we keep a very close eye on how agencies refer to performance management as a regime in their certified agreements. As the commissioner said, we are interested in it, particularly in terms of the evolution from a focus on performance pay, which is a specific element of performance management, to the type of approach that an agency will take generally to how it manages its people – not only the good performers but also the poor performers – and how it addresses development needs. We have done an analysis of those organisations and we are keeping tabs on the second round of agreement making to see, again, the evolution in the broader aspects of performance management. I do not have any documentation with me today, but I have seen other analyses which go to the whole issue of performance pay which certainly summarise where agencies have gone with their performance arrangements.

Senator ALLISON—Is there to be some reporting to the parliament of that by your agency, or is it up to each agency to report separately in their annual reports? What is the mechanism for informing the parliament about how this is proceeding?

Dr SHERGOLD—The key responsibility lies with my department. On the Internet we have a page which is regularly updated called ‘Key pay indicators online’. That gives the outcomes from agreements for each individual agency indicating when an agreement was certified and the pay increases over what period. We also undertake periodic stocktakes of the arrangements to find the extent to which performance management systems are being set in place and performance pay arrangements. Performance pay is difficult because it can cover a wide range of different relationships between the management of performance and how that is reflected in salary. For example, a number of agencies – I think most – link annual advancements in salaries now to performance. Other agencies allow for accelerated advancement through salary rungs on the basis of performance. Other agencies provide a salary increase on the basis of an annual performance and other agencies provide a one-off bonus on the basis of performance. Some agencies use two or three of those different measures of recognising rewarding performance.

We conducted a stocktake in 1999 of the first round of agreement making and found that 89 of about 96 agencies that had agreements had a performance management regime in place in which pay progression was dependent on performance. We have recently undertaken a stocktake of the second round of agreements which are now under way. There are 18 second round agreements now in place and of those 16 have specific performance management systems which link performance to pay in some way.

Senator ALLISON—My question is really about the collection of data and its accessibility to the parliament or, rather, the parliament’s access to it.

Dr SHERGOLD—The data is what we have online on each of the agreements we summarise and that is available to parliament. The review I have just tabled gives a summary of the first round of agreements.

Senator ALLISON—That does not indicate, for instance, maximum and minimum performance pay rates or averages or percentages across the agencies. What will the parliament know about what is going on in agencies in relation to performance pay?

Dr SHERGOLD—Each of the certified agreements that are entered into is a public document which is available to parliament. That sets down the arrangements that have been set in train from that agreement, including the pay, conditions and performance pay arrangements.

Senator ALLISON—What about those on AWAs?

Dr SHERGOLD—With AWAs there is a general reporting and the annual reports of departments indicate in bands the salaries that are paid, for example, to the Senior Executive Service who are on AWAs.

Ms BOSSER—We also undertook an SES remuneration survey as at 31 December 1998 and the aggregate data from that survey is published on the Internet with the key pay indicators and the information about certified agreements. We are currently undertaking another SES remuneration survey as at 31 December 1999 and those results will be available in the next couple of months.

Senator ALLISON—So in terms of survey, you go to the agency and ask a series of questions. Is that how it works?

Ms BOSSER—Yes.

Senator ALLISON—Is the agency obliged to provide, in a systematic way, information to you or to some other point?

Ms BOSSER—At the moment we are doing it through a questionnaire and also consultation with agencies. The agencies are participating on a voluntary basis because it is in their interests to participate because then they can share the information.

Senator ALLISON—Have any not agreed to participate?

Dr SHERGOLD—I am not sure for this round. The great majority of agencies, I know, did participate on the last occasion.

Senator ALLISON—What does ‘the great majority’ mean?

CHAIR—In terms of those surveyed, presumably you then prepared data which would indicate performance pay in those various agencies where there are certified agreements. But is there any data collected or prepared that links what the performance pay is linked to? How do we determine what people are doing to achieve that performance pay and then how that relates to improved performance and enhancement of the public sector? How do we make those connections? I come back to the ANAO because you are doing some work in that area. I asked you where your survey is up to and whether or not you are getting any data in that area. I am interested in the extent to which this information is provided.

Ms BOSSER—It comes back to the performance management system and arrangements that are in the agency. In some cases those performance management arrangements are all set out in detail in a certified agreement, but in lots of cases they may be in documents that are personnel guidelines. In most cases – and I think this is where PSMPC has done some work – it is more to do with the way in which people’s individual aims and objectives are linked with those of the organisation itself, so it is very much related to the way in which the organisation operates.

CHAIR—Presumably, in terms of the data that you are collecting, we would get a set of figures which show performance pay in a range of agencies, not necessarily what that performance pay is linked to and not necessarily whether or not the measure of performance has been enhanced as a result of performance pay being paid for that particular function. I have an example, which is often quoted, of what occurred with Coles Myer at one stage when the CEO got \$2 million in performance pay and the shares of the company went backwards. There is the recent example of Trumble. Those are absurd examples but, when we are talking about real performance and whether performance pay really enhances performance, there has to be some effective way of ensuring that there is an effective measurement of that.

Mr BARRETT—Unfortunately, time will tell on that. At the moment I can see what Senator Allison’s problem is and why there is disquiet about the information that parliament is not getting which members of parliament are interested in. The first accountability document, as has already been mentioned, is the annual report of the individual agencies, but there is generally a paucity of data on performance pay other than in the aggregate form that has been referred to and which we do ourselves. As to the links, and that is the crucial question – the links between performance pay and productivity improvements – one thing that has happened in the APS is that we have had enormous productivity growth in aggregate. That has not actually been linked to performance pay. I am simply saying that there has been performance pay but also in general there has been productivity improvement in the APS. The question is: how do agencies link performance with that pay increase? As Peter said, there are a whole range of measures – that is the reason for my slight reticence to start off with – as to what information can be gleaned from systems.

In the light of many agencies amalgamating ranges of salaries, as Peter indicated, quite clearly there are arrangements in some agencies that the only way in which you get stepped progress within bands is through performance criteria. In other words, you could say that that is performance pay. In the past it would have been a promotion. For instance, in our situation, our certified agreement, if you are classified successively in two

years as a three, the topmost rating, then you qualify – so long as we have got a job for you at that level; that is the question – for that next level within the band. That is to overcome where in whatever number of classifications you had you had to go through advertising promotion arrangements, et cetera. That is why the certified agreements of a lot of them are now coming to these amalgamated salary ranges. Then there are the arrangements made in the AWAs which are referred to, which of course are confidential. Then you have various arrangements within the certified agreements that may be pay at risk, and the question of whether you get that pay or not depends on whether you meet the conditions specified for you to get that pay. So, unless the information systems are set up to capture that, we are not going to get much joy, to be frank with you. We will do our best. But in this particular audit we are trying to see what arrangements agencies have in place to measure any improvements in productivity performance directly linked to pay increases. That is an audit objective and we are trying to see what information is actually available to do that.

It is too early to give you a view about how successful we are likely to be, but we recognise that the Joint Parliamentary Committee of Public Accounts and Audit and other committees over a period of time, and more so in recent months, have indicated interest in what is happening in this area. Quite clearly there is an endeavour to try and see what we can do. That is a secondary thing. I think that this again reflects meeting parliament's requirements and parliament indicating what it needs in terms of information from the APS. It may well be that if through annual reports, which are the main accountability reporting mechanism for departments and agencies, we have an indication of those sorts of linkages, that may be sufficient for parliament's purposes. Parliament, in discussions with the Public Service Commission and DEWRSB, might decide that in fact some overall survey is necessary from time to time. I could actually understand why that might be the case, but in this new world I am not necessarily advocating that that be put forward. But parliament has every right to expect that information within agreements, as Peter and Kate are saying, is in fact publicly available. What is not publicly available is the one you are interested in, and that is linking performance to pay increases. As I said, we will try and shed as much light as we can on it from the audit work that we are doing, but I suspect that the information systems are not set up to capture all of what you regard as performance pay. Clearly we will capture those elements of performance pay which are classified as performance pay but not some of the other elements that are linked to performance as part of performance management but are not necessarily described as performance pay. It is very hard too in some cases with this pay at risk concept as well, because if people simply have elements of salary at risk and they achieve whatever needs to be achieved then that is the end of the matter. The only time you really know about it is when they do not, and then they do not achieve that salary.

CHAIR—I suppose that raises the other side of the equation, Mr Barrett, and that is whether your organisation in the role and function it performs is actually looking at what type of infrastructure we need to effectively capture the material information and data that is necessary to give us a detailed assessment of what is occurring in that area. At the end of the day the key question for parliament is accountability. The only way you can be certain of accountability is if there is transparency, and the only way you get the transparency is if there are adequate measures and structures in place that capture that. One example which I hear of all the time which really concerns me, and I am sure it is duplicated right across the service, is the Comcar drivers. They are being classified under some agreement they have negotiated in different ranges for performance pay. Not one of them that I have asked understands how they are being classified and why there are differences, and some substantial differences, between individuals. The qualifications for a Comcar driver I would assume are fairly limited. Most them have the same skills and pass the same tests. They have done the same driving courses and they wear the same uniforms. Maybe it is because their tie is crooked or they do not wear their jacket, I do not know. The differences would seem to be limited, yet there are some substantial disparities between what individuals are being classified at. The thing that is interesting is that some individuals who have had long periods of service are being classified at the very low end of the range opposed to some with short terms of service who are being qualified at the very high end of the range. There may be very good and cogent reasons why that is occurring. The difficulty is that getting the information to actually make a value judgment is almost impossible, and certainly nigh impossible to the employees who are working under that system. That is only one example. I am sure that if you look deep enough around the Public Service you will find a whole range of other examples that are consistent with or similar to that.

Mr BARRETT—Consistency in explanations to employees is a CEO's responsibility, and I agree with you that it is absolutely essential that people understand the basis of their pay and any differentials. The focus of Public Service reform at the moment is on achieving outputs and outcomes, or results, if you like. In essence, the argument goes that, no matter what combination of resources you use in what context and what they cost, at the end of the day the basic judgment is whether you have actually produced your outputs efficiently and effectively and that they contribute in that same way to defined outcomes which have been endorsed by the government. So in that sense your concern basically with the productivity or outcomes is really in parallel with

what the reforms are asking – in other words, have you achieved the kinds of outputs and outcomes that you have specified? What agency managers are then saying is, ‘Really what we should be judged by is whether we have achieved the outputs and outcomes that we specified, and that is what we are reporting on in our annual reports.’ So in essence it is not a great factor to know what are the differential prices of the inputs. In other words, it is the way that we are held responsible for delivering required outputs and outcomes. So we do what we need to do and be responsible for, but the accountability at the end of the day is basically whether we have delivered those outputs and outcomes efficiently and effectively, and ethically.

CHAIR—And, in looking at that, I suppose it is the macro of outcomes that people are going to focus on. But there is the other side of that, and that is that the micro components of that have a substantial impact on the macro. If you are not treating them carefully and ensuring that there is proper treatment at that level, at the individual employee level, you can certainly start to erode any morale base that is there that has contributed substantially to those macro outcomes, and that will have an impact over time in terms of your overall productivity levels. So how you treat individuals is a very important component of the whole process.

Mr BARRETT—There are many studies, such as that done by Professor Jeffrey Pfeffer at Harvard Business University, that would support the comment that you just made. I am saying that any CEO would obviously be concerned to ensure that there is full explanation and equity. In fact, in a more market oriented environment, the agencies, whether we like it or not, are now more in competition with each other and, in essence, people will vote with their feet. If they are not getting the proper treatment or proper pay for the work they are doing, then there is greater flexibility available, and a culture of flexibility, and certainly your better people are not going to stay around.

CHAIR—I thought you made some comment in relation to that in your introductory remarks this morning, about the concern over the loss of corporate knowledge and skills.

Mr BARRETT—There is, and that is another aspect of the matter. But I think the Public Service would argue that, with the greater management flexibility and the flexibility associated with workplace arrangements, we should be in a better position to retain the people we want to retain. The whole notion of workplace flexibility is probably oriented that way. Really, I am saying that there is a discipline there that, if agencies do not behave well towards their employees, certainly those who are able to will leave. That is a fairly marked discipline on any manager in any environment, whether it is in the public or the private sector.

Senator ALLISON—Mr Barrett, can I just pick up on the point that you made about the Public Service at large being more productive and more efficient and effective.

Mr BARRETT—No. I was saying, Senator, that the overall estimates of productivity in the public sector have gone up.

Senator ALLISON—Has any work been done on what a number of submissions have suggested is the link between productivity and cost saving and the degree to which that has been counterproductive, given that the Public Service is not the private sector, whether we like it or not, and outcomes are not always expressed in dollar terms? I know it would be difficult, but is anybody attempting to measure whether that is the case or not?

Mr BARRETT—I do not personally know of any studies that are being done. We do try when we look at various audits, and particularly in our value for money audits, as a matter of course to look at the way in which agencies assess value for money. Really, that would be my first response to your opening remarks: that the concept that the parliament, and my understanding is the government, is committed to is not cost-cutting per se but achieving value for money. Value for money, of course, is a much broader concept, as you rightly said. It is a question of identifying what is the value that you are trying to achieve. That really is the sixty-four thousand dollar question for agencies in the development of proper performance information: that they are able to convince the parliament, particularly in their annual reports and at Senate estimates committees hearings and the like, that their performance information reflects value for money concerns. So when they are establishing the investment that they need to put into their organisations to achieve value for money of course they have to put in non-price factors and, in whatever way they can, assess the importance of those non-price factors, even if it is qualitative – obviously, many of the areas that I think you are referring to would require qualitative assessment – and doing their best to assess qualitatively what needs to be achieved and trying to put a price on that so that you can actually determine value for money outcomes.

Senator ALLISON—Dr Shergold, in the submission of the Institute of Public Administration Australia, ACT Division, it says:

Although performance pay can help to stimulate discussion on performance between staff and supervisors, some supervisors only provide feedback when required to do so for purposes of performance pay. That small level of feedback is usually insufficient and may signal wider problems. In agencies that provide performance pay only for middle and high ranked staff, lower level staff can miss out on performance feedback.

Whose role is it to be interested in this issue? Ms Williams, you look like you have something to say.

Dr SHERGOLD—It is the role of every individual agency to be interested in that issue. It is a key one, I think, that all of us are seeking to address and to try to share, as I have suggested, best practice. I think it is fair to say that, when performance arrangements were first introduced into the Public Service, to a very large extent it was because of a desire to introduce performance pay arrangements. That is not the best way to build an effective performance management regime. I, and I think the great majority of my colleagues, now recognise that what you have to do first is build a performance management regime where it is clearly understood what is the performance that people are being assessed against and, second, that they get feedback on a regular basis – I would have thought at least twice a year – so that they know how they are performing. And, then, flowing from that may be the performance pay arrangements, whatever nature those performance pay arrangements take.

I think it is sad but true that, to the extent that performance management was often introduced, many agencies started with great fervour and everybody sat down with their supervisor and did a performance feedback session. In the great majority of cases, over a year or two, the systems fell apart. Part of that is the complexity of mobility, and that over a six-month period a significant number of people would have shifted their supervisors, so you have to make sure that you have set something in place where the feedback continues to take place. I suppose one of the advantages of linking performance to pay in some ways is that it actually does at least make sure that there is a performance feedback meeting.

But, as I say, I think the key is to start from a basis of building your performance management scheme. My impression, certainly in terms of negotiating a certified agreement, is that that is the only way I would be able to persuade people of the advantage of significant components of their pay being based on performance, even when they have trust and confidence in the performance management regime. That takes a lot of building up because people have to be able to be convinced that the performance indicators are right, that they are being properly managed and that they are getting effective feedback. I think that is the key challenge that most Public Service agencies face in this next year or two – building performance management regimes that our people actually have confidence in.

Ms WILLIAMS—I would like to just add a very short bit to what Dr Shergold has said. If I think back some years to agency heads meetings, we were all very clear on the fact that it was performance assessment, discussions about performance, that was the crucial thing with all staff. I can remember a lot of discussion about whether this could be done without performance pay, and there were certainly a number of views on that. But I think probably the weight of opinion was that, unless a performance pay scheme was introduced, as Peter said, there would be a big rush in the beginning and then it would tail off and the only thing that would keep it going was the pay element attached to it.

Again, I would like to emphasise exactly what Peter said: it is the assessment that is really important. Firstly, there is the overall integrated management system that I talked about before: the goals that people are given link in with their business plans, link in with the particular bit of the organisation as well as with the whole organisation and link in with the corporate plan. Secondly, there is the fact that they know that the outputs they are being asked to produce do actually add to the agency; that there is a scheme for giving them feedback, not just at the end but during the period; that that does link into development if they are falling short anywhere; and that they can see an overall integrated management scheme. It is very difficult. I think it is up to agency heads to make sure that that is the case right through their agencies, and it is not an easy issue. Again, I think that we have all found circumstances where we thought there was a general understanding of the scheme and there has not been. That is something we have really got to work on.

Senator ALLISON—Are you saying that performance pay is a tool for a better management system, in which you bring people together at a point in time and discuss performance and where they fit in the scheme of things?

Ms WILLIAMS—It is one of the things that feeds into that. I also think it is a reward. It is two things: it feeds into a better assessment, actually making that work, and it is good for people who have performed well to receive some extra reward. But, as we have all said, it is very important that they understand the basis of that and that they can really focus on what they did do right and what they did not do right and how they can improve.

Senator ALLISON—Can I ask about consistency across agencies in terms of those who miss out on the pay because the performance is not there. What is the experience across the board? Are some agencies giving performance pay to everybody just because they turn up to a session? Are others denying it to half of the organisation? How do we know what is going on?

Ms WILLIAMS—I will just talk generally, and Peter might want to add something. It is really for agency heads to decide how best a performance management system overall suits their agency. It goes back to what

the Auditor-General was saying: some may decide that a three-point scale that rewards just the high flyers and gives a slight reward to those who have done well is best. Others may decide that a bonus system that is quite broad is best. Others have made forays – and interesting ones – into rewarding teams. Under the current system it is really up to the particular agency to decide what best fits the agency.

I had a particular experience of trying to get some consistency across the commission which was misunderstood. I think it is in the submissions. In previous jobs I have seen circumstances where, frankly, some people are far more lenient judges than others of their particular bit of an organisation. In the commission we tried – I have done it in previous agencies where it was actually better understood, and it was my fault, obviously, for not making it better understood in the commission – to get the executive to look not so much at the individual as across the teams to make sure that there was a decent balance across the teams. Perhaps in the culture of the commission that was misunderstood as the executive actually deciding individual performance pay. I take some issue with what was in that submission, not because that was how it was understood – it obviously was – but because that certainly was not what we were doing. We were actually trying to get consistency across the commission. It is a difficult one. I believe it is important to get some consistency, but it is also important to make it be seen as consistent. That is what we have got to work on.

Senator ALLISON—To what degree is the difference between one agency and another related to what that agency does, how big it is and so on? And, in your estimation, to what degree is it to do with the secretary or those people making decisions within an agency? It is hard to get a grasp of why there is a need for such a different approach – the devolution of responsibility versus the centralised question overall. What measures or checks are there to see that we do not have agency heads running away with ideas that might not be consistent with an overall approach?

Ms WILLIAMS—The new, devolved system is saying, ‘Agency heads, you run the scheme that is best suited to your system, but you are accountable for that scheme.’ Certainly, if an agency has some innovative ideas about how to run things, it is quite open for them to put those into effect, but they are accountable for the results. That is the balance we are dealing with at the moment. I have probably only answered half of your question. I do not know whether Peter or Jeff Lamond from the commission would like to add to that.

Mr LAMOND—Only in the sense that we will see differential outcomes. One of the commission’s initiatives is also to promote the Investors in People program, which is designed to raise the level or the performance of agencies in terms of how they deal with their people in performance appraisal and feedback and in the integration of the strategic/organisational objectives, how that feeds into an individual’s task and how the individual performs against that. So we will have differential outcomes. The commission’s objective is in fact to raise the skill level of the service in terms of its capacity to assess its people.

Senator ALLISON—I would like to go back to the central record keeping question and ask about remuneration. Dr Shergold, do you keep records of salaries in different agencies? Is it possible for the parliament to know this information from looking at your web site? Are their caps, for instance? Is there any consistency across the agencies with remuneration caps? What is the situation?

Dr SHERGOLD—What we have on the web site is a summary of what is included in each of the agreements – what are the salary increases to take place during the life of the agreement and, in some instances, indications of bonuses or performance arrangements. It does not say what different people at different levels of a department would be paid. To some extent, that would be in the public record, which is the certified agreement, and that is also true of what we are talking about now. Many of the performance management regimes are actually in the certified agreement and have therefore been voted on by at least 51 per cent of staff. But there is no single guide which says that this is what different classifications are paid in different agencies.

Senator ALLISON—In your surveys do you actually collect that data? Is there any systematic way of seeing what is going on in agencies in terms of remuneration?

Ms BOSSER—It is only in general terms. In that same publication that we publish every two months, we also have sections on wage trends across the private sector and the whole of the public sector but also within the APS, but it is information that is provided in a general sense.

Senator ALLISON—So I could not go to that information and know whether the Department of Defence, for instance, was paid paying their senior staff twice as much as your department?

Ms BOSSER—It would give you an indication of that because you would be able to look at the list of agreements and see the increases that have been provided. That would give you some comparison. So you would certainly be able to see what the annual increase is because we do annualise those increases so that you can see at a glance what sort of an increase each department is paying over a particular period.

Senator ALLISON—If you know what the base rate is.

CHAIR—And that does not include AWAs.

Ms BOSSER—This is just on certified agreements.

CHAIR—Does DEWRSB get copies provided of AWAs negotiated by the individual agencies?

Ms BOSSER—No.

Senator ALLISON—So there is no record of the salaries negotiated under AWAs kept anywhere?

Dr SHERGOLD—Only the surveys that we undertake. The AWA is a matter between the agency head, the employee and the Employment Advocate.

CHAIR—So you have no information of the impact of those AWAs on individual agencies?

Dr SHERGOLD—We have information because we undertake an annual survey of the outcomes.

CHAIR—But you are taking that survey from the agencies.

Dr SHERGOLD—Yes, from the agencies, and it is not about individuals. The agency will tell us where the 16 people they have under AWAs fit in bands.

CHAIR—But how certain are you that you are getting all the information from the agencies or that the information is even accurate?

Dr SHERGOLD—I rely upon the honesty of the agency head that provides it. I do not have a check; I do not have access to the AWAs.

Mr BARRETT—There are two aspects to this. The first point, which was made earlier, is that this survey is voluntary. Agencies, except for one major one, are involved because it is in their interests. That is because, despite the fact that we do have the capacity to pay differentially, agencies are still interested in what other agencies are paying, because we are part of the market. In many areas, our people are quite mobile, they do have similar skills and experience, et cetera and it is not surprising therefore that agencies are concerned to see where they stand in the pecking order. That is the reason. There is no premium in not being fully informative in this survey.

CHAIR—But there is still no certainty in respect of the information; there is no measure of the degree of error in the data that is provided.

Dr SHERGOLD—There is a check in a sense in the annual reports, because for employees over \$100,000 you will get a distribution from each agency, and of course the great majority of those employees will be AWA employees.

Mr BARRETT—I was going to say that earlier to Senator Allison's question. Of course with the SES you have that broadbanding in the annual reports. That is a requirement. You do not have that in whole of government reports, but you do have it in annual reports.

Senator ALLISON—But those annual reports do not indicate salary packaging.

Mr BARRETT—They are supposed to include the total.

Senator ALLISON—It is included in the total, but we do not know from that how much is salary packaging and how much is –

Mr BARRETT—You will not know that; you will know total remuneration, though.

Senator ALLISON—And no-one will ever know, apart from agency heads about their own agencies?

Mr BARRETT—The way things are going, no, because the policy decision – supported, I must say from my observation, by agency heads – is that these direct arrangements are meant to in fact achieve productivity from individuals and as such they are kept confidential. Frankly, I would like to see, from an Auditor-General's point of view, more public information – which in fact, hopefully, would still preserve whatever benefit people see in having individual negotiations continuing to be confidential – so that you get a better handle on what is actually a total remuneration package. The other part of the survey that I think is interesting – and my understanding is that the next survey will enhance this – is that we will get a better handle on aspects of the salary packages. That will allow agency heads a better focus on knowing exactly where they stand in relation to this and the way they do it. I take Peter's point right at the outset, that let us say one size fits all is a good thing. No-one is saying that, but again I just stress that we are in a marketplace now and we are in competition – some cases more than others – so market intelligence is pretty important.

Senator ALLISON—You talk about aspects of salaries. What sorts of aspects would you like to see spelt out?

Mr BARRETT—The major components of a package are useful to know. I think it is useful to know, for instance, in terms of total remuneration, where some agencies have a significant proportion of pay at risk, other ones where there is assessment on some scale basis of performance pay, for which at the end of the year you

decide whether the person is going to be rated a 1, 2, 3, 4, 5 or whatever the particular ratings are. That is another system.

Another one is – as Helen said, an interesting one which a number of people are doing – team based bonuses. It is interesting from a management point of view to know what people are doing and what attracts people. As I said to you, we are very much now in the retention and attraction mode. All of us are desperately looking to get good staff. So we have to be out there and be competitive.

CHAIR—Mr Barrett, you said you are now in the market, which is true. What do you have to say in regard to the growing disparity between CEO salaries and the Senior Executive Service and what you said in your own submission about the decline in the level of external appointments and mobility in the Senior Executive Service and the fact that they are becoming more specialised?

Mr BARRETT—I did not think we said that they are becoming more specialised.

CHAIR—It is in paragraph 28 of your submission.

Mr BARRETT—Clearly, salary levels are something that we would always be looking at in terms of relativities, at least to ensure that senior managers are being adequately paid and reflect that. We are actually not coming to a conclusion here, are we?

CHAIR—I do not think you were necessarily drawing a conclusion; you were drawing attention to the fact.

Mr BARRETT—The point that is trying to be made there is that, depending on the way in which you design a salary package – this comes back to the point I have just been making – and people being more identified in particular jobs and in particular agencies, it may well be that we will not get the mobility. It is just raising a question mark over whether this will inhibit mobility of the SES. Traditionally, when the SES concept started off, the whole nature was to get a cadre of senior executives who would be collegiate and would be able to be placed in most agencies, except in highly specialised areas like engineers, lawyers and the like. In many of the policy administration areas, there was a notion that having a wide range of experience and succession planning for future higher positions would be of benefit to the Public Service because you increase knowledge, understanding and exposure, therefore you have a better rounded and much better officer as a result.

If we start putting people into boxes – that is really what this is saying – and you pay them as if they are in boxes, then you are going to limit by that action potential for greater mobility around the Public Service. All of us want to keep our good people and, consequently, CEOs might do quite generous salary arrangements to ensure that they do retain their people. This is likely to inhibit mobility as well. It is just a question of what we want. What does the parliament, the government and the bureaucracy want from their Senior Executive Service? I referred in my opening remarks to some of the tensions in the system. This is an illustration of one of the tensions in the system: having a Public Service that has a cadre of senior executives who are mobile and are capable of being placed in a number of areas around the Public Service to improve or adopting more of a silo approach and package people and hang onto them because they are good people who, while ever they are around, will enhance our productivity. So it is looking at an agency point of view versus a public sector-wide point of view.

I know this is something that is of concern to agency heads. It will be particularly so in the next year or so, and especially so in the next five to 10 years in the ageing Public Service, when we will have problems in ensuring that we have people capable of ensuring that the kind of advocacy I was putting earlier to you – about having a highly performing public service – occurs in reality.

The other thing is this: what signals are you sending out to the marketplace and to the young people who are the future of the Public Service in this country? What signals are you sending to them about having ‘a career’ in the Public Service which does not necessarily mean you spend the whole of your lifetime employment in the Public Service any more but in fact that you could spend a substantial part of your working life in the Public Service? What is it that is being offered? At the end of the day, what are the opportunities, particularly in the senior executive areas to which most people at least aspire – they might not make it but they aspire to it – and what is the attraction?

If salaries in the public sector at senior levels are not going to reflect those in the private sector, then of course the nature of the work and the nature of the involvement of these people in things that are important in terms of national interest are going to be what is going to attract them. Otherwise, we do not look any different from the private sector and, therefore, why are we going to retain people in the public sector for \$250,000 when they are going to be paid a million, three million or four million outside in the private sector? These are the questions that we constantly have to address in this changing environment so that the balances that all of us have been talking about at any time are the best ones, not just for today and tomorrow but for the foreseeable future, particularly when we are talking about the future of the Public Service.

CHAIR—Do you think that the current remuneration processes for the Senior Executive Service are adequate in relation to comparative values in the private sector? Should the government be retaining external recruitment and internal mobility as a policy objective?

Mr BARRETT—Any agency head that I have ever spoken to over the years would always welcome the opportunity of having external recruitment, and I think most of us feel that is a way of enhancing the approach, the abilities and the insights of the Public Service. Again, that comes back to the balance issue – what the appropriate balance is at any point in time. If, for instance, the conjecture is right that in the next few years at the senior levels we are going to have trouble in the Public Service it may well be that we will be going out on the highways and byways trying to attract good private sector people.

The question then becomes whether or not the appeal that the government of the day is making to those people is the one that we have witnessed in the last 100 years, and that is the appeal of public service. There is a reasonable salary but it is the appeal of public service, the appeal of being involved in something important to the country and the appeal of being involved in decisions that impact on your fellow Australian. That is the trade-off. So all I think it is saying – and I see us generally agreeing on this – is that there have to be reasonable salary levels determined reasonably and in fact some sort of benchmarking with the private sector, but with a realisation that in fact if we cannot appeal to senior public servants in the way that I have indicated then the Public Service is in serious trouble, hence the government and the parliament will be in serious trouble. That might sound idealistic, but I think it is realistic in that we must make those offers. If people feel that their advice is valued, that they are making a difference and that they are being appropriately remunerated, we will always get the sort of people we want.

Ms WILLIAMS—Could I add quickly to that. The first thing is that we are still getting exceptionally good graduates and our issue now is making sure – and I think this adds to what Pat is saying – that we have the interesting work to keep them. That is the area that we are really concentrating on at the moment. I think we have a lot of people in the feeder group to the SES who are really worth developing and a lot of our work at the moment through succession planning is going into that. Again, we have to make sure that we have that work to keep them, that they are appropriate for it and that they are developed broadly. I think this discussion started with mobility. Certainly, the figures show that mobility has dropped a bit outside. Appointments have dropped a bit but you have to remember that the overall total vacancies filled has dropped too, that we are not comparing on a linear scale and that we have to relate that to the overall vacancies filled simply because the size of the service has dropped. But I think that the really important issue for all of us – the commission and agency heads – is to make sure that mobility as a development opportunity does remain for those people who will benefit from it. As Pat says, it is more difficult with the differences in pay, but we just have to deal with that and make sure that it is still an available option, whether it is a simple transfer of departments or it is transfer for a term and then you return to the home department simply so you can get broader skills. I think it is a very important part of developing the leadership group of the service.

Senator FAULKNER—What really comes through the statistical bulletin and the *State of the service* report is how the Public Service is ageing. Mr Barrett in his recent contribution touched on it also. They are quite remarkable statistics, really. According to the statistical bulletin, it was 3,597 people under 25 last year compared to, say, 10 years ago 16,168. That is a drop of the best part of 80 per cent, which is quite remarkable. Interestingly enough, in the *State of the service* report you indicate that this is not something that is unique to Australia; you talk about the OECD trends also. But it does raise a whole range of issues, it strikes me, for the Public Service in the longer term. I have caught up relatively recently with an editorial published in the *Canberra Times* on 29 December. I did not read the *Canberra Times* on 29 December, but I found the editorial in the clippings. Just touching on the statistical analysis, they were asking a number of questions which they suggested that PSMPC should ask itself. The editorial suggested that PSMPC should view this trend, these figures, with alarm, that the PSMPC should be asking itself whether it wants this sort of age imbalance in the Public Service and where the public servants will come from in the future. It asked whether the concept of a career service, if you like, is at an end. These are pretty interesting questions. Will public servants be recruited in their 40s on fixed contracts? If so, what will the effect be on corporate memory and so forth? These are the issues that Mr Barrett and you are raising. I suspect that we have not got time to deal with the responses to that today – Mr Chairman, are you going to pull stumps at 11.30?

CHAIR—At 11.30, yes.

Senator FAULKNER—I would be interested in exploring this the next time we meet. I assume that the PSMPC and others providing evidence around the table have looked at similar sorts of issues. I just flag that I might explore further the extent that these are issues of concern and the extent that you feel you might have answers to them. I do not think we can do justice to it in about four minutes today, but I would like to explore them because I think they are very important issues. This issue of the corporate memory, particularly in light of

the answer that Mr Barrett has just given, has very important implications for the service as a whole. The other thing I flag with you when PSMPC comes back to the table is the generation of any ideas you might have to boost entry level recruitment or employment in the APS. That is also something that I think is worth exploring. We have got pretty broad terms of reference in this committee and it does give us an opportunity to look at some of these issues in relation to the future of the service. So I flag those two issues with you and commend the editorial in the *Canberra Times* for the questions it raises, which are important questions about the future of the APS. When we get a chance, I would not mind exploring them in more detail. I would not want to leave Mr Barrett's comments, which I think are well made, unexplored by the committee in the context of the inquiry we are having.

Senator ALLISON—I want to go back briefly to the mobility question and to ask whether there are any trends in relation to smaller agencies and their capacity to attract good people. You said that the drop in mobility can be attributed to the actual number of positions –

Ms WILLIAMS—Some of it.

Senator ALLISON—I will flag too that it would be good to explore what is going on there in terms of mobility. Another one I flag is diversity: in this new age of productivity and outcomes, where have we left people with disabilities and women?

Senator FAULKNER—In the two minutes we have got left, I have a question which follows on from a question I think Senator Ray asked in estimates. In answering, Mr Lamond mentioned an employment database that was being developed. I do not know whether you recall this.

Mr LAMOND—Yes.

Senator FAULKNER—Could you give us a little more detail now or point me to where I might be able to understand a little more about the database and its development, and when we might be likely to have some more accurate data being provided on those issues that we had raised previously at the legislation committee?

Ms WILLIAMS—This is really something we inherited from the Department of Finance. We are still working with the system providers, together with OGO, to ensure that we are getting the proper information from the various agencies. As you are aware, they are all on different systems, or there are a number of different systems. One of the advices we sent out with the new Public Service Act, advice No. 25, *APS employment database*, may answer some of your questions, and we could provide that to the committee.

Senator FAULKNER—That would be a help as a starting point. We might explore it a bit later on. We did not have time at the estimates committee to explore it. I am glad Mr Lamond mentioned it – he probably isn't – because it looks like it might be something worth exploring.

CHAIR—That concludes today's public hearing on the APS matters. We will be coming back to each of you individually for your individual submissions and to go through those in detail. Thank you very much for your input to today's proceedings. That will help the committee in focusing on some of the more important issues and some of the things that are necessarily being canvassed in the individual submissions. If anyone is interested in following the inquiry, they should refer to the committee's Internet page, which will provide progressive updates as to the various hearings that the committee has.

Committee adjourned at 11.29 a.m.