

Committee Secretary  
Department of the Senate  
By email: covid.sen@aph.gov.au

28 May 2020

Dear Committee Secretary

### **Inquiry into the Australian government's response to the COVID-19 pandemic**

We refer to the above inquiry, and provide a submission to the Senate Select Committee on the Australian government's response to the COVID-19 pandemic on behalf of the Institute of Public Affairs (IPA).

#### About the Institute of Public Affairs

The IPA is an independent, non-profit public policy think tank, dedicated to preserving and strengthening the foundations of economic and political freedom. The IPA supports the free market of ideas, the free flow of capital, a limited and efficient government, evidence-based public policy, the rule of law, and representative democracy. Throughout human history, these ideas have proven themselves to be the most dynamic, liberating and exciting. Our researchers apply these ideas to the public policy questions which matter today.

#### Response to the Committee's terms of reference – Australian government response

##### *1. Exercise of Commonwealth powers*

Public policy responses to the COVID-19 pandemic have cut across both federal and state responsibilities. Accordingly, we must first consider, in isolation, responses to the COVID-19 pandemic that are the sole domain of the federal government.

One such area is the control of Australia's external borders. The Morrison government implemented 'enhanced screening measures' early, followed soon after by the closure of the borders to visitors from several COVID-19 'hot spots', and then all countries. These decisions were timely and necessary, albeit highly disruptive, and were arguably the most effective mechanism in terms of keeping infection rates low.

Another public policy intervention by the Commonwealth has been compensation of businesses and workers whose ability to earn an income was hindered by lockdown measures imposed by state and territory governments.

IPA research and analysis found that some 53.6 per cent of the labour force is either directly employed by Commonwealth and state governments or local councils, or is in receipt of the JobSeeker unemployment payment or the JobKeeper wage subsidy. This is simply unsustainable.

##### *2. Coordination with states and territories*

The Commonwealth sought to coordinate with the states and territories early, establishing the 'National Cabinet' as a mechanism to ensure effective action across all levels of government.

The effectiveness, however, has been mixed. In particular, the National Cabinet did not achieve its ostensible aim of ensuring that measures to prevent the spread of the coronavirus – for which responsibility is devolved to the eight separate state and territory governments – were consistent and measured.

In reality, states and territories agreed tacitly to high-level timetables that were effectively meaningless, but 'did their own thing' when it came to various restrictions, often for highly political purposes. What should have been a considered, sober exercise in cooperative federalism became a cynical 'race to the bottom', in which premiers and chief ministers sought to be seen to be taking the 'strongest action' on preventing the spread of the coronavirus.

The result was a confusing patchwork of arrangements which varied widely state-by-state. In many cases, the 'strong action' about which state and territory governments boasted took the form of highly petty restrictions for which there was little epidemiological merit and, more to the point, were self-evidently devoid of any common sense. Bans on activities like golf and fishing in Victoria are a prime example – which, again, did not apply elsewhere for the most part.

Of considerably more consequence is the failure of state governments to lift restrictions in a timely fashion, even as active cases in Australia dwindle. To date according to the most recent figures from the Australian Bureau of Statistics more than 2 million Australians are out work, with 820,000 classed as 'unemployed' and a further 1.26 million having left the work force entirely since March. On top of this, some 750,000 Australians are currently in work but are working zero hours, meaning they are functionally unemployed. The Prime Minister foreshadowed this potential issue when he said in a press conference that 'lives are on the line' in both a public health *and* an economic sense.

There have been some suggestions in the public debate that the National Cabinet be retained, effectively replacing the existing Council of Australian Governments process. This would, at best, be a waste of time.

#### Response to the Committee's terms of reference – Other matters

To facilitate the recovery of Australian economy and society as fast as possible, governments at the federal and state level should:

- Immediately end the lock-down measures.
- Cut red and green tape.
- Reduce taxes.
- Implement policy to reduce electricity prices.
- Carve small businesses out of the *Fair Work Act*.

#### Conclusion

The IPA would welcome the opportunity to speak to our submissions and answer any questions at a public hearing of the committee.

Yours faithfully

**Gideon Rozner**  
Director of Policy  
Institute of Public Affairs

**Daniel Wild**  
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May 2020



# **JOBS AND WAGES DURING THE COVID-19 LOCKDOWN**

Cian Hussey, Research Fellow  
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**IPA** Institute of  
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# Jobs and Wages During the Covid-19 Lockdown

The most recently available employment and wages data from the Australian Bureau of Statistics provides further evidence that two Australias have emerged during the COVID-19 lockdown: those in the public sector and quasi-public institutions who have been sheltered from the economic and social fallout, and those in the productive, private sectors of the economy who have suffered immensely.

Data from the Australian Bureau of Statistics' *Weekly Payroll Jobs and Wages in Australia*, released on 19 May, shows the private sector workforce suffered a more substantial decline to wages and employment than the public sector, and that economic recovery commenced in the public sector in early April while the private sector remains depressed.

Our analysis of ABS data provides three key findings:

- Since the week ending 14 March jobs in the public sector have decreased 1.7 per cent, compared to a 7.7 per cent decrease in the private sector. This means that the rate of job losses is 4.5 times higher in the private sector than in the public sector.
- Since the week ending 14 March wages in the public sector have decreased by 2.6 per cent, compared to a 5.7 per cent decrease in the private sector. This means that wage decreases in the private sector were 2.2 times larger than wage decreases in the public sector.
- The public sector recovery commenced in early April: Over the past month, public sector jobs have increased by 2.7 per cent compared with a 1.3 per cent decrease to jobs in the private sector, while wages have increased by 3.7 per cent in the public sector but decreased by 2.2 per cent in the private sector.

A "payroll job" is defined by the ABS as: "a relationship between an employee and their employing enterprise, where the employee is paid in the reference week through STP-enabled payroll or accounting software and reported to the ATO". In other words, it counts only those who are employees, and so excludes sole-traders. As the ABS says, "not all jobs in the Australian labour market are captured within these estimates."

While the release does not explicitly differentiate between the public and private sector, we are able to create a proxy for the 'private' and 'public' sectors.

In this analysis, the public sector is referred to as the "public administration and safety" industry. The private sector is conservatively referred to as all industries, excluding "public administration and safety."

It is true that there are other industries with which have a mix of public and private employees, most notably the "education and training" and "health care and social assistance" industries.

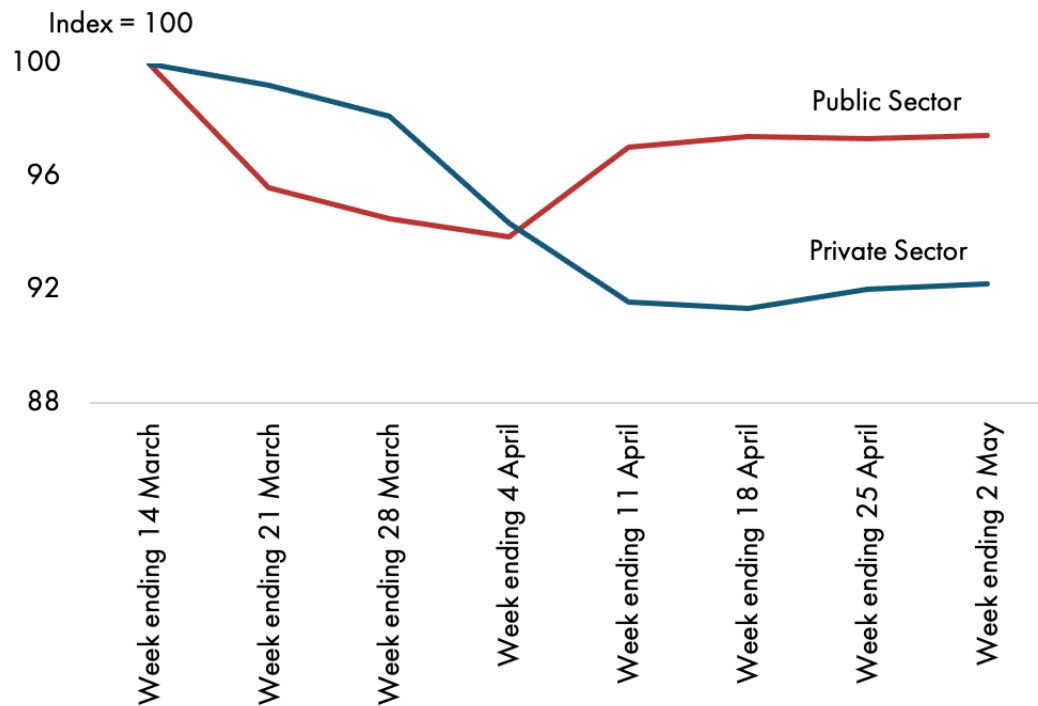
However, the ABS does not provide a breakdown of the changes within the public and private workforces in those industries. As such, we can either assume all of the workers are public or all are private. We decide to assume they are all private workers because this provides for a more conservative analysis. If, for example, we were to exclude the “education and training” and the “health care and social assistance” industries from the analysis altogether so that the private sector would be all industries less “public administration and safety”, “education and training”, and “health care and social assistance”, the results would be: a 9.7 per cent decrease in private sector jobs rather than a 7.7 per cent decrease, and a 7.8 per cent decrease in private sector wages rather than a 5.7 per cent decrease.

Hence, the analysis we provide is conservative. In all likelihood, the magnitude of private sector job losses and wage cuts are far more significant.

The indices shown below were calculated by adjusting the ABS *Weekly Payroll Jobs and Wages in Australia* indices based on the weight of each industry. Industry weights for jobs were calculated using ABS cat. no. 6291, and industry weights for wages were calculated using ABS cat. no. 5204. All calculations were made using the latest available data.

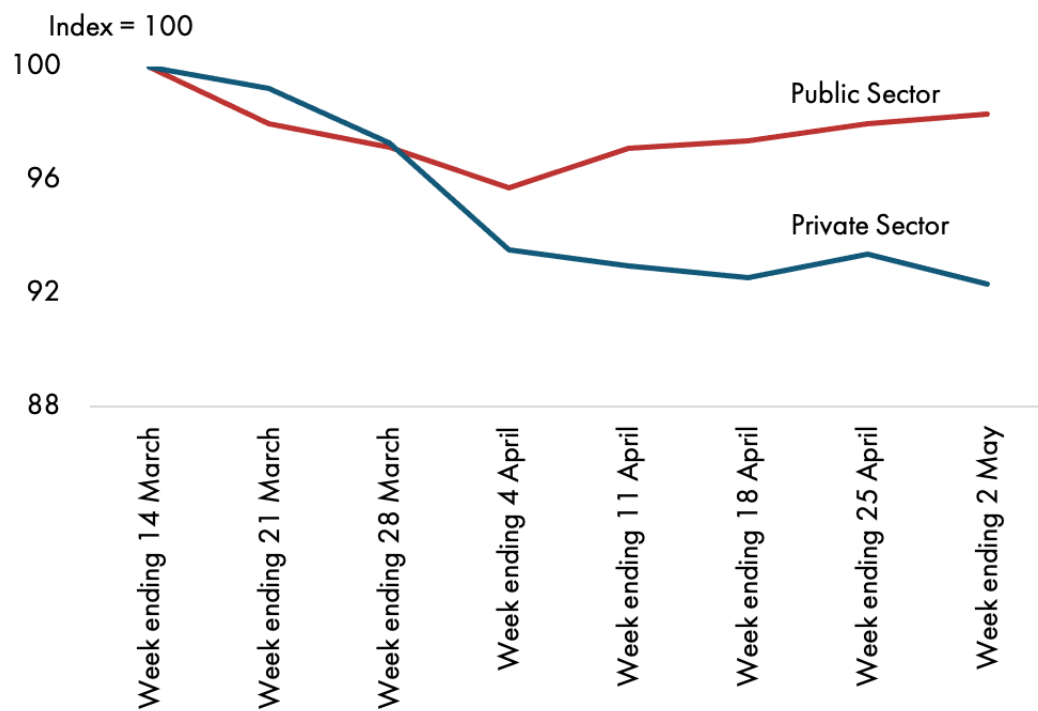
It is also worth considering the impact of JobKeeper on job and wage losses. Because of JobKeeper, many people who are out of work (that is, are working zero hours) are still being classified as employed and receiving a wage. In the absence of the wage subsidy scheme, the loss of jobs and wages would be more pronounced in the private sector.

**Chart 1: Wages**



Source: IPA, Australian Bureau of Statistics.

**Chart 2: Jobs**



Source: IPA, Australian Bureau of Statistics.



# JOBS AND WAGES DURING THE COVID-19 LOCKDOWN

## About the Institute of Public Affairs

The Institute of Public Affairs is an independent, non-profit public policy think tank, dedicated to preserving and strengthening the foundations of economic and political freedom.

Since 1943, the IPA has been at the forefront of the political and policy debate, defining the contemporary political landscape.

The IPA is funded by individual memberships and subscriptions, as well as philanthropic and corporate donors.

The IPA supports the free market of ideas, the free flow of capital, a limited and efficient government, evidence-based public policy, the rule of law, and representative democracy. Throughout human history, these ideas have proven themselves to be the most dynamic, liberating and exciting. Our researchers apply these ideas to the public policy questions which matter today.

## About the authors

**Cian Hussey** is a Research Fellow at the Institute of Public Affairs.

He is interested in the impacts of red tape on small business, employment, and investment. His work at the IPA focuses on using RegData Australia to quantify regulation and its impacts on the economy.

Cian holds a Bachelor of Arts from The University of Notre Dame Australia, majoring in Politics and International Relations.

**Kurt Wallace** joined the Institute of Public Affairs as a Research Fellow in 2018.

He is interested in individual liberty, the expansion of free markets, the importance of ideas and culture, and studying the ill effects of government intervention in the economy. His work at the IPA focuses on industrial relations, and the dignity of work.

Kurt received a Bachelor of Commerce (Honours) from Monash University, majoring in Economics and Finance.





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# SHARED SACRIFICE IN THE TWO AUSTRALIAS

Daniel Wild, Director of Research

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# The Importance of Shared Sacrifice

The economic and social consequences of the social isolation measures introduced by state and federal governments to manage the spread of COVID-19 has revealed that Australia is a deeply fractured and bi-furcated nation. There is, in essence, now two Australia's.

Those responsible for developing and implementing the social isolation measures have, in the main, not been those who have also incurred the greatest consequences of those measures. This is true regardless of the efficacy of the interventions, many of which have been timely and necessary, albeit in some cases excessive and disproportionate to risk.

The negative impacts have most prominently included widespread economic dislocation and social isolation producing mass joblessness. Modelling by the Institute of Public Affairs released on 3 April estimated that some 717,000 jobs had been lost from 25 March to 3 April, which is the equivalent to 71,700 jobs each day.<sup>1</sup> Three weeks later, this modelling was supported by data released by the Australian Bureau of Statistics which found that 715,200 jobs had been lost over the eight days from 28 March to 4 April, which is approximately 89,000 jobs per day.<sup>2</sup>

The economic ramifications of unemployment go well beyond the financial. Those without work are likely to suffer from a range of physiological and psychological health problems; their children are likely to perform worse at school; and they are more likely to abuse drugs and alcohol, exhibit symptoms of depression and anxiety, and practice self-harm and commit suicide.

Mass unemployment is not an economic problem. It is a humanitarian tragedy.

But there is something much deeper sitting beneath the surface.

In February 2020, Joel Kotkin, who is the executive director of the US-based Urban Reform Institute, wrote of how today across the western world the middle class is split into two distinct, and often opposing, groups. The first is the traditional middle class comprised of "small businessowners, minor landowners, craftspeople, and artisans" who are "deeply embedded in the private economy".<sup>3</sup>

The other middle class, which Kotkin argues is now in the ascendancy, is the "clerisy" which is a "group that makes its living largely in quasi-public institutions, notably universities, media, the non-profit world, and the upper bureaucracy." To this one might add the courtier class that surrounds and is sustained by the clerisy, such as large consulting and advisory firms.

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1 Evan Mulholland, "Politicians and Public Servants are Selfish if They Don't Cut Their Pay", Media Release, (3 April 2020). Modelling prepared by Research Fellows Cian Hussey and Kurt Wallace.

2 Australian Bureau of Statistics, "Household Impacts of COVID-19 Survey", (20 April 2020)

3 Joel Kotkin, "The Two Middle Classes", *Quillette*, (27 February 2020)

The current crisis has clarified that this trend is observable in Australia as well.

Many of those in what Kotkin would describe as the clerisy are not only largely unaffected by the negative social and economic impacts of the social isolation measures with their employment and wages left intact. But they, in relative terms, actively benefit. Those who throughout this crisis maintain somewhat normal economic activity will emerge with relatively more power and more wealth.

As Kotkin argues, “standing between the oligarchs, who now own as much as 50 percent of the world’s assets, and the growing population of propertyless serfs, the traditional middle class increasingly struggles for survival against those with the greatest access to capital and political power.” There is a risk that this trend will accelerate as Australia emerges from this crisis.

One way to mitigate this risk is through the practice of “shared sacrifice”, which refers to the concept that all Australians, regardless of their income or age, should make a sacrifice to help their fellow citizens recover from this crisis.

Some, such as those embedded in the private economy, have been forced to sacrifice through the loss of their jobs, income, livelihood, and social connections. Others, those in the clerisy, have so far largely escaped. This must change.

To understand public sentiment toward the concept of shared sacrifice, the Institute of Public Affairs commissioned polling from the polling and data firm *Dynata*. The poll of 1,012 Australians aged 16 and above was undertaken between 24-26 April and posed the statement “Politicians and senior public servants on salaries of \$150,000 should have their pay reduced by 20%”.

The response in support of the statement was overwhelming and widespread, with some 74 per cent of respondents agreeing and just 10 per cent disagreeing. The remainder neither agreed nor disagreed.

Support for pay cuts of politicians and senior public servants was also shared across the age spectrum. The lowest agreement rate being those aged 16-24, 63 per cent of whom agreed. Although this relatively lower rate was driven by indifference rather than opposition; only nine per cent disagreed while the remainder neither agreed nor disagreed. All other age groups had an agreement rate of above 70 per cent.

The point is not that public servants should be needlessly punished. But that it is unseemly for a small group of elites to be seen to be – or to actually be, in practice – prospering at a time of great economic and social upheaval which is devastating the lives of millions of mainstream Australians.

A failure of the elites to empathise with and share in the struggles of the mainstream of the population could pose an existential threat to Australia’s egalitarian liberal democracy.

Public trust in the major institutions of our society has been declining for a number of years and is now at crisis lows.

Each year the communications firm *Edelman* publishes its *Global Trust Barometer*, which surveys the attitudes of respondents in 28 nations about the trust they have in major institutions, such as government, the media, non-government organisations, and business. The most important metric in the survey is the “trust gap” which measures the level of trust in major national institutions amongst the elites (called the “informed public”) and the mainstream (called “mass population”).<sup>4</sup>

In the 2020 edition of the survey, Australia had the largest trust gap out of all 28 nations surveyed, meaning the dichotomy between the elites and the mainstream is more pronounced in Australia than in any other of the surveyed nations. The average level of trust amongst the informed public in government, NGOs, media, and business was 68 per cent – above the global average of 65 per cent. Conversely, trust amongst the “mass population” in those same institutions was just 45 per cent, implying a trust gap of 23 per cent, which is well above the global average trust gap of 14 per cent.<sup>5</sup>

A failure of the elites to engage in shared sacrifice will further exacerbate this trust gap and erode the confidence that Australians have in their key governing institutions.

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4 Edelman, “Edelman Trust Barometer 2020”, (January 2020)

5 Ibid.

# Equality of Sacrifice Poll 2020

## Summary

Column %	Politicians and senior public servants on salaries over \$150,000 should have their pay reduced by 20%
Strongly agree	46%
Somewhat agree	28%
Neither agree or disagree	16%
Somewhat disagree	6%
Strongly disagree	4%
Top Net (Strongly agree/Somewhat agree)	74%
Bottom Net (Somewhat disagree/Strongly disagree)	10%
NET	100%
	1012

## Politicians and senior public servants on salaries over \$150,000 should have their pay reduced by 20%

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Strongly agree	30%	35%	48%	50%	55%	53%
Somewhat agree	33%	37%	23%	25%	22%	31%
Neither agree or disagree	28%	18%	17%	14%	14%	8%
Somewhat disagree	7%	9%	5%	7%	5%	3%
Strongly disagree	2%	1%	7%	4%	4%	5%
Top Net (Strongly agree/ Somewhat agree)	63%	72%	71%	75%	77%	85%
Bottom Net (Somewhat disagree/Strongly disagree)	9%	10%	12%	11%	9%	8%
NET	100%	100%	100%	100%	100%	100%

## Politicians and senior public servants on salaries over \$150,000 should have their pay reduced by 20%

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Strongly agree	36	64	94	90	84	97
Somewhat agree	40	67	44	46	33	57
Neither agree or disagree	34	33	33	25	22	14
Somewhat disagree	9	16	10	12	7	5
Strongly disagree	2	2	13	8	6	9
Top Net (Strongly agree/ Somewhat agree)	76	131	138	136	117	154
Bottom Net (Somewhat disagree/Strongly disagree)	11	18	23	20	13	14
NET	121	182	194	181	152	182



## Are you...?

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Male	27%	45%	48%	52%	55%	62%
Female	73%	55%	52%	48%	45%	38%
NET	100%	100%	100%	100%	100%	100%

## Location

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Australian Capital Territory	0%	1%	2%	4%	3%	2%
Greater Adelaide	10%	2%	4%	9%	9%	6%
Greater Brisbane	13%	18%	10%	12%	11%	10%
Greater Darwin	1%	1%	1%	1%	1%	1%
Greater Hobart	1%	1%	1%	0%	0%	2%
Greater Melbourne	27%	25%	19%	23%	18%	16%
Greater Perth	7%	6%	10%	10%	7%	14%
Greater Sydney	23%	30%	37%	22%	22%	12%
Rest of NSW	6%	5%	4%	5%	9%	13%
Rest of NT	0%	0%	1%	0%	1%	0%
Rest of Queensland	7%	5%	6%	5%	13%	9%
Rest of SA	0%	1%	1%	2%	0%	2%
Rest of Tasmania	2%	2%	1%	1%	1%	2%
Rest of Victoria	2%	2%	4%	6%	4%	9%
Rest of WA	0%	0%	1%	1%	2%	1%
NET	100%	100%	100%	100%	100%	100%

## State

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
ACT	0%	1%	2%	4%	3%	2%
NSW	29%	36%	41%	27%	31%	25%
NT	1%	1%	1%	1%	2%	1%
QLD	21%	24%	16%	17%	23%	20%
SA	10%	2%	5%	11%	9%	8%
TAS	2%	3%	2%	1%	1%	4%
VIC	30%	27%	23%	28%	22%	25%
WA	7%	6%	11%	11%	9%	15%
NET	100%	100%	100%	100%	100%	100%



## Area

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Metro	83%	84%	82%	81%	71%	64%
Rural/Regional	17%	16%	18%	19%	29%	36%
NET	100%	100%	100%	100%	100%	100%

## What is your annual gross (i.e. before tax) household income range?

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Less than \$15,000 AUD	12%	6%	2%	2%	5%	1%
\$15,000 to \$29,999 AUD	7%	6%	7%	10%	16%	13%
\$30,000 to \$44,999 AUD	14%	9%	7%	7%	12%	25%
\$45,000 to \$59,999 AUD	12%	9%	11%	7%	9%	19%
\$60,000 to \$74,999 AUD	10%	14%	9%	11%	13%	12%
\$75,000 to \$99,999 AUD	17%	19%	18%	20%	15%	8%
\$100,000 to \$149,999 AUD	9%	17%	26%	19%	14%	7%
\$150,000 to \$199,999 AUD	3%	10%	10%	9%	4%	2%
\$200,000 to \$499,999 AUD	2%	4%	3%	4%	4%	0%
\$500,000 to \$999,999 AUD	0%	0%	0%	0%	0%	0%
\$1 million + AUD	1%	0%	0%	0%	0%	0%
Prefer not to answer	13%	5%	7%	9%	8%	15%
NET	100%	100%	100%	100%	100%	100%

## What is your annual gross (i.e. before tax) personal income range?

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Less than \$15,000 AUD	31%	16%	13%	10%	15%	9%
\$15,000 to \$29,999 AUD	21%	13%	16%	18%	27%	35%
\$30,000 to \$44,999 AUD	12%	13%	7%	10%	18%	18%
\$45,000 to \$59,999 AUD	17%	15%	12%	13%	9%	10%
\$60,000 to \$74,999 AUD	3%	20%	11%	13%	8%	5%
\$75,000 to \$99,999 AUD	1%	9%	15%	12%	5%	4%
\$100,000 to \$149,999 AUD	2%	6%	13%	12%	5%	2%
\$150,000 to \$199,999 AUD	0%	2%	3%	2%	3%	1%
\$200,000 to \$499,999 AUD	0%	1%	1%	1%	0%	0%
\$500,000 to \$999,999 AUD	0%	0%	0%	0%	0%	0%
\$1 million + AUD	1%	0%	0%	0%	0%	0%
Prefer not to answer	13%	4%	8%	10%	9%	16%
NET	100%	100%	100%	100%	100%	100%

## How would you describe your current living arrangements?

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Living with parents	51%	19%	8%	6%	2%	0%
Living on my own or with housemates/boarders	25%	19%	15%	22%	24%	9%
Living with a partner/spouse, never had kids	13%	26%	16%	13%	10%	7%
Parent/guardian, with the youngest child aged under 3 years living with me	5%	17%	12%	2%	0%	0%
Parent/guardian, with the youngest child aged 3-12 years living with me	2%	17%	32%	16%	3%	1%
Parent/guardian, with the youngest child aged 13-18 years living with me	0%	2%	11%	24%	6%	1%
Parent/guardian, with the youngest child aged 18+ years living with me	1%	0%	2%	9%	17%	4%
Retirees	1%	0%	1%	0%	9%	48%
Parent/guardian, with children aged 18+ years who have left home / Empty Nesters	1%	0%	1%	7%	27%	28%
Other (please specify)	1%	1%	1%	1%	3%	2%
NET	100%	100%	100%	100%	100%	100%

## Which of the following best describes your employment status?

	AGE GROUPS					
Column %	18-24	25-34	35-44	45-54	55-64	65+
Full-time (30 or more hours per week)	30%	62%	55%	47%	19%	2%
Part-time	26%	13%	16%	17%	15%	6%
Contract, Freelance or Temporary Employee	2%	3%	1%	5%	3%	3%
Full-time Student	14%	4%	0%	1%	0%	0%
Part-time Student (working MORE than 30 hours per week)	2%	0%	1%	0%	0%	0%
Part-time Student (working LESS than 30 hours per week)	6%	1%	0%	1%	0%	0%
Homemaker	2%	3%	6%	7%	8%	1%
Self-employed	0%	2%	3%	4%	7%	3%
Stay-at-Home Parent	1%	1%	7%	2%	0%	0%
Retired	0%	0%	1%	4%	30%	82%
Semi-retired	0%	0%	0%	1%	4%	3%
Unemployed	16%	10%	10%	10%	12%	0%
None of the above	2%	0%	1%	2%	2%	0%
NET	100%	100%	100%	100%	100%	100%

# Quantitative Analysis of a 20% Pay Reduction

This section analysis two scenarios for a 20% pay reduction of public servants. The first is for senior public servants, and the second is for all public servants.

The Annual Public Service Report produced by the Australian Public Service Commission provides a breakdown of commonwealth public service salaries by employment classification, which is triaged into three levels: Australian Public Service (APS), Executive Level (EL), and Senior Executive Service (SES).<sup>6</sup>

Broadly speaking, APS staff are junior staff, EL are middle managers, and SES are senior managers. These three levels are then further triaged into sub-classifications: APS levels one to six; EL levels one and two; and SES levels one to three. A higher number denotes a more senior position, where SES level three includes departmental secretaries and deputy secretaries.

It is not possible to delineate the number of commonwealth public servants who are precisely on salaries at or above \$150,000 per year. But it is possible to find the median salary of each of the aforementioned classifications. The closest to the \$150,000 annual salary is the median salary of an EL1 employee which is \$134,255. This means that half of all EL1 employees are paid more than \$134,255 each year.

Accordingly, this analysis models a 20% pay reduction to all EL2 and SES level commonwealth public servants, as well as the top half of EL1 public servants. This analysis is provided in the table below, and finds that a 20% cut would result in savings of approximately \$880 million per year.

What is important to note is that even with the pay reduction, the average annual remuneration of EL1 staff would still be \$108,204, which is well above the full time median Australian salary of \$86,000.

These estimates could also be extended to the commonwealth public service as a whole.

According to the Australian Bureau of Statistics, average weekly private sector earnings are 20 per cent lower than in the public sector. Given the total commonwealth public sector wage bill of \$22.12 billion implies a public service wage premium of \$4.4 billion.<sup>7</sup>

Commonwealth public servants also receive a minimum superannuation contribution of 15.4 per cent, compared with a 9.5 per cent contribution for private sector workers. This implies a commonwealth public service superannuation premium of \$1.3 billion. The wage and superannuation premiums combined provide a public service remuneration premium of \$5.7 billion for 2018 alone.

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<sup>6</sup> Australian Public Service Commission, "Australian Public Service Remuneration Report 2018", (July 2019)

<sup>7</sup> Australian Bureau of Statistics, "Employment and Earnings, Public Sector, Australia", (November 2019)

PUBLIC SERVANT REMUNERATION						
	Number of employees	Average remuneration	Total remuneration	Total remuneration with 20% pay cut	Savings from 20% pay cut	Average remuneration after 20% pay cut
EL1 (earning over \$135,255)	12,415	\$135,255	\$1.68bn	\$1.34bn	\$336m	\$108,204
EL2	11,351	\$174,180	\$1.98bn	\$1.58bn	\$395m	\$139,344
SES1	1,952	\$261,965	\$511m	\$409m	\$102m	\$209,572
SES2	543	\$332,659	\$181m	\$145m	\$36m	\$266,127
SES3	119	\$456,073	\$54m	\$43m	\$11m	\$364,858
Total	26,380	\$272,026	\$4.4 billion	\$3.52 billion	\$880 million	

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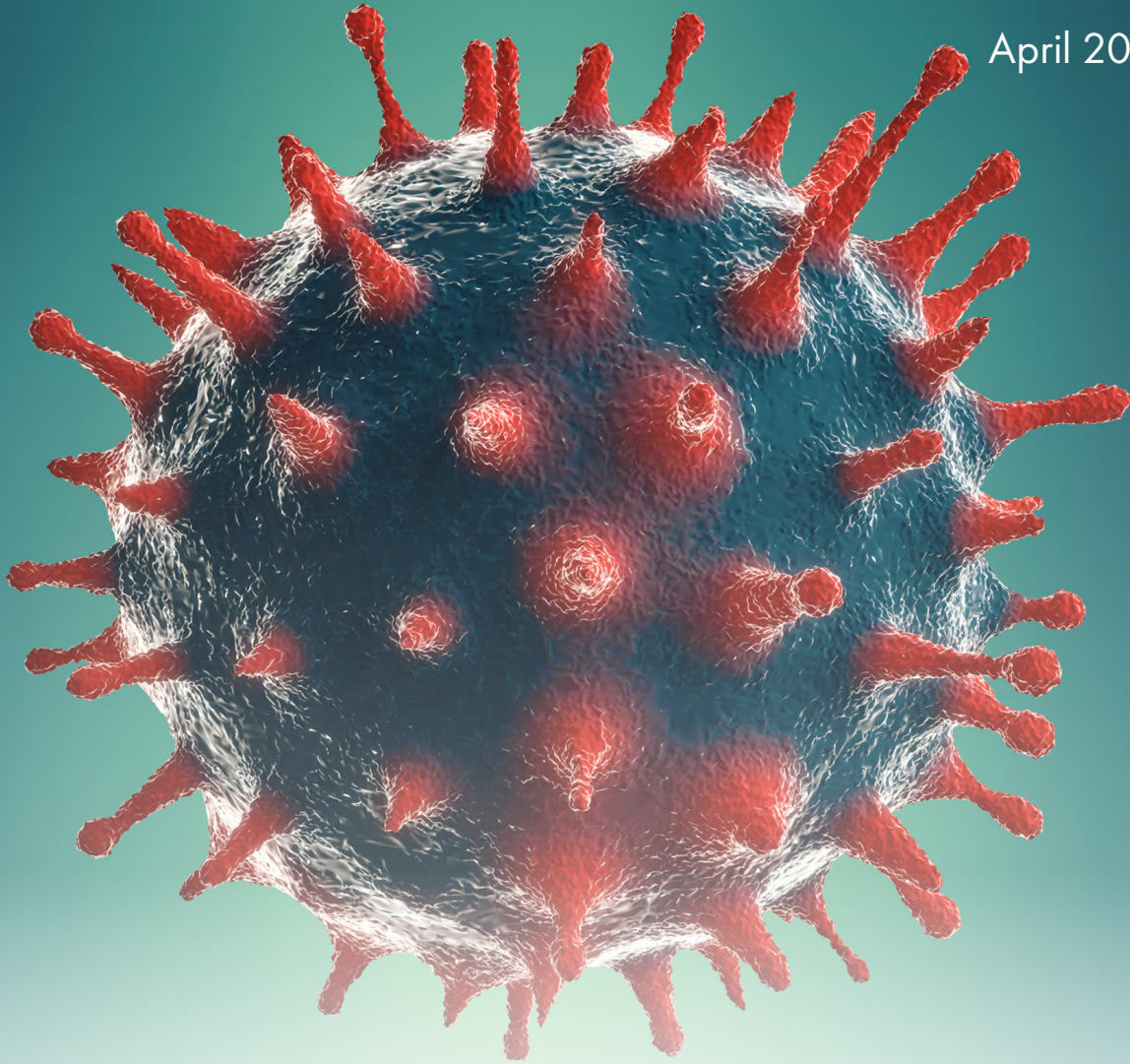
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April 2020



# STATES OF EMERGENCY:

AN ANALYSIS OF COVID-19  
PETTY RESTRICTIONS

Morgan Begg, Research Fellow



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# Introduction

Since the World Health Organization's declaration of the coronavirus as a pandemic-level public health event Australians have been subject to an increasingly arbitrary, inconsistent and petty public policy response. The policy response has been felt by Australians in the form of enforced social distancing and isolation measures in order to delay the spread of the virus so that the number of active coronavirus cases does not at any time exceed the capacity of the health system to provide the appropriate level of care. The Commonwealth Department of Health has explained that keeping 1.5 metres away from other people and practicing good hygiene are essential to the social distancing which is necessary to meet this public health regulatory objective. However, many of the strict rules imposed by state governments have failed to take into consideration whether those activities can be undertaken while maintaining distancing of 1.5 metres.

Under Australia's federal system, the direct responsibility for imposing a policy response to the coronavirus has mostly fallen on the state governments. In order to impose the extensive restrictions, the states have relied on a variety of emergency and public health powers which have been validated by existing legislation. For instance on 16 March the State of Victoria declared a State of Emergency, which was made possible by the Public Health and Wellbeing Act passed in 2008 and which was to last for a period of four weeks. On 12 April, the state government extended the State of Emergency for a further four weeks, a power available to the government and which it can repeatedly do for a cumulative period not exceeding six months. At no stage does the Victorian government need to debate or approve in parliament the oppressive measures that has turned Victoria into a "police state" as described by John Roskam, executive director of the Institute of Public Affairs.<sup>1</sup>

In contrast to the strict approach of Victoria, Western Australia has adopted a relatively more relaxed approach to responding to the coronavirus. While Western Australia also declared a state of emergency on 15 March, its policy response has been largely directed towards quarantining interstate travellers in government facilities and restricting travel between its nine internal regions, except where travel is undertaken for good reason such as work or compassionate reasons. Other states fall

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<sup>1</sup> John Roskam, 'Beautiful one day, police state the next,' *The Australian Financial Review*, 3 April 2020.

somewhere in between Victoria and WA level of restrictions: South Australia declared a public health emergency but has not refused to enforce the Prime Minister's advice against gatherings of more than two people. Instead the South Australian government has prohibited gatherings of more than 10 people. Tasmania has implemented a broad definition of "social support" which is considered an essential and lawful reason for leaving the house.

The stricter states have used these powers to introduce an extraordinary level of restrictions on social, economic, and recreational activity. Many businesses have been instructed to cease operating altogether and gatherings of multiple people are in many cases prohibited. The implementation of these rules is often arbitrary and inconsistent with the fundamental legal rights of Australians, such as the presumption of innocence. A violation of a direction issued under public health or emergency powers will result in a strict liability offence. This means that the state does not need to find a mental element, or a person's intention to commit a crime, in order to be issued a penalty. In practice people who are outside of the house would in many instances be required to justify why they are outside or being with or around other people. Absurdly, this has seen a Victorian couple fined \$1,632 each for allegedly breaching travel restrictions after sharing holiday photos on Facebook which were taken in 2019.<sup>2</sup>

Because the distancing rules are issued by declarations and do not require the scrutiny of parliament in order to become law, these rules are being issued in relatively rapid pace and often in an inconstant way. There is a great deal of confusion about what the rules are and who the rules might apply to at any given moment. This was best illustrated when on 1 April the Premier of Victoria revealed that a person would not be permitted to visit a partner if they did not live with them. But by the end of the day it was announced that a special exemption would be made for people in this position. Deputy Commissioner Shane Patton of Victoria Police noted a problem in inconsistent enforcement when he noted he "was concerned that there continues to be an inconsistent approach from our members when enforcing the directives of the Chief Health Officer...the lack of discretion erodes public confidence in Victoria Police..."<sup>3</sup>

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2 Summer Wooley, 'Coronavirus Australia update: Victorian couple fined \$3,300 over year-old holiday snaps,' *7news*, 13 April 2020 <<https://7news.com.au/lifestyle/health-wellbeing/coronavirus-australia-update-victorian-couple-fined-3300-over-year-old-holiday-snaps-c-973271>>.

3 Tammy Mills, COVID-19 lockdown fines 'eroding public confidence' to cop warns,' *The Age*, 13 April 2020 <<https://www.theage.com.au/national/victoria/covid-19-lockdown-fines-eroding-public-confidence-top-cop-warns-20200413-p54jfk.html>>.

If the rationale for restrictions is accepted it doesn't logically follow that any level of restrictions is appropriate. Nor does it follow that blunt one-size-fits-all restrictions are the best way to achieve the regulatory goal. It is entirely reasonable to suggest that the cause of regulation is justified but that the measures adopted are inappropriate to meet the goal. This is the case here. The restrictions imposed by the Australian states have been characterised by the kind of heavy-handed one-size-fits-all approach mentioned above, applying rules across different industries and activities. As a consequence the restrictions are being imposed on activities without regard for whether those activities can be undertaken while maintaining 1.5 metre distancing. These include restrictions on outdoor recreational activities such as fishing or playing a round of golf, as well as solitary activities such as driving in a vehicle due to boredom or to travel to a different place to exercise alone. In these situations it may be expected that the police will exercise discretion informed by common sense to have a relaxed enforcement approach. If this is not the case—and the numerous cases highlighted in this report suggest that this is an issue—then it is the rules which need to change.

The purpose of this report is to outline the petty implementation of restrictions of recreational and family activities which can be undertaken while maintaining 1.5 metre distancing. Specifically we ask if whether a person in each state is allowed to participate in a number of mundane recreational or social activities, such as whether a person is allowed to learn how to drive or visit your immediate family during the period of enforced distancing.

The National Cabinet has reportedly asked chief medical officers for "social relaxation options" to consider at a meeting to be held on 16 April 2020. This research highlights the need for scarce government resources to be directed towards enforcing rules which are the minimal effective regulations required to achieve the public health objective.

## Petty restrictions, by state

Question	NSW	VIC	QLD	WA	SA	TAS
<b>Can you go fishing?</b>	Allowed as long as people follow social distancing regulations.	Victoria is currently the only state or territory that has banned recreational fishing. Boat ramps, piers, jetties and other marine infrastructure closed from 9 April for the Easter weekend.	Fishing is allowed as long as people follow social distancing rules.	Encouraging fishers to stay home but is not banned.	Fishing is allowed as long as people follow social distancing rules.	Allowed as long as people follow social distancing regulations. Fishing with up to two people in a boat is allowed.
<b>Can you play a round of golf</b>	Golf courses remain open after a "miscommunication" which told all to close immediately.	Closed as per directions prohibiting "recreational facilities" from operating during the state of emergency.	Golf courses allowed to open but Golf Australia recommends courses should close anyway.	No specific advice or case studies.	Treated no differently to public parks and beaches (10 person limit restrictions apply)	State government has set a limit of 2 people per hole on the golf course.
<b>Can you visit your immediate family if you don't live together</b>	Probably not. Police Commissioner said on 1 April 2020 that while visiting partners was allowed social visits do not count.	Social visits are not allowed unless for compassionate reasons.	Allowed to have two additional guests in a house at a time but physical distancing should be observed, and unnecessary social gatherings limited.	Families are exempt from the two-person gathering limits, however, unnecessary social interaction is discouraged.	Allowed as long as there are a maximum of 10 people at a gathering, however unnecessary social interaction is discouraged.	Tasmania has a broad definition of "social support" which is considered an essential reason for leaving the house.
<b>Can you visit your partner if you don't live with them?</b>	Legislation would suggest not, but police commissioner Mike Fuller has said that this falls under the "care" exemption.	Originally declared to be not allowed (1 Apr 2020). Later that afternoon the state chief health officer tweeted that an exemption to the social visits rule would be made for partners.	Allowed. Households are allowed to have two additional guests at a time but physical distancing should still be observed when possible.	No specific advice or case studies.	No specific advice or case studies.	Tasmania has a broad definition of "social support" which is considered an essential reason for leaving the house. Not permitted to stay overnight however.
<b>Can you go for a drive?</b>	No specific advice or case studies.	Fines were reportedly issued to four people who were driving aimlessly. Another man was issued a fine for driving to a bike trail for under "unnecessary travel" restrictions.	A person can travel with those living in the same household, or with one other person, but there are exemptions for the elderly or people with a disability.	No specific advice or case studies. State government has warned that all passengers need an essential reason to travel.	No specific advice or case studies.	No specific advice or case studies. State government has warned that all passengers need an essential reason to travel.

<b>Can you learn how to drive?</b>	This is a reasonable excuse to leave the house.	A 17-year-old learner driver with her mother in the passenger seat was pulled over by police and issued with a \$1,652 fine. The Health Minister later stated that learning to drive was not an essential activity.	This is a reasonable excuse to leave the house but driving tests have been cancelled for three months from 28 March.	Driving lessons are still allowed and some driving tests are still happening. Travel is not allowed between the nine WA regions.	SA police have said that SA restrictions "would not prevent two members of the same family group from being together in a motor vehicle for the purposes of a driving lesson."	Driving lessons are a "reasonable excuse" under the state's public health orders but people are urged to "drive within their local area."
<b>Can you have social guests if you live alone?</b>	Social visits are not allowed.	Social visits are not allowed.	Allowed. No more than two guests are allowed in a house at a time.	Allowed, but only one person, or family.	Allowed, but gatherings are limited to 10.	Allowed under social support rules but only two visitors are allowed at a time and must be mindful of social distancing and avoiding unnecessary travel.
<b>Can you drive to your beach house or holiday house?</b>	NSW Arts Minister Don Harwin resigned when he was fined \$1,000 for breaching a ban on non-essential travel after he was photographed at his Central Coast holiday house.	Premier Andrews has said that the government won't stop people traveling to <i>properties they own</i> over Easter. However roadblocks are to be set up on the Great Ocean Road to "stop rogue holiday-makers" spreading the virus. However a Victorian couple were fined \$1,632 each for breaching restrictions after sharing year-old holiday photos on Facebook.	According to <i>The Courier</i> you may travel to a holiday house with those you live with, only leaving the holiday property for essential reasons.	No specific advice or case studies.	No specific advice or case studies.	No specific advice or case studies.
<b>Can you go to the beach or go surfing?</b>	NSW Health has stated that "surfing, like any other recreational activity or gathering... should not be done in any more than groups of two with the rules of 1.5m social distancing being followed at all time."	Piers and jetties closed from 9 April 2020. Tourists discouraged from surfing at Torquay.	Gold Coast mayor Tom Tate said beaches would close at The Spit, Surfers Paradise and Coolangatta due to "out of towners" visiting the beaches.	Beaches are not closed but the state government has urged people to adhere to social distancing rules or popular spots like Cottesloe will be shut down.	Premier Stephen Marshall has stated that surfing, walking along the beach and exercising in parks is still allowed.	Tasmanian national parks have been shut meaning any beaches within national park areas are not accessible. Council-patrolled swim spots remain open.

<b>How far are you allowed to travel for exercise or other reasons?</b>	Allowed to drive across town however not allowed to travel hours out of the city	Premier Andrews said on Twitter that exercise had to be local and not "driving for miles and being out all day."	Not specified but government urges residents to use common sense and avoid unnecessary travel.	Not allowed to travel between the nine regions of WA without good cause, such as work or compassionate reasons.	No specific advice or case studies.	No specific advice or case studies.
<b>Can you sit on a park bench?</b>	Premier Berejiklian said a person sitting on a park bench would be asked to move on. "You shouldn't be stationary." A man was fined \$1000 after he was caught eating a kebab on a park bench in Newcastle.	A strict reading of the directions indicate a person can not sit idly on a park bench.	Associate Professor of Law Susan Harris Rimmer advises Queenslanders to "not sit on anything, play on anything or touch anything" at local parks.	No specific advice or case studies.	No specific advice or case studies.	No specific advice or case studies.
<b>Can you leave the house if you are bored?</b>	A woman was fined for joining a man delivering food because she was bored of being at home.	Reported that fines were issued to four people who were driving aimlessly.	No specific advice or case studies.	No specific advice or case studies.	No specific advice or case studies.	No specific advice or case studies.
<b>Can you buy food from an outdoor market?</b>	No specific advice or case studies.	No specific advice or case studies.	Premier threatened to shut down fresh food markets after crowds attended a market.	No specific advice or case studies.	No specific advice or case studies.	No specific advice or case studies.



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# STATES OF EMERGENCY: AN ANALYSIS OF COVID-19 PETTY RESTRICTIONS

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