

**SUBMISSION TO SENATE FINANCE AND PUBLIC ADMINISTRATION
LEGISLATION COMMITTEE**

**INQUIRY INTO REMUNERATION TRIBUNAL AMENDMENT (THERE FOR PUBLIC
SERVICE, NOT PROFIT) BILL 2025**

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Introduction

Senator Lambie's Bill reflects concerns that the remuneration of departmental secretaries and other senior public sector officials, including vice chancellors, are excessive and do not reflect reasonable community standards for those who serve the public.

The evidence reveals significant growth in such remuneration compared to growth in average wages particularly following a Remuneration Tribunal review in 2010, and that the much higher relativities with average wages have been maintained ever since. Remuneration for such positions in Australia also exceeds by a large margin that provided for equivalent positions in most developed countries.

The Tribunal's 2010 review drew heavily on a private sector consultant report (Egan Associates, 2009) on the 'Work Value for the Office of Secretary'. The focus of that report, while spelling out the responsibilities of secretaries, was on how their remuneration compared to that in 'the broader leadership market in Australia', meaning private sector leaders. Not addressed in the report, nor in the Tribunal's review, was the specific labour market in which secretaries and other senior public sector officials work, nor whether there was evidence of serious problems in attracting and retaining the skills required.

The emphasis on private sector markets and practices has permeated public sector management in Australia now for about four decades. While some measures such as subjecting public services to competition initially delivered gains in efficiency, downsides have been emerging for some time now. The distinct roles and responsibilities and lines of accountability of public sector organisations have been under-appreciated; expertise has been 'hollowed out' and too often replaced by excessive reliance on private sector management; also under-appreciated is the commitment to serve the public that should (and generally does) underpin the culture of the public sector.

The concerns of Senator Lambie and others therefore have considerable justification, but the approach in this Bill is too blunt and does not offer any longer-term answer. A cap based on the remuneration of the Prime Minister or Treasurer is no better than the Tribunal's emphasis on private sector practice: the career paths of politicians and public servants are very different. Nor should we return to ministers determining public sector pay.

A Bill based on similar concerns was introduced in 2017 (the Public Governance, Performance and Accountability Amendment (Executive Remuneration) Bill 2017) but it too proposed a blunt cap, in that case five times average earnings. The then inquiry by the Senate Education and Employment Legislation Committee considered evidence including from my own submission, but then simply recommended in its report in March 2018 that the Senate not pass the Bill.

My concern is that this current inquiry might again simply recommend this new Bill not be passed. What is really required is a proper review of how the Remuneration Tribunal determines the remuneration of senior officials, with a focus on the relevant labour markets and the remuneration required to attract, develop and retain the skills needed. This submission includes some recommendations for amending the Remuneration Tribunal Act so the Parliament can make clearer its expectation of the processes used and the Tribunal's processes are made more transparent.

Problems with senior executive pay go beyond those within the purview of the Remuneration Tribunal. SES remuneration within the APS, which is the responsibility of the APS Commission, is a mess with widely varying pay for similar positions across different agencies, and major overlaps sometimes even with secretaries' remuneration. Much firmer central control is needed, with better coordination between the Tribunal and the APSC, preferably based on a common understanding of the best way to set public sector remuneration.

Trends in public sector executive remuneration

Table 1 below from my submission to the 2017 Senate inquiry (and quoted in its 2018 report) shows how Secretaries' remuneration increased relative to average earnings after the Remuneration Tribunal's 2010 review:

Table 1: Secretaries' Total Remuneration relative to AWE

	Level 1 \$pa	Level 2 (\$pa)	Level 1 (times AWE)	Level 2 (times AWE)
1998	248,130	233,968	6.6	6.2
1999	276,000	258,000	7.1	6.6
2000	305,000	285,000	7.5	7.0
2010	503,220	470,790	7.7	7.2
2011	612,500-620,000	570,000-575,000	9.0-9.1	8.4-8.5
2014	698,880-802,820	649,280-691,200	9.2-10.6	8.6-9.1
2017	745,770-878,940	692,500-745,770	9.3-10.9	8.6-9.3

The classification of Secretaries has been slightly modified since, but Table 2 shows how the higher remuneration relative to AWE has been preserved in the latest 2024 determination:

Table 2: Secretaries' Total Remuneration relative to AWE in 2024

Level	Remuneration (\$pa)	Remuneration (times AWE)
1 (Sec PM&C)	1,011,410	10.1
2 (Treasury)	986,120	9.9
3 (most other Secs)	910,270-960,840	9.1-9.6
4 (lower level Secs)	809,130-859,700	8.1-8.6

There was also a significant increase in 1994 when the 'contract' system was introduced with a 20% pay loading as compensation for loss of tenure. My firm view is that this was a mistake and the system of rewards and penalties that has since operated has contributed to recent APS failures such as Robodebt. Reinstating tenure (subject to performance and the availability of positions) should be accompanied by removal of this 20% loading.

My submission to the 2017-18 Senate Committee inquiry (copy attached) provides more detailed criticisms of the Remuneration Tribunal's approach. Not only is it delivering excessive remuneration

but also ‘work value’ differentials that do not reflect actual career practice and mobility at the top of the APS. It also draws on SES pay practice that is in even more of a mess than that of positions covered by the Tribunal: SES pay is still set by each employing agency without expert scrutiny (the APS Commission does have oversight but has yet to take firm action to sort out the mess).

I do not have current data, but I believe remuneration of Australian departmental secretaries and other agency heads is significantly higher than that paid in the UK, Canada and New Zealand, and more than that paid for comparable government positions in other OECD countries with the exception of Singapore. I believe this is also the case for vice chancellors.

My strong suspicion is that this overly generous approach (being more than needed to attract and retain the skills and experience needed) extends to many other determinations by the Tribunal. For example, I find it hard to see the case for the head of the new Parliamentary Workplace Support Service to be paid \$459,760: the position is surely at most equivalent to an SES Band 1 job.

Critique of the Bill

While Senator Lambie makes many valid points in her second reading speech about the excessive remuneration of senior public servants and vice chancellors, she relies too much on comparisons that lack any direct relevance to the setting of remuneration for officials and offers no alternative approach other than an arbitrary cap with room for politically determined exceptions.

The arbitrary cap proposed is based on the remuneration of the Federal Treasurer, which is of course also determined by the Remuneration Tribunal. The career paths of Treasurers and other politicians are quite different from those of public servants (and vice chancellors). They work in different labour markets and their responsibilities and the skills required vary significantly. The relevance of their remuneration to the attraction, development and retention of those required skills also varies. Senator Lambie rightly refers to public service as a motivation for public servants as well as remuneration.

The Bill would allow the Minister to prescribe a different cap by legislative instrument. While not directly giving the Minister power to set the remuneration of any official covered by the Tribunal, this would be a step away from earlier reforms to de-politicise the process for setting remuneration.

The proposed cap is lower than that proposed by Senator Whish-Wilson in 2017 and would take Secretaries’ pay back to levels not seen since before 2010. There would then be a flow-on impact, greatly compressing the pay structure of the public service not only amongst executives but also amongst large numbers of lower level but highly experienced employees where much of the APS expertise and corporate knowledge lies. Margins for experience, skills and increased responsibility are essential in any rational classification and remuneration system.

A more rational approach to public sector remuneration

Benchmarking pay and conditions is useful when addressing attraction and retention. But it is not the only tool for setting remuneration, and its importance varies. With whom to benchmark is also critical.

Market testing is particularly important for setting remuneration at the key entry levels – trainees, graduates, base-level professionals - where attraction is vital and the competition for talent may well be wide. While public service motivation is an attracting force, the APS cannot afford to be behind the market at these levels.

Beyond these levels, career progression should be reflected in classification profiles based on distinct levels of responsibility, expertise and expected experience within each occupational or professional stream. The associated pay margins must then reflect the additional responsibilities, experience and skills, and also be sufficient to retain talent. Market testing can provide some guidance but it may not be the central factor as public service motivation tends to increase over time and career prestige increases with seniority; any market testing must also relate to the labour market within which the relevant staff most commonly operate. It may play a greater role where the APS still benefits from significant above-base external recruitment (which has increased over the years).

This framework should be APS-wide and flow up to the SES. For the APS and most other non-commercial public sector organisations, it is the internal relativities and margins that are most important for setting the remuneration of the agency head. Appointments are mostly made from within the public sector and any market comparisons should be based primarily on practice in like organisations. External candidates may still be attracted by public service motivation and the prestige of public appointment, even if the pay is below that available in the private sector. Not being subject to direct market forces also provides a greater degree of job security for most public servants.

A substantial margin between a deputy and an agency head is justified by the extra statutory responsibilities involved; if the current 'contract' system for secretaries continues, the additional 20% loading for lack of tenure is also justified. Even so, this approach is likely to lead to significantly lower remuneration than the Tribunal has been determining over the last fifteen years for top executives. It may, however, lead to increased remuneration for some high-demand professionals at lower and middle level executive positions.

How to move towards such an approach

Responsibility for most aspects of such an approach lies with the APS Commission. The shift so far towards a common APS-wide remuneration system has been extremely slow. A much firmer stand needs to be taken, identifying the different occupations and their professional career paths, setting clear classification standards for distinct levels of responsibility, and drawing on appropriate market testing to inform the setting of remuneration levels. Where these reveal the need to reduce pay, or to radically increase pay, transition arrangements may need to be put in place. Any additional costs might be offset by reversing some of the growth in SES positions over the last decade or so.

Ensuring the Remuneration Tribunal embraces this approach would require imposing some constraints in the legislation, but I do not favour blunt instruments like caps nor removal of the Tribunal's independence from political pressures. Options include:

- Changing the processes for appointment of Tribunal members, requiring a strict merit-based approach with criteria including experience and expertise in public sector remuneration.
- Identifying criteria which must be included when making determinations, such as the level of responsibilities involved, evidence concerning attraction and retention, evidence from appropriate market comparisons, and expectations of non-financial rewards from public service.
- Requiring a major public review of the methodology used at least every five years, with a Productivity Commission-type public approach including a published issues paper from the Tribunal, followed by an invitation for submissions from the public, with a requirement that the APSC make a submission, submissions published, then a Tribunal draft report published, with a requirement for a Government response, before a final Tribunal report.

- Requiring any significant departure from a previous determination also to be subject to a public review process and requiring the Tribunal to provide full written statements of reasons for all of its decisions.

Recommendations

I recommend that the Committee:

1. Reject the Amendment Bill as it stands with its proposed cap on remuneration and the power of the Minister to vary such a cap.
2. Recommend that the Government develop a new Bill to amend the Remuneration Tribunal Act which would:
 - a. Establish strict merit-based appointment processes for Tribunal members with criteria including experience and expertise in public sector remuneration.
 - b. Include criteria the Tribunal must use in its determinations, including the level of responsibilities involved, evidence concerning attraction and retention, evidence from appropriate market comparisons, and expectations of non-financial rewards and public service motivation.
 - c. Requiring a major review of its methodology at least every five years through an open, public process including a public submission from the Australian Public Service Commissioner.
 - d. Requiring open, public processes for any significant change in a determination, and the Tribunal to provide written statements of reasons for all of its determinations.
3. Recommend employment of departmental secretaries be on the same basis as other APS employees with an appropriate downward adjustment to their pay determined by the Remuneration Tribunal (removing the 20% pay loading for loss of tenure).
4. Recommend that the APSC take a firmer APS-wide approach to APS remuneration, particularly for the SES.

17 March 2025