



**Community and Public Sector Union
Submission:**

**Public Governance, Performance and
Accountability Amendment (Executive
Remuneration) Bill 2017**

February 2018

OVERVIEW

As the primary union representing Australian Public Service (APS) employees, the Community and Public Sector Union (CPSU) is committed to providing a strong voice for our members in key public policy and political debates. The CPSU welcomes the opportunity to make a submission to the inquiry into the *Public Governance, Performance and Accountability Amendment (Executive Remuneration) Bill 2017* (the Bill).

The Bill seeks to place a cap on the salaries of senior executives in the Commonwealth Government at five times the Australian average weekly earnings. The second reading speech to the Bill explains that the aim of this measure is to close the gap in the wages of public sector executives and those of ordinary Australians.¹ The Bill also proposes to introduce reporting requirements to ensure more transparency in relation to executive salaries.

There is a growing income divide in Australia and the difference between the incomes of ordinary workers and Executives is obscene in some instances. This is particularly so in the private sector. But even in the public sector, there is a gulf between APS level and executive level (EL) salaries, and the salaries of senior executives. This has been exacerbated by pay freezes, a harsh bargaining round and strict wages policy for APS/EL employees. Incomes for senior executives and departmental secretaries have been increasing at a disproportional rate to the salaries of APS/EL employees. Something needs to change to ensure that all Commonwealth employees are paid fair wages that are commensurate with their skills, experience and the work they perform.

However, the CPSU is wary of blunt instruments such as pay caps. APS employees have been the victims of a strict wages policy for the Commonwealth Government since 2014. This has resulted in pay freezes and caps on pay rises which have been harmful for the APS. They have been bad for workers and bad for the economy as a whole.

Rather than imposing strict pay caps on executive remuneration, pay parity in the public sector needs to be addressed at the APS/EL side of the equation by improving bargaining to allow agencies to negotiate freely with their staff and changing the Government's bargaining policy to remove the pay cap.

The Government also needs to stop undermining pay rates in enterprise agreements by using contractors who cost much more than equivalent APS employees, and labour hire workers who are paid much less than the APS employees they are working alongside.

The CPSU supports greater transparency in relation to public sector pay. Agencies should track, publish and explain the pay multiples of senior executives compared to ordinary public servants over time. The Commonwealth Government should also be more transparent about the use of labour hire workers and contractors and the conditions those workers are engaged on, and provide more detailed breakdowns of Senior Executive Service (SES) salaries and the salaries of APS/EL employees in the remuneration reports and APSEDII databases.

¹ WHISH-WILSON, Sen Peter, [Second Reading Speech](#), 15 November 2017

INCOME INEQUALITY IN AUSTRALIA AND THE APS

Income distribution is not fair

The CPSU agrees that inequality is a serious issue in Australia and the world. The difference between the salaries of ordinary workers and CEOs and executives is obscene and getting worse. Workers' share of Australia's prosperity is getting smaller. While Australia is experiencing the longest period of uninterrupted growth in the developed world, the proportion of GDP accruing to workers has hit an all-time low. While GDP has been growing, wages have been stagnating.² Australia is among countries with the highest growth in income inequality in the world over the past 30 years, according to the International Monetary Fund.³

While lack of pay parity is an issue in the public sector, it is not on the scale of income inequality in the private sector. While the highest paid Departmental Secretary earns around 10 times the median APS salary at \$878,940, top CEOs in the private sector earn an average \$4.75 Million which is 78 times the average worker. CEO earnings have climbed 46 per cent faster than typical workers' earnings over the past 12 months.

And it is getting worse because wages for ordinary workers are stagnating

Income inequality in the public sector has been particularly heightened in recent years due to the implementation of a restrictive bargaining and wages policy applied by the Government to APS/EL employees.

Prior to this round of APS bargaining, Australian Public Service enterprise agreements expired on 30 June 2014. At the commencement of bargaining, the restrictive wages policy imposed on the APS saw agencies table pay offers as low as 0% and 0.8% p.a. Subsequently a pay cap of 1.5% p.a. was announced, which was revised to 2% p.a. in November 2015, a year and a half after APS enterprise agreements had expired. At this time, 96% of APS employees had had no new enterprise agreement and no pay rise.

Major APS agreements (ATO, DHS, and Defence) were not settled until the second half of 2017, with the majority of APS employees waiting over three years for a pay rise. These agreements offered an average of 2% p.a. pay increases over the three years of their operation, with no back pay for the effective wage freeze since bargaining commenced in 2014.

However, while APS employees were subject to this pay freeze, remuneration for SES employees and heads of agencies continued to grow. The Remuneration Tribunal granted general 2% pay increases for all public office holders in January 2016 and July 2017.⁴ Certain offices that have their wages set by the Remuneration Tribunal have received even greater pay increases. For example the salary for the Australian Public Service Commissioner increased 9.4% between July 2013 and July 2017.

²Standford, J., [Briefing Note: Labour Share of Australian GDP Hits All-Time Record Low](#), Centre for Future Work, June 13 2017

³ <http://www.imf.org/en/publications/fm/issues/2017/10/05/fiscal-monitor-october-2017>

⁴ Remuneration Tribunal, [2017 Review of Remuneration for Holders of Public Office Statement](#), 22 June 2017

Departmental Secretaries have received significant pay increases in the last 5 years. A 2013 decision was made to increase the salaries of Secretaries to be more comparable to the private sector⁵. In addition to these top up increases, Secretaries have received the general salary increases awarded by the remuneration tribunal. The salary of the Secretary of the Department of Prime Minister and Cabinet has increased from \$661,000 in July 2012 to \$878,940 in July 2017; an increase in 33%. An average Departmental Secretary was 575,000 in 2012. This has now risen to over \$745,000; an increase by 30%.

Between 2013 and 2016, when most APS and EL level employees did not receive an increase in pay, SES Salaries also continued to rise. In this period, SES Band 1 median base salaries rose by 3.5%, SES Band 2 increased by 4.1%, and SES Band 3 by 9%.⁶ Over the 10 year period from 2006 until 2016, SES Band 3 median base salaries increased almost twice as much as salaries for APS and EL employees.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Average Salary Increases over time		
												2006-2016	2011-2016	2013-2016
APS1	\$35,371	\$36,040	\$37,371	\$40,659	\$41,148	\$41,151	\$43,944	\$45,263	\$47,004	\$47,736	\$47,567	34.5%	15.6%	5.1%
APS2	\$40,300	\$40,786	\$43,682	\$47,680	\$49,233	\$50,471	\$52,998	\$54,588	\$54,588	\$54,588	\$54,588	35.5%	8.2%	0.0%
APS3	\$45,345	\$46,542	\$49,000	\$52,327	\$54,577	\$56,215	\$59,677	\$61,512	\$61,512	\$61,512	\$61,512	35.7%	9.4%	0.0%
APS4	\$50,833	\$52,812	\$55,343	\$58,949	\$61,299	\$63,243	\$66,923	\$69,038	\$69,239	\$69,239	\$69,239	36.2%	9.5%	0.3%
APS5	\$56,400	\$58,825	\$61,000	\$64,728	\$67,017	\$68,092	\$72,487	\$74,331	\$74,331	\$74,451	\$74,451	32.0%	9.3%	0.2%
APS6	\$65,519	\$68,000	\$70,580	\$74,969	\$77,824	\$79,555	\$84,478	\$86,844	\$86,844	\$86,923	\$87,263	33.2%	9.7%	0.5%
EL1	\$80,921	\$84,875	\$88,270	\$93,826	\$97,275	\$99,378	\$104,825	\$108,013	\$108,013	\$108,382	\$108,796	34.4%	9.5%	0.7%
EL2	\$100,000	\$105,299	\$110,400	\$117,127	\$120,840	\$124,140	\$130,460	\$133,777	\$133,905	\$133,905	\$135,583	35.6%	9.2%	1.4%
SES1	\$127,945	\$135,000	\$141,651	\$149,987	\$158,277	\$164,586	\$172,000	\$178,330	\$178,617	\$181,006	\$184,626	44.3%	12.2%	3.5%
SES2	\$159,856	\$168,422	\$178,276	\$189,633	\$200,726	\$209,318	\$221,266	\$229,949	\$230,000	\$232,644	\$239,272	49.7%	14.3%	4.1%
SES3	\$198,994	\$211,000	\$226,000	\$248,000	\$261,910	\$273,383	\$282,931	\$300,000	\$302,000	\$312,000	\$327,000	64.3%	19.6%	9.0%

The use of contractors and labour hire is compounding the problem

Inequality of income is being exacerbated by the increased use of outsourcing and labour hire in the Commonwealth Government. The APS faces a dual problem with outsourcing. It stems in large part from the Average Staffing Level (ASL) cap imposed on APS agencies that prevents them from engaging the APS employees that they need to deliver core functions. The ASL staffing cap needs to be removed.

On the one hand, billions of dollars are being spent on high paid consultants to perform work that could or should be done by APS employees at much greater expense than it would cost to have the work done by APS employees. For example, the NDIA engaged a consultant who was paid \$830,000 in a single year as a "special adviser" to the chief operating officer, a position which does not exist at the NDIA. A behavioural economics consultant was paid \$88,000 in four months to help staff with their communication skills, notwithstanding the agency's well-stocked media unit and high-level public servants.⁷

⁵ Parliament of Australia Research Paper [The remuneration of Commonwealth departmental secretaries: 2017 update](#), 10 November 2017

⁶ [APS Remuneration report 2016](#)

⁷ Rick Morton (2017, 15 January) [Trapped in a broken system](#). The Australian.

In 2008, a report into the 'Government's Use of Information and Communication Technology' (Gershon Report) was commissioned by the Commonwealth Government. The Report found that outsourcing has cost the Commonwealth Government significantly. A key finding was that the extensive use of ICT contract staff had been significantly more expensive than engaging in-house employees. An ICT contractor cost an agency \$186,000 per annum, \$94,000 more than the average *Financial Management and Accountability Act* (FMA Act) agency ICT employee.⁸ The most recent 2015-16 ICT Trends report show this remains the case as, on average, the labour cost of external FTE is \$213,906 while the labour cost of internal FTE is \$131,530.⁹

At the other end of the spectrum, the Government is increasingly outsourcing work to labour hire companies to be performed by employees on far inferior conditions to the APS employees who previously performed the work. This undermines the pay and conditions of Government employees that have been negotiated over decades of collective bargaining.

These companies engage workers on inferior pay and conditions to the enterprise agreements that apply to APS employees performing the same work. This has a potentially greater effect on the wages and conditions ordinary government workers, yet does not show up in the statistics in the same way because the Commonwealth Government is not transparent about its use of labour hire employees and the conditions on which they are engaged.

One example the CPSU is aware of is the Australian Taxation Office (ATO) which has cut the number of ATO employees engaged on the ATO Enterprise Agreement by 15.5% since 2012. At the same time there has been a 4,338 or 336% increase in externally engaged staff. Labour hire companies were initially used to provide call centre staff to respond to queries from the public but have expanded to other functions since.

Additionally, the Department of Human Services has recently outsourced a call centre staffed by 250 people to Serco and is engaging 1,000 staff through a labour hire arrangement to undertake compliance work in the Department. These people will be working alongside APS employees but, rather than enjoying the salaries and conditions of the DHS enterprise agreement, they will be engaged on the far inferior Contract Call Centre Award.

THE BILL DOES NOT ADDRESS THESE ISSUES

As the analysis above shows, there is a problem with income inequality in Commonwealth Government employment. The lack of parity in the growth of APS/EL salaries and senior executive salaries in the public sector in recent years is a particular issue. The CPSU supports the principle of greater parity between APS/EL and senior executive wages but the Bill will not achieve this in a practical way. The proposed legislation does not address one of the major underlying causes of growing pay disparity which has been restrictions on pay increases for APS/EL employees. Nor is the scope of the Bill sufficient to address the main disparities in salary growth in recent years. .

Pay caps are blunt instruments that have been detrimental to the public service

⁸ Sir Peter Gershon CBE FEng, [Review of the Australian Government's Use of Information and Communication Technology](#), Department of Finance and Deregulation, August 2008, p.48-49

⁹ Department of Finance. [Australian Government ICT Trends Report 2015-16](#).

The CPSU does not support pay freezes or strict pay caps in the public service. Pay freezes are not only bad for employees but they are bad for the entire economy.

APS employees have seen real wages decline since 2013. From mid-2013 until mid-2016 APS the median base salaries for all APS and EL level employees only rose by an average of 0.6%. In that time CPI increased by 5.5%. From mid-2013 until mid-2017 when major APS agreements were settled, CPI increased by 7.4%.¹⁰ The failure of APS wages to keep up with the rising cost of living has had a significant effect on the lives of APS employees. Especially given that the majority of APS employees earn below the average Australian salary.¹¹

Not only has the pay freeze and restrictive wages policy had a detrimental effect on Commonwealth Employees, low wage growth in the public sector directly contributes to low wage growth for the rest of the Australian workforce. This Government has acknowledged the role that its wages policy plays in the broader economy, stating that “the public sector is a large employer – its wage outcomes have a macroeconomic effect.”¹²

While APS employees have undergone a wage freeze, Australian workers have experienced the lowest wage growth on record, with the wage price index ranging from 1.9% to 2.3% between June 2014 and September 2017. Low wage growth has been acknowledged as a significant economic problem and a drag on general demand and government revenue, including by the Treasurer Scott Morrison.¹³

The RBA Governor Philip Lowe has said that low wages is a key threat to economic growth and has suggested that workers’ incomes need to rise¹⁴, and economist Saul Eslake has suggested that a lever available to address low wages is for the government to adjust the approach it takes to wages negotiations with its own employees.¹⁵

The prime minister has also recently said “We’re seeing strong jobs growth across the country. What we want to see now is stronger growth in wages¹⁶

When it comes to addressing the unequal growth in public sector salaries in the last 5-10 years, the Bill addresses the wrong side of the equation and does not target the real causes of the growing disparity in wage growth. The problem that needs addressing is not that principle executive office holders and heads of department have received exorbitant pay increases, it is that ordinary public servants have been subject to pay freezes and a strict wages policy by the Government for the last four years.

The Bill proposes to cap senior executive salaries at 5 times the average earnings for all employees in Australia. This would be about \$420,000 based on current ABS figures. For the most senior

¹⁰ <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6401.0Sep%202017?OpenDocument>

¹¹ CPSU calculations based on [Average Weekly Earnings, Australia, May 2017](#), [APS Remuneration Report 2016](#), and APS Statistical Bulletin 2016-17 data tables.

¹² Australian Public Service (2015, 7 August). [Australian Government Public Sector Workplace Bargaining Policy](#).

¹³ Henry Belot and Matthew Doran (2017, 13 March). [Low wage growth Australian economy's biggest challenge, Treasurer Scott Morrison says](#). ABC News.

¹⁴ Jacob Greber (2017, 19 June). [Workers must demand greater share of pie, says RBA governor Philip Lowe](#). Read. Australian Financial Review.

¹⁵ Saul Eslake (2017, 4 October). [Is faster profit growth essential for a pick-up in wages growth?](#) The Conversation.

¹⁶ <http://www.theaustralian.com.au/national-affairs/pm-malcolm-turnbull-defends-pay-rises-for-his-staff/news-story/8b11ce62a86530c915f32fa81077ddaf>

executives and departmental secretaries in the Commonwealth Government this would mean an immediate pay cut of over 50%. Such a large scale and sudden decrease in salary could have a dramatic and disruptive impact on the Commonwealth Government.

A similar mechanism was considered in the UK by the Hutton Review of Fair Pay in the Public Sector. The review considered a ban on managers earning more than 20 times the pay of the lowest paid person in their organisation. However, on analysis of the potential effects of this cap, it was found that a single limit on pay dispersion would be unfair, hitting some organisations more than others, and could create perverse incentives.¹⁷

Scope of the Bill

In addition to the Bill not addressing the real cause of the growing disparity in wages in the APS, the scope of the Bill would create inconsistencies. The Bill would only apply to principle executive office holders, departmental secretaries and directors of wholly-owned Commonwealth companies.

There seems to be an inconsistent approach to the roles that come within the scope of the Bill. It does not pick up some of the full time offices whose salaries are set by the Remuneration Tribunal that are not principle executive offices for the purposes of the legislation but have equivalent salaries. The outcome of this would be that the Secretary of the Department of Prime Minister and Cabinet would have their salary reduced from \$878,940 to around \$420,000, yet the APS Commissioner would continue to be paid \$692,500 and the Chair of APRA would continue to receive \$852,310.

In addition, some of the biggest discrepancies in pay rises over the last several years have been between APS/EL employees and SES in APS Agencies. As drafted, the Bill would not apply to SES officers. SES salaries are principally set by determinations made under the *Public Service Act 1999* rather than the Remuneration Tribunal which is the target of the Bill.

A better approach to addressing the issue of income inequality in the APS would be legislation directed at the use of outsourcing and labour hire in the public sector which is being used to undermine salaries set by enterprise agreements and determinations.

Executive Salaries should be compared with their own workforce

The Bill seeks to use the average salary of all employees in Australia as the comparator for executive remuneration in the Commonwealth Government. A fairer comparison would be to mark executive salaries against employees within their own workforce. The Second reading speech to the Bill refers to the gap between public sector executives and ordinary Australians, yet in recent times this gap is starkest between public sector executives and ordinary public servants.¹⁸ The majority of Commonwealth public servants earn less than the Australian average income and wage growth in the Commonwealth public sector has been much slower than the private sector in recent years.

There is also a suggestion that putting a cap on public sector executive income will set an example to be followed by the private sector. However, there is no evidence that the level of public sector executive incomes are influential on the private sector. In fact the influence seems to be the other way around. Part of the justification for the additional increase in the salaries since 2013 was to

¹⁷Will Hutton, [Hutton Review of Fair Pay in the Public Sector](#), 15 March 2011

¹⁸WHISH-WILSON, Sen Peter, [Second Reading Speech](#), 15 November 2017

close the gap between the salaries of Departmental Secretaries and the much higher salaries of equivalent positions in the private sector.¹⁹

BETTER APPROACHES

Although the CPSU cannot support the mechanisms proposed in the Bill, we do support changes that would ensure parity in the growth of all public sector salaries. As pointed out above, the root of the problem is the strict wages policy of the Government that has been preventing the growth of the APS and EL level salaries and has caused real wages to fall for these employees.

Therefore the first step that needs to be taken is for the Government to amend its restrictive bargaining policy to remove any pay caps and allow government agencies to freely negotiate with their staff for fair pay rises. Future pay rises for APS and EL level employees should take account of the discrepancies in the increase in APS/EL and SES salaries over the last decade and the financial hardship that has been faced by employees who suffered pay freezes for 3 years.

Another positive step would be to minimise the methods by which the Government is undermining the pay and conditions negotiated with employees in enterprise agreements. This includes limiting the use of contractors and labour hire employees to perform government work in place of APS employees for inferior pay and conditions. It could also include changing procurement rules and guidelines to ensure that any labour hire workers engaged in a workplace, however temporarily, have the same entitlements and level of industrial protections as the employees they work with.

TRANSPARENCY

The Bill also proposes to introduce reporting requirements to ensure more transparency in relation to executive salaries. This would include publishing a report detailing the total remuneration of executives for the reporting period as well as the ratio of their earnings compared to annualised average weekly earnings.

The CPSU supports greater transparency about incomes in the Commonwealth Government including publicising executive and Agency head incomes compared to the average and minimum incomes in their Agency. This approach was also supported by the UK Hutton Fair Pay Review which stated in its final report:

Rather than complying with a cap, organisations delivering public services should track, publish and explain their pay multiples over time. The most appropriate metric for pay dispersion is the multiple of chief executive to median earnings. This will ensure public service organisations are accountable for the relationship between the pay of their executives and the wider workforce...

Greater transparency, disclosure and explanation will allow a more rational and informed debate on senior public service pay, and enable citizens to hold public service organisations to account. This will remove the need for simplistic benchmarks²⁰

Transparency around salaries also needs to be improved beyond the level proposed by the Bill. The Commonwealth Government does not currently publicise transparent breakdowns of SES salaries.

¹⁹ Parliament of Australia Research Paper [The remuneration of Commonwealth departmental secretaries: 2017 update](#), 10 November 2017

²⁰ Will Hutton, [Hutton Review of Fair Pay in the Public Sector](#), 15 March 2011

Although aggregate details are publicised which show the average SES salaries increasing out of proportion with APS/EL employees, no individual breakdown is publicised.

The APS has also become less transparent in recent years in relation to the level of detail about APS/EL level staffing information publicised in the annual remuneration report and the APSEDII online database. These no longer allow data to be broken down for analysis to the extent that they formerly did.

However, the greatest lack of transparency in the Commonwealth government is in relation to the use of contractors and labour hire workers who are often paid much more or much less than APS employees performing equivalent work. These arrangements are undermining public sector pay and conditions, yet there is little clear, public information about the extent of the use of these workers and even less information about the pay and conditions on which they are engaged.