

Chapter 7

'Streamlining': shifting conditions to policy documents

7.1 The paramount concern of a great many submitters and witnesses to this inquiry was the fact that the government's Australian Public Service (APS) bargaining policy effectively forced agencies to strip conditions out of their enterprise agreements. The ongoing protection of conditions was particularly important for employees with caring responsibilities and employees that regularly worked substantial additional hours or in remote locations.

7.2 Indeed, many submitters and witnesses stated that they would readily have accepted a low wage offer if the conditions in their previous agreements remained untouched.¹

7.3 Mr Leo Vukosa, a Community and Public Sector Union (CPSU) delegate at the Department of Parliamentary Services, explained that his department had adopted an approach to the bargaining process whereby any conditions from the previous enterprise agreement were automatically stripped out of the current agreement because they were classed by management as enhancements and therefore not allowable under the bargaining policy:

The bargaining framework has been designed in such a way, as mentioned earlier, that no enhancements are permitted at all. Any enhancements that staff or union members wanted were dismissed entirely from the beginning. We were not allowed them, and I have never, ever come across a bargaining framework before where somebody says, 'This is what we want,' puts it in front of you and runs a line through any entitlements and conditions that you currently have that are not protected by law. This is what has happened. When we have asked for them back—because we never had an opportunity to bargain or debate them—they were never put back into the agreement. They were saying: 'This is what it is. We have to show savings to fund this agreement, or the APSC will not approve it'.²

7.4 Mr Vukosa also pointed out that the Department of Parliamentary Services ignored the arguments that employees valued their conditions more than a pay rise. He also stated that some of the conditions that were stripped out of the agreement had 'no monetary value to them whatsoever'.³

7.5 The DHS CPSU Bargaining Team echoed the sentiments of many employees when they stated that the cuts to pay and conditions were unfair:

1 See for example, Mrs Kelly Miller, Department of Agriculture and Water Resources Bargaining Team, *Committee Hansard*, 11 November 2016, p. 24.

2 Mr Leo Vukosa, CPSU delegate, Department of Parliamentary Services, *Committee Hansard*, 11 November 2016, p. 31.

3 Mr Leo Vukosa, CPSU delegate, Department of Parliamentary Services, *Committee Hansard*, 11 November 2016, p. 31.

These cuts are unacceptable, and will continue to be unacceptable, to a workforce composed of average income earners with mortgages to pay, families to feed, and a need for workplace conditions that allow them to balance the two. The three years they have spent without any pay increase is particularly galling when compared with the Department Secretary, Kathryn Campbell, whose pay has risen by 7.5 per cent (just under \$50 000) since 2013.⁴

7.6 The flawed 'streamlining' requirement was also addressed by the long-standing President of the CSIRO's Staff Association, Dr Michael Borgas:

...Given the arguments that they [CSIRO management bargaining representative] make—that this is all about an efficiency of streamlining agreements—what you end up doing is sticking bits of policy all over the place rather than having it consolidated in a single document. I have wasted many negotiating meetings pointing this out to them. A streamlined agreement would be one that runs from end to end without sidetracks and disruption.⁵

7.7 Dr Borgas went on to explain that the existing CSIRO enterprise agreement is a 'manageable document' which would reduce the document from '100-odd pages down to about 30-odd' under a streamlining requirement.⁶ However, he pointed out the obvious consequence of the so-called 'streamlining' requirement by stating:

None of the pages disappear; they are going off to sit in a different part of a website. That is a point that has been made to me by numerous delegates—that they often have trouble finding a specific policy for a specific purpose.⁷

7.8 Representatives of the CPSU Bargaining Team for the Department of Immigration and Border Protection's negotiations also criticised the streamlining requirement. Mr Mike Suijendorp explained that important consultation mechanisms over conditions such as working hours were being removed from agreements on the basis of streamlining:

With regard to streamlining, there is the reduction of consultation clauses on things like working hours. These clauses give me and my co-workers the ability to influence our work hours and this is particularly important to parents and carers.⁸

4 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 2.

5 Dr Michael Borgas, President, CSIRO Staff Association, *Committee Hansard*, 15 November 2016, p. 24.

6 Dr Michael Borgas, President, CSIRO Staff Association, *Committee Hansard*, 15 November 2016, p. 24.

7 Dr Michael Borgas, President, CSIRO Staff Association, *Committee Hansard*, 15 November 2016, p. 24.

8 Mr Mike Suijendorp, CPSU Bargaining Team, Department of Immigration and Border Protection, *Committee Hansard*, 15 November 2016, p. 33.

Case Study—the impact of 'streamlining' at the Department of Human Services

7.9 This case study looks at the impact on staff from the proposed removal of previously-agreed conditions from the enterprise agreement at the Department of Human Services (DHS) and the introduction of new conditions.

7.10 As noted in Chapter 3, women make up 73 per cent of the total workforce of DHS. The majority of staff (64 per cent) are employed at the APS3 and APS4 classification and have a salary range of \$56 069 to \$69 239. Thirty four per cent of DHS staff are employed part-time, and of these staff, 78 per cent are employed at the APS3 and APS4 classification.⁹

7.11 DHS is trying to include provisions in the new agreement that would force staff to work different hours on different days. This could include employee hours being changed while at work.¹⁰

7.12 The committee received numerous submissions from DHS employees outlining the devastating impact that this change would have on working parents with childcare arrangements.¹¹

7.13 The CPSU DHS bargaining team emphasised that DHS employees 'care deeply about the work they do' and 'are committed to delivering high quality service outcomes for government'. However, DHS staff are dealing with increasing workloads, high levels of customer aggression, and numerous, complex changes to their work.¹²

7.14 As a DHS employee explained:

We're an agency made up of part-time working mums. We're not earning a million dollars! We live in the communities we serve and we do the job because we care about it.¹³

7.15 On top of this, DHS employees have been severely impacted by the government's failure to conclude workplace bargaining. This is borne out by the pressure to accept a deal that 'would make them worse off, give them less control over any element of their working lives, and put them under increasing personal and workplace pressure'.¹⁴

7.16 The committee received large numbers of submissions from individual DHS employees that echoed the sentiments expressed above and also outlined the adverse

9 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 2.

10 CPSU (PSU Group), *Submission 196*, p. 2.

11 See for example Ms Kristi Farrell, *Submission 50*; Mr Mark Longmuir, *Submission 76*; Ms Skye Garrett, *Submission 77*; Ms Sharon Roddis, *Submission 78*; Ms Shirley Lyon, *Submission 92*; Mr Tony Maxwell, *Submission 97*; Ms Deborah Downey, *Submission 109*.

12 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 2.

13 DHS worker, CPSU survey 2016, in CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 2.

14 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 2.

consequences that the government's bargaining policy was having on them and their families as well as their ability to do their job and serve the community.¹⁵

7.17 DHS has proposed significant changes to employee working conditions in the new agreement that would have a significant effect on the ability of employees with caring responsibilities to manage their work/life balance. Amongst other things, DHS has proposed to:

Remove employees' rights to any control over their own working hours. Currently the system balances the interests of management and staff and requires genuine negotiation of working hours between an employee and their supervisor. If agreement about a suitable pattern of working hours cannot be reached, the agreement contains a safety net for workers; they can opt to revert to 'default hours' (8:30am to 5pm.) Not only has the department proposed to remove the rostering protocols that allow staff to have some say over their hours of work, they have recently begun denying staff access to the default hours safety net under the current agreement.

Introduce the ability to roster staff on 'split shifts' (e.g. working from 8am until 12pm and then from 2:30pm until 6pm) or to roster staff according to their average hours for the week instead of for a set amount of hours each day (e.g. staff could be rostered to work 10 hours one day and 6 hours the next).

Exclude casual employees from access to yearly salary advancement despite many casual employees being long-term employees working near to standard hours.¹⁶

7.18 The DHS CPSU Bargaining Team pointed out that as a result of the proposed changes outlined above:

...a customer service officer who needs to leave work at 3pm to pick up her children from school, who has worked a 7:30am to 3pm roster for years in order to do this, has no guarantee that she will not be moved to a 9am to 5pm roster without having her preferences or needs considered. A casual staff member, employed as an 'irregular or intermittent worker' despite having worked full time hours fulfilling an ongoing requirement for years, will have no control over his hours at all. CPSU members are telling their union they face having to leave their jobs if family-friendly rostering and consultation provisions are taken away.¹⁷

Disproportionate negative impact on female employees

7.19 Dr Sue Williamson and Professor Michael O' Donnell have conducted long standing research on gender equality and collective bargaining in the APS. They submitted that the current bargaining framework will have a disproportionately

15 See footnote 11.

16 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 4.

17 CPSU Department of Human Services Bargaining Team, *Submission 200*, p. 3.

negative impact on female APS employees because gender equality or flexible working arrangements clauses have been amended or removed from some agreements:

For example, one agency has amended the relevant clause in their agreement so that employees no longer have the right to work part-time on returning from parental leave. Instead, the ability to work part-time is dependent on managerial discretion.¹⁸

7.20 Dr Williamson and Professor O'Donnell recommended:

- as a priority, the Australian Government facilitate timely negotiations and end the bargaining impasse;
- in the longer term, the Australian Government review the system of agreement-making in the APS and the Bargaining Framework, in order to expedite bargaining and achieve fair and equitable outcomes which will also contribute to increased employee morale and productivity; and
- the Australian Government amend the Workplace Bargaining Policy 2015 to require that clauses which progress gender equality in the workplace remain in agreements in full.¹⁹

Committee view

7.21 The committee is greatly concerned that APS employees are being threatened with the removal of existing rights and conditions from enterprise agreements. This move is unconscionable and leaves employees vulnerable to the whim of management over a raft of basic workplace rights such as the ability to arrange part-time and flexible working hours, and access to leave.

7.22 APS employees justifiably feel alarmed at this loss of security. This aspect of the bargaining policy has caused needless heartache for many tens of thousands of workers. Perhaps the largest impact will be felt by those workers who are also the principal carer for others. This burden falls most heavily, although not exclusively, on women.

7.23 The committee heard from countless carers who are haunted by the prospect of losing control over their work-life and as a consequence may be unable to continue working because they cannot maintain their previously agreed work timeframes that would allow them to juggle their other responsibilities.

7.24 The committee is firmly of the view that the government should amend its bargaining policy to allow for the retention of existing rights and conditions. This is particularly the case with respect to existing family-friendly conditions that facilitate and support the employment of those with caring responsibilities. This includes but is

18 Dr Sue Williamson and Professor Michael O' Donnell, University of New South Wales, *Submission 193*, p. 5.

19 Dr Sue Williamson and Professor Michael O' Donnell, University of New South Wales, *Submission 193*, p. 6.

not limited to part-time work arrangements, scheduling hours, existing flexible working hours and access to leave.

7.25 The committee is also of the opinion that where agency management and employee bargaining representatives believe existing content previously negotiated is acceptable, this content should be allowed by the APS Commissioner and the Minister.

Recommendation 9

7.26 The committee recommends that the government amend its bargaining policy to allow for the retention of existing rights and conditions in full, including but not limited to removing the prohibition on enhancements and defining previously agreed agreement provisions as enhancements in circumstances such as machinery of government changes.

Recommendation 10

7.27 The committee recommends that the government amend its bargaining policy to allow and encourage the retention of access to family friendly conditions, including hours of work protections, to facilitate and support the employment of those with caring responsibilities.

Recommendation 11

7.28 The committee recommends that the Minister Assisting the Prime Minister for the Public Service and the Minister for Human Services take immediate steps to ensure that the Department of Human Services can and will seek to maintain enterprise agreement provisions that preserve existing family friendly conditions, provide employee protections for rostering and hours of work, maintain current consultation provisions and provide that ongoing employment remains the preferred type of employment in the Department.

7.29 The committee heard that the current bargaining policy requires the removal of existing agreement content in various areas where it is considered above the legislated National Employment Standards and the minimum provisions required by the *Fair Work Act 2009*. The committee notes that compelling examples were provided by bargaining team representatives from the CSIRO, DIBP and DHS including the removal of consultation clauses and changes to family-friendly working hours. The committee is of the view that the bargaining policy should be amended in this regard.

Recommendation 12

7.30 The committee recommends that the government amend its bargaining policy so that it no longer requires the removal of existing agreement content in various areas above the legislated National Employment Standards and the minimum provisions required by the *Fair Work Act 2009*.

7.31 Evidence to the committee also indicated that agencies were proposing to remove long-standing consultation and dispute resolution rights from new enterprise agreements. No substantive evidence was received during the inquiry to support the removal of these rights. In the committee's view, these rights help to minimise industrial conflict and promote productive working arrangements, and they should be retained.

Recommendation 13

7.32 The committee recommends that the government amend its bargaining policy to allow for the retention of existing and long-standing consultation and dispute resolution rights.

