

Chapter 9

Adverse impacts on APS staff morale

9.1 This chapter examines the impact on staff morale in the public service of the bargaining policy and the hard-line approach to bargaining taken by the APS Commissioner and the government.

9.2 The devastating impact on staff morale resulting from the government's rigid application of the bargaining policy and the lack of genuine negotiations was a recurring theme throughout this inquiry.

9.3 Mr Esmond Smith is an Employee Bargaining Representative for 115 Australian Competition and Consumer Commission (ACCC) staff at both the ACCC and the Australian Energy Regulator (AER). He told the committee that staff morale at the ACCC and AER risked being permanently damaged by the current bargaining policy and the unfair and unreasonable approach taken by the government and the APS Commissioner.¹

9.4 Mr Smith recounted the blatantly dismissive attitude of certain agency management towards employees, the anger that the whole bargaining process has engendered, and the acute impacts on staff morale:

I think it is fair to say that a large proportion of the staff I represent are extremely angry with the process. They feel the process has been going nowhere. The government has essentially been saying, 'Sign up to this or get a new job.' The former executive general manager of the ACCC's corporate services department said in a bargaining meeting, 'Take the offer or go down the road.' After a long period people find that very disrespectful. It makes them angry and it does not make them want to work for their managers or work for the [commission]. The reason we get such a good outcome in our work is that people believe in the work they do, and this whole process is undermining that whole work ethic and culture.²

9.5 Ms Jennifer Bryant was a principal federal prosecutor with the Commonwealth Director of Public Prosecutions (CDPP) for 29 years. Ms Bryant recently left the CDPP driven, in part, by the divisive nature of the government's bargaining policy and the concomitant negative impact on staff morale.³

9.6 Ms Bryant expressed her disappointment at the offensive language used by the government to describe public servants in the press and the parliament:

1 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Committee Hansard*, 11 November 2016, p. 20.

2 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Committee Hansard*, 11 November 2016, p. 20.

3 Ms Jennifer Bryant, private capacity, *Committee Hansard*, 11 November 2016, p. 24.

I devoted 29 years to prosecuting criminals on behalf of Australian citizens, and I frankly find the language used to refer to me during many of these negotiations as offensive and denigrating.⁴

9.7 Ms Deb Hayman who is the CPSU Defence Section President, explained the impact the government's approach was having on staff morale at the defence department:

In my experience, not just with my CPSU hat on but with my HR hat on, I am seeing an increase in stress-related injuries. People really want to go out of their way to help, particularly in the ADF. They are 100 per cent committed to that area. But, as Ian has said, we have seen reductions in staff, which means that those employees left behind are doing more. When the department comes out and says, 'This is the best offer that we can give to you,' when it sees a lot of already negotiated conditions taken out, which means that that certainty disappears—the conditions are in a policy document which could then be modified by the department—there is a disconnect. 'I'm doing this for you, yet you can't give me anything that recognises that I am respected in the workforce.'

I would say we are seeing disengagement and an increase in absences. Even when you talk to members and other employees and ask, 'How do you think we can do this better?' they say, 'I don't care.' That is the type of response that you get, which is actually quite concerning because Defence APS employees have always cared a lot. The flip side of that is they are so much more staunch in saying no to these agreements, because they do not believe that it is a respectful offer. Therefore, we are seeing participation rates in voting no increase but also participation in the workforce, as far as being engaged in the work that they are doing, decrease.⁵

9.8 The President of the CSIRO Staff Association, Dr Michael Borgas, also told the committee of the impact on staff morale and the divide it is creating between the CSIRO executive and some of Australia's leading scientists:

But the current staff survey, after what has been a year of turmoil, certainly did not show marked improvement. They showed probably a lack of engagement with—or at least of belief in whether—the strategic goals of the organisation could be achieved. They showed polarisation between the management and the workers of the organisation—and when I say 'workers', those are many of the very most senior scientists in the country.⁶

Poor outcomes for the broader community

9.9 Mr Smith explained that AER staff who undertake price determinations assess and determine the revenue proposals of electricity network businesses. Electricity

4 Ms Jennifer Bryant, private capacity, *Committee Hansard*, 11 November 2016, p. 24.

5 Ms Deb Hayman, Community and Public Sector Union Defence Section President, Defence Community and Public Sector Union Member Representatives, *Committee Hansard*, 15 November 2016, p. 18.

6 Dr Michael Borgas, President, CSIRO Staff Association, *Committee Hansard*, 15 November 2016, p. 22.

network prices make up between 35 and 60 per cent of residential electricity bills. Since May 2014, as a result of assessing and determining 19 revenue proposals, the AER has saved consumers \$13.7 billion relative to what the network businesses wanted to charge consumers in nominal terms.⁷

9.10 In light of the critical work done by highly skilled, professional and dedicated staff at the AER and ACCC, Mr Smith expressed grave concern about the decline in staff morale as a result of their poor treatment by the government and the feeling by staff that their work was not valued and that there was no avenue available under the bargaining policy for genuine consideration of their concerns.⁸

9.11 As a consequence, Mr Smith told the committee that staff were either searching for alternative work or undertaking protected industrial action. Given the nature of the work performed by ACCC and AER staff, Mr Smith warned the committee of the potentially significant adverse impacts of the bargaining policy on the broader Australian community:

The ACCC and the AER make decisions directly worth billions of dollars to consumers that routinely involve enormously costly and stressful litigation. To stand up in a tribunal or court, a case or regulatory decision must be both theoretically sound and well-argued. To achieve this requires highly skilled and motivated staff who will work very hard (well beyond any legal obligations) when required. This work effort is required to win in a highly litigiously competitive environment. The businesses involved in litigation with the ACCC and AER are often worth billions of dollars and routinely spend millions of dollars on litigation which they see as a cost of doing business. The highly disrespectful approach of the government to bargaining over wages and conditions being put to ACCC and AER staff, one of essentially accept it or get another job, seems unlikely to motivate their staff to work hard to achieve the best outcomes for the community.⁹

9.12 Mr Smith concluded that the current bargaining policy and approach was counter-productive because it:

...gives talented staff a strong incentive to find work elsewhere and reduces the attractiveness of the Public Service to new applicants. I have seen both

7 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Committee Hansard*, 11 November 2016, p. 18.

8 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Committee Hansard*, 11 November 2016, p. 18.

9 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Submission 192*, p. 1. Emphasis in original.

of these effects occur in the AER directly as a result of the bargaining process.¹⁰

9.13 Ms Bryant pointed out that most federal prosecutors are APS4 employees on \$66 371, which is less than the average wage. She confirmed that senior lawyers were leaving the CDPP and moving to the private sector or to state agencies because of poor pay rates. This has resulted in serious cases being handled by more junior lawyers:

CDPP staff are on the front line of prosecutions involving terrorism, major drug trafficking and internet child pornography, and such cases are being dealt with increasingly by junior lawyers, while having an adverse impact on the ability of the organisation to perform their work.¹¹

9.14 Similar sentiments were expressed by Mr Erik Rasmussen who told the committee that the bargaining process had damaged staff morale to such an extent that it was now having a negative effect on the work of the Australian Taxation Office (ATO):

A savvy employer recognises the importance of staff morale and seeks an enterprise agreement that will maintain that morale and enhance productivity. This process has greatly reduced enthusiasm and commitment to the organisation. I have seen firsthand the bitterness growing in my colleagues as they reflect on an employer that does not seem to care about them anymore.

Tax officers are consummate professionals committed to serving the public. Those attributes should not be abused nor taken for granted. This process has brought a great deal of surprise and disappointment to the office, and that sentiment is having a negative impact on tax collection and superannuation administration.¹²

9.15 Mr Tom Carrigg made essentially the same point from the perspective of dedicated employees performing critical work at the ACCC who are now 'frustrated and angry' with the bargaining policy:

ACCC employees are frustrated and angry. With no pay rise for three years, employees are under growing financial pressure. Subjecting employees to a process that they cannot influence is detrimental to the workplace relations and trust in the government. Like my colleagues across the public service, the ACCC's employees work incredibly hard. The ACCC is a high-profile government agency that expects its staff to produce quality products or outcomes, day in, day out. Staff are dedicated and work long hours. Their efforts ensure that consumers are not ripped off, markets are competitive

10 Mr Esmond Smith, Employee Bargaining Representative for Australian Competition and Consumer Commission (ACCC) staff at the ACCC and the Australian Energy Regulator, *Committee Hansard*, 11 November 2016, p. 19.

11 Ms Jennifer Bryant, private capacity, *Committee Hansard*, 11 November 2016, p. 24.

12 Mr Erik Rasmussen, CPSU Australian Tax Office bargaining team, *Committee Hansard*, 11 November 2016, p. 33.

and monopolies are adequately regulated or monitored in Australia. For this sort of effort, we believe it is not unreasonable to expect salary increases that at least cover inflation and to keep existing conditions in our new EA.¹³

Committee view

9.16 The committee is of the view that bargaining should be a two-way street involving genuine consultation and negotiation.

9.17 However, the evidence from over 600 submitters and numerous witnesses was that, with the exception of the ABC (see Chapter 6), this bargaining round has had no genuine negotiation whatsoever.

9.18 Instead, employee bargaining representatives have effectively been handed a done deal and told to take it or leave it or, even worse, to take it or pack up and go elsewhere.

9.19 Numerous APS employees fronted the committee at its two public hearings. Some had never been bargaining representatives before and some had never given evidence to a committee before.

9.20 The committee was greatly impressed with their professionalism and commitment to their work. At the same time, the committee was appalled at the disrespectful and shabby manner in which they and their colleagues have been treated.

9.21 Witnesses repeatedly emphasised that the current bargaining round is entirely different from previous rounds due the severe trade-offs mandated by the government's bargaining policy.

9.22 The committee was repeatedly told that public servants are already working harder and longer due to the massive cuts instituted by the Abbott government. Many public servants submitted that their continued efforts with fewer resources had gone unnoticed and unrecognised. As a consequence, many public servants felt that their work is under-valued.

9.23 As noted in Chapter 3, insult has been added to injury by certain politicians and conservative commentators who peddle the offensive myth that somehow all public servants are highly paid and enjoy excessively generous working conditions.

9.24 The dedication shown by many public servants is admirable, but it should not be used as an excuse by the government to downgrade their working conditions. Public sector workers accept that they are less well-remunerated than their private sector counterparts despite often having more responsibility. However, the failure of pay offers to meet the rising cost of living is unfair and particularly miserly given the staffing cuts the APS has endured in recent years.

9.25 It causes the committee great distress to realise the extent to which staff morale across the APS has plummeted, and that large numbers of APS employees no longer have any faith or trust in their managers.

13 Mr Tom Carrigg, CPSU, Australian Competition and Consumer Commission Bargaining Team, *Committee Hansard*, 11 November 2016, p. 33.

9.26 These are hugely damaging developments for the APS and appear to be almost entirely attributable to the unprecedented nature of the current bargaining framework. It is incumbent on government to take action to fix this mess.

9.27 The committee has made several recommendations throughout this report to address these matters, and will set out further recommendations for the current and future bargaining rounds in its concluding comments in the next chapter.