

**Senate Finance and Public Administration Legislation Committee**  
ANSWERS TO QUESTIONS ON NOTICE  
ADDITIONAL BUDGET ESTIMATES 2010-2011

Finance and Deregulation Portfolio

**Department/Agency: Australian Electoral Commission**

**Outcome/Program: General**

**Topic: "New Arrangements for Merit and Transparency in Senior Public Service Appointments" issued on 5 February 2008**

**Senator: Senator Ronaldson Question reference number: F41**

**Type of question: Written**

**Date set by the committee for the return of answer: Friday, 15 April 2011**

**Number of pages: 2**

**Question:**

Referring to the press release titled "New Arrangements for Merit and Transparency in Senior Public Service Appointments" issued on 5 February 2008, and the guidelines thereafter issued:

Of the list of agency heads and statutory office holders identified for coverage under the protocols:

- a. On what terms is each of the agency heads and statutory office holders employed?
  - i. This answer should include the office holder's name, date of first appointment to that position, date of expiry of term(s), date of reappointment(s), date of expiry of existing tenure and any special legislative requirements which may be attached to this position.
- b. Where a new appointment has been made since 5 February 2008:
  - i. On what dates and in which publications were the position advertised?
  - ii. How many candidates applied?
  - iii. How many were interviewed?
  - iv. Was the candidate originally selected by the 'merit and openness' process for each position subsequently appointed by the Minister?
  - v. For what period of time was the appointment made?
- c. For each of the positions covered by the Merit and Transparency process, how many and which ones are positions appointed by the Minister upon the recommendation of a Board
- d. What additional criteria apply to each of the positions covered by the Merit and Transparency process?
- e. In how many appointments did the Minister seek to make an appointment that was not recommended by the Secretary in the Merit and Transparency process?
  - i. In each case, on what date did the Minister write to the Prime Minister seeking approval?
  - ii. On what date did the Prime Minister respond?
  - iii. In each case, did the Prime Minister support the Minister's recommendation?

- iv. Can a copy of all relevant correspondence be provided to the committee?
- f. How many and which positions have other legislative provisions which relate to an appointment over and above this process?
- g. How many and which appointments have been made for less than five years?
  - a. Where an appointment has been made for less than five years, how long has it been made for?
  - b. In each case, on what date was this request made to the Minister?
  - c. In each case, on what date did the Minister and/or the Prime Minister and/or Cabinet approve the request?
  - d. On how many and in which cases was the request not approved?
- h. How many and which of the positions identified in the list are also positions under the *Public Service Act*?

**Answer:**

- a. Refer to Attachment A.
- b. Refer to Attachment B.
- c.- e. N/A
- f. The *Commonwealth Electoral Act 1918* provides for the appointment of the Electoral Commissioner, the Deputy Electoral Commissioner and the Australian Electoral Officers by the Governor-General.
- g. N/A
- h. The position of the Electoral Commissioner, as the head of a statutory agency, is listed under the *Public Service Act 1999*.

a. Terms on which agency heads and statutory officer holders are employed					
Office Holder	Date of first appointment	Date of expiry of term	Date of reappointment	Date of expiry of existing tenure	Any special legislative requirements which may be attached to the position
Hon Peter Heerey QC, Chairperson, Australian Electoral Commissioner (AEC)	23/07/09	22/07/14	N/A	22/07/14	<p>Section 6 of the <i>Commonwealth Electoral Act 1918</i> (Electoral Act) establishes the Australian Electoral Commission, with three Commissioners: the Chairperson, the Electoral Commissioner and the non-judicial member. Section 6 also provides that the Chairperson holds office on a part-time basis and is appointed by the Governor-General from a list of three 'eligible judges' submitted by the Chief Justice of the Federal Court of Australia. 'Eligible judge' is defined as a judge, other than the Chief Justice, of the Federal Court of at least three years or a former judge of the Federal Court with at least three years experience as such (section 5 of the Electoral Act).</p> <p>This position is not subject to the 'New Arrangements for Merit and Transparency in Senior Public Service Appointments' released by the Special Minister of State on 5 February 2008.</p>
Edward Killesteyn PSM, Electoral Commissioner	5/01/09	4/01/14	N/A	4/01/14	<p>Section 18 of the Electoral Act provides that the Electoral Commissioner shall be the Chief Executive Officer of the AEC. The Electoral Commissioner is appointed by the Governor-General under section 21(1) of the Electoral Act.</p>

Office Holder	Date of first appointment	Date of expiry of term	Date of reappointment	Date of expiry of existing tenure	Any special legislative requirements which may be attached to the position
Brian Pink, Non-judicial member, AEC	13/04/07	12/04/12	N/A	12/04/12	The non-judicial member holds office on a part-time basis and is appointed by the Governor-General (subsection 6(3) of the Electoral Act). Subsection 6(5) of the Electoral Act provides that the non-judicial member must be an agency head within the meaning of the <i>Public Service Act 1999</i> or an office established by, or under an Act, and having, in the opinion of the Governor-General, a status equivalent to that of agency head. The Electoral Act also provides that the non-judicial member ceases to hold this office when he or she ceases to hold the position of agency head or its equivalent and does not take up another such office (section 8 of the Electoral Act).  This position is not subject to the 'New Arrangements for Merit and Transparency in Senior Public Service Appointments' released by the Special Minister of State on 5 February 2008.
Paul Dacey, Deputy Electoral Commissioner	5/04/01	4/04/06	05/04/06 01/01/09	31/12/11	Section 19 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Anne Bright, Australian Electoral Officer (AEO), QLD	13/01/03	12/01/08	25/01/08	24/01/13	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Peter Kramer, AEO, WA	4/01/10	3/01/15	N/A	3/01/15	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Jennifer McMullan, AEO, VIC	14/12/09	13/12/14	N/A	13/12/14	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Douglas Orr, AEO, NSW	1/03/10	28/02/15	N/A	28/02/15	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Sandra Riordan, AEO, TAS	23/03/11	22/03/16	N/A	22/03/16	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19
Robert Pugsley, EO, NT	23/03/11	22/03/16	N/A	22/03/16	Sections 20 to 25 of the Electoral Act. Remuneration Tribunal Determination 2005/19

<b>b. Where a new appointment has been made since 5 February 2008</b>					
<b>Position</b>	<b>Publication/ Date</b>	<b>No. of candidates</b>	<b>No interviewed</b>	<b>Was the candidate(s) originally selected by the 'merit and openness' process subsequently appointed by the Minister</b>	<b>Period of appointment</b>
Electoral Commissioner	<i>Public Service Gazette</i> - 18/09/08 <i>The Canberra Times</i> - 20/09/08 <i>Weekend Australian</i> - 20/09/08	35	7	Yes. Selected by the process and appointed by the Governor General.	Five years
Australian Electoral Officer (AEO) WA VIC NSW	Seek - 02/07/09 <i>Weekend Australian</i> - 04/07/09 <i>Public Service Gazette</i> - 02/07/09	Joint advertisement as 'various' positions. Total applicants - 97	Total shortlisted - 18	Yes. Selected by the process as above.	Five years
AEO TAS	<i>Weekend Australian</i> - 17/04/10 <i>Hobart Mercury</i> - 17/04/10 <i>Public Service Gazette</i> - 15/04/10	24	7	Yes. Selected by the process as above.	Five years
AEO NT	<i>Weekend Australian</i> - 17/04/10 <i>Northern Territory News</i> - 17/04/10 <i>Public Service Gazette</i> - 15/04/10	14	4	Yes. Selected by the process as above.	Five years

**Senate Finance and Public Administration Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**ADDITIONAL BUDGET ESTIMATES 2010-2011**

Finance and Deregulation Portfolio

**Department/Agency: ComSuper**

**Outcome/Program: General**

**Topic: "Arrangements for Merit and Transparency in Senior Public Service Appointments" issued on 5 February 2008**

**Senator: Senator Ronaldson**

**Question reference number: F41**

**Type of question: Written**

**Date set by the committee for the return of answer: Friday, 15 April 2011**

**Number of pages: 2**

**Question:**

Referring to the press release titled "New Arrangements for Merit and Transparency in Senior Public Service Appointments" issued on 5 February 2008, and the guidelines thereafter issued:

Of the list of agency heads and statutory office holders identified for coverage under the protocols:

- a. On what terms is each of the agency heads and statutory office holders employed?
  - i. This answer should include the office holder's name, date of first appointment to that position, date of expiry of term(s), date of reappointment(s), date of expiry of existing tenure and any special legislative requirements which may be attached to this position.
- b. Where a new appointment has been made since 5 February 2008:
  - i. On what dates and in which publications were the position advertised?
  - ii. How many candidates applied?
  - iii. How many were interviewed?
  - iv. Was the candidate originally selected by the 'merit and openness' process for each position subsequently appointed by the Minister?
  - v. For what period of time was the appointment made?
- c. For each of the positions covered by the Merit and Transparency process, how many and which ones are positions appointed by the Minister upon the recommendation of a Board
- d. What additional criteria apply to each of the positions covered by the Merit and Transparency process?
- e. In how many appointments did the Minister seek to make an appointment that was not recommended by the Secretary in the Merit and Transparency process?
  - i. In each case, on what date did the Minister write to the Prime Minister seeking approval?
  - ii. On what date did the Prime Minister respond?

- iii. In each case, did the Prime Minister support the Minister's recommendation?
  - iv. Can a copy of all relevant correspondence be provided to the committee?
- f. How many and which positions have other legislative provisions which relate to an appointment over and above this process?
- g. How many and which appointments have been made for less than five years?
  - i. Where an appointment has been made for less than five years, how long has it been made for?
  - ii. In each case, on what date was this request made to the Minister?
  - iii. In each case, on what date did the Minister and/or the Prime Minister and/or Cabinet approve the request?
  - iv. On how many and in which cases was the request not approved?
- h. How many and which of the positions identified in the list are also positions under the *Public Service Act*?

**Answer:**

- a. Mr Peter Cormack was appointed as Commissioner for Superannuation, commencing on 1 July 2010 for a period of five years, expiring on 30 June 2015.
- b. (i) The position was advertised in the *Australian Financial Review* on 12 March 2010; *The Australian* on 13 March 2010; and on the APSjobs website on 11 March 2010. The advertisements were for the proposed statutory position of Chief Executive Officer of ComSuper, which was intended to replace the office of Commissioner for Superannuation from 1 July 2010, subject to the passage of legislation by Parliament.
  - (ii) Fourteen.
  - (iii) Five.
  - (iv) The selected candidate was subsequently appointed by the Governor-General.
  - (v) 1 July 2010 to 30 June 2015.
- c.- e. N/A
- f. Part II of the *Superannuation Act 1976*.
- g.- h. N/A

**Senate Finance and Public Administration Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**ADDITIONAL BUDGET ESTIMATES 2010-2011**

Finance and Deregulation Portfolio

**Department/Agency: Future Fund Management Agency**  
**Outcome/Program: General**  
**Topic: “New Arrangements for Merit and Transparency in Senior Public Service Appointments” issued on 5 February 2008**

**Senator: Ronaldson**  
**Question reference number: F41**  
**Type of question: Written**  
**Date set by the committee for the return of answer: Friday, 15 April 2011**

**Number of pages: 2**

**Question:**

Referring to the press release titled “New Arrangements for Merit and Transparency in Senior Public Service Appointments” issued on 5 February 2008, and the guidelines thereafter issued:

Of the list of agency heads and statutory office holders identified for coverage under the protocols:

- a. On what terms is each of the agency heads and statutory office holders employed?
  - i. This answer should include the office holder’s name, date of first appointment to that position, date of expiry of term(s), date of reappointment(s), date of expiry of existing tenure and any special legislative requirements which may be attached to this position.
- b. Where a new appointment has been made since 5 February 2008:
  - i. On what dates and in which publications were the position advertised?
  - ii. How many candidates applied?
  - iii. How many were interviewed?
  - iv. Was the candidate originally selected by the ‘merit and openness’ process for each position subsequently appointed by the Minister?
  - v. For what period of time was the appointment made?
- c. For each of the positions covered by the Merit and Transparency process, how many and which ones are positions appointed by the Minister upon the recommendation of a Board
- d. What additional criteria apply to each of the positions covered by the Merit and Transparency process?
- e. In how many appointments did the Minister seek to make an appointment that was not recommended by the Secretary in the Merit and Transparency process?
  - i. In each case, on what date did the Minister write to the Prime Minister seeking approval?
  - ii. On what date did the Prime Minister respond?
  - iii. In each case, did the Prime Minister support the Minister’s recommendation?
  - iv. Can a copy of all relevant correspondence be provided to the committee?



- f. How many and which positions have other legislative provisions which relate to an appointment over and above this process?
- g. How many and which appointments have been made for less than five years?
  - a. Where an appointment has been made for less than five years, how long has it been made for?
  - b. In each case, on what date was this request made to the Minister?
  - c. In each case, on what date did the Minister and/or the Prime Minister and/or Cabinet approve the request?
  - d. On how many and in which cases was the request not approved?
- h. How many and which of the positions identified in the list are also positions under the *Public Service Act*?

**Answer:**

As at the time of Additional Estimates (22 February 2011):

- a. Mr David Murray AO was appointed inaugural Chair of the Future Fund Board of Guardians (the Board) and consequently Chief Executive of the Future Fund Management Agency (the Agency) commencing on 3 April 2006 for a period of five years, expiring on 2 April 2011. Mr Murray was appointed on a part-time basis with the Remuneration Tribunal setting the salary for the joint Chair and Chief Executive position.

The *Future Fund Act 2006* outlines the legislative requirements for members of the Board, and hence for the Chair. These are that the person must have substantial experience or expertise; and professional credibility and significant standing; in at least one of the following fields: (i) investing in financial assets; (ii) the management of investments in financial assets; (iii) corporate governance.

Under the legislation, a person is not eligible for appointment as a Board member if the person is (i) an employee of the Commonwealth; or (ii) an employee of a statutory authority of the Commonwealth; or (iii) an employee of a Commonwealth company; or (iv) the holder of a full-time office under a law of the Commonwealth.

In addition, a Board member cannot be an employee of the Commonwealth or a statutory authority of the Commonwealth, an employee of a Commonwealth company or the holder of a full-time office under a law of the Commonwealth.

- b. Not applicable as there have been no new appointments since 5 February 2008.
- c.– g. As a result of the governance arrangements established under the *Future Fund Act 2006*, the Chair of the Board is also the Chief Executive of the Agency. Other than the Chair, there are no positions within the Agency that are subject to the Merit and Transparency Policy (the Policy).

Given the unique nature of the relationship between the Chair of the Board and Chief Executive of the Agency and that appointments to the Board are Ministerial appointments an exemption to the Policy for the Chair was provided by the Prime Minister on 23 December 2010.

- h. Nil.