



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FINANCE AND PUBLIC ADMINISTRATION REFERENCES  
COMMITTEE

**Reference: Australian Public Service employment matters**

FRIDAY, 14 APRIL 2000

CANBERRA

BY AUTHORITY OF THE SENATE

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## SENATE

### FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE

Friday, 14 April 2000

**Members:** Senator George Campbell (*Chair*), Senator Watson (*Deputy Chair*), Senators Hutchins, Lightfoot, Lundy and Ridgeway

**Substitute members:** Senator Allison for Senator Ridgeway and Senator Faulkner for Senator Hutchins

**Participating members:** Senators Abetz, Allison, Brown, Brownhill, Calvert, Chapman, Conroy, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Gibson, Harradine, Knowles, Mason, McGauran, Murray, Parer, Payne, Tchen and Tierney

**Senators in attendance:** Senators Allison, George Campbell, Carr, Faulkner, Lundy, Mason, Murphy and Watson

#### **Terms of reference for the inquiry:**

To inquire into and report on Australian Public Service employment matters, including:

1. the evolving changes in the nature of the Senior Executive Service, including chief executive officers, as a result of the devolution of responsibility for staffing matters to individual agencies, such changes including, but not limited to, selection, tenure and independence, remuneration, including relativities, mobility and career development;
2. the impact of agency-based bargaining in contributing to the development of a more efficient, productive and independent Australian Public Service, accountable to the Australian Parliament; and
3. the extent to which performance pay is being incorporated into agreements negotiated by individual agencies, the disparity between agency agreements in performance pay and the impact of such agreements on agency performance, accountability and transparency.

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**Committee met at 9.02 a.m.**

**Session 1—SES Remuneration—1999 survey results**

**BOSSER, Ms Kate, Acting Group Manager, People and Performance Management, Department of Employment, Workplace Relations and Small Business**

**HOY, Mr Rex Jeffery, Group Manager, Department of Employment, Workplace Relations and Small Business**

**TACY, Ms Lynne Joan, Deputy Secretary, Department of Employment, Workplace Relations and Small Business**

**TARLINTON, Mr Roger, Director, Australian Government Employment Remuneration and Conditions Team, Department of Employment, Workplace Relations and Small Business**

**CHAIR**—I declare open this public meeting looking into Australian Public Service employment matters. I welcome my Senate colleagues, witnesses and observers. On 28 June 1999, the Senate referred this matter to the committee for inquiry and report. The committee sought submissions on that theme.

On 18 February 2000, the committee conducted a roundtable introductory session with the Auditor-General, Mr Pat Barrett; the Public Service Commissioner, Ms Helen Williams; the Merit Protection Commissioner, Mr Alan Doolan, and the Secretary of the Department of Employment, Workplace Relations and Small Business, Dr Peter Shergold. The roundtable provided the committee with valuable insights into the current environment of the APS. The Public Service Commissioner, Ms Helen Williams, drew to the committee's attention her view that the issue of devolution of responsibility to the agencies is not as much an issue as is the accountability of the use of the powers. Mr Pat Barrett, the Auditor-General, informed the committee that he would like to see from an Auditor-General's point of view more public information, which in fact hopefully would still preserve whatever benefit people see in having individual negotiations continue to be confidential so that you get a better handle on what is actually a total remuneration package. Dr Shergold highlighted an area of shared interest when he said, 'We need to promote what remains quite distinct and unique in the public sector as opposed to the private sector.'

Many advantages were expected to flow from agency based bargaining. The DEWRSB submission states decentralised agreement making is aimed at allowing employers and employees to take direct responsibility for developing appropriate working arrangements that are tailored to the specific needs of the workplace. The government's APS workplace relations reforms have aimed to mainstream employment arrangements applying to the APS to those in the community more generally.

The intention today is to canvass the experience of departments during round one of the agreement making process and how this has influenced their approach to round two. In addition, the committee is interested in understanding the additional pressures for agencies whose key

role is to advise government in areas of workplace relations and employment conditions—DOFA, DEWRSB and PM&C. Unfortunately, DOFA is not available today, but will appear at a public hearing on 23 June. A final session today will provide the union perspective on the processes described this morning and various impacts of the process on their constituency.

The committee's interest is in the area of accountability. This includes, for example, are safeguards in place to ensure APS values are embodied in every confidential agreement and applied to performance review processes? Are systems in place to demonstrate that, at the end of the day, outputs and outcomes have been delivered efficiently, effectively and ethically? Public servants are paid from the public purse and because of this they are accountable in a public way for the remuneration paid to them. The hard question is whether public money requires public accountability on an individual level. A move in this direction has already been taken in the private sector where more stringent reporting requirements have been introduced by way of recent changes to Corporations Law.

The committee heard on 18 February about important areas that fit under the terms of reference in this environment of devolution. These are impacts on the cohesiveness of the APS, a coordinated response to the ageing of the APS, protections against the loss of corporate knowledge arising from the ageing of the service and devolution, and the value attributed to a diverse APS, just to name a few. Importantly, the focus on competitive salaries, individual performance bonuses and comparisons of remuneration packages with the private sector leads to an APS that has forgotten the vocation of public service.

Before we commence I wish to advise for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to evidence provided. I welcome officers of the Department of Employment, Workplace Relations and Small Business for the first session on the 1999 SES remuneration survey. I invite Ms Tacy to make an opening statement.

**Ms TACY**—I will make a few opening comments about the SES remuneration survey. This is the second survey of SES remuneration to be conducted. The impetus to conduct such a survey came from the APS roundtable which comprises secretaries of portfolio departments and large agencies. It expressed an interest in obtaining up-to-date information on SES remuneration. The survey has been an initiative of and a joint exercise by agencies rather than a central agency requirement. Most agencies involved consider that aggregate information on the approach to remunerating SES is of value to them in considering their own approach to the issue of SES remuneration.

The first survey was conducted in 1998 when our department, in conjunction with the Australian Bureau of Statistics, conducted a survey of the rates paid to SES officers in 23 APS roundtable agencies. ABS and DEWRSB provided their services for that survey on a one-off voluntary basis. The 1998 survey provided useful information and consequently roundtable members agreed to conduct another survey for 1999, this time inviting all APS agencies to participate on a cost recovery basis. Our department's involvement in the 1999 survey was mainly to coordinate the project with agencies involved in it dealing directly with the consultant in relation to all aspects of the survey. We also were a participating agency in the survey in the same way as other agencies.

DEWRSB wrote to all APS heads of corporate management inviting them to participate in the 1999 survey. We encouraged all agencies to be involved so that the maximum data could be captured and the costs of participating could be minimised for each agency. The majority of agencies opted to be involved in the survey. Only a range of small agencies and also the Department of Finance and Administration chose not to participate. A select tender was conducted with a request for tender sent to 10 organisations. Only one response was received and that was from Mercer Egan Cullen Dell, MECD. MECD was rated at least satisfactory against all the selection criteria and subsequently was engaged to coordinate and conduct a survey on behalf of all the participating agencies.

The total cost of the project is expected to be \$122,000 plus travelling expenses. We do not know the exact amount yet as a final account is to be received. The agencies participating on a cost recovery basis contributed with a differential pricing strategy based on the number of SES they had in their particular agency, and amounts ranged from \$300 to \$4,200. I can provide additional details on that if required. Depending on the final cost, it is expected that our department will contribute \$22,000 towards the project. That includes our contribution as a participating agency. It is anticipated that our contribution would reduce in future years now that the framework has been established. The general findings of the survey have been made publicly available. We have posted aggregate information covering all the main findings on the department's home page as part of the key pay indicators online. I could table that information. It is on our Internet web site but I have got a hard copy here. It was posted last night. I can provide that to the committee if it would be of assistance. It updates attachment E to our submission and is a summary of the key data that we have already provided in the more detailed report we sent to the committee. We envisage supplementing the material from our consultant on our home page with further information as it becomes available. We are awaiting a second report. This will include distributional graphs and comparative information with the wider executive market, particularly in other state and territory public services. Of course, we would be happy to provide the committee with such further information as it becomes available.

As was the case with information from the 1998 survey, participating agencies receive a more detailed report as part of their involvement in the exercise. This report is not being made more generally available, although we have provided a copy to the committee for members' information on that basis. The department has also arranged for briefing sessions of the chief executive officers and the SES from participating agencies.

Turning quickly to the key findings—and these are taken from the report that we have provided to the committee—overall, the increases since 1998 are relatively modest. The increases for the SES were considerably less than the private sector and slightly less than state public sector counterparts. The survey found that, for the SES as a whole, in 1999 the base salary—and base salary is the amount typically received as gross salary paid fortnightly—increased by two per cent on a median and 3.9 per cent on an average. The total remuneration package measure, which includes base salary, employer superannuation, employer provided vehicles and other entitlements and FBT, increased 2.4 per cent in median terms and 3.7 in average terms. The total reward, which is the total remuneration plus incentive payments, increased by a 2.5 per cent median and a 3.7 per cent average. While the figures are not directly comparable, the average increase for the total remuneration package is similar to the average increases gained by non-SES officers under certified agreements.

In terms of performance pay, the survey showed that the majority of agencies, 84 per cent, now offer performance based bonuses to their SES. However, we need to note that the bonus incentive figure in the report relates to performance related one-off payment bonuses and would not pick up performance related pay paid as a percentage increase rolled into base salary. For example, if in base salary an increase from year to year is based on a performance assessment, that will not show up in these performance related figures; it will show up in the base salary figures. It should also be noted that the figures in the report on performance incentives are based on the number of officers actually receiving a benefit and the benefit those officers received. For example, an officer receiving no benefit would not be included in these figures. Since 1998, the median incentive payments have increased by 13 per cent, and that trend is consistent with the private sector trend towards increased use of incentive rewards. However, it should be noted that the proportion of incentive payment to total remuneration package was still a relatively modest portion of SES income, ranging between 4.8 per cent and six per cent over the bands.

Another key finding was that the salary ranges have widened significantly across the APS since the service-wide rates of 1996, and those differences are spelt out in the material that we have provided. Overall, the findings show that agency heads are taking advantage of the flexibilities now available to them in setting their remuneration policies. We would be happy to answer any questions you might have on the report.

**CHAIR**—Thank you. I have a couple of opening questions. You said there were 49 agencies that provided data to this voluntary survey. How many did not and what percentage of the APS SES do they represent?

**Ms TACY**—I think it is 97—

**Mr HOY**—It covered 97 per cent of the SES. One major agency, as Ms Tacy said, was Finance and Administration. There were some other small agencies. I will just need to check the numbers of those for you. Could we check that and come back to you shortly?

**CHAIR**—Fine. Ms Tacy, I misunderstood you but I did not want to interrupt your flow. I think you referred to the remuneration from year to year and the bonus system—about part of that being reflected in the base rate. Can you just explain what you meant by that?

**Ms TACY**—In the categories that are reported in here, there is one that comes up which is about the actual incentive paid and it is about performance bonuses, but it captures the typical situation where a bonus, a flat amount of money, is paid but it does not continue on in salary. It is just a one-off bonus payment after performance assessment. Some departments, including our own, have a different arrangement where the terms of your ongoing salary rate are adjusted after a performance appraisal so that the percentage increase you get in your base salary is different, depending on your performance rating. That increase is reflected in base salary rather than as a one-off performance bonus.

**CHAIR**—So are you saying that we could, over time, start to see different base salaries being applied to different individuals within the SES?

**Ms TACY**—Because of that performance differential, yes. The more common approach by departments has been the one-off performance bonus. But it is a different approach. Therefore, when you start comparing some of the summary sheets for our own department, when we look at our base salary, we need to remember that it has a performance element based in, whereas on the actual incentive performance pay element we would look much lower than other departments because it is injected in a different area.

**CHAIR**—What would be the rationale for building in performance payment into base salary? Base salary is established for two SES officers who would presumably have the same qualifications. What is the rationale for building in a performance payment into base salary?

**Ms TACY**—It is just an alternative approach of rewarding performance rather than one-off bonuses. It is just a different method of payment.

**CHAIR**—But is there any rationale coming through from departments as to how they would measure that, on what grounds they measure it relative to the base salary?

**Ms TACY**—Senator, when you say ‘measure’, do you mean measure the performance?

**CHAIR**—The performance.

**Ms TACY**—I think that our SES remuneration policy was in one of the attachments in our submission and it is also on our internal intranet. That goes through the various criteria that will be used to assess people under this arrangement and the details of both the performance agreements that apply and then the various ratings and how people will be assessed against those ratings. So we measure it in that sense.

**CHAIR**—But the criteria for measuring it varies, I presume, from department to department.

**Ms TACY**—Yes. I think it is fair to say—although I have not looked at all other departments’ approaches—that there are some similarities in the way different departments go about it, and the five-point versus three-point rating scale and the classifications for different ratings. But each department—certainly our department, anyway—has focused on the delivery of our own outcomes; also, ours is very much based on a leadership protocol that has been developed just for the SES and executive officers in the department, and on performance as measured against that leadership protocol.

**CHAIR**—I am interested in how, in a department like yours, which is a policy advice department, you actually judge those differences and how you make decisions about performance pay. Is it on the basis of the quality of the advice, or the lack of quality of the advice?

**Ms TACY**—Our performance agreements and, then, the way we assess are broken up into two broad categories. Firstly, in our performance agreements, we come to an agreement with our immediate supervisor on the key deliverables over the following year—the key outcomes that we are responsible for. It is almost half and half, I guess, and just as important is how we deliver those—the manner in which we work with people in the department, for example. So

when it comes to an appraisal session, both mid-term and then at the end of the period, we would expect to work through how we had gone against delivering the outcomes in the performance agreement. They will vary across the policy area to our very operational program areas, in terms of the deliverables and the outcomes that we spell out at the start of the year. We have feedback through the year and then, at the end of the year, we have an assessment of how we have gone against delivering those outcomes. We also have, as part of that appraisal session, just as much focus on how we have measured up against the leadership protocol that I talked about before.

**CHAIR**—I do not understand what you are saying. What I am trying to get at are the concrete measures that you look at in terms of assessing this performance and in making those different judgments, particularly in a department that is policy oriented. Is it the way the person dresses? Is it the modulation of their voice? Is it because they have good handwriting versus bad handwriting? Is it the number of words that they can put into a brief, or the lack of number of words they can put into a brief? Just what is it, concretely, that you assess?

**Ms TACY**—None of those things. But in terms of looking at the outcomes, as I said, it is broken up into key result areas, external and internal. So, under the key result external, we have to identify usually about five key outputs to be delivered during the period and our particular role in delivering them. That will vary from level to level.

**CHAIR**—Can we start there and concretely identify what a key output might be and then relate back to that how you make a judgment about the performance of individuals against that?

**Ms TACY**—If I can use one of mine as a concrete example, or one that might go in something that a person in my position or in the area that I work in would do, it would be to—and I cannot remember the exact wording—‘coordinate and oversee the development of changes to the workplace relations legislation’, if that were a priority for the particular year we were talking about.

**Senator FAULKNER**—The envelope of services was—

**Ms TACY**—To coordinate and oversee the development of policy advice and then the actual drafting for workplace relations legislation changes. Obviously, they are in the context of whatever the priorities are for the department for the year. That is set out in our corporate directions statement.

**CHAIR**—Given the failure of the second wave legislation, did you get a reduction that year?

**Mr HOY**—One other thing we have done is that, on policy briefs to the minister, we have boxes whereby they can rate timeliness, presentation and quality. That information is used in making an assessment of how the minister and the government value policy advice. That can be taken into account, along with other factors, in making an assessment of an individual’s performance.

**Senator FAULKNER**—Is this for completion by the minister or members of the minister’s staff, or both?

**Mr HOY**—It is for completion by the minister.

**Senator FAULKNER**—Only?

**Mr HOY**—That is the intent of it. I cannot tell you who always ticks the boxes.

**Senator FAULKNER**—So it is not for comment; it is just for ticks and crosses.

**Mr HOY**—It is for ticks but sometimes the minister or ministers—we do have several—write annotations on the briefs. But we can capture over a period information that goes to timeliness and quality and that sort of thing, as assessed by the minister.

**Ms TACY**—Each of our areas also has performance indicators. Some relate, obviously, to policy on those sorts of issues and others relate to timeliness in terms of service provision. So we have a range of different performance indicators that we would use.

**CHAIR**—Coming back to the point that Mr Hoy made about having a space on the advice for comment by the minister, or the minister's senior advisers, doesn't that really raise some concerns about the independence of the Public Service? What if the minister is given good advice but not necessarily the advice he wants to hear? Would that generate a good tick or a bad tick, or a cross as opposed to a tick? If that is the criterion—this is a bit of humour but it is a serious question—wouldn't that also lead, potentially, to a position where you have public servants providing information that they think ministers might want to hear, or their officers might want to hear, as opposed to advice that they feel duty bound to give, because of the potential impact it will have on their remuneration packages?

**Ms TACY**—It could be a potential issue but, if we have as our goal the provision of relevant, timely and sound advice that covers the range of options advice, the only way we can really test that is to get feedback from the person whom that is being provided to. We also go externally on some issues as well. I do not think that that is the case. We review the overall ratings that are coming back with all our group managers together to look at trends. Not all of our advice is accepted, but I do not think that has affected the ratings.

**Mr HOY**—It is one way of attempting to get some feedback from, perhaps, a No. 1 client. I know you are talking about policy advising roles, but in service delivery areas, whether it is private or public sector, they tend to find out what the client thinks by running surveys. Another approach we could adopt is actually surveying ministers, and perhaps even Senate committees from time to time, and then you would get some information. We have adopted an approach whereby we are trying to get ongoing feedback from ministers so that we can take it into account.

**CHAIR**—There are a number of issues involved in this, but there are some employment areas where it is very easy to measure performance and there are other areas where it is very difficult to measure performance. At the end of the day, in many areas that you are dealing with in the Public Service, it is very subjective judgments that are made. What this committee is trying to get at is: what are the grounds for those subjective judgments and, at the end of the day, what impact will that have on the Public Service in the longer term, whether it will be

beneficial or not beneficial? It also goes to the question of accountability of the parliament because more and more information about this Public Service and this operation is becoming confidential. It is kept away and it is difficult to measure. It was one of the key issues being raised by the Audit Office in their submission on 18 February. I find it interesting in many respects that a statement that was made way back in 1992-93 sums up some of the concerns in this area. It reads:

I find it quite bizarre that a senior officer who is performing satisfactorily should be paid a bonus for performing satisfactorily. They are also discriminatory in that only senior public servants receive them. Furthermore, keeping the beneficiaries and the payments secret conflicts with proper financial transparency expected of the Public Service.

That was not said by the union or by the opposition; it was said by Senator Robert Hill, who was then the shadow minister for public administration. I think those points are still pertinent in terms of the issues that are before this committee at present.

**Mr HOY**—Senator, I understand the point that you make. It might be interesting if the committee heard the view taken by a previous government in April 1994. This was a government response to a report of the Senate Standing Committee on Finance and Public Administration about performance pay; I can make it available. It says:

The government holds firmly to its longstanding view, also adopted by previous governments irrespective of political affiliation, that remuneration ranges of public servants in the APS be public knowledge but that the precise remuneration (involving any performance elements) paid to individuals, and the reasons for this, should remain confidential. In its view the viability of PA arrangements would be seriously jeopardised if the outcome of confidential discussions on individuals' performance were made public.

**Senator FAULKNER**—What was the date of that report?

**Mr HOY**—April 1994. It was a response from the Hon. Gary Johns, Assistant Minister for Industrial Relations, to that Senate committee report. So that position has been a longstanding one of successive governments.

**Senator FAULKNER**—It doesn't make it right, though, does it?

**Ms TACY**—We take the view that, provided there is public knowledge of the ranges and there is information in aggregate form, as we have provided today, and that the arrangements in terms of performance agreements, the cycles and the policies that apply are transparent, then the detail of where an individual might come in terms of their performance assessment is an issue that is confidential between the individual and the department. But the framework, the parameters, the overall increases and the policies applying should be transparent.

**Senator FAULKNER**—Do you think anyone in 1994 might have envisaged that the criteria for performance indicators might not even have been public? We are six years down the track. One would hope that six years from when that comment was made, or as public policy evolves, there would be developments in these sorts of areas. Regardless of whether it is from the perspective of government or opposition, there are strong arguments for transparency in these sorts of areas, and I think strong public demand for transparency. I find it extraordinary that a department would rely too strongly on a comment made six years ago by a junior minister in a former Labor administration.

**Mr HOY**—No, I was just saying that successive governments have held that view. I think what you are now saying, Senator, is that perhaps we need to have another think about whether that is an appropriate position.

**Senator FAULKNER**—In 1994 when that statement was made, where were we with respect to the evolution of performance pay in the Public Service?

**Mr HOY**—We had commenced the evolution to performance pay. It was perhaps a bit more active in terms of performance bonuses at that time than it is now. Clearly, there were no AWA type arrangements back then. My main point was that the policy position of governments in terms of aggregate information has not really changed over that period. Even back in 1994, in the documents that come before Senate committees in the estimates processes, there were performance indicators included in those overarching documents. In 1994, individuals had performance agreements which were similarly constructed to the way that Ms Tacy has talked about today.

**Senator FAULKNER**—We are discussing the remuneration survey at this part of today's hearing, as I understand it. One of the key issues that this committee has to grapple with is this whole question of disclosure of public sector executive salaries. I do not know if you have seen it or not, but I read the committee's background paper—I do not know if that has been available to witnesses. Has it, Mr Chairman?

**CHAIR**—No.

**Senator FAULKNER**—Thank you. It has not been made available to witnesses. The committee itself produced a valuable document that basically went to the question of the requirements of the Corporations Law for the publication of the remuneration of board members and senior executives and the details of remuneration packages for directors and the five highest earners in a company. There is a very interesting difference here between what is required in the private sector and what is required in the public sector. I suppose that now, in the year 2000, we have got to look at whether we can justify a situation where the remuneration of senior private sector executives is basically open to public scrutiny while public sector executives are protected from the same scrutiny. It seems to me that that is an interesting counterpoint between the public sector and the private sector: how does DEWRSB respond to that?

**Ms TACY**—As I understand it, similar to the previous arrangements under the Corporations Law in the public sector, there were equivalent requirements for disclosure in our annual reports. So, in our annual report we have reported on, in various bands, the level of remuneration for our senior executives, as well as aggregate information required on the amount of performance pay paid. Both of those have been in annual reports.

I understand, and I checked the details, that in the revised approach in the Corporations Law there is consideration about how that might be reflected in reporting in the public sector and in the different requirements for annual reporting on that basis.

**Senator FAULKNER**—But is it the view of DEWRSB that there is a greater need for accountability in the public sector than in the private sector, given the fact that we are dealing with the interests of taxpayers here?

**Ms TACY**—Yes, although I still believe we would still hold that—provided that sufficient information is provided at the aggregate level; that the ranges are provided; that the policies and criteria are transparent and provided; and that there is aggregate information on the levels of increases in a way that individuals' particular arrangements are not identified.

**Senator FAULKNER**—It is not aggregate information, of course, in the private sector, is it?

**Ms BOSSER**—Under the Financial Management and Accountability Act at the moment it applies to the public sector. It does reflect the previous provisions of the Corporations Law, and that required reporting a total remuneration package in bands of \$10,000 above \$100,000. The changes to the Corporations Law have not yet been reflected in the regulations underpinning the financial management act, but it is more detailed information that is required in the Corporations Law, I understand.

**Senator FAULKNER**—As I said, I am depending on some information provided by the committee in a briefing note about recent Corporations Law amendments; new section 300A of the Company Law Review Act. I appreciate these obligations in relation to aggregate remuneration, but the point is we find ourselves now where there are more stringent reporting requirements in the private sector than the public sector, which appears to me to be philosophically indefensible.

**Mr HOY**—As I understand it, through one of the committees of this parliament the Department of the Prime Minister and Cabinet are having a look at the reporting requirements in the context of the annual report guidelines and the developments in the Corporations Law that you outlined.

**Senator FAULKNER**—Do you know if any considerations—

**Mr HOY**—As I understand it—that is what I am saying—consideration is being given to that issue.

**Senator FAULKNER**—So that is an acknowledgment that such a problem exists, is it?

**Mr HOY**—I think so, yes.

**Senator FAULKNER**—I know we will have the benefit of the advice of officers of the Department of the Prime Minister and Cabinet a little later on. Sadly, I suspect I will not be here when they are at the table, but other members of the committee might care to take that up with them. But, given that we are looking at this currently, Mr Chairman, I understand we have tried to focus this early session on the actual surveys. Am I right?

**CHAIR**—Yes, that is right.

**Senator FAULKNER**—Do you mind if I just ask Ms Tacy about the covering note, or Mr Hoy? I think you signed the covering note there. You are keen to maintain confidentiality for the 1999 SES remuneration survey, and—

**Mr HOY**—We are keen to maintain confidentiality of this document itself because, as we said at the outset, it was produced on a contributions basis from a number of participating agencies. This might also enable me to answer the question that the chair raised. We said it covered 97 per cent of the SES. There are 91 relevant agencies; 49 participated in it, so there were 42 which did not. But, of the 42 which did not, 20 do not have any SES at all. We did this report on the basis of a whole of service arrangement, as distinct from any real need to do it in our central agency role. We feel that if the document is just published on the Internet those who did not contribute to it will be able to get it for nothing, and it really puts in jeopardy our ability to actually produce a similar report next year, because those agencies which did contribute will just need to wait and see the information. We did indicate that extracts out of it, material out of it, some additional information like graphs and the like which we will derive, will be put up on our Internet site and made publicly available. So it is really only the report per se I am requesting that the committee just consider as an internal document.

**CHAIR**—Mr Hoy, you are requesting that that be treated as confidential. The data in the report is aggregated data.

**Mr HOY**—It is aggregated data. It is not secret information. All I am really requesting is that the committee does not publish it on its Internet site as a public report, because that means agencies, and some of the ones I mentioned, can go in and download it.

**CHAIR**—Why the request, given that most of it has been published in the *Canberra Times* and is available?

**Mr HOY**—Most of it has not.

**CHAIR**—A substantial proportion of it has.

**Mr HOY**—Extracts were drawn on by the press. Some of the extracts are already up on our Internet site, as Ms Tacy mentioned. I am only talking about this report per se.

**Ms TACY**—The material I tabled previously from our Internet site titled 'Key pay indicators' includes in it a summary table of the key findings in terms of base salary, total remuneration package, actual incentive and total reward movements for each band and the movements between 1998 and 1999. That is now generally publicly available. We have pulled the key findings out of the detailed report that was done on a consultancy basis for the participating agencies so we can make them publicly available.

**Senator FAULKNER**—It is still not entirely clear to me, but it might be to others, what on earth the problem is if other agencies have access to such a report.

**Mr HOY**—The only point is one of timing. It goes to the point whether, if we attempt to run this next year on a contributions basis, we will get the support of another 50 agencies to continue to do it. It is as simple as that.

**Senator FAULKNER**—But why? What is the link?

**Mr HOY**—The link is that, if they know that they can get all this information without contributing, we may find it difficult to get it done next year. It was done on a cost recovery basis.

**Senator FAULKNER**—What sorts of costs are involved?

**Mr HOY**—Ms Tacy's statement outlined at the start that it was costing of the order of \$122,000 on a sliding contribution scale of \$300 to \$4,200 per agency. The maximum amount was \$4,200. Some chose not to participate.

**Senator FAULKNER**—But there are mechanisms available for you to ensure compliance if you wanted to use that, aren't there?

**Mr HOY**—In what way?

**Senator FAULKNER**—Could you, for example, involve the Auditor-General in that process?

**Mr HOY**—When you say compliance, we coordinated this. It was on a voluntary basis.

**Senator FAULKNER**—I know that. Have you looked at any mechanisms that might be available to you to obligate departments and agencies to engage in the process?

**Mr HOY**—That is something we will think about. It was done as a service to agencies that thought there was value in doing this.

**CHAIR**—Mr Hoy, presumably those agencies that did not contribute would have ways and means of getting access to this information anyway. The fact that we do not make it public is not going to prevent them from getting access to the information.

**Mr HOY**—That may be so. I ask that, if the committee is of a mind to publish this report on its Internet site, before it does so I might be given the opportunity to raise it with my minister.

**CHAIR**—We will take your request on board. But it is really a decision for the committee.

**Mr HOY**—Thank you.

**Senator WATSON**—In terms of transparency, does the total salary include the FBT component that would have to be paid by the government?

**Mr HOY**—Yes.

**Senator WATSON**—It does. I notice also under motor vehicles that only a small number of SES officers elected to take two motor vehicles. What is the basis of arriving at the value to the employee of the second motor vehicle?

**Mr HOY**—SES officers can take a first vehicle on the basis of part of their remuneration package. They can also elect to salary sacrifice to select another private vehicle. The value that would be put on there is the value that they themselves would put on it. In terms of the first vehicle departments, our department have a value that we attribute to it. It is currently \$15,300 plus parking of \$1,700. But the second one relates directly to the salary sacrifice that an individual might make.

**Senator WATSON**—So, in effect, it is possible that the value, as far as the salary pay package is concerned, could be different from the value which is put on the FBT return to the tax office. Is that right?

**Mr HOY**—In terms of the first official vehicle, we provide FBT information on the basis of all the SES. In terms of the salary sacrifice arrangement, the FBT arrangements are a matter between the individual and the tax office. We do not get involved in that.

**Senator WATSON**—The FBT arrangements are between the employing agency and the tax office.

**Mr HOY**—No, I was talking about the difference between the first vehicle and the salary sacrifice vehicle. The second one is an arrangement that the individual would enter into.

**Senator WATSON**—So the salary before tax is adjusted for the second vehicle and there is no FBT consequence. Is that what you are saying?

**Mr HOY**—No, what I am saying is that, for the second vehicle, an individual has an arrangement with an external provider to arrange a lease, novated or whatever, for a second vehicle. The arrangement that that person enters into is essentially between them and the tax office. I would not know what the arrangements are.

**Senator WATSON**—What is the cost to the Commonwealth, agency by agency, of these salary sacrifice arrangements? Obviously, in those cases there is a loss of tax, because there is no FBT and there is a reduction in the gross amount on which the salary is payable.

**Mr HOY**—The way in which they are set up is that it is done on a cost neutral basis to the Commonwealth. We pay a fee—and I do not know what it is—to the organisation that arranges this externally, but then it is a matter that is between the individual, that organisation, the tax commissioner and so forth.

**Senator WATSON**—For example, if the person's salary of \$120,000 has been reduced effectively to \$110,000 because of a vehicle, how is it that the Commonwealth overall in a global position is not the loser in terms of tax revenue, because if there is no FBT—

**Mr HOY**—As I understand the arrangements, in addition to the admin cost that the Commonwealth agency would have with the external provider, there are no other costs to the Commonwealth in the arrangement.

**Senator WATSON**—There would be a cost in terms of a cost forgone though, wouldn't there, in terms of a loss of revenue?

**Mr HOY**—I do not know about that.

**Senator WATSON**—Could you find that out for me?

**Mr HOY**—Senator, we have just got a bit more information from one of our experts.

**Mr TARLINTON**—The FBT which is technically payable by the department is paid by the external provider on behalf of the department. However, the salary is reduced by the amount of that FBT liability. Therefore, in the end, the cost of the FBT is met by the employee, even though it is paid technically on behalf of the employer. For example, if the FBT liability for a vehicle is \$3,000 in a particular year, the employee's salary is reduced by \$3,000, which is then held by the external provider that runs the salary packaging scheme. That is remitted to the Taxation Office on behalf of the employer for that FBT liability for the year. So there is no cost to the employer.

**Senator WATSON**—If you salary sacrifice, isn't the whole purpose of that to minimise the amount of tax? I am saying that in a global sense there must be some loss to the Commonwealth. I am trying to assess the extent of the loss of salary sacrificing to the Commonwealth.

**Mr TARLINTON**—There is a payment of taxation in an alternative form, which is through the fringe benefits tax arrangements.

**Senator WATSON**—Can you take that question on notice?

**Mr TARLINTON**—Certainly.

**Senator WATSON**—What is the global loss, effectively, to the Commonwealth in terms of salary sacrificing arrangements? You can limit it to these agencies that we are looking at for the purpose of the exercise, because to me there does appear to be a loss of revenue as a result of these arrangements. Why would people enter into them otherwise?

**Mr TARLINTON**—I think with the changes to the FBT arrangements it is certainly becoming very marginal as to whether or not there is any advantage in the salary packaging of vehicles. There is a slight difference. It depends on a multitude of factors as to whether or not they would pay more tax or perhaps less tax than they would perhaps have paid through the PAYE system.

**Senator WATSON**—It all depends on how it is calculated.

**Mr TARLINTON**—It depends on a variety of factors including the value of the vehicle, the number of kilometres travelled, et cetera.

**CHAIR**—As I understand it from what you said earlier, the value of the vehicle is entirely up to the individual—on the second vehicle.

**Mr TARLINTON**—That is right, but the higher the value of the vehicle the higher the fringe benefits tax, effectively. The calculation is based on the value of the vehicle.

**CHAIR**—But I understand from what Mr Hoy said that the individual nominates the value of the vehicle, so you could purchase a \$20,000 vehicle and nominate it as \$5,000.

**Mr TARLINTON**—Perhaps it is slightly different. The employee selects the vehicle and therefore has choice over the value of the vehicle, but it is based on the purchase price of the vehicle.

**Senator WATSON**—And you can assure us that in all cases the FBT is taken into account in calculating these figures in the total remuneration package?

**Mr TARLINTON**—Yes. The figures collected were to include FBT as part of the calculation of the total remuneration package.

**Mr HOY**—Senator, the individual agencies put in the data, so we are just assuming that they all did provide that information. We did not see any of the individual returns.

**Senator WATSON**—In the Senate this concept of paying incentive payments created some tensions and about four years ago, approximately, the system was discontinued. Have any of your surveys or findings found similar sets of circumstances where there is obviously an element of competition—given some of the subjective natures of how those evaluations are calculated? For example, the Senate departments have found there are some problems associated with the creation of certain tensions within an area. I find it strange that those sorts of problems are not manifesting themselves in the other agencies.

**Mr HOY**—As I understand it, the survey was really trying to get information about the incidence of payment of this. I am not sure whether it actually captured information in respect of the point you are making.

**Senator WATSON**—But if you look at the quantum of payments, there is a very high component of extra incentive there to certain people if they want to take advantage of it, or are entitled to it.

**Ms TACY**—The survey does show a growth in the use of performance paid incentive arrangements of various sorts. I think I mentioned that 84 per cent of agencies now offer performance based bonuses to their SES, so the vast majority of agencies involved in this survey did have performance pay arrangements.

I think it is fair to say that there have been—not as part of this survey—various incidences of the sort that you mentioned where there have been difficulties in both the establishment and the way some schemes have been run. We are all learning of the way that policies are structured, the way that performance agreements and feedback processes are undertaken and transparency in the criteria. The other thing that comes through the survey—not so much this survey, but perhaps through the agreement making survey that we provided in our submission—is that agencies are developing quite a different range of ways of building in performance bonuses or performance arrangements in their pay structures.

**Mr HOY**—The other interesting bit—and it is on page 12 of the report—is that, while 84 per cent of agencies reported they had performance based incentives, only 58 per cent actually received the incentive during this reporting year. It is a fact that this report said the payments ranged from nought up to 38 per cent of base salary. But, again, as Ms Tacy said, the public sector lags well behind even the state services and certainly the private sector in the proportion of remuneration that is at risk or incentive payment.

**Senator WATSON**—Would you mind providing the compliance cost of providing the incentives, department by department, together with the compliance costs of calculating the FBT?

**Ms TACY**—I am sorry; I did not catch the start of that question, Senator.

**Senator WATSON**—There are quite a lot of compliance costs in terms of calculating and paying incentive payments; it is an added cost of running the department.

**Mr HOY**—I am not sure, though, that we would be able to give you any more than a pretty rough estimate—because it was part and parcel of our overall pay process.

**Senator WATSON**—And also the compliance costs of calculating your FBT?

**Ms TACY**—We will take that on notice and see what we can provide for our department.

**Mr HOY**—I think we would be able to get from the external provider the cost to do it for the salary sacrifice people. It is going to be a bit harder to give you an estimate of that for the internal costs, because it would just be part of our payroll process.

**Senator ALLISON**—You do not have incentives averages and maximums and so on broken down by agencies? On pages 29 and 30, you have got specialisation base salaries and so on for some agencies. But that information is not available for incentives?

**Mr HOY**—The information in this document is only for the whole of the agencies that were surveyed. I think individual agency reports might have that information in them.

**Senator ALLISON**—Is it possible for the committee to receive that information?

**Mr HOY**—You would need to ask individual agencies, I am afraid, because we do not have that information. What actually happened was that there was an aggregate report for the APS,

which is the one the committee has got, and then each agency which participated got a report showing where they sat in terms of their own rates, et cetera, against the APS rates.

**Senator ALLISON**—This is for incentive payments?

**Mr HOY**—No; for that, plus everything else in the report.

**Senator ALLISON**—Are those individual reports to agencies available to the committee?

**Mr HOY**—As I said, you would need to take that up with every individual agency, I am afraid.

**Senator ALLISON**—I am not sure if we need to do that as a committee, Chair. Can I ask for that?

**Ms TACY**—We do not have those reports.

**Mr HOY**—We have never seen those reports. They went directly from the consultants to individual agencies.

**Senator ALLISON**—I see. So the committee would need to request them directly from the agencies?

**Mr HOY**—Yes, I am afraid so.

**Senator ALLISON**—Do you have anything to add about the direction that incentive payments are going in? Is this year's much higher than the previous year's? What is the trend over the year?

**Mr HOY**—The trend is that there is an increasing emphasis on incentive payments, as compared with the 1998 survey. But again, as the figures are actually illustrating, while the provision is there, not everybody actually received any performance bonus. Secondly, some of the figures need to be treated with a bit of caution because it only captures actually performance bonuses paid to individuals and not where there is performance related adjustment to base pay. Thirdly, as I said, it still lags well behind other state public sectors and certainly the private sector. But I think the trend is continuing to have greater amounts of the salary package linked in the incentives—

**Senator ALLISON**—How do you make that judgment that agencies are behind state agencies?

**Mr HOY**—Based on information that the consultants give us, and comparing the APS information to the information they collect through their normal surveys.

**Senator ALLISON**—Were you able to gauge in your survey how agencies dealt with this question of incentive payments in terms of how much knowledge there is amongst SES officers about one another and what is being offered within the agency and in other agencies?

**Mr HOY**—No. I could not comment on that because the individual agencies prepared their responses to the survey in their own departments. It was then sent directly to the consultants.

**Senator ALLISON**—Were you able to gauge how effective incentive payments are in increasing motivation?

**Ms TACY**—No. The survey just dealt with the remuneration arrangements and the actual payments rather than assessing how effective they were in meeting their particular objectives in those departments.

**Senator ALLISON**—I have just one other question.

**CHAIR**—I am sorry, Senator Allison, I need to bring it to a close. We are already 20 minutes over time. You may be able to get it in the next session. We will move on to session 2.

**Session 2—Tensions between the government's role as employer, financial controller and policy generator—experience of a policy-advising agency in its own agreement-making process**

**CHAIR**—Ms Tacy, is it going to be the same people?

**Ms TACY**—Yes, we shall continue.

**CHAIR**—That makes it easy. I would like to ask the opening question. Firstly, how does the department actually see its role as a policy generator and adviser on workplace relations and what impact has that had upon the department's engagement with its own employees and in its negotiations? Secondly, perhaps you can give us some information on how that applied in the first round of agreement making and what has altered or changed in the department's attitude to the second round of decision making. And, thirdly, do you see your department as being the benchmark for decision making right throughout the rest of the public sector?

**Ms TACY**—When you say our role as a policy generator, are you referring to our role—there are two aspects of it—in APS-wide workplace relations issues?

**CHAIR**—No. I am essentially talking about your role as a policy adviser on workplace relations per se, and then your role as an employer in dealing with your own employees and the negotiation and implementation of agreements covering those employees—firstly, as they apply to the first round and, secondly, as they have applied to the second round of agreement making?

**Ms TACY**—There are a number of elements to the first and the second round and our role, both as policy adviser generally on workplace relations and our specific role in relation to the APS. Obviously our department should be expected to have at least a good understanding, if not a better understanding, of the legislation that applies generally in workplace relations, the

various approaches that can be taken and best practice workplace relations, and in terms of the APS, a good understanding of what the policy parameters are and what they mean in agreement making. We have particular expertise and knowledge from our policy generating role that would be useful, and has been useful, in our own role internally in the department developing our own arrangements.

In terms of the first versus the second agreement, I am not sure what you are getting at with respect to the differences. Certainly, in that time the policy parameters applying in the APS changed somewhat. There was further devolution to agencies over that period. I do not think there have been tensions, in terms of the title of this session, between our policy generating role on the one hand and our own internal HR processes on the other. In fact, we have been able to use the knowledge and expertise that we have in the subject area to good benefit.

**CHAIR**—I suppose the question I was really asking was: what experiences did you have in the first round of negotiations that you did not apply in the second round, that you learnt from? I understand your argument about the policy parameters; we have had that discussion in another place. That was essentially about your monitoring of what happened across the whole of the public sector to make sure that the outcomes fitted within those narrow policy parameters.

In terms of the second round, I have two questions. Firstly, you talk about best practice and applying best practice. Have you looked at any comparative negotiations in the private sector against which you benchmark your practice? Secondly, in terms of second round negotiations in the broader sense, what degree of advice have you been providing to, or has been sought by, other agencies of your department in terms of their negotiated outcomes or their process of negotiating those outcomes in the second round negotiations?

**Ms TACY**—On the first question, prior to both the first and second round of negotiations, we spent quite a lot of time preparing our overall strategy of agreement making in a similar way for both the first and the second. Obviously, we looked at what was happening both in the APS and more widely—externally. We looked at some of the approaches that were being taken to agreement making and the content. We had a particular objective in both—it was informed, I think, by a lot of things that were happening in the private sector—to link our agreement making with our overall business and corporate objectives. We wanted to be clear about the directions we wanted to take in the department, organisationally, and use the agreement making process to support that.

As the senior leadership team before both first and second round agreements, we explored those directions—key priorities for us as an organisation and how we felt the agreement making process could link into that. For example, one of the key issues was that we wanted to have a comprehensive agreement that spelt out all the terms and conditions for our employees. We wanted to take a much less prescriptive approach to a lot of our personnel issues to free up administration and make our systems easier. We wanted to provide for greater flexibility, because we are such a diverse organisation, in the working arrangements, and we wanted to inject more of a performance feedback regime throughout the department.

Those were some of the key objectives that we set for ourselves before both rounds. As I said, we looked at what was happening elsewhere. More particularly, we looked at where we wanted

to proceed as an organisation. In terms of your second question, about the degree of advice that we provide to other agencies, Mr Hoy might like to answer that.

**Mr HOY**—Our role in terms of doing that has lessened between the first and second rounds. There was greater focus on the first round in terms of giving advice and assisting agencies. We still do provide it now, but rather than a more direct role in first round, there is only one stage now in second round agreement making where agencies present their agreements to us, and that is when they are finalised. We look at them in terms of the policy parameters, noting that they need to assess as well. We do give advice to agencies if they ask for advice about writing clauses and so forth. In our workplace partners role, which was talked about by Dr Shergold at the last hearing, we provide more detailed fee for service advice to agencies on a request basis. That has continued, but that is separate from the policy role.

**CHAIR**—When you say that on the second round you only provide advice at one stage, and that is when the negotiations are finalised, is that prior to signing off or after signing off?

**Mr HOY**—It is prior to the agency putting it to their minister for final approval.

**CHAIR**—So, in effect, you are still exercising a veto role with this agreement.

**Mr HOY**—No, we are not.

**CHAIR**—What is the point of them showing it to you?

**Mr HOY**—When they provide it to us, they need to provide their own assessment against the policy parameters. There is a checklist in the back of this document that I know you have. We then have a look at it in terms of their assessment and our assessment of it against the policy parameters. We draw any policy issues that we see to their attention and then it is a matter for those agencies to raise those issues with their minister. We do not veto them.

**CHAIR**—It is a question of semantics. Are you aware of any set of circumstances where an agency has proceeded to complete a set of negotiations with its employer contrary to the advice that you have provided in respect of those policy parameters?

**Mr HOY**—I can really only talk about round 2 because I do not have as much knowledge in terms of round 1.

**CHAIR**—You did have a direct role in round 1?

**Mr HOY**—We had a greater role. In round 2, as I understand it, most of the issues are resolved between our agency and their agency. I do know of an instance whereby we raised a policy issue with the agency. At our request they briefed their minister on it and proceeded to continue with what they intended to do.

**CHAIR**—What agency was that?

**Mr HOY**—The Department of Foreign Affairs and Trade.

**Senator LUNDY**—The title of this session says a lot despite your claims that there are not tensions. This role of vetoing agreements goes to the heart of it. To start off with, could you provide an explanation of the GST clause?

**Ms TACY**—Do you mean in the department's agreement?

**Senator LUNDY**—Yes.

**Ms TACY**—The history of the issue or the clause itself?

**Senator LUNDY**—A brief history and then a brief description of the clause. I just want to get some of this discussion in context.

**Ms TACY**—We can provide all these documents that I refer to on clause 31.2 itself if it would assist. The clause itself was developed as part of the negotiation of the agreement. The agreement was finalised and provided to staff. Following that, there became an issue of some ambiguity about the particular clause—

**Senator LUNDY**—What do you mean by ambiguity?

**Ms TACY**—Perhaps we can provide some of the correspondence that was provided about this. Some staff bulletins went out periodically on this from the secretary to explain what happened. The clause was basically about unforeseen circumstances. It is similar to a clause that had been in the previous agreement. It committed us to meet and confer should there be any legislative or other developments which affected people's entitlements. We, in negotiating that, did not see it as a clause that allowed for opening up the agreement for compensation for GST.

Following the agreement going out for comment, issues were raised in some of the union bulletins about calling the clause a GST compensation clause. We were concerned that there was obviously ambiguity or difference of view about what the clause meant. The secretary wrote to all staff explaining what the position was from management's point of view and stressing that he wanted people to vote on the agreement with that understanding. The ballot went on. From memory, there were some further CPSU bulletins, plus we understood that the particular clause was being characterised again as a GST clause. So we continued to be concerned about the ambiguity.

The secretary met with the CPSU representatives. They came up with an agreed statement that the clause was not to compensate for the price effects of the GST. On that basis, we were to continue through with the ballot. That was on Friday, 3 March. On the following Monday, the CPSU withdrew from that signed agreement. We tried to have further discussions during this time about where to next. We were not able to pursue much through those discussions. The secretary then felt that, given there was clearly ambiguity about the meaning of the clause from different people, we should suspend the ballot. He wrote to staff on that basis on 6 March. I can provide these documents, if that would be of assistance.

**Senator LUNDY**—Yes, please.

**Ms TACY**—In that he also stressed from our point of view the desire to resolve the situation and to have urgent negotiations with our bargaining unit for the CPSU and employees and with the CPSU, with a view to getting a revised agreement on that clause. We then had those further urgent negotiations with the CPSU and came to an agreement again about the clause in question. On that basis, the ballot continued. That joint statement was made at the certification of the agreement this week, on Wednesday, 12 April. We could also provide that joint statement.

**Senator LUNDY**—Yes, thank you.

**Ms TACY**—With that joint statement, the agreement was certified.

**Senator LUNDY**—Thank you for that explanation. That is helpful. In the midst of all of that process, where were the government's policy parameters for agreement making in the APS changed or modified to reflect the circumstances that were occurring in DEWRSB's own negotiations at the time?

**Mr HOY**—During this period, in March, the policy parameters were changed. They were changed to reflect concerns from a number of secretaries that they were being asked to include in their own agreement making processes clauses that might have the effect of their being reopened to provide compensation for the price effects of the GST. At our initiative, we took up with ministers, in our central policy role, a proposal regarding policy parameter No. 2, which currently reads, 'be consistent with the government's APS remuneration policy that improvements to pay and conditions be linked to productivity gains.' We suggested to ministers, to put it beyond all doubt and make it absolutely clear, that the following words be added: 'and not the changes in general taxation arrangements.' Ministers agreed with that and the policy parameters were changed.

**Senator LUNDY**—I guess this shows the quite unique situation DEWRSB is in in having that policy making role. You learnt by your own experience; you then picked up your experience and spread that throughout the Public Service by way of this advice to ministers. I just want to go to that. Can you tell me precisely the nature of your contact with other agencies and departments in spreading that news, if you like, about your experience with that clause, and at what point and on what dates did you involve the ministers, and what response did you get from that? Then I would like you to tell me why that does not constitute some sort of pre-emptive veto on what you claim to be a devolved process of negotiating agreements.

**Ms TACY**—The process was that it was not so much our individual experience, or us going around spreading our experience. The initial focusing on this issue about the particular parameter and the need or the value in clarifying the parameter about wages policy, and clarifying that to be consistent with wages policy, meant that compensation for GST was not consistent with wages policy came through from a roundtable discussion of secretaries on—

**Mr HOY**—It was 2 March.

**Senator LUNDY**—There seems to me to be a difference between adjusting your policy guidelines to reflect experience, which I presume would occur based on experience perhaps of other departments, and actually getting ministerial agreement to exclude those types of clauses

from agreements. Do you see what I mean? There is a difference between offering the guideline and then allowing those agencies to actually negotiate agreements, check the policy guidelines, and have direct contact with ministers and seeking their specific agreement not to include that type of clause in those agreements. So what is the difference between the two approaches?

**Mr HOY**—When it was raised at the roundtable, it was raised by agencies, not particularly about the so-called DEWRSB clause because we had put the view out in the public arena that the GST was not there for compensation, but there was still continued ambiguity. A number of secretaries actually raised in that forum that they thought this issue should be made clear through an adjustment to the policy parameters. The reason it was put to ministers is because ministers actually approved the policy parameters.

**Senator MASON**—I have a background question, and excuse me if the question has been asked at a previous hearing. In terms of workplace agreements—I know this session is about the SES—do they apply to all positions throughout the Australian Public Service? Do you have workplace agreements that—

**Ms TACY**—Under the certified agreements that we have been discussing I think just about everybody is covered.

**Mr HOY**—Everybody except one agency has an agreement, a first or second round agreement.

**Senator MASON**—In terms of incentive payments and so forth, have they applied to just SES positions or right through the Public Service?

**Mr HOY**—No, they do apply in agencies with certified agreements and provisions below the SES. In the review of agreement making in the Australian Public Service, the interim report of December 1999, which we provided to you, does indicate that a number of certified agreements do have different forms of incentive payments applying below the SES.

**Senator MASON**—How junior? What are we talking about in terms of when incentive payments kick in? At what level?

**Mr HOY**—We do not have any information on that. You would have to have a look at the individual agreements.

**Senator MASON**—Thank you.

**Ms TACY**—Plus also, I should say, as well as performance payments as such, a number of departments, including our own, are looking at their classification structure and the progression through various levels in the classification structure, and including performance feedback and performance appraisal as part of that process, and that goes right through the organisation.

**Senator MASON**—The Australian Public Service is getting flatter and flatter today, isn't it, in terms of its grades and so forth? Years ago it was clerk class 1s through to class 11s or

something. It is becoming flatter with more grades for performance pay. That is the general trend, isn't it?

**Ms BOSSER**—We have a six-level structure established across the service which relates to the classification of the jobs, but the pay is determined by individual agencies and can take account of other factors, including performance, and not just the classification level of a particular job.

**Senator ALLISON**—I would like to go back to the survey.

**CHAIR**—I thought we had passed on from the survey and were now dealing with the second session.

**Senator ALLISON**—Okay.

**Senator LUNDY**—My question goes to the confidentiality associated with AWAs. Given that there is confidentiality, I am interested in the goals that are put in place within those agreements and what potential there is for a conflict between the officer and the minister, particularly in the context of parliamentary forums like Senate estimates committees. How do you deal with that within those agreements and the policy guidelines?

**Ms TACY**—I am not sure I understand the second part of the question. I will make some comments and you can perhaps follow me up.

**Senator LUNDY**—I might clarify it. If there is a goal that relates to the implementation of certain policies of the government, a parliamentary forum like an estimates committee can quite often play a role in that in sparking public debate, raising issues and putting them in front of the public through the accountability process. Is that a weight or measure of that officer's ability to actually be able to progress a policy and have it implemented under their responsibilities to the minister?

**Ms TACY**—Yes, it would be.

**Senator LUNDY**—It would be a conflict?

**Ms TACY**—No. I thought you asked whether that would be a measure?

**Senator LUNDY**—Yes, that progressing policy would be a measure. Therefore, is the performance of that officer at an estimates committee part of what is measured against their success in delivering a policy on behalf of the government or the minister?

**Ms TACY**—Our performance would be assessed over a whole range of different things.

**Senator LUNDY**—Is it included or is it specifically excluded as part of those agreements?

**Ms TACY**—It is not specifically excluded.

**Senator LUNDY**—Okay. Is it included?

**Ms TACY**—It would depend on the performance agreement you are talking about and the outcomes that you have responsibility for. Parliamentary processes are an important part of our work and our responsibility. For a person working in that sort of area, involvement with the Senate committees, House of Representatives committees or whatever would be a factor talked through in terms of their appraisal. But the agreement is within the department and with either the secretary or group manager. It is not with the minister.

**Mr HOY**—The agreements were also not in the AWA as such. The AWA talks about duties undertaken from time to time and in accordance with the performance agreement. Sometimes they are attached to it, but they are not formally part of the document, and they vary each year consistent with the business cycle. For example, an AWA can run for two years, whereas a performance agreement is usually an annual document that can also be amended halfway through the year or whatever.

**Senator LUNDY**—I have one final important question. What protection does an officer have who gives evidence at a Senate estimates committee as a result of very diligent and effective questioning of opposition senators? Can that have the ability to affect their performance pay directly, and has it in any circumstances that you are aware of, either within your department or generally?

**Ms TACY**—It certainly has not in any circumstances I am aware of.

**Mr HOY**—And not in any that I am aware of, Senator.

**Senator LUNDY**—But it is not precluded as a conceivable occurrence?

**Ms TACY**—I cannot imagine how it would be included.

**CHAIR**—That draws the second session to a close. Senator Allison, if you have got some questions in respect of the questionnaire that you want to put on notice, give them to the secretariat and we will give them to the department.

**Senator ALLISON**—Certainly.

**CHAIR**—I thank the officers at the table for their cooperation.

**Session 3—Experience of round 1 agreements and how this is being applied to round 2 processes. Comments on SES remuneration****HENDERSON, Mr Alan Gilbert, Executive Coordinator, Government and Corporate Group, Department of the Prime Minister and Cabinet****OLIVER, Mr Richard Andrew, Assistant Secretary, Corporate Support, Department of the Prime Minister and Cabinet**

**CHAIR**—Welcome. Mr Henderson, do you want to make any opening comments?

**Mr HENDERSON**—I will make a couple of brief opening comments. Thank you for the invitation. PM&C is a relatively small department. Our central responsibility is to support the Prime Minister, cabinet and several other ministers and ministers assisting the Prime Minister. We have negligible statutory responsibilities that are not held in common with other departments and only modest program administrative responsibilities.

We have undertaken a significant number of reforms in recent years consistent with the broader Commonwealth reform agenda covering workplace relations, financial management and the new Public Service Act. The workplace relations reforms, in combination with the new accrual based outputs and outcomes framework, underpin our efforts to improve performance. The introduction of AWAs and a certified agreement with staff have contributed to a more constructive relationship between senior management and staff. In terms of performance management, the individual performance agreements required under our AWAs and certified agreement provide the foundations for our performance management system. Under current arrangements all substantive SES officers are engaged under AWAs, with the initial round signed early in 1998. All SES officers are eligible for performance bonuses subject to performance ratings.

The department's initial certified agreement applies for two years from October 1998. The significant elements of the certified agreement included the extension of the departmental performance appraisal scheme to cover all staff and the introduction of a skills and responsibilities loading to ensure sufficient flexibility for the department to compete in a devolved APS labour market. It involved the curtailment of overtime allowances, offset by higher increases in base salary for those formerly eligible for overtime allowances, and a range of streamlining initiatives in common with a number of other APS CAs, including, for example, the simplification of leave entitlements.

The most controversial initiatives in our initial certified agreement were the modifications to overtime allowances and the introduction of the skills and responsibilities loading. Management's original position in negotiating the first certified agreement also provided for the introduction of performance pay for all staff. In the event, this proposal was withdrawn. In the forthcoming negotiations for our second certified agreement, management will be proposing that we extend entitlement for performance pay to executive level 2 officers—that is, at the most senior level of non-SES staff.

In concluding this brief statement, I would simply observe that we regard these reform processes as work in progress. Mr Chair, apart from those brief introductory comments, I would like to make a couple of comments about some of the earlier discussions this morning, if you consider that appropriate.

**CHAIR**—Sure.

**Mr HENDERSON**—You have put the proposition yourself that it is exceedingly difficult to judge performance in policy advising and we would agree entirely with that statement. It is difficult, and there is a special chapter in our latest annual report addressing those difficulties. That, in fact, draws on work done almost a decade ago about assessing policy advising. So, we would agree with you that it is difficult.

On the other hand, as for trying to make judgments about performance, there is a lot of focus on that in the context of paying performance pay. Of course, we have been trying to make judgments about performance of policy adviser officers from time immemorial because, in a sense, performance underpins promotion prospects and bureaucracies have always had hierarchies and we have always had to make decisions about promotions. So, we have always had to make judgments in those areas,

The second point I would want to make is that whilst it is difficult—and we have put a lot of effort into performance appraisal training—staff have always wanted feedback. It is a worry to say it, but it is over 30 years since I started in the service and when I started the thought of appraisal, let alone upwards appraisal, was just unheard of. The only feedback you got was if you got a job you applied for or you did not. References that you received were often not committed to paper, and if they were they were not provided to the candidate. They are now.

So I agree with you entirely: there are important judgments to be made in assessing policy advisers, but staff want feedback about performance and, of course, as I said, it has always underpinned judgments about promotion as well. To an extent, there is nothing new about the challenges of providing assessments of policy advisers.

**CHAIR**—Just in that context, Mr Henderson, it is obvious that in those areas, whether it be based on the performance of individuals or whether it be based on a decision about promotion of individuals in that context, at the end of the day the judgments are always going to be subjective in the sense that it will be in the eye of the beholder or the person who is making the evaluation—their experience of the individual vis-à-vis perhaps other people's experiences of the individual.

I have three questions and I will put them altogether. In the context of your department trying to carry out what is the government's policy approach on dealing with Public Service employment, which involves AWAs and performance pay, within PM&C have you tried to develop a set of criteria—a set of benchmarks, a set of measurements—which can be applied objectively in assessing individuals for performance pay or promotion? If you have, are those benchmarks available and can you perhaps describe what some of them might be?

Secondly, in the context of how you apply this now within your department—I assume that there are different individuals on different levels of performance pay within your department presently who perhaps are in the same band of the SES et cetera—what has been your experience in terms of the impact on the morale of those persons who do not receive comparative levels of performance pay? What impact is that having upon the performance of your department per se? The third aspect of that is: what impact is it also having on retention rates of people within the service in terms of people leaving because they are dissatisfied about not getting appropriate remuneration or an appropriate promotion or they are just simply moving out for a variety of other reasons?

**Mr HENDERSON**—There are three questions there. One was related to criteria, the second was related to morale, and the third was retention rates. In relation to criteria, we can provide you with the guidelines for our performance appraisal scheme. They would not be detailed in terms of criteria of performance, but certainly when I develop a performance agreement with staff and when I discuss performance with them I would have in mind what I find very useful—the new PSMPC senior executive leadership capability framework. I am not sure whether you are familiar with that. There is a series of five criteria there which includes: achieves results, cultivates productive working relationships, shapes strategic thinking, communicates with influence, exemplifies personal drive and integrity. I can relate all of those in quite a meaningful way to the tasks of senior PM&C officers. I would also make sure that the performance agreements that I have with staff are quite explicit in terms of the major tasks that they have in a particular year so that I can discuss with them performance in respect of particular tasks rather than having to rely on general discussions. That leadership capability framework I certainly find useful in assessing performance.

In terms of morale, apart from making the trivial observation that in the 10 or 12 years that I have been eligible for performance pay clearly I am bit more cheerful the years that I get it than the years that I do not. I do not have any general observations to make about morale and performance pay amongst the SES. Certainly they want clarity in the guidelines. They want clarity in terms of what is the basis of assessment. Certainly one of the issues with performance pay is that certain people might be working on high profile tasks that might mean that you are spending a lot of time in the offices of the most senior people in the department—in other words, you are getting a high profile amongst senior management because of the particular task you are working on. People are often concerned that prominence leads to high performance ratings. That is a factor I am certainly conscious of, and a number of my colleagues would be conscious of. Just because you are not seen frequently by the most senior staff or do not go off to the minister's office does not mean that you are not making a major contribution to the work of the department. That is just one dimension of transparency, that people understand that those factors are taken into account and that prominence is not the be-all and end-all of assessing performance.

In terms of retention rates, the Department of the Prime Minister and Cabinet has traditionally had a quite high staff turnover in areas like the economic division, social policy division and international division, reflecting individual career planning in those areas. If you are an economist for the long haul in the APS you are probably better off spending most of your time in Treasury, Finance, Transport or one of the other economic departments. If you are a social policy adviser you will probably want to spend most of your time in DETYA or the Department

of Health and Aged Care. But it is probably very useful in a longer career to spend some time in a central agency. So, in those areas, there is traditionally a quite high staff turnover. That aspect of our staffing arrangements is reflected in our certified agreement.

I mentioned in my opening comments that we have a skills and responsibilities loading. Negotiating that element of the agreement was a sensitive issue because one of the factors—there are several factors that can provide the basis for a skills and responsibilities loading—is market factors, which I think is the actual term used in the agreement. Basically, because our department draws from a range of areas, the capacity of international division to recruit people depends crucially on our competitiveness, vis-a-vis the Department of Foreign Affairs and Trade. Similarly, to be able to recruit and be competitive in its remuneration, the economic division needs to be able to keep pace with Treasury, Finance and other economic areas. So, to the extent that salary levels are diverging to a greater extent than they used to, particular parts of our department have to keep pace with those particular areas. Of course, if they are not all moving at the same rate then we need the flexibility to provide loadings in particular areas to keep pace with particular segments of the APS market.

**CHAIR**—In 1998-99 there were 15 out of 44 SES employees in the PM&C who got performance pay; have you got an official or unofficial cap on the amounts or on the numbers of employees who can receive payments?

**Mr HENDERSON**—No, we have not.

**CHAIR**—What did the other 29 do or not do to warrant their being excluded from performance pay?

**Mr HENDERSON**—I mentioned earlier the sorts of considerations that we take into account in assessing performance, and those 15 would have been assessed more highly on the sorts of factors I mentioned.

**CHAIR**—So you are saying that effectively two-thirds of your SES officers did not warrant performance pay?

**Mr HENDERSON**—Yes. That is right, but I should say that we are in the process of negotiating a second round of AWAs. The proposal is that in the future—we have a five-point rating scale—performance pay would be available for people rated at three, four or five. Obviously they would not be entitled to the same percentage bonus, but that would significantly increase those figures you mentioned—that is, 15 out of 44.

**CHAIR**—What safeguards or measures does your agency have in place to prevent nepotism or discrimination against individuals in this process?

**Mr HENDERSON**—In terms of the SES performance bonuses, they are all reviewed by the executive of the department, and that comprises the chief executive plus four other senior executives.

**Senator ALLISON**—The PM&C took part in the survey that was done on remuneration. Are you prepared to give the committee the report that was given to you, your agency's report?

**Mr HENDERSON**—We would not propose to table our individual report.

**Senator ALLISON**—Can you indicate why?

**Mr HENDERSON**—Those reports are only available to the executive committee that I was just referring to. We do not propose to distribute those.

**Senator ALLISON**—I just asked you why.

**Mr HENDERSON**—We do not want to start a bandwagon where we have got an agency league table in terms of rates of pay right across departments. As I mentioned before, our department draws from a range of different agencies. The data in the individual departmental reports refer to an average for your agency, vis-a-vis the average for the APS as a whole. That leads very much to a focus on paying averages right across—everybody would want to be very close to the average for the department as a whole. The reality is that there are going to have to be divergences within our agency depending on developments in the marketplace. In other words, if particular divisions are finding it very difficult to compete with other agencies that employ people with similar skills or with the private sector, we are going to have to move those averages up in those areas.

How we get to the overall average is a combination of the pay available to all the individuals, whereas those reports just focus on a single figure. The reality is that the bands of pay are widening right across the APS. The range of salaries available within our department is going to be widening as well. It is going to reflect the reality of trying to recruit people in particular areas. That report just focuses on a single average. The more general point for the service as a whole is that I do not think we want to get into a situation where we have league tables available to the world at large. The material on the bands is available, to a degree, in our annual reports. The committee was discussing this earlier this morning and Senator Faulkner was raising questions about the private and public sector. The annual reports provide information on executive remuneration. The JCPAA has ticked off on the guidelines in that regard. There is some information available.

**Senator ALLISON**—Do you think it is a problem that the parliament cannot get a picture of what is going on in the APS in terms of salary conditions?

**Mr HENDERSON**—There is some information available here. In the guidelines approved by the parliament for annual reports, they have ticked off.

**Senator ALLISON**—But that is, again, maximums and minimums, isn't it?

**Mr HENDERSON**—No. The heading in our table is 'The number of executive officers who received or were due to receive total remuneration of \$100,000 or more'. It goes from \$100,000 to \$110,000 right up to, in this table, \$270,000 to \$280,000.

**Senator ALLISON**—Can I ask you about movement from 1998? The survey indicates, generally speaking, a percentage rate for SES3 which is double that for SES1. Is that what happened in your agency as well? Can you explain why it is that SES3s moved ahead at twice the rate of other levels?

**Mr HENDERSON**—I do not have any basis for a general comment on that. Off the top of my head, I do not think that would be the case in our agency.

**Senator ALLISON**—How can we know what it is? What documentation is there that indicates these movements? Can we judge that by the annual report? Will that tell us, if we looked at last year's annual report?

**Mr HENDERSON**—That will give the information that just prompted your question, presumably. Are you looking for explanations, or the facts? You have just quoted me the facts that indicate that band 3 pay is growing faster than band 1. I thought that was what you just gave me.

**Senator ALLISON**—Yes. That is what it says on page 11 of the survey report.

**Mr HENDERSON**—Right. I do not have any basis for providing a general observation as to why those rates of pay are growing faster.

**Senator ALLISON**—And your annual report does not do comparisons from the previous year and indicate which band has increased and which has not, or by what degree they have increased?

**Mr HENDERSON**—We have previously provided—in a Senate estimates context—this committee with a copy of our pro forma AWA. Attached to that is a remuneration policy. In the new version of that remuneration policy, we would put the salary range that we are prepared to pay for band 1, band 2, band 3. So, yes, when we have finalised the next round of AWAs, which we are in the midst of now, we would be quite happy to provide you with the remuneration policy document, which is an appendix to people's individual AWAs. Clearly, we are not talking about providing you with the remuneration for individuals. But there are a lot of standard features in our AWAs. We would be quite happy to make that available.

**Senator ALLISON**—You said first up that performance pay was to be offered to all staff but then you withdrew that and it was to be offered to only the SES and the first two levels of executive staff. Is that correct?

**Mr HENDERSON**—It has been available to the SES for, I think, more than a decade now. For non-SES, in the negotiations with staff for the certified agreement, yes, we were proposing that the performance appraisal system and the need for performance agreements be extended to all staff. There had been a much more modified performance appraisal scheme prior to our certified agreement extending to all staff. We have extended the performance appraisal scheme to all staff. At the initial stages of the negotiations, we were proposing that all staff would be eligible for performance pay as well. It was clear that that was a source of significant concern to staff, and it was taken off the table.

**Senator ALLISON**—How was that concern expressed?

**Mr HENDERSON**—Through a survey conducted by the staff representatives on the consultative committee. There are no absolutes in these issues; it is a matter of judgment. Attaching pay to a performance appraisal scheme ensures that people take it much more seriously, much more rigorously. On the other hand, you need to build confidence over time about the sorts of issues that the committee has been talking about, that there is a lot of judgment in appraising performance in these areas. It is not how many insurance policies you have sold, or how many cars you have sold; there is a much greater degree of judgment in policy advising. I do not think staff had the confidence in the appraisal scheme that it would in fact bear the weight of performance pay in the first round, so we took it off the table. I suspect that is probably a significant factor in why the vote in favour of our initial certified agreement was about 81 or 82 per cent, I think. But we are proposing that, in the second round, executive level 2 officers—that is, the band of the most senior non-SES officers—would be entitled to performance bonuses.

I think the question earlier this morning was how many other departments extend performance bonuses to all staff. It is my understanding that the only two major agencies that extend performance bonuses to the vast majority of non-SES staff are the Department of Finance and Administration and the Department of Foreign Affairs and Trade. There may be others, but we are conscious of those two agencies because we recruit staff from there. We need to be conscious of who we are competing with.

**CHAIR**—Mr Henderson, just a quick question in relation to individual department reports. That part of the report that was yours, did that go to the Prime Minister's office?

**Mr HENDERSON**—I am sorry, which report?

**CHAIR**—Your component of the individual department reports that made up the survey of the SES.

**Mr HENDERSON**—No, that has not been to the Prime Minister.

**CHAIR**—If you were requested to provide that in confidence to the committee, what would be your response?

**Mr HENDERSON**—Our individual response?

**CHAIR**—Yes.

**Mr HENDERSON**—I think that was Senator Allison's question to me.

**CHAIR**—No, mine. My question was: if you were requested to provide it in confidence, what would be your response?

**Mr HENDERSON**—I would like to take that on notice.

**CHAIR**—Okay.

**Senator ALLISON**—Can I just clarify that? There are two documents here. There is the department's input and there is the department's advice from those doing the survey.

**CHAIR**—Yes. I am talking about the department's advice from those doing the survey.

**Mr HENDERSON**—We have two reports. One is the APS-wide report and then there is a separate little PM&C report. You were just asking me about the latter, weren't you?

**CHAIR**—Yes.

**Mr HENDERSON**—I will take that on notice.

**CHAIR**—Thank you.

**Mr HENDERSON**—You asked whether we can provide it in confidence. But earlier this morning, when you were speaking to the previous department, did I hear you say that you could not give an undertaking that it would not be released? Is that right? The general report that they have made available to—

**CHAIR**—No, the general report is a different issue. That is something that will have to be considered by the committee because there is a substantial proportion of that already out in the public arena, the extent of which we do not know, but there has been extensive reporting of component parts of that report. The committee will have to make a decision about whether or not we make that generally available. I am asking you for your response to providing your component part of that in confidence to the committee, and it would be treated as in confidence.

**Mr HENDERSON**—Okay.

**Senator MASON**—As someone new to this area, I cannot help but reflect on what the chairman said earlier and what you said before: there was a greater degree of judgment in policy advice. I think you conceded that often it is very difficult to assess policy advice. I cannot but think that, if you were assessing some policy advice 20 years ago about the role of tariffs, the market economy and the sale of government instrumentalities, you would have thought that fellow was mad and yet, 20 years later, the economic paradigm has shifted so markedly that what 20 years ago was seen as heresy, today is seen as middle of the road public policy. I just pass that on as an observation, that is all. Feel free to comment.

**Mr HENDERSON**—Yes; I will restrain myself.

**CHAIR**—Thank you. I have to cut it off because we are running well behind.

**Senator LUNDY**—Will I have the opportunity to put some questions on notice? I have some specific questions for PM&C.

**CHAIR**—Yes. Every member of the committee will have the opportunity to put questions on notice.

**Mr HENDERSON**—Are any of them rapid-fire things?

**Senator LUNDY**—Most of them are yes or no, and just relate to some details about how you approach it. Perhaps just a few minutes, Chair?

**CHAIR**—I will extend a little bit of latitude, but do not be surprised if the axe falls.

**Senator LUNDY**—Thank you. We will see how we go and I will put anything else on notice.

**Mr HENDERSON**—This is in the interests of a couple of minutes face to face, versus what is sometimes very time-consuming paper warfare that we have to resort to.

**Senator LUNDY**—That is right. The first question I have is this: do you have a set pool of money from which you derive your performance payments?

**Mr HENDERSON**—No, not really.

**Senator LUNDY**—That is a really good lead for me to ask more questions on that. Can you describe the nature of where you source the funds for performance pay and whether there is flexibility, whether it is constrained and whether there are limits where you can claim more from the Department of Finance and Administration and so forth?

**Mr HENDERSON**—In negotiating both our certified agreement and the next round of AWAs, certainly we are conscious of what the departmental resources are in toto and of what the outlook is over a couple of years and of what our capacity to pay is. Certainly we are conscious of that; but your particular argument was whether we have a little bag of money with a label on it saying ‘performance pay’? No, we do not.

**Senator LUNDY**—Do you establish a notional one for the purposes of your budgeting processes?

**Mr HENDERSON**—For performance pay?

**Senator LUNDY**—Yes.

**Mr HENDERSON**—Not really, no.

**Senator LUNDY**—If you were to expend less one year and more the following year, would that allow a notional pool of money to be able to perhaps provide for greater bonuses the following year, or that type of thing?

**Mr HENDERSON**—In principle it would. The ongoing budget of PM&C is about \$45 million and, of that, total salaries with on-costs is a bit below \$30 million. In that context, the performance bonuses are not a big-ticket item.

**Senator LUNDY**—Could you take on notice providing information to the committee of what percentage or proportion of your salary budget is paid in performance bonuses?

**Mr HENDERSON**—Yes, that would be in our annual report for SES.

**Senator LUNDY**—The actual percentage of performance bonuses, offset against the salaries of the people that they are attributed to?

**Mr HENDERSON**—Yes. We can provide you with that.

**Senator LUNDY**—Is the process of assessment one of relative or comparable performance assessment? For example, you mentioned before 14 out of—

**Mr HENDERSON**—It was 15 out of 44.

**Senator LUNDY**—Is your process of assessment one of relative or comparative performance, so that it is like a rating and at some point, as with the Higher School Certificate, there is a chop-off for everyone who gets an A? Is it that sort of relative comparable analysis of who gets a bonus or not within the strata that you identify as eligible?

**Mr HENDERSON**—Relativity is a factor but there are absolute standards one has in mind as well. But in assessing performance one element is opportunity. I am not saying it is the full story. For example, the nation faced very serious challenges in relation to East Timor in 1999. That involved the Prime Minister in a lot of work and the people supporting him in that area in very intense efforts. Those sorts of situations create opportunities for people to deliver very high performance. You could well imagine that in areas of a department where there were a lot of challenges in a particular year—and things do fluctuate—there might be a higher proportion of highly rated people. Let me emphasise that is just one element in judging people's performance but there is an element of opportunity—what big challenges came your way in a particular year.

**CHAIR**—I have to cut off questioning, Senator Lundy. If you want to put other items on notice, you can do so. Thank you, Mr Henderson and Mr Oliver, for your contribution this morning.

**Proceedings suspended from 11.16 a.m. to 11.40 a.m.**

**Session 4—Experience of departments in round 1 agreements and how this is applied to round 2 processes****EVANS, Mr Ted, Secretary, Treasury****FAIRBROTHER, Mr Keith Raymond, Assistant Secretary, People Management Branch, Environment Australia****GILLARD, Mr Max, Specialist Adviser, Workplace Relations, Treasury****GOURLEY, Mr Patrick, First Assistant Secretary, Personnel Executive, Department of Defence****HENDERSON, Ms Pamela, Manager, Human Resources, Treasury****HOPKINS, Ms Marilyn, Director, Workplace Strategies Section, People Management Branch, Environment Australia****WELLSPRING, Mr Adrian, Director, Civilian Personnel Management Policy, Department of Defence**

**CHAIR**—Welcome. Thank you for your attendance this morning. It is nice to see you here, Mr Evans. I appreciate you have given more credence to this committee than perhaps other things that are happening around the place at the moment. I invite each of the departments to make an opening statement.

**Mr EVANS**—We have given you a very brief submission. I do not wish to elaborate on that. Listening to your questioning this morning, and in light of the matters in which you were interested in in February, it may be worth my mentioning what was not in the submission. We have completed a second certified agreement for a period of three years. A key element of that is the introduction of a performance management system covering all the department and related to that performance based pay for all of the department. That may be of some interest to the committee.

**Mr GOURLEY**—I do not think I want to say very much either. We have canvassed most of the issues in our submission. I might give a brief update on performance pay. That has been a bit of a topic so far this morning. We have developed our position so far as the SES is concerned since we put in our submission. Our approach to performance pay is perhaps a little different from that used by some other agencies. In our SES we are essentially using an increment based system which is based on a pass or fail assessment rather than a performance bonus payment system based on a three- or four-point ranking scale. People who pass on their annual performance assessment will go up an increment until they reach the top of their salary band. Those who fail can be regressed. Those who unfortunately fall into the category of serial failers—and we hope this would only be a very small number—might be asked to consider their situation in a more fundamental way.

A second point related to questions of performance assessment is the other issue you have been discussing. That is the assessment of policy advice. I have a slightly different view to that expressed by some people earlier today. It seems to me that in some ways policy advice can be fairly readily assessed in terms of its comprehensiveness, comprehensibility, rigour of analysis, timeliness, and extent to which the recommendations at the end of the policy advice effectively come to grips with problems and issues for the government. The difficulty with policy advice is that typically it is composite in its preparation. By that I mean that you will usually find that a large number of people have contributed to the final piece of policy advice that goes forward. The trick in terms of individual based performance assessment is to assess the contributions of individuals to the final piece of policy advice that goes forward and then its continuing iteration between departments and the government. That is all I would like to say.

**CHAIR**—Thank you.

**Mr FAIRBROTHER**—Our submission from Environment Australia was quite brief. There is a slight update because our Bureau of Meteorology has now completed its second round certified agreement. That came into operation in April. We are currently in the process of negotiating a second round agreement for Environment Australia. Picking up on the comments of my colleagues, at the moment we have an Australian workplace agreement for all our SES officers. That has a performance pay component. In relation to non-SES officers, we have a performance feedback system and there is a linkage between the advancement of pay points, which is the old increment points, and the person's assessment under that feedback system.

**CHAIR**—I must say that the intention of today's proceedings was not necessarily to focus on performance pay, though it is one of our terms of reference. For a variety of reasons, we have tended to focus more on that issue than some of the other issues.

I will go to the Department of Treasury first. Mr Evans, you said you have just completed another three-year agreement. Can you outline some of the differences of approach taken by the department in respect to the negotiation of the first round of agency agreements vis-a-vis your experiences in respect to this round of agreements? Is the latitude that it has now been argued be given to agencies to be their own determinant in respect to agreement outcomes sufficient for you to be able to make judgments about your agency, without concern about any overall policy parameters interceding and being a restrictive factor?

**Mr EVANS**—Our first agreement was for one year only. That was deliberate. It was partly because we were feeling our way and partly because the Public Service Bill was still before the parliament. We had an expectation that it would become an act within that period, hence we wanted a little more certainty on that before we entered into a long-term agreement.

In both the first and the second agreement, we developed the agreements in consultation with a representative group of staff. That worked well on both occasions and on both occasions we had a sizeable majority vote for the agreement. The differences between the two were related to the fact that by the time of the second agreement we were close to having an act—we did not quite have it then— and by then we did not feel at all constrained by what we could cover in the agreement. My colleagues may wish to refer to some second order things but I do not recall anything being raised by our staff or anything that we wished to do that we felt we could not do.

We certainly were not constrained by the general policy guidelines in any sense. We managed to get an agreement, a three-year agreement that was significant and fully acceptable to the staff. The key element in that was the acceptance of a performance management system to apply to all staff. That was significant because before then we had such a system for the SES but not below that. We now have—and have accepted—a performance management system, the core of which is not pay but appraisal for all staff. It is done six monthly. We have now had two rounds of that appraisal and hence a pay outcome from the second round. We evaluate it after each round and my officers could elaborate on that evaluation I you wish.

We have been learning as we go and we intend to continually improve it, but the basis of the system is actually written into the certified agreement so it is there for the life of the agreement and may be changed only, as the certified agreement says, ‘to make necessary improvements based on experience with the system and following comprehensive consultation with staff.’ So it can only be changed in that sense.

**CHAIR**—Can your staff perhaps give us a bit of detail about how this system functions, how it works, what the contents of it are?

**Ms HENDERSON**—About the performance appraisal system?

**CHAIR**—Yes.

**Ms HENDERSON**—As the secretary has explained, it is a six-monthly appraisal system which, at the beginning of each cycle, has a process of the manager and the staff member sitting down and discussing the work expectations over the six-month period. It also incorporates ongoing feedback and, at the end of the six months, a review cycle, and a rating is given.

**CHAIR**—Who is involved in doing the review of the individual staff member?

**Ms HENDERSON**—There are a couple of different processes. The immediate manager has a role in appraising a staff member. There is also a manager once removed component. So the manager once removed also appraises the individual and there is also a review mechanism—a review panel for officers at the same level.

**CHAIR**—And is there a set of criteria which the review panel uses to measure the performance of the individual?

**Ms HENDERSON**—That is right. We have work level standards, so they are generic across the department.

**CHAIR**—So the same standard that is applied to a junior officer in the department is applied to the senior SES officer?

**Ms HENDERSON**—We have different work level standards for different levels for the department, so there are different ones for the SES as there would be for executive level 2 staff or, for example, within a broad band, say, APS 1-4 or 5-6.

**CHAIR**—Yes. I understand what you are saying. You might have misunderstood my question. I can appreciate that some of the measurement criteria might be different but the principles that are applied are similar right across all categories.

**Ms HENDERSON**—That is right. So they are similar across both the policy and the non-policy areas.

**CHAIR**—Have there been any performance payment decisions made under the system yet?

**Ms HENDERSON**—The first process that we had was completed in August, and that was the trial process, partly to get the department used to undertaking performance appraisal. The second round has just been completed and we are finalising that at the moment, and there are pay outcomes flowing from the appraisal process.

**CHAIR**—And in terms of the money that is available for performance pay across the department, have you got a ceiling on that? Is that a fixed amount?

**Ms HENDERSON**—It is not a fixed amount, no.

**CHAIR**—So it is open?

**Ms HENDERSON**—Basically we have given an undertaking to staff that we will honour all of the pay outcomes following the appraisal process.

**CHAIR**—How do you balance that off against the budgetary requirements of the department?

**Mr GILLARD**—Perhaps if I can just step in there, Senator, and explain that the certified agreements that we got in in September also introduced a new salary structure, such that points in the salary structure are attained through performance. We did away with the traditional Public Service incremental system and we now have two salary points per classification. In the process just completed staff were able to attain either of those salary points in each classification, and we space them out between classifications and within classifications to ensure that those moves are meaningful so that we were able to predict to a point what sorts of movements within that salary scale would be achieved. In addition to that, we also have provision for loadings and bonuses which might take a person to the salary point above their classification.

**CHAIR**—Yes, I understand that, but how do you then reconcile it against your department's budget in terms of the final outcomes?

**Mr EVANS**—We will do that by adjusting the staff numbers to suit, if there were any clash between the payments. We made it clear that individual assessments were not to be constrained by budgetary considerations, but that managers, in making assessments, were to be aware that there were budgetary implications. If there were a clash, for example, if we paid more performance pay than we may have expected in designing the budget, we would operate with fewer numbers.

**CHAIR**—So in effect you could be trading off one person's job for one person's performance payment?

**Mr EVANS**—You could put it that way. That is the model that we have agreed with staff as being the way that we will handle performance and productivity improvements within the department.

**CHAIR**—What are the implications of that approach for morale within the department?

**Mr EVANS**—It seems to have been extraordinarily good.

**CHAIR**—It seems to have been?

**Ms HENDERSON**—We continually undertake exit interviews for people who are leaving the department. Certainly, our most recent data is demonstrating an upward increase in the number of people who find Treasury a satisfying place to work. Where people have decided to leave, it is not necessarily for those specific reasons. Certainly, the introduction of the Treasury management model and the performance management system seems, according to our data, to have improved morale in the department.

**CHAIR**—I understood from what you said that this process has just been implemented; you are into the first round of this process. So presumably people who have exited in the past have exited under a different system.

**Ms HENDERSON**—We have actually had two rounds, although only the most recent round has been linked to pay.

**CHAIR**—You have not had a performance management system, performance pay, for other than SES officers in previous rounds, have you?

**Ms HENDERSON**—That is right.

**CHAIR**—This is only the commencement of that system within Treasury for other than SES officers?

**Ms HENDERSON**—That is right, linked to pay, but we have had two rounds of a performance management system, which we believe certainly has reinforced Treasury people values and the way staff are managed within the department.

**CHAIR**—With the performance management system that you had in the past, if it did not relate to pay what did it relate to—promotion?

**Ms HENDERSON**—The SES one?

**CHAIR**—I understood you to say you have had a performance management system in the past which did not relate to pay.

**Ms HENDERSON**—I am only referring to the first round last year.

**CHAIR**—That related only to the SES?

**Ms HENDERSON**—No, that was for all staff.

**CHAIR**—If it did not relate to pay, what did it relate to?

**Ms HENDERSON**—It related to the way people are managed within the department and the process of providing feedback on performance.

**CHAIR**—I am trying to understand what the intended outcome was of that performance management system. At the end of the day, when performance was measured and managed, what was the outcome for the individual if there was no pay related to it?

**Ms HENDERSON**—The outcome was a better understanding between the staff member and the manager, clearer accountabilities, clear linking of the work that was being undertaken to operational planning within the department.

**Mr GILLARD**—It also addressed development needs for staff members.

**CHAIR**—Personal development needs?

**Mr GILLARD**—Yes.

**Senator ALLISON**—Could I ask about performance pay and its ability to attract good people to the department. Each department might want to answer this. This is said to have been a reason for introducing it into the APS. Has it worked? What sort of data is there on that?

**Mr EVANS**—As far as Treasury is concerned, although our experience with this is not all that long lived, I mentioned earlier, in your absence, Senator, that we see performance appraisal as being more important than performance pay and it is itself part of the issue of attracting people. But performance pay is critical for a certain group of staff, namely, those who are most readily attracted to higher pay elsewhere. We have a long history of losing people to the private sector. We still lose people to the private sector but less so than we used to.

**Senator ALLISON**—How many less? Can you quantify it; can you actually demonstrate that it is working?

**Mr EVANS**—I cannot give you figures offhand, but it has been quite pronounced over the last two years that we have managed to hold onto people who would otherwise have been at risk. In some cases we have used AWAs to do that. That is the most important part of AWAs as far as we are concerned—that it gives us the ability to pay people who may be at risk in that sort of circumstance who have skills that we do not think we could readily duplicate, at least in the short term.

**Mr GOURLEY**—I think I explained before you arrived that we do not have a very fully developed system of performance pay and we have not yet completed the first round of our performance assessment scheme that is due to come to an end in June this year.

However, if I can make one comment: on the basis of some work that we have done in relation to military staff in our organisation, where in many ways recruitment and retention is a more serious issue, that has tended to suggest that, in terms of either recruitment or retention, pay is well down the list of factors that will bring people in, or enable the organisation to hang on to them. There are many other things that affect people's attitudes on that score. In some ways, remuneration is simply a hygiene factor, as it were—if it is grossly inadequate, it will have an effect but, if it is broadly in the ballpark, what people would regard as being fair and reasonable, other factors are a much greater influence on an individual's motivation.

To the extent that performance pay may be of assistance, it is more likely to assist in holding onto people, rather than actually attracting them. Certainly in the military, but not on the civilian side, there are certain approaches that are taken to that—not of a performance nature but by way of completion incentives and things of that kind.

**Senator ALLISON**—So you cannot quantify that. It is too early for evidence; it is just a feeling you have got at this stage, is it?

**Mr GOURLEY**—As far as we are concerned, that is certainly so.

**Senator ALLISON**—So can you demonstrate that?

**Mr GOURLEY**—It is too early to say, I am sorry.

**Mr FAIRBROTHER**—In Environment Australia, we only have performance pay in a formalised way for our SES, but when it comes to recruitment and retention, the issue for us is really the total remuneration package. Our experience in recent SES recruitment has been that we have had to make some adjustments to match what other employers do—for example, when recruiting someone from a state public service, we use the AWA as a very flexible tool to put together a package of conditions. As an addition to performance pay, we have a concept of a skills and responsibilities loading which is a way of taking account of a particular set of skills the person might be bringing to the organisation. Our experience in recent recruitment from outside the APS is that most applicants expect us to have a performance pay system; it is a concept they are quite familiar with. We will put together a total package and it is really our ability to make that attractive and to position ourselves appropriately in the market that we operate in to get the staff we need.

**Senator ALLISON**—Is a total sum offered for performance pay? What is the percentage that is actually delivered? Just to get a feel for it, does everybody who is on performance pay get it, or are you only paying out about half? How does it work?

**Mr FAIRBROTHER**—As Environment Australia has indicated in our submission, I think we spoke of five to 20 per cent. We have actually changed that. It is in the order of five per cent

up to about 17 per cent. It would be the component of your salary related payments that is related to performance pay.

**Senator ALLISON**—My question was more this: of those who are entitled to go for performance pay, what percentage get 100 per cent of that amount? I am just trying to understand whether mostly people get all of the performance pay if it is on offer or whether it is difficult to get.

**Mr FAIRBROTHER**—For our agency, very few officers get the full amount.

**Senator ALLISON**—Very few get the full amount?

**Mr FAIRBROTHER**—Yes.

**Senator ALLISON**—Is it 90 per cent or half?

**Mr FAIRBROTHER**—Less than five per cent.

**Senator ALLISON**—Less than five per cent get the performance pay?

**Mr FAIRBROTHER**—The full amount of performance pay.

**Senator ALLISON**—So does that mean 95 per cent get 90 per cent? Can you quantify it in a way that we can understand it?

**Mr FAIRBROTHER**—We have no prescribed approach to this. We do not have a system where a certain percentage will get a certain rating. What we do is assess each person's performance on its merits against our scheme. Under our scheme, most SES officers would get some kind of performance payment, provided they meet certain prescribed standards under our scheme.

**Senator ALLISON**—Is it possible to give the committee a schedule of the payments that are made and what percentage of the total that represents?

**Mr FAIRBROTHER**—We did provide some information in our annual report, and we can obviously update our annual report information in relation to that.

**Senator ALLISON**—Could I ask the same of the other department?

**Mr GOURLEY**—Under our scheme, we have a pass-fail scheme rather than a graduated rating scale. For the moment, that only applies in relation to the SES. We are still negotiating our second round agreement with the unions even as we speak. So far as the SES is concerned, if you pass, you are eligible for an increment on your salary equal to 4.5 per cent, and you are eligible for that increment until you reach the top of the salary band. If you fail, you can go backwards. In terms of the proportion of people who would pass, I think we would like to think that we have sufficient confidence in our recruitment and promotion system to say that we

would anticipate that the vast majority of those people would pass, but we are yet to go through the first round of assessments. They will not be completed until June or July of this year.

**Senator ALLISON**—But the highest performance pay would be 4.3 per cent?

**Mr GOURLEY**—It would be 4.5. If you pass, you get a 4.5 per cent payment.

**Senator ALLISON**—And that is so for the departmental secretary as well as the SES officers?

**Mr GOURLEY**—Sorry?

**Senator ALLISON**—That is the case for all levels, is it?

**Mr GOURLEY**—That is the case so far as the SES is concerned. As I say, for other staff, we are still in negotiations with the unions on the detailed application of performance management and performance pay arrangements. The approach that we have taken in the SES reflects our general policy towards the issue.

**Senator ALLISON**—Mr Evans?

**Mr EVANS**—For ours, for the SES, most would receive performance pay. The performance pay for SES staff has two elements. One is a grading up to a guideline of 15 per cent to cover the period concerned. Having made that assessment, the question is then asked: is this performance expected to be ongoing. Depending upon the answer to that question, there can also be an adjustment of similar order to the base salary with that element always being at risk—that is, the question is asked every six months as to whether or not the base salary will be adjusted.

For the non-SES, there is not a simple answer to your question because it is a simplified system where everyone is subject to appraisal. That appraisal has three possible outcomes measured against an objective matrix of criteria which will place people at a point in the scale. So one cannot really say they are getting performance pay. Clearly, someone who is placed at the top you could say, yes, they are getting performance pay, whereas with someone who is placed at the bottom the answer is less clear. It also allows for people to be placed outside their current bound and it allows for people to be downgraded, subject to a performance management routine which never works off one appraisal only.

**Senator ALLISON**—Can you quantify that? What sort of percentage of your staff would that be?

**Mr EVANS**—A substantial number of non-SES staff would receive what you may think of as performance pay. Can we quantify that?

**Mr GILLARD**—We are still compiling data. From what we have compiled so far we would expect that a large majority of staff would move to the new salary scales which I explained earlier. Close to 85 or 90 per cent of staff will get a salary increase on the basis of the

performance appraisal round we have just completed. That is an increase in base salary. I am not sure it actually fits the definition of performance pay. As far as additional payments of loadings or bonuses go, we are not in a position yet to quantify that.

**Mr EVANS**—But there would be very little of it from what I have seen of the results.

**Senator ALLISON**—How confidential are these arrangements with SES staff? Do they pretty well know what one another is getting in terms of the AWAs and their performance pays?

**Mr EVANS**—Our performance management system provides for staff to be advised of what other staff are being paid.

**Senator ALLISON**—Does that happen in Defence, Mr Gourley?

**Mr GOURLEY**—We have not really gone through the process with the SES as yet. I would anticipate that the grapevine would work rather well.

**Senator ALLISON**—So you would rely on the grapevine rather than a formal process?

**Mr GOURLEY**—Yes. It is quite good.

**Mr FAIRBROTHER**—The base rates of pay would be known to our SES officers but the actual amount of remuneration paid by way of performance pay is kept confidential. Generally speaking, that would not be known to other SES officers.

**CHAIR**—Mr Evans, you said that the pay rates would be known to all the officers from the department. Does that also include individuals who are on AWAs?

**Mr EVANS**—Yes, it does.

**CHAIR**—So you do not have any secrecy provisions in respect of AWAs?

**Mr EVANS**—No. This is a deliberate design feature agreed with staff from our performance management system. It says that openness about pay outcomes will signal to staff what is valued, provide discipline to fair management decisions consistent with Treasury's expressed values and give credibility to management processes.

**CHAIR**—Is the performance management system a written document?

**Mr EVANS**—Every staff member has a copy of this.

**CHAIR**—Could we have a copy made available to the committee?

**Mr EVANS**—Yes.

**Senator ALLISON**—Has mobility been affected by the current arrangements? It was initially said to be problematic and that moving from one agency to another would be more difficult with different AWAs and arrangements in place. Can you give the committee some feedback on whether that is a problem or not?

**Mr GOURLEY**—I cannot make any comment on the basis of hard data. That is a question that might better be addressed by the Public Service and Merit Protection Commission. So far as the experience of our organisation is concerned, there have been issues from time to time about people leaving our organisation and going to other organisations or people wanting to join us from other organisations. Generally, those sorts of things have not been a problem in terms of salary levels. I think there may be more significant issues from time to time, such as different levels of accrued benefits, particularly benefits such as sick leave and recreation leave. In most instances, in our experience at least so far, those problems have not been insurmountable. How they will pan out in the longer term is anyone's guess. I am sorry I cannot really address you on the particular issue about effects at this moment.

**Mr WELLSRING**—With the passage of the new Public Service Act, secretaries now have a greater flexibility to fix differentials in remuneration for the staff that they want to attract. But, as Mr Gourley said, the PSMPC could provide more advice on that.

**Senator MASON**—I want to pick up Senator Allison's comments on performance pay. I understand that each department has its own prerogatives and determines its own outcomes. What I find interesting as an outsider is that, while seemingly the robust Mr Gourley and the Department of Defence have this pass/fail mechanism, in fact it turns out that the vast majority would receive the 4.5 per cent, whereas with respect to Mr Fairbrother and the Department of Environment and Heritage—seemingly very gentle—far fewer of their people would receive the maximum. I think you said five per cent. Mr Evans, I think, is somewhere in between. Why is that? Does this reflect different cultures within the departments?

**Mr FAIRBROTHER**—I think for Environment Australia it reflects our assessment of our particular operating environment, our business needs and the emphasis we place on a performance culture. For our agency, we have tried to come up with an approach to performance pay which we think meets our particular business requirements. Therefore, we are comfortable with the fact that our colleague agencies here have a different approach. It is not adversely affecting us, as far as we can tell, in terms of recruitment or any other issues.

**Senator MASON**—It is fascinating as an outsider to see the differences and how they operate in relation to pay scales in the SES. They are distinctly different outcomes, aren't they?

**Mr FAIRBROTHER**—They are certainly different outcomes, yes.

**Mr GOURLEY**—This is one of the advantages of the current arrangements—the relatively relaxed policy parameters under which agencies now work and the light hand that the Department of Employment, Workplace Relations and Small Business has on those parameters. It does enable agencies to develop arrangements that best suit their own needs. I think it is interesting to compare the current circumstance with the experiment with performance based pay in the Public Service in the early 1990s. What was delivered at that time was a single

scheme that would apply to all agencies regardless of their circumstances. That scheme was also quite a sophisticated scheme. There were many things about it that people would now say were perhaps slightly unwise. The fact that everybody needed to fit within the single scheme was a significant cause of the demise of it. Now we are able to sort things out according to the particular circumstances of each organisation. If you look at the three organisations that are here, they are very different kinds of organisations.

**Senator MASON**—You are right. That is what is fascinating from an outsider's point of view: your seemingly very robust view of 'pass/fail' is quite egalitarian in its outcome, whereas the performance assessment—the gentle mediation—is quite non-egalitarian in its outcome. That is fascinating.

**Mr GOURLEY**—I am not so sure whether I would describe ours as particularly robust because the degree of discrimination—

**Senator MASON**—It sounds like pass/fail, doesn't it?

**Mr GOURLEY**—Yes, but the degree of discrimination that is within our scheme is much less than the discrimination that exists in some other schemes. To that extent, I think you could say that it is less robust.

**Senator MASON**—Indeed—certainly in its operation.

**Mr GOURLEY**—Yes.

**Mr FAIRBROTHER**—I think the SES officers in Environment Australia would not regard our scheme as being gentle.

**Senator MASON**—That is the point: it looks it but in its operation it is certainly not. In fact, one is much more egalitarian and one is much less so. Most people get the benefits of Mr Gourley's scheme but they do not get the benefits—

**Mr FAIRBROTHER**—I suppose our agency would be saying that our system is rewarding performance in accordance with the criteria that we have. It gets different outcomes, and the system is designed to give you different outcomes.

**Mr EVANS**—Senator, I do not think egalitarianism is a big element in this. The scheme is very much designed consistent with the trust that the staff will place in the process. If you have a process of assessment that is accepted by the staff, then you can be more adventurous with the range of pay outcomes that you will be prepared to put on and that the staff will be prepared to accept.

**Senator MASON**—So, in effect, it comes down to what the staff expect and can negotiate?

**Mr EVANS**—Yes.

**CHAIR**—The contrast is that most of the departments that we have talked to have a very secretive approach in terms of the AWAs and agreement negotiations, which seems to be a different set of circumstances from what you have adopted in Treasury. One of the main concerns that was being raised by the Audit Office—given the secrecy of a lot of these agreements, particularly AWAs—was in terms of the question of accountability within the Public Service itself. It was very difficult for organisations like the Audit Office to be able to measure that accountability, given the fact that there were confidentiality provisions surrounding these agreements. That is not the case in respect of your department and, hopefully, that will be much easier to measure and maybe at some stage that will become a model of what other departments may or may not adopt.

I want to ask a question of both of the other departments, because in part you have answered it previously by your reference to how you are going to meet the costs. Do you see the second round bargaining, as opposed to the first round bargaining, being a more expensive exercise for the department in cost outcomes? I appreciate that you have explained how you are going to handle that in Treasury but, in terms of the actual negotiation process itself, is it going to cost more to deliver second round outcomes than it did for the first round outcomes?

**Mr FAIRBROTHER**—For Environment Australia it is a little hard to answer that question. A major component of the direct costs to the department in a certified agreement would be the salary increase. Each agency has to position itself competitively in the particular market that it operates in, so it is possible that our pay outcome would be higher than in our previous agreements. In that sense it will cost us more.

**CHAIR**—Would you accommodate the greater outcomes in the same way in which Treasury has—in other words, by job substitution to meet the payments for performance pay?

**Mr FAIRBROTHER**—It is a difficult question to answer because the budgeting arrangements are very complex. We have in the order of a \$68 million salaries bill and the changes, relatively speaking, are around the margins and in each of our operating groups there is flexibility within their operating budgets. A pay increase does not necessarily have a direct relationship to reduction in the number of staff in the department, but it might have. That is a possible outcome. If the pay moved a significant amount, then you might have to look at your overall staffing levels but there may be other productivity improvements that are available to you which you would be looking at as an alternative to that. It is hard to give a direct answer on that question.

**CHAIR**—What would be the motivating force of the department if it is a judgment against perhaps paying people significantly greater salaries for performance vis-à-vis retaining numbers of employees in employment? How do you sit down and make that judgment?

**Mr FAIRBROTHER**—They are difficult judgments. The department needs to deliver on the outcomes required by government. We have comprehensive work programs that set our work agenda. We have various resources that we can devote to that. Our labour force is one of the resources, and the major resource, that we put into that. We need to strike a balance somewhere between the rates of pay in our general employment conditions package, which needs to be competitive in relation to other agencies, and at the same time make judgments about the

number of staff we need to perform particular functions. We have long and considered discussions about that. We do not apply a simple formula. Each year we look at our particular business environment and make judgments about how much improvement in conditions or pay increase we can afford against our staffing numbers and other factors. We make a considered judgment as to how to do that.

**CHAIR**—Your view and your attitude may be driven by the attitude of your minister, who has got a very negative view of performance pay. In one part of your submission to the committee, you referred to the negative impact of performance pay. What were you specifically referring to there?

**Mr FAIRBROTHER**—We were trying to indicate to the committee that there are different points of view about the question of performance pay. Some people view it as a positive thing.

**CHAIR**—A positive thing for the department?

**Mr FAIRBROTHER**—Within the department. We are just trying to acknowledge that there are different points of view on this issue.

**CHAIR**—Mr Gourley, how do you handle the budgetary aspects of performance pay? Is yours a simpler method, easier to calculate? Do your fail rates suddenly go up when you are getting close to the budget bottom line?

**Mr GOURLEY**—We do it in the same way as we would do any other increase in remuneration. As Mr Fairbrother was saying, there is a judgment to be made about the amount of money that you think you can afford to pay for pay increases, be they performance pay increases or general pay increases. That is a judgment that needs to be made at any point.

**CHAIR**—But I thought your system would be much easier to manage in the sense of how you described it in terms of budgetary outcome. It would be a bit like rearranging the deckchairs on the *Titanic*, because you can go up with people, you can fail people and they can go downwards.

**Mr GOURLEY**—So far as the performance component of remuneration is concerned, that is certainly so. Our job is easier in that respect. In a more general sense, of course, we are talking about an efficiency based pay system here. As Mr Evans has said—

**CHAIR**—The issue is whether you are talking about efficiency collectively or individually.

**Mr GOURLEY**—Quite often in public sector organisations greater efficiency will manifest itself in terms of reduced numbers of staff. That is not the only source, but often that will be the case. A judgment has to be made between the number of staff you think you need and the amount of money that you think you can afford to pay them.

**CHAIR**—You expressed in your submission some concerns about the longer term implications of agency based bargaining and the divergence in the conditions for the SES and staff generally. Would you like to elaborate a bit more on what you were referring to there?

**Mr GOURLEY**—Perhaps it goes back in part to some of the points that Senator Allison has raised about the extent to which the Public Service as a whole begins to differentiate on the basis of pay, conditions, classification and personnel arrangements. Our submission says that we believe there is much to be gained from agencies having greater flexibility to sort out their own arrangements as best fit their needs.

Again, there is also a value in maintaining some coherence in overall Public Service employment arrangements in a way that, for example, protects the notion of a career service where individuals are able to consider their careers not only in terms of the organisation they might join first up but also in terms of opportunities to move around other organisations. There is a lot there that underpins those sorts of arrangements. We have a single Public Service Act and a range of other coordinating mechanisms to see that there is an appropriate balance maintained between the desire that agencies have to sort out whatever arrangements they think best fit them while at the same time trying to maintain some coherence in the overall Public Service labour market.

**CHAIR**—Can I just pose that question perhaps to Mr Fairbrother and Mr Evans, because a point of some considerable discussion at the previous hearing was this question of the implications of agency bargaining and particularly of AWAs at the SES level. I refer to your comments earlier, Mr Evans, when you said about retaining people within Treasury. I understand your argument about the temptation for people to move out into private industry and the opportunities provided out there. But what about this question that is raised about mobility, particularly of people at that level within the Public Service itself, and their capacity to get experience across a range of departments and, as a consequence, to become a far better rounded public servant at the end of the day, with capacity to move through the system and to occupy senior offices like yours, Mr Gourley and Mr Fairbrother, within the system? Surely we do not want to see—and I would have thought it was a negative to see—a situation occur where people were being locked into departments and into a specialist role that, over time, would in fact erode the capacity and effectiveness of the Public Service generally to deliver broadly in terms of government.

**Mr EVANS**—I agree with those sentiments, Senator, and we should work hard to maintain an Australian Public Service as such. Nonetheless, agency bargaining immediately introduces the tension that you are referring to, and it has the same basis as enterprise bargaining generally, that the bargaining must be designed to suit the purposes of the unit, the agency or the enterprise. One cannot get the advantages of that without creating the tension. There will be a question for the Australian Public Service as a whole to attempt to maintain a balance. But we must recognise that the issue is there and we will not get the benefit of agency bargaining—and there are benefits of having agreements that are suited to the staff of the particular agency and the different cultures—unless we are prepared to accept some degree of tension.

**CHAIR**—Have you looked at this issue or had any discussions with your equivalents about how this issue might be addressed? Is it a subject that is on the table?

**Mr EVANS**—It is an issue that I have nominated as a prime issue for discussion in the new management advisory committee.

**CHAIR**—Mr Fairbrother, do you have a comment?

**Mr FAIRBROTHER**—In Environment Australia we have quite a bit of mobility in our SES ranks, both into the agency and from the agency, with people leaving on promotion and people coming in on transfer or promotion. We have not found that the changes to the framework have adversely affected us at that level. In relation to our non-SES staff, again we are not finding it difficult to recruit staff to our agency. In terms of people leaving the agency, there is a healthy movement out of the agency across to other APS agencies and, of course, we keep an eye on the remuneration package as one way of dealing with that.

**CHAIR**—Mr Gourley, I think you made some comments.

**Mr GOURLEY**—I do not think I could really answer that question. Again I would reiterate what Mr Fairbrother is saying. Offhand—and I would appreciate it if you did not hold me to this figure—I think something like 10 per cent of all our vacancies presently are filled by people from other departments, so there is some leavening there.

**CHAIR**—I want to thank the APS officers who have appeared before the committee today and commend their departments for their contribution to the public discussion of these issues. Some senators have additional questions which we did not have time for. They wish to follow them up. The secretariat will forward them to the relevant department before the end of next week, close of business on 20 April, and we would appreciate your answers before Friday 28 April if it is possible to meet that time frame.

**Proceedings suspended from 12.36 p.m. to 1.31 p.m.**

**Session 5 – The union perspective on agency-based bargaining processes and how agencies are approaching the second round**

**CAIRD, Ms Wendy, National Secretary, Community and Public Sector Union**

**LILLY, Mr Doug, Assistant National Secretary, Community and Public Sector Union**

**REYNOLDS, Mr Matthew, National President and Professional Division Secretary, Community and Public Sector Union**

**STAPLETON, Mr John, National Organiser, Community and Public Sector Union**

**NICOLAIDES, Mr Michael Joseph, Assistant National Secretary, Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union**

**CHAIR**—We will now consider the union perspective on agency bargaining. I welcome representatives of the CPSU and the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.

**Ms CAIRD**—Thank you for the opportunity to appear before the committee this afternoon. You have our written submission from some time ago and we would appreciate the chance to update our views since that was written. There have been a number of developments since the time of the submission, which was some several months ago, and these updated developments are worthy of your consideration as well.

We are now in a second round of agreement making in the Australian Public Service and there have been 22 certified agreements made in that time. Of those, 15 agreements are agreements between the employer and the unions and cover 90 per cent of the workers affected. So although there are still a number of collective agreements being certified that are not union agreements, they represent a very small minority of staff. I make this point because there is, if anything, a renewed push from Public Service departments or, more particularly, from the government to exclude the union from the bargaining process. Yet, the results are that there is still very strong support for union negotiated agreements.

Just to make that point more clearly, whenever workers are asked what their preference is for agreement making, they nominate union negotiated collective agreement. There are examples of organisations that in the past insisted on agreements between staff and employer and did not allow for a role for the union as the key negotiating party. This time around, due to some pressure from their staff, they have actually gone to the staff and asked them for their preference and the staff consistently say, 'We want a union agreement.' A very good example of that is the Australian Geological Survey Organisation which last time round had a staff agreement. Staff were polled on this occasion and 84 per cent said they wanted a union negotiated agreement. In a similar circumstance, the National Crime Authority wanted to open up the question of whether the agreement should be with the staff or a union negotiated agreement. Polling in that agency showed a 90 per cent vote in favour of a union negotiated agreement. This is consistent

absolutely with the experience we have all the time when staff are given a choice on bargaining. The obvious point to be made here is that staff are very often given no choice.

I would also make the point, which is made in our submission and which we continue to have experience of, that many of these agreements that are certified as LK agreements—that is, employer and staff agreements—are really agreements with the unions. Most recently in the Department of Employment, Training and Youth Affairs, DETYA, the employer for a second time refused the staff their choice of a union negotiated agreement. So a ballot was held for staff elected representatives and the union team won 100 per cent of those positions. That is the second time this has happened in the same department. Their last agreement was certified as a staff agreement and we presume that that will be the employer's attitude on this occasion as well.

Even though the staff have chosen to be represented by the union, the union does all of the work and, to all intents and purposes, the process is absolutely a union process, nevertheless, the agreement is certified, because the law allows it to be this way, as a staff agreement. When you look at figures about union versus staff agreements, many of those staff agreements mask a circumstance very much like the one I am describing in DETYA. I make the point that it is the second time in that department that staff have been refused their right and have exercised the right to vote for staff elected reps by electing a whole union team. I think you are probably familiar with the fact that it is a situation that occurred in Mr Reith's department, the Department of Workplace Relations.

Just to finally make the last element of this point about the role that the unions continue to play, and the wishes of staff in this process: we are now finding that virtually every time the union has a concern about an agreement to the extent that we recommend a no vote, we get a very strong vote in support of our position and staff reject agreements. The most recent example, which was not mentioned by the Department of Defence representatives this morning, was in that department where a staff agreement was put out for a vote. The union negotiators recommended that staff reject it and that was rejected. We are back in a process of negotiation now.

These comments are particularly about the denial of choice of workers in the public sector. When you go back to the government's rhetoric about the system it was putting in place for the Public Service, Mr Reith was at some pains to say that what applied in the private sector should also apply in the public sector. Yet right through the public sector, there is evidence of a government policy, ideological position being driven through in the way in which workers have their wages and conditions set. That is, firstly, in the denial of choice about whether their collective agreement is union or a staff agreement and, more frighteningly, in the department of finance where there is no choice of a collective agreement being offered.

I think it is extremely disappointing that the department of finance has not chosen to appear before you today because I believe that the circumstances in that department really warrant very close scrutiny by this committee. In the first round of bargaining, the department of finance negotiated an agreement that had the most extreme level of employer flexibility that we had experienced. Just in reference to the discussion this morning about performance pay, performance payments in the department of finance could be anything between two and 15 per

cent for all staff members. Staff were encouraged to vote in support of this collective agreement on the basis that they could earn bonuses of up to 15 per cent. However, when the department was costing and budgeting for those payments, it had allowed for a very significantly lower increase for staff than that total 15 per cent.

I think that staff could realistically have expected something around only three or four per cent by way of bonuses when you looked at what the department had budgeted. However bad though that agreement was, in the second round, with an expired agreement, the department of finance has refused to negotiate a collective agreement at all. The only capacity for workers in that agency to achieve any pay movement is through signing up to AWAs. That is quite contrary to public statements by the government and a statement made quite recently by Minister Reith when he was responding to the ILO's criticism of Australia's laws. He made the point that the right to collectively bargain is enshrined in the Workplace Relations Act. Seemingly, it is not enshrined in the Workplace Relations Act for staff in the department of finance. I hope that there will be an opportunity for this committee to ask questions of these officials because the practices are very contrary to what is publicly being talked about as the policy for public sector bargaining.

I guess the second point to make flowing from that is the use of AWAs and AWAs being the only way to get any wage movement in the department of finance. We read with some concern a recent statement from Max Moore-Wilton, head of the Prime Minister's department, where he talks about extending AWAs right through the Public Service, saying that people have become more comfortable with them. He would probably point to the department of finance as an example of that happening. But, of course, when you look behind the scenes you discover that the only way in which people can get their wages and conditions improved or managed in any way is through an AWA, so it is hardly people becoming more comfortable with the process.

The union's experience of AWAs has been very significant. We have found them used in circumstances where workers have been given no choice, as in the department of finance, but also in agencies like Employment National where a very important court case has just been won by the union about the application of wages and conditions to those workers. Workers in that agency were told they would only be employed by Employment National if they signed an AWA and, believe it or not, that was not considered by the Office of the Employment Advocate to be duress, forcing people to sign an AWA.

The long-term effect of the current practices and policies being applied in the Public Service is—and I think you will have got the flavour that we did this morning—of very widening discrepancies in outcomes for different groups of workers. We have done some analysis of the effect just on people who are in collective agreements not subject to performance based pay, and you find a differential of six to nine per cent in the base rate of pay for the same classification level. So you are moving rapidly away from equal remuneration for work that in the past has been regarded as relatively equal value.

It is striking to me that the government's insistence on a single classification structure is not accompanied by some consistency of pay rates. What is the purpose of saying work should be designated to be at this level, if you can then pay people rates of pay which differ as much as \$3,000 at their base point? So we have widening differentials across the Public Service for work

that was traditionally equally valued. It is obvious what that does to people's mobility, to the ability of an agency that is not a revenue collecting agency to attract the best staff over a period of time. Those differentials obviously make a great difference about where people want to work. Interestingly, of course, the department of finance is the one that is starting to lag behind in the most significant way because it has not been prepared to enter into a round of collective bargaining.

There are another couple of points, particularly going to the guidelines the government is imposing on all agencies. We talk as though there are some healthy, normal market arrangements applying in the Public Service. In fact, agencies are constrained to be able to pay for any improvements from their existing appropriation, but they are subject to an efficiency dividend which is just an arbitrary cut to their staffing budget every year, and there is no direct relationship between measurement of productivity and actual pay increases that are granted. There is no ability to compare those things. The point was made very strongly this morning I thought when Senator Campbell asked the question, 'How do you fund performance pay?' The conclusion, quite rightly, was drawn that one person's performance pay is somebody else's job. So the process in the public sector is not like the private sector. There are arbitrary constraints applied to what sort of money is available. There is money being taken out by the government, yet we pretend that what is occurring in the Public Service is some form of productivity bargaining.

The final area that I think is worth adding to our earlier submission is the rapid spread of outsourcing from the public sector and what this is doing to employment arrangements and also, quite importantly, to bargaining arrangements. The latest major push on outsourcing is to outsource the corporate services of a number of departments. We are at a point in an agency called AFFA where there are negotiations going on with Pricewaterhouse that they will run that agency's human resource management. Human resources includes industrial relations, or workplace relations—that is, bargaining—and the union is now looking at a situation where either the staff or the union will be bargaining with Pricewaterhouse about the employment arrangements to apply in the Public Service.

When you compare that with the public statements by Minister Reith—that third parties should be kept out of bargaining and that bargaining should be directly between employer and employee—you see that that does not seem to apply to Price Waterhouse, who presumably are an acceptable third party, so we do view some of those comments with some cynicism that the only unwanted third party perhaps is the union. Yet, quite clearly, from the attitudes and responses of workers in the Public Service, the union is a very important part of their process of feeling protected in the bargaining round.

I will make one final point because it is very topical at the moment. Our union has won this week an extremely important Federal Court case, which has been opposed by the federal government. It is about whether awards and agreements for workers who were in the old Commonwealth Employment Service applied to workers in a new wholly government owned company, Employment National. The government, on that occasion, had a view that Public Service awards only applied to people employed under the Public Service Act—and they have lost that argument.

The fact that that has taken two years and cost probably hundreds of thousands of dollars between the government and the unions is a pretty sad statement about the status that employment arrangements in the public sector have come to. This is a government owned company where the government seems to have tried to use the change of administration of that organisation as a way to alter and reduce employment conditions for a group of workers who were never particularly well paid in the first instance. The waste of money that has been involved in that case is pretty significant. Those are probably some new areas that might help to stimulate the discussion. They are certainly very important ones, from our point of view, to raise with the committee today.

**CHAIR**—Thank you. Mr Nicolaides, would you like to make a statement?

**Mr NICOLAIDES**—Thank you for the opportunity to address the committee today. The principal focus of the AMWU's written submission is the inquiry's second term of reference concerning the effect of agency bargaining on APS efficiency, productivity and independence. The submission is founded on a very strong belief that employees are an essential factor in the achievement of efficiency and productivity, particularly in a labour intensive sector such as the APS.

The submission makes the following points, amongst others. Firstly, the focus of agency bargaining has too often been upon matters other than efficiency and productivity. Secondly, efficiency and productivity have too readily been interpreted to mean cost cutting. Thirdly, members of the AMWU, at the very least, are commonly resentful of the results of agency bargaining and this is affecting their commitment, their productivity and their efficiency. Fourthly, and this is an important point: greater balance is required in bargaining between positive reform, not just cost cutting, the objectives of the government and the interests of employees. We would argue very strongly that the interests of employees are not being considered at the moment in agency bargaining.

The AMWU's written submission was prepared prior to the second round of bargaining under this government. It cited, as examples, four agencies which employ AMWU members. Each of those agencies is now well advanced in or has completed its second round of bargaining, on the basis of which I would like to very briefly update the report we made in September. As for the Department of Defence, negotiations between that department and the unions for a replacement to the department's current agreement quickly broke down late last year. I think there were three days of negotiations out of 10 scheduled. This is perhaps a surprise, given the contents of the department's written submission of September to this inquiry. The flavour of it was that they thought the value of agency bargaining was positive in their case. The department eventually took a proposed 170LK agreement to a vote of its employees, the Industrial Relations Commission having intervened to abort the first attempt to take such an agreement out. That agreement was rejected by approximately 58 per cent of those who cast a valid vote.

As reported by Mr Gourley this morning, negotiations are now well advanced with the unions towards a section 170LJ agreement. In the Department of Foreign Affairs and Trade, negotiations are ongoing because that agreement is not due to expire until mid-year. In the Bureau of Meteorology, a new union agreement was certified as recently as this Wednesday. Ninety-four per cent of those who cast a valid vote endorsed the agreement.

In the now Department of Health and Aged Care, a proposed new section 170LK agreement was taken to a vote of employees late last year. The unions recommended that that be rejected. That agreement was rejected by approximately 60 per cent of those who voted. A revised agreement is to be put to a vote commencing next Monday. Again, it is a section 170LK agreement and, again, the AMWU will be recommending to it—

**Senator WATSON**—What is the section 170LK agreement?

**Mr NICOLAIDES**—An agreement made direct with employees; that is, without the unions as a party. Again, the AMWU will be recommending to its members that they reject that agreement. The recent experience—that is, the experience we have had since the time we wrote our submission—does not cause us to revisit any of the substance of our written submission.

**CHAIR**—Thank you. Does anyone else want to add to it? Can I kick off the questioning and try and avoid the temptation to focus back on performance pay. I refer you to a number of general issues that were raised, particularly by Mr Evans from Treasury this morning. In his evidence—I think you were here when he gave his evidence—he said that within Treasury the outcomes even in terms of AWAs were transparent and that employees within Treasury knew what the wage levels were that were being paid across the whole of the department. Are you aware of any other department where the same principle has been applied or is applying in respect to the transparency of AWA outcomes? This is the first question.

The second question is the issue of mobility between departments and mobility for public servants up the career path. How much do you feel that this has been restricted by the way in which enterprise bargaining has been conducted at the agency level? There are two other issues, but the third one is the issue of the ageing of the Public Service itself. To what extent do you believe enterprise bargaining or agency bargaining is contributing to that as a factor, or are there other issues at play there?

The fourth question is that you said in your comments that you are now becoming aware of agencies with a base rate of pay—and that excludes performance pay—which varies between six and nine per cent. What are the implications or the impact of that in terms of morale of employees within those various departments? I might come back to you, Mr Nicolaidis, in terms of asking you to explain further how the performance pay operates specifically in the Department of Defence—the 4.5 per cent movement that was talked about this morning. They said they could grant 4.5 per cent but they could also cut wages if performance was not adequate. What implications or impact has that had on employees in the defence department? Both of you may wish to address that.

**Ms CAIRD**—I was quite surprised to hear the description from Treasury, because what was being described sounded close to being illegal. I thought AWAs were required to be kept confidential. Certainly, the only other circumstance where people would be generally aware of the content of AWAs would be where a whole group of people were on identical AWAs. That in itself is rather a strange process. If people are going to have identical employment conditions, you could ask quite reasonably why not put them on a collective agreement, which is cheaper, more transparent, easier to negotiate and more manageable. But there would be some circumstances where it would be known that everybody in a particular place was on the same

AWA, and that would be the only other time that you would expect to find that level of knowledge about their contents.

As for the question about the effect on mobility, here is a good example. Not only is it awkward for staff but it is extremely awkward for the government to have a whole range of different pay and conditions arrangements, insofar as when the government wants—as it always does—to rearrange bits and pieces of departments, one to another, it is dealing with workers who have any number of different sets of employment conditions. The most ridiculous we saw was where about seven different agreements were coming together. There is actually a chart that looks like a snakes and ladders game on the back of our submission which was drawn up by the Department of Workplace Relations to show you some departments which had got bits and pieces of others.

We were faced with trying to bring together functions and people with those functions into newly created organisations, but all of the employment arrangements were different. So it was very difficult. Of course, it is very bad for staff in that where they had anticipated that they could apply for jobs at the next level around Public Service departments—and we all believe that it is in everybody's interests that that sort of thing happens—people are very much constrained by the pay arrangements. In some places the base rate of pay might be comparable but the uncertainty of the bonus arrangement may mean that it is just not an option for people. If anything, that probably puts pressure on the Public Service to retain its staff. People leave because their mobility between agencies is less and all of that investment in people is wasted.

With respect to the ageing of the Public Service, the main factor would be that there has been such a horrendous cutting of staff numbers. Around public sector employment, since 1996 there have been 100,000 jobs lost. That means new young people are not being recruited in very many agencies at all. Very few agencies are recruiting. So they are not bringing in new people in any kind of organised way. There are few job opportunities being provided for people.

When young people do come in and are put on AWAs, which, for example, is quite often attempted with young graduates, they do not see themselves as long-term Public Service workers and are likely to be in and out rather quickly, which again is not particularly healthy for an organisation that wants to promote a career service and a whole set of ethics and a commitment to public service in the old-fashioned sense.

With respect to the discrepancies between pay rates, I think it is a very similar answer to the question about mobility. There are certainly some agencies that are increasingly being seen as places in which people do not want to work because of their rates of pay, their arrangements or their lack of recognition of their employees' rights. When you look at the Department of Finance and Administration, for example, we find that the whole approach to workers' rights is one where they are seen to be very unimportant. That has spread through an agency so that people feel that it is a harder place in which to work, they feel a bit less likely to talk about their circumstances outside of it. Certainty about what will happen to their pay arrangements is absolutely in the hands of their boss; there is no predictability about it. Of course, it is bad for morale. That means that people do not want to work in places like that.

Over a period of time, if this is the course that is continued, there will be places that cannot attract quality staff. The agencies which have a revenue base, which get some funding in and perhaps have a little more ability to pay their people properly, will attract the good people and the others will not be able to do that. So, overall, from the public point of view, from the taxpayer point of view, that will emerge as a developing problem.

**Mr NICOLAIDES**—Did you want me to address all the questions, Senator, or just the one on performance pay in Defence?

**CHAIR**—I am happy for you to do what you want to do.

**Mr NICOLAIDES**—I will give an explanation about where our members are concentrated in the APS because that will set the context for the answer which I give. The Department of Defence constitutes about three-quarters of our membership these days. It never used to be like that, but engineering and science in the APS have fallen in significance over recent years. The Department of Defence has significantly reduced its engineering and science work force over the last 10 years through commercialisation and privatisation and through competitive tendering.

I am not aware of any of our members who have signed AWAs. They may have been offered. I am not aware that they are prevalent amongst our members. In terms of the ageing work force, in the Department of Defence that is certainly true, for two reasons. Many people have seen their jobs go. As jobs have gone, those who feel they can compete in the outside marketplace have taken redundancy packages and gone out and competed; those who are getting closer to retirement have not been prepared to take that chance and they have stayed. As Ms Caird said, there has been very little training coming in at the bottom. For example, the Department of Defence used to be a big employer of apprentices. I know it is a novel concept these days, but it used to see that as a public benefit. It does not do that any more. So the work force in Defence is ageing.

In terms of performance pay in Defence, it is my belief that it does not operate yet for the level of members that we represent. What we have at the moment is a set of pay scales with increments. Because of the ageing work force, most of the members that I represent would be at the top increment; they would be as far up the scale as they could go. What is being proposed, as I understand from Mr Gourley and the people representing the AMWU in negotiations, is that increments will be governed in future by a different set of criteria and you will be marked as 'satisfactory' or 'not satisfactory' and that will determine whether you have an increment or not.

**CHAIR**—Ms Caird, you have mentioned DOFA on a number of occasions. I understand that there is currently a dispute with DOFA because they have decided that they will only offer AWAs. We will be coming back to talk to them about it, but I would be interested to get your view as to what your understanding is of their rationale for only offering AWAs. What is your knowledge of the views of people within the department, the employees, in respect of this? How do you see that sitting against the government's issued policy parameters which talk about, in the first point, protecting freedom of association and securing appropriate right of entry issues

and which also talk about the issue of certified agreements and AWAs operating in an interactive way?

**Ms CAIRD**—There is no really good rationale being provided, except that DOFA says that the agreement that they have allows them to offer AWAs and that is the sort of flexibility that they want. So it is absolutely what suits the employer. We have no reason to imagine that the workers in DOFA have any view different from that of the workers in every other Public Service agency, which is that when people are given a choice they want a collective agreement and invariably a union negotiated collective agreement. So this is about employer choice and unfortunately the law allows for that choice to prevail.

In the things that DEWRSB calls ‘guidelines’ but which are actually requirements, it is required that any collective agreement that is certified allows for AWAs to be made that override it. So, again, the point about people choosing and there being a healthy combination of arrangements is rigidly applied by DEWRSB to mean that at any time an employer wants to use AWAs to override an agreement that has suited the majority of staff it is possible to do so. I guess Finance is a logical extension of where that takes you, in that they now say, ‘We get the best flexibility out of AWAs so that is all we will have.’ There seems to be no more science than that in it.

**CHAIR**—Thank you.

**Senator WATSON**—Mr Nicolaides, you raised a very valid point when you said that Defence, for example, is not recruiting apprentices. I must say from my experience that most major employers are not recruiting apprentices. In your view, how will business in the future get the required skills if there are not these people coming on and therefore not getting the training?

**Mr NICOLAIDES**—How long have you got? The answer would be very complex. Unless we change the systems that we have at the moment, the answer is we will not get those skills. Unless we get those skills, we will not be able to compete internationally. The Department of Defence—in its defence—used to be quite a large engineering agency. It had production lines, it had shipyards, it had aircraft factories and it had the capacity to recruit more apprentices than it needed within its budget and release some of those onto the market as a public benefit. Those days for the Department of Defence have gone. It is of concern, though, that when you go to the type of bargaining that is the subject of this inquiry and you continually devolve responsibility to agencies that are under budgetary pressures, training is one of the first things that is sacrificed because it is easy. Because you are down at the agency level and you do not have any coordination—and this applies in private industry as well as in the public sector—you do not have anybody that is looking at the bigger issues like training and skills replacement, and unless we reverse that this country will be in a lot of trouble with its engineering skills.

**Senator WATSON**—It might be difficult to replace that but you have surely got to look for an alternative. Does that mean the Commonwealth has got to look at this question of training in terms of taking on people and providing places like they do in universities so they can get skills full time through a TAFE or something like that?

**Mr NICOLAIDES**—They need to look at the issue. There are a number of different solutions—

**Senator WATSON**—Can you enumerate some of them or have you got a paper on it because, if we want to look into the future, we have got to address it.

**Mr NICOLAIDES**—I will send you some materials on it. With respect, it is not entirely on the point of this inquiry. It will take quite a long time to elaborate but I am happy to send you the material.

**Senator WATSON**—Okay, as succinctly as possible because we do not want reams of stuff. I would be interested if you could name those agencies that in your view, Ms Caird, are not attracting quality staff because of the inherent system that we have got at the present time. You say it is creating a situation where some agencies are not in a position now to attract quality staff. What are those agencies?

**Ms CAIRD**—I would not want to be in a position of suggesting that any staff in agencies are anything less than quality. My point is that over time people who have got a choice will probably choose these departments as their least preferred option. But obviously, as pay rates become lower comparatively between agencies, those who are paying the lowest will have more difficulty in attracting staff. The one that is most noticeable, the lowest at the moment, is the Department of Finance, a very important department for the Public Service's future.

**Senator WATSON**—That seems somewhat unusual, the Department of Finance. Are there any other agencies?

**Ms CAIRD**—As I said, there is a range of discrepancies of between six and nine per cent in base rates of pay. I certainly do not want to be suggesting that the people who work in these agencies currently are anything other than very good, committed people but, over time, if an organisation pays less then people who have a choice will not work there. The ones that are paying the least at the moment for entry level, for example, are the Department of Finance and Administration and Health and Aged Care. Those are the two that most noticeably stand out. From then on there is a cluster around a slightly higher range. Defence is another quite low one.

**Senator WATSON**—You expressed an objection to the transparency of the Treasury arrangements, it being known what your colleague's pay is. You said that may even be illegal. Could you elaborate on that, and your objection to transparency?

**Ms CAIRD**—I certainly did not express an objection to it. I said I was surprised that Treasury's arrangements were so transparent because the law actually provides that AWAs are confidential documents, so I am interested to know how Treasury are able to share that information around their agency and be within the boundaries of the law. Obviously they would not be operating illegally so they have found a way to do that, and we welcome that because in fact we are completely supportive of the transparency of arrangements. Our biggest criticism of AWAs is the secrecy provisions and the fact that that is used to come to arrangements that in the public sector obviously should be open to scrutiny.

**Senator WATSON**—Is the Treasury model strictly an AWA or is it a variance of an AWA?

**Ms CAIRD**—It is an AWA.

**Senator WATSON**—Why would you think that your people would have less of a bargaining position dealing with, say, Pricewaterhouse than directly with the Commonwealth agency?

**Ms CAIRD**—My point was that the government is the party that says employment arrangements should be directly between employer and employees, yet the government has introduced an organisation that is not constrained by any of the values, ethics, requirements, standards and concerns that the Commonwealth has as an employer. Obviously, they will be briefed to act on their behalf, but we wonder how that will add anything to a process that the government in its own statements says should be directly between workers and their representatives and employers. We have had another organisation come into that process which is very much an arms-length organisation.

**CHAIR**—Given some of the evidence we have had over today and the previous hearing, that may be a positive for you.

**Ms CAIRD**—Senator Campbell, I will be very interested when you conduct your next inquiry and have a set of chartered accountancy firms sitting in front of you instead of departmental officials.

**CHAIR**—They are becoming more predominant.

**Senator ALLISON**—Does the union have a copy of the survey?

**Ms CAIRD**—No. We really would have appreciated seeing it—if we had the opportunity.

**Senator ALLISON**—Can I move into the field of performance?

**CHAIR**—I might just make the point that it is now a public document and is available.

**Ms CAIRD**—Excellent.

**Senator ALLISON**—What do you think about the fact that this has been thus far the only way of pulling together a string of agencies to let us find out exactly what has happened, particularly with SES, and bands and so on? The question of the parliament and yourselves and anybody else for that matter being informed about the trends, and whether we have caps or not, or where the base rates are going was raised in our first hearing. What is your view about whether this survey should be compulsory? Would you like to comment on the fact that DOFA did not involve itself?

**Ms CAIRD**—I was really troubled by what I was hearing this morning. I would have thought that the parliament had the absolute right to know precisely who was being paid what—taxpayers' dollars—in the Public Service. It seems to me a pretty basic principle because of the need to be sure that money is being properly spent and decisions are not being made to pay

senior officials very high salaries at the expense of front-line staff who be might be offering customer service. It is very important that senior public servants are providing proper and independent advice. We have always expressed the concern that, the more you get into individual arrangements, particularly at senior levels interestingly, the more the risk is that a person will want to not offend the person to whom they are giving advice.

It seems to me really obvious that, if you are the secretary of a department, you are not going to give a minister advice he does not want to hear if your pay and future are dependent on that. I am being very blunt, but I think it is a principle that all of us understand about independence and integrity. I have been really concerned about hearing this morning that a committee such as this was not willingly being given all of the detail about those arrangements. Not only should this committee know about it; the public should know about it. We, as an organisation, would deeply appreciate knowing about it because workers in those agencies would also like to know the arrangements their bosses are on.

**Senator ALLISON**—I hope you are not disappointed when you finally see it. There is not as much detail as I think we would like. Can I get on to that question of performance pay and ask what the union's position has been on this? Have you shifted ground at all? Having seen it in operation, are there any benefits?

**Ms CAIRD**—We do not like it any better than we ever did. Overseas experience shows that performance pay is now not particularly fashionable. There has always been a real question about its role in the public sector. Public sector work is usually team based and a collective effort. Individual reward, particularly in an organisation that is not profit driven, is an unusual combination.

Interestingly, both sides of politics over the years have had concerns about performance pay and for much the same sorts of reasons—public accountability and reward of team effort. Certainty about who you are paying what to does not make performance pay sit comfortably in the public sector. We do, however, support performance appraisal. People should be clear about what is expected of them and there should be a system in place to determine whether people are performing properly and how to assist them with extra skills if they are not or whatever remedial action is required. If anything, the introduction of performance appraisal schemes has been damaged by the attachment of performance pay to those schemes. Our view would be that the Public Service would be well served by good, healthy, transparent, negotiated performance appraisal schemes not linked to pay insofar as their individual reward. Obviously if you are talking about an incremental or promotional system, then a performance appraisal has a relationship to that.

**Senator ALLISON**—The survey indicates that the range is somewhere from zero per cent to 38 per cent. We have not been able to find out which agency offers 38 per cent. I do not suppose you know?

**Ms CAIRD**—I do not think we do. Sometimes it is also slightly misdescribed as 'performance pay'. What I think we heard the Department of Defence describe this morning was really an incremental system. What they are really saying is that, provided you are performing satisfactorily, you get a predicted increase in your pay. It might be because of the

government's and DEWRSB's insistence on removal of an incremental system that there have been ways found of providing an alternate arrangement rather similar because it was a workable system and preferable to individual reward.

**Senator WATSON**—Is it an increment of 38 per cent for an individual?

**Ms CAIRD**—No.

**Senator WATSON**—Perhaps somewhere at about seven?

**Ms CAIRD**—The reason that you have a figure like that is that it is about individual performance. You clearly could not have an incremental system that applied to the whole group of people where everybody was capable of getting 38 per cent. No, we think that is crazy. We think a predictable incremental system is far preferable, and then everybody is being treated equally. The other element of all of this is: what are you rewarding people for? For doing the job they are being paid to do or doing something exceptional? I did not hear anything this morning that answered that question particularly clearly.

**Senator ALLISON**—You say in your report that AWAs are turning out to be repetitious and voluminous. I am wondering whether an example of that can be given to the committee. Can you name an agency that makes voluminous AWAs? I know you are not supposed to see them.

**Ms CAIRD**—The first one that comes to mind is Employment National, where everybody is on the same AWA. You are just left with this question: who benefits from that arrangement? If there were a collective agreement, it could have been negotiated by the group of people—and through their union would have been their choice on that occasion. It would be public. Everybody would know its content and it could be renegotiated after a couple of years. But, to our knowledge, the individuals in Employment National are all on identical AWAs. The amount of work that goes into that is for what benefit?

**Senator ALLISON**—Why is there more work?

**Ms CAIRD**—Because each one of them is a separate contract that requires an individual to sign it, meet with somebody, have a discussion about it and lodge it. It has to be lodged with the Office of the Employment Advocate. There is quite a lot of bureaucracy associated. We recall that, when the legislation was introduced, Peter Reith talked about the use of AWAs being in niche areas of the Public Service or for senior executive levels. Then you find whole departments like DOFA using them and in some places using identical ones. You cannot quite see how that fits the description.

**CHAIR**—In practice that is a de facto collective agreement?

**Ms CAIRD**—It is not in the rights of the workers who are covered by it.

**CHAIR**—I can understand it in terms of the rights that apply to it but in practice it is a collective agreement if every worker is on identical terms and conditions of employment.

**Ms CAIRD**—That is right.

**CHAIR**—Presumably, in Employment National the circumstances are the same as you find in the private sector, where employees are given the document and told to sign—in practice there are no negotiations or discussions about it. Is that what has happened in Employment National?

**Ms CAIRD**—In Employment National, the other element is that people were told that they would not have a job unless they signed an AWA—and that was found not to be duress. It is a take it or leave it content, and it is a take it or leave it offer of employment as well.

**Senator ALLISON**—Can I come back to a remark you made earlier about agencies having different revenue availability for base rates and whatever else? Have you identified agencies which are resource-poor? And why is that?

**Ms CAIRD**—I am probably slightly out of my area of expertise. I might ask one of my colleagues to help me here. I would be talking about the difference between an agency that was able to raise its own revenue compared with one that was simply funded.

**Mr STAPLETON**—Another dimension to that might be the size of the agency and therefore the scope of the salary allocation budget that an agency may have—which obviously would mean there is a greater capacity for flexibility in addressing salary levels, as opposed to smaller agencies that, of necessity, because of having less money to play with, have less flexibility. The concern we have is that, over time, small agencies may well seem to be the ones that are starting to fall towards the bottom of the heap in terms of the flexibility they have available to match the pay rates that the bigger agencies are able to put.

**Senator ALLISON**—I am not sure why that would be so, why the size of an agency makes a difference. Ms Caird, you were suggesting earlier that some agencies are simply not able to afford to pay more. You are saying that flexibility is available in very large organisations. I understand that. But if you have got flexibility in large organisations to pay people at the top more then you have to take it off somebody down the track.

**Mr STAPLETON**—Yes. That was the point that I think Mr Evans was making this morning. He admitted about the impact of performance pay in Treasury that the offset of perhaps exceeding their expected budget on performance pay is that jobs would have to be culled from the organisation. Probably an educated guess is that they would come from the lower echelons of the department. The point I was making was that I think it is true that the larger agencies with bigger budget allocations have a better capacity to bargain and make flexible arrangements about pay and conditions, whereas in very small agencies with smaller numbers of people and smaller money amounts available, there just is not that capacity.

**Senator ALLISON**—I still do not quite understand why that follows, but not to worry.

**Senator CARR**—These issues you are pursuing obviously have been raised in the committee that I am mainly associated with, and in the recent inquiry into the Workplace Relations Act the issue of collective bargaining was pursued quite extensively. I notice in your submission, Ms

Caird, that you are saying that the government is guilty of exactly the same industrial behaviour as it accuses others of in terms of imposing a pattern-bargaining arrangement. I am wondering if you could explain to us how that occurs or how often that is occurring today.

**Ms CAIRD**—There was some discussion this morning about policy guidelines which DEWRSB did not agree were a veto; but in fact there are some things that can never be in agreements if they are to be certified in the Public Service. They include all of the things that are in the DEWRSB policy parameters. For example, it is absolutely not possible for any agency, even if it wanted to, to increase a redundancy package for a worker. They are allowed to decrease it, but they must not increase it. There is no ability for any agency to come to an arrangement even if there is a high level of union membership and there is a constructive and good relationship: they cannot provide some facilities for the operation of union consultative forums. That is absolutely ruled out by DEWRSB.

There are a number of other things. For example, it is required that every collective agreement has a clause in it that allows for AWAs to be made whether the agency wants that or not. I was directly involved in negotiations in an agency where they most specifically did not want to use AWAs and did not want to suggest to their staff that they would do so in any circumstance. They tried to not put that in their agreement and had their agreement rejected and sent back by DEWRSB to put the clause in. There was evidence this morning about a new clause, which is being called the GST clause, which is one that makes it really clear that under no circumstances can an agency agree to re-open an existing collective agreement or an agreement that has been made to provide further pay benefits should the GST lead to excessive inflation. So there is absolute pattern bargaining. In fact, the irony of the so-called decentralised environment is that it is more centralised than it was under the previous arrangement where we had a negotiated framework agreement and agency bargaining occurring.

**Senator CARR**—Mr Nicolaidis, your union operates extensively in the private sector where this argument is pursued by your industrial opponents about the behaviour of the metal trades generally. Are you noticing a similar pattern in the public sector as well about the pattern bargaining approach by government?

**Mr NICOLAIDES**—Indeed. I echo the comments that Ms Caird has just made. In our written submission we give an example of the Department of Defence's first round of bargaining. A draft of that agreement was made in December 1997. One of the initiatives in there was the defence reform program, about which the agreement said, 'These efficiencies will lead to recurring savings of around \$900 million per annum.' Clearly, these were efficiency and productivity based initiatives. An agreement was reached in principle between the unions and the department. We went to our members and ran the agreement past them to see whether they were happy with it. The department went to DWR. DWR sent it back to be renegotiated, not on the basis of efficiency or productivity, but because it offended some of the things that Ms Caird is talking about. It gave unions undue influence in subsequent negotiations within the department, or it sought to protect matters which had been 'simplified' out of awards—the sorts of matters which they described in their own documentation as peripheral matters. If that is not pattern bargaining—there is the forest and they are over here counting branches on trees.

**Senator CARR**—It seems to me that there are threats of legal action against unions in the private sector for engaging in what is described as pattern bargaining. Do you think there is equally a case here for possible legal challenge to the government's behaviour on these matters?

**Mr NICOLAIDES**—Yes. I think they are doing exactly what they accuse us of doing in private industry.

**Senator CARR**—Have you given any thought to such action as a union?

**Mr NICOLAIDES**—I will, having been invited to do so.

**Senator CARR**—Ms Caird, what do you say about that? Is there a prospect of a legal challenge here?

**Ms CAIRD**—It is not something that we have considered, Senator, but I think the point you raise is quite correct: it is pattern bargaining in anyone's terms and we will have an internal discussion about that.

**Senator CARR**—I come back to comments you made about DETYA. As you know, I have got a great interest in that department. My understanding is that it is a department that has been reduced from 18,000 to 1,400 in the space of four years. Of course, there have been substantial restructures and massive policy changes. Nonetheless, there are divisions that are doing exactly the same work and administering the same legislation which have had their staff numbers cut, obviously, by very substantial proportions. What impact have those sorts of cuts had on morale and on the capacity to actually do the job?

**Ms CAIRD**—Some time ago the ACTU conducted a survey right through the work force on working hours and stress. One of the groups that came out as the most affected by worse working conditions was public servants. There was a huge return to a voluntary survey from workers in the sector, showing excessive hours of overtime being worked; where people had flex time arrangements, they were not able to use up the time that they had accrued. People at more senior levels without flex time were working hours and hours of unpaid overtime. There was stress, and ultimately a loss of morale and a loss of good people. So there is quite an unhealthy environment in agencies where these sorts of things have happened, which is most agencies.

**Senator CARR**—It strikes me that in that particular department there are very few people at senior management level who have any corporate history or any knowledge of the department—it is very difficult to engage in a serious discussion with senior officers about events that occurred five years ago, for instance—so you have a whole pattern of administrative errors that appear to be committed. In vocational education there was the situation where there was an appalling lack of supervision and monitoring of the expenditure of public funds. Do you think there is a policy impact of these sorts of changes, given the comments I have made to you? Do you see any evidence to support the view about the loss of corporate knowledge and experience?

**Ms CAIRD**—I think that it is true. The combination of demoralisation, the loss of emphasis on a career public service and people no longer thinking that there is a genuine prospect of them advancing on their merits through an organisation in a fairly easily anticipated kind of way—all of those things lead to less quality ultimately in the advice that is given in the policy decisions that are made and, in the end, in service to the community.

**Senator CARR**—On this issue about not offering choice in regard to representation, can you explain to me how the situation can arise that twice these events have occurred? Is there not some legal avenue open to you in this particular matter? Are you doomed to repeat this exercise every time an agreement comes up for negotiation or a set of AWAs come up for negotiation?

**Ms CAIRD**—We have had two experiences that are worth comparing. With DETYA, yes, it seems we are doomed to repeat this every time. We actually went to the Industrial Relations Commission and made a case that this agreement had been negotiated by union delegates who had been elected by all of the staff to represent them, that all of the work had been done through that process, that the union had taken responsibility to recommend a vote in favour and that that had been carried. It was a union process in anyone's understanding. The Industrial Relations Commission said that it was powerless to make the agreement turn into a union agreement if the employer did not want that. So we have just started the same farce again with the staff electing another all-union team and, presumably, we are on the same path. There was another agency where a similar thing occurred and, in fact, the commission recommended that the agreement be certified as a union agreement and the employer agreed that that was appropriate. So the employer still has the discretion.

**Senator CARR**—I come back to this point: are we are doomed, therefore, to lock into a legalistic approach, where you have to go through common law avenues if the commission is not available to you anymore because its discretion has been taken away and it would appear the industrial avenues are not open to you in taking direct action? Are you left with the option of taking common law action?

**Ms CAIRD**—Federal Court action.

**Senator CARR**—Yes, Federal Court action.

**Ms CAIRD**—The only other form of action is industrial action which is what occurred in DEWRSB. A similar process began and the workers petitioned, and by a very large majority, said they wanted a union agreement. The secretary said, 'No, we are going to staff elected representatives.' A team of union people ran for those positions and said, 'We are running on a platform that we will not start bargaining until the secretary of the department agrees that it will be a union negotiated agreement.' That team was elected unopposed so there was a pretty strong statement there, but it actually involved a combination of all of that and the beginning of an industrial campaign before that circumstance turned into what it obviously was, which was a union negotiated agreement.

**Senator CARR**—Do you think these decisions have been made at secretary level or at Prime Minister and Cabinet level?

**Ms CAIRD**—It is interesting, in fact, because the response from a range of departmental secretaries to the circumstances in DEWRSB has been very enthusiastic. They see that DEWRSB, which has been trying to force them into staff agreements, has itself signed a union agreement. This has made a number of other departments feel that they can try to hold the line and have a union agreement if that is what their staff want. So, in my view, it comes from Minister Reith through his department into all of those other agencies.

**Senator WATSON**—What is in a name? If you have 100 per cent union membership signing up and, instead of calling it a staff agreement, you call it a union agreement, surely you achieve what you want to?

**Ms CAIRD**—There is a great deal in a name, Senator. It is in fact all about our right to represent people and our right under the agreement to negotiate changes and so on—

**Senator WATSON**—But in a sense, what I am saying at the end of that day—

**CHAIR**—Senator Watson, let her finish, please.

**Ms CAIRD**—An agreement, once it is made, has got to be implemented and there are opportunities all the way through it for the union to be the party that negotiates about any problems that arise or any changes and so on. It is also the point, Senator, about the staff's choice. You might not find it important, but workers who say, 'We want the union to bargain for us and to be recognised,' do find it important.

**Senator WATSON**—But you get what you want through your union membership doing the bargaining. I cannot see that: at the end of the day, don't you achieve the same outcome?

**Ms CAIRD**—No; certainly not, Senator. In the process of its implementation, the role for a union as the party to an agreement is substantially more.

**Senator WATSON**—I know it is not directly related to this, but I was just surprised when you mentioned applications for pay increases due to the GST. If your basket of food is not going to go up, your rent is not going to go up, your basic prescription is not going to go up and there is \$12 million worth of tax cuts, why do you make that statement or claim?

**Ms CAIRD**—If there was no concern about that being a problem, Senator, then the government would have allowed any Public Service agreement to have a clause that said, 'If through some unexpected circumstance there was inflation as a result of the GST, we will reopen this agreement.' The government would not have had a problem with that clause if they were confident there was going to be no inflation. So I think that many workers in many industries will be setting their agreements and time frames so that, if there is some inflationary impact of the GST, then workers will make wage claims to compensate for that. Why should public sector workers be in some different position? The fact that that door has been closed to them suggests the government is more concerned about it than anybody is.

**Senator WATSON**—It is just that, according to all the modelling, it is not there. There will be a one-off impact and—

**Ms CAIRD**—We hope you are right—because public servants certainly will not be given a chance for any compensation.

**CHAIR**—Can you outline for us the percentage of union membership in the APS generally?

**Ms CAIRD**—As near as I could say, Senator Campbell, it would be between 45 and 50 per cent.

**CHAIR**—And is that excluding the SES?

**Ms CAIRD**—No, it is not. That would have the SES included, which is obviously fairly lowly unionised. There are about 1,500 people in the SES.

**CHAIR**—Also, when you were talking before, Ms Caird, you gave us some examples of where agencies are pooled together and the difficulties that arise out of that with the change of structures et cetera. There is a provision within the policy parameters which I assume is there to facilitate that. It talks about facilitating mobility and maintaining a cohesive APS. Are you still arguing that that is inadequate in terms of dealing with those sets of circumstances? It is point 6 in the policy parameters dated March 2000.

**Mr LILLY**—In respect of machinery of government changes in particular, that is no longer covered in detail by the policy parameters, because of the introduction of the new Public Service Act. That matter is now covered in similar terms by the new Public Service Regulations. We believe that those regulations are still inadequate in that they do not require full transmission of conditions pending an agreement of a variation of those conditions. So the previous position has been picked up, but we still do not believe it is adequate. What applies for public servants who go to an organisation outside the Public Service is that their conditions and salaries fully transmit under those Public Service Regulations. But, if it is a change from one department to another, there is no guarantee that people will not lose wages and conditions through that process. We do not believe that that is a fair system: there should be full transmission when governments make decisions from time to time to move people within the bureaucracy.

**Senator ALLISON**—Do you have a schedule of each agency and how many in total, including SES or separated out, are on AWAs and how many are on staff agreements and/or other collective agreements?

**Mr STAPLETON**—My understanding is that the only AWA figures that are published are in respect of the Australian Public Service as a whole. From time to time DEWRSB publishes—presumably based on data from the Office of the Employment Advocate—the number of AWAs. They may only break them down by those covering the SES and non-SES, but I have never seen any public information available which indicates by agency—

**Senator ALLISON**—Why is it that you cannot collect that information? I know you do not know what is in the AWAs themselves, but you would know overall numbers, wouldn't you?

**Mr STAPLETON**—There is no way that we have of knowing which employees are on AWAs at any given time. We assume, because we are told, that the very large majority if not nearly all SES are on AWAs, but below the SES we do not know to what extent the AWA facilitation clauses in the collective agreements are being used to put non-SES people on AWAs.

**Ms CAIRD**—We would only hear stories; we would not ever have good information. In an agency like the Department of Finance and Administration, where it is difficult to get any information at all, we just would not have any sense of that yet.

**Mr LILLY**—It is in fact an offence under the Workplace Relations Act to disclose that somebody is on an AWA, as I understand it.

**Senator ALLISON**—That they are on an AWA, but not what the AWA is: is that right?

**Mr STAPLETON**—I think it is even if an individual is on an AWA—

**Mr LILLY**—To disclose that fact.

**Mr STAPLETON**—Yes—against their consent.

**CHAIR**—I think that concludes the proceedings today. I want to thank you for your contribution to the public discussion of the impact of these changes. The committee's invitation for submissions to the inquiry remain open and, if any of the parties here today want to make additional submissions, then they should do so through the secretariat. I would take the opportunity to draw your attention to submissions that were made on 18 February and the *Hansard* of the hearings. There were a number of issues raised at that hearing, particularly in respect of issues of accountability and transparency, which are important in terms of the inquiry. I would invite the unions to have a look at that transcript and invite you to make some comment in respect of the issues, particularly those raised by Mr Barrett and Ms Williams in the transcript on that day. If you feel like providing us with some written comments, please feel free to do so.

The next public hearing of the committee has been scheduled for the morning of Friday, 5 May. Those interested in following the inquiry should refer to the committee's Internet page which will provide progress updates on an ongoing basis.

**Committee adjourned at 2.43 p.m.**